

CITY OF PORTSMOUTH, NEW HAMPSHIRE

ZONING ORDINANCE



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CHAPTER 10
ZONING ORDINANCE

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CHAPTER 10

ZONING ORDINANCE

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Section 10.110 Title

Chapter 10 of the Ordinances of the City of Portsmouth shall be known as the Zoning Ordinance.

Section 10.120 Purpose

10.121 General Purpose and Intent

The purpose of this Ordinance is to promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan. The Ordinance is intended to implement the goals and objectives of the Master Plan by regulating:

1. The **use** of land, **buildings** and **structures** for business, industrial, residential and other purposes;
2. The intensity of land **use**, including **lot** sizes, **building coverage**, **building height** and bulk, **yards** and **open space**;
3. The design of facilities for vehicular access, circulation, parking and loading;
4. The impacts on properties of **outdoor lighting**, noise, vibration, stormwater runoff and flooding;
5. The preservation and enhancement of the visual environment;
6. The preservation of historic districts, and **buildings** and **structures** of historic or architectural interest; and
7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat, and air quality.

10.122 Sustainability Objectives

This Ordinance is intended to promote **sustainable** and balanced **development** in support of the following **sustainability** objectives:

1. Reduce dependence upon fossil fuels, extracted underground metals and minerals;
2. Reduce dependence on chemicals and other manufactured substances that accumulate in nature;
3. Reduce dependence on activities that harm life-sustaining ecosystems; and
4. Meet the hierarchy of present and future human needs fairly and efficiently.

Section 10.130 Applicability

- 10.131 The requirements of this Ordinance shall apply to all areas within the boundaries of the City of Portsmouth except where specifically exempted.
- 10.132 No **structure** or **building** shall be erected, enlarged or moved, nor shall any **use** be authorized or extended, nor shall any existing **lot** be changed as to size or shape, except in accordance with the requirements of this Ordinance.

Section 10.140 Relationship to Other Requirements

- 10.141 The provisions of this Ordinance shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. Whenever a provision of this Ordinance is more restrictive or imposes a higher standard or requirement upon the **use** or dimensions of a **lot**, **building** or **structure** than is imposed or required by another ordinance, regulation, rule or permit, the provision of this Ordinance shall govern.
- 10.142 This Ordinance is not intended to abrogate, annul or interfere with any easement, covenant, deed restriction or other private agreement. However, whenever a provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, deed restriction or other private agreement, the provision of this Ordinance shall govern.

Section 10.150 Changes and Amendments

- 10.151 This Ordinance may be amended in accordance with the provisions of State law.
- 10.152 All petitions or requests for amendments to the Zoning Ordinance shall be referred to the Planning Board for its consideration and the **Board** shall submit its recommendations concerning such petitions and requests to the City Council.
- 10.153 In addition, the Planning Board may, upon its own initiative from time to time, consider amendments to the Zoning Ordinance and submit recommendations thereon to the City Council.

Section 10.160 Separability

Should any provision of this Zoning Ordinance be declared invalid by a final court decision the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Article 2 Administration and Enforcement

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Section 10.210 General

10.211 Enforcement Officer

This Ordinance shall be administered and enforced by the **Code Official**.

10.212 Violations

When it is determined that a violation of this Ordinance exists in any **building, structure, property** or premises, the **Code Official** may issue to the owner and/or occupant an order to cease and desist such violation, or take any other action authorized by law.

Section 10.220 Building Permit

10.221 Requirements

10.221.10 No construction, reconstruction or **alteration** of a **building** or change of **use** or intensification in **use** of a **structure** or parcel of land requiring the issuance of a **building permit** by the **Code Official** shall be commenced without such permit.

10.221.20 No **building permit** may be issued for any premises unless all **buildings, structures** and **uses** of the premises comply in all respects with (a) the provisions of this Ordinance, (b) the terms of any special exception or conditional use permit granted under this Ordinance, (c) the terms of any variance granted from the provisions of this Ordinance; provided that:

10.221.21 A **lawful nonconforming building, structure** or **use** may be continued or extended to the extent permitted under Article 3.

10.221.22 A **building permit** may be issued when the effect of the construction, reconstruction or **alteration** is to eliminate all violations of this Ordinance on the premises.

10.221.30 No **building permit** may be issued unless all required local approvals have been met, including, but not limited to the following: subdivision approvals, variances, special exceptions, conditional use permits, Historic District Commission approvals and site plan approval.

10.221.40 The **Code Official** shall not issue any **building permit** where application for such permit is made after the first legal notice of the second reading and public hearing by the City Council on proposed changes in the Zoning Ordinance has been posted in accordance with the provisions of State law, if the proposed changes in the Zoning Ordinance would, if adopted, justify refusal of such a permit. After final action has been taken on the proposed changes in the Zoning Ordinance, the **Code Official** shall issue or refuse such a permit which has been held in abeyance pursuant to this subsection.

10.222 Applications for Building Permits

10.222.10 Applications for **building permits** must be made by the owner of the premises or the owner's authorized agent.

10.222.20 Applications for **building permits** shall be on forms prescribed by **Code Official**.

10.222.30 An application for a **building permit** shall state the existing and intended **use** of each **building** or **structure**, and shall be accompanied by adequate plans, accurately drawn, showing the following minimum information:

- (1) the actual shape and dimensions of the **lot** to be built upon;
- (2) the exact location and size of all **buildings** or other **structures** already on the **lot**;
- (3) the location of new **buildings** or other **structures** to be constructed, together with the lines within which all **buildings** or other **structures** are to be created;
- (4) such other information as may be necessary to provide for the administration and enforcement of this Ordinance.

If determined appropriate by the **Code Official**, such plans shall be based on a surveyed plot plan.

Section 10.230 Zoning Board of Adjustment *

10.231 Powers

The **Board** shall have all powers granted by State law to Zoning Boards of Adjustment.

10.232 Special Exceptions

10.232.10 The **Board** shall hear and decide requests for special exceptions as provided for in this Ordinance. The **Board** shall grant requests for special exceptions which are in harmony with the general purpose and intent of this Ordinance and meet the standards of Subsection 10.232.20.

* By Act of the Legislature, the Portsmouth Zoning Board of Adjustment consists of 7 members and 2 alternates.

Appropriate conditions of the sort set forth in Subsection 10.232.30 may be placed on special exception approvals when necessary to meet the standards of Subsection 10.232.20. The **Board** shall deny requests for special exceptions that do not meet the standards of this Section.

- 10.232.20 Special exceptions shall meet all of the following standards:
- 10.232.21 Standards as provided by this Ordinance for the particular **use** permitted by special exception;
 - 10.232.22 No hazard to the public or **adjacent** property on account of potential fire, explosion or release of toxic materials;
 - 10.232.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of **buildings** and other **structures**, parking areas, **accessways**, odor, smoke, gas, dust, or other pollutant, noise, **glare**, heat, vibration, or unsightly **outdoor storage** of equipment, vehicles or other materials;
 - 10.232.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;
 - 10.232.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and
 - 10.232.26 No significant increase of stormwater runoff onto **adjacent** property or **streets**.
- 10.232.30 Special exception approvals may be subject to appropriate conditions, including but not limited to the following:
- 10.232.31 **Front, side** and **rear yards** in excess of the minimum requirements of this Ordinance;
 - 10.232.32 **Landscaping** and/or screening of the premises from the **street** or **adjacent** property in excess of the minimum requirements of this Ordinance;
 - 10.232.33 Modification of the exterior features, **buildings** or other **structures**;
 - 10.232.34 Limitations on the size of **buildings** and other **structures** more stringent than the minimum or maximum requirements of this Ordinance;
 - 10.232.35 Limitations on the number of occupants and methods and times of operation;

- 10.232.36 Grading of the premises for proper drainage;
- 10.232.37 Regulation of design of access drives, **sidewalks**, crosswalks and other traffic features;
- 10.232.38 **Off-street parking** and loading spaces in excess of the minimum requirements of this Ordinance;
- 10.232.39 Regulation of the number, size, lighting of **signs** more stringent than the requirements of the Ordinance; and
- 10.232.39a Other performance standards.

10.233 Variances

- 10.233.10 The **Board** may authorize upon appeal in specific cases a variance from the terms of this Ordinance.
- 10.233.20 In order to authorize a variance, the **Board** must find that the variance meets all of the following criteria:
 - 10.233.21 The variance will not be contrary to the public interest;
 - 10.233.22 The spirit of the Ordinance will be observed;
 - 10.233.23 Substantial justice will be done;
 - 10.233.24 The values of surrounding properties will not be diminished; and
 - 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
- 10.233.30 For purposes of section 10.233.25, “unnecessary hardship” means that one of the following conditions exists:
 - 10.233.31 Owing to special conditions of the property that distinguish it from other properties in the area, (a) no fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and (b) the proposed **use** is a reasonable one. (Under this provision, an unnecessary hardship shall be deemed to exist only if both elements of the condition are based on the special conditions of the property.)
 - 10.233.32 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 therefore necessary to enable a reasonable **use** of it. (Under this provision, an unnecessary hardship shall not be deemed to exist if any reasonable **use**, including an existing **use**, is permitted under the Ordinance.)

10.233.40 The definition of “unnecessary hardship” set forth in Section 10.233.30 shall apply whether the provision of the Ordinance from which a variance is sought is a restriction on **use**, a dimensional or other limitation on a permitted **use**, or any other requirement of the Ordinance.

10.233.50 Where this Ordinance contains a more stringent requirement or higher standard than is reflected by existing conditions, it shall be deemed that the intent of the Ordinance is to promote compliance with such requirement or conformance to such standard rather than a continuation of existing conditions. Accordingly, whether surrounding properties violate a provision or standard for which a variance is requested shall not be a factor in determining whether “the spirit of the Ordinance would be observed” by the granting of a variance, as required by Section 10.233.22.

10.233.60 Because “special conditions of the property that distinguish it from other properties in the area” must be present for a variance to be granted (Section 10.233.30), the existence in the surrounding area of conditions that are similar to the proposed nonconformity shall not be a basis for the granting of a variance.

10.233.70 The **Board** may attach to a variance any conditions that it deems necessary to ensure that the variance satisfies the criteria set forth in Section 10.233.20.

10.234 Procedures for Variances, Special Exceptions and Appeals from Decisions of the Code Official

10.234.10 Requests for variances and special exceptions must be made by **persons** authorized by state law.

10.234.20 Appeals from decisions or orders of the **Code Official** may be made by any **person** within 30 days after the date on which the written decision was actually filed.

10.234.30 Requests for variances and special exceptions and appeals from decisions of the **Code Official** shall be in writing on forms prescribed by the **Board** of Adjustment. Such requests and appeals shall refer to the specific provisions of the Ordinance involved and shall set forth the interpretation claimed and reasons why the request of appeal should be granted.

10.234.40 Requests for variances and special exceptions shall include layout or plot plans conforming to the **Board**’s rules and regulations.

10.234.50 In any case in which the **Board** of Adjustment is required to give notice of a public hearing in accordance with the provisions of State law, all

persons owning property within 300 feet of the property involved in the appeal or request shall be given notice in the manner set forth by State law, provided that failure to give notice beyond statutory requirement shall not give rise to any right of appeal or protest. The requirements of this paragraph shall not apply in Character Districts 4 and 5 (CD4 and CD5) and the Downtown Overlay District.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the **Board** by an applicant for a special exception or variance concerning features of proposed **buildings, structures, parking or uses** which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

10.236 Expiration of Approvals

Variations and special exceptions shall expire unless a **building permit** is obtained within a period of two year from the date granted. The **Board** may, for good cause shown, extend such period by as much as one years if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.

10.237 Outstanding Violations

No variance or special exception may be granted for premises on which outstanding violations of this Ordinance exist, unless the effect of such variance or special exception would be to remedy all such violations.

Section 10.240 Conditional Use Permits

10.241 General

10.241.10 A conditional **use** is a use of land or **buildings** within a zoning district that may be authorized by this Ordinance subject to additional requirements. A conditional use permit allows the Planning Board or other such Board or person as may have jurisdiction to consider **uses** which may be desirable or appropriate in particular cases, but which are not allowed as a matter of right within a zoning district.

10.241.20 This Ordinance authorizes the following general types of conditional **use** permits:

10.241.21 Conditional **use** approval is required for any **use** designated “CU” in Section 10.440 – Table of Uses.

10.241.22 Conditional **use** approval is required for most **uses, activities and alterations** in a **wetland or wetland buffer** (Article 10, Section 10.1010 – Wetlands Protection).

10.241.23 Conditional **use** approval may be granted to allow flexibility of site or **building** design where specifically authorized by the Ordinance but not listed in Section 10.440. These include the following provisions:

- (a) Character Districts (Article 5A)
 - Increase in allowed **building** footprint subject to specified **development** standards;
 - Provision of required **community space** on a different **lot** than the **development**;
 - Crediting or assignment of excess **community space** in an Incentive Overlay District.
- (b) Gateway Districts (Article 5B)
 - More than 24 **dwelling units** in a **building**;
 - More than one **principal building** or building type on a **development** site;
 - Increased housing density, **building height**, or footprint.
- (c) Off-Street Parking (Article 11)
 - Less than the minimum number of required spaces or more than the maximum number of allowed spaces;
 - Shared parking.
- (d) Highway Noise Overlay District (Article 6)
 - **Noise sensitive land uses**

10.241.30 No **structure, building** or **use** requiring a conditional use permit under this Ordinance shall be used, constructed, altered or expanded unless the required conditional use permit has been granted by the Planning Board or other such Board or person as may have jurisdiction.

10.241.40 A **structure, building** or **use** authorized by a conditional use permit may not be added to, enlarged, expanded or moved to another part of the **lot** without securing a new conditional use permit.

10.242 Basis for Approval

10.242.10 The Planning Board or other such Board or person as may have jurisdiction may grant a conditional use permit if the application is found to be in compliance with the general approval criteria in Section 10.243 or, if applicable, the specific standards or criteria as set forth in this Ordinance for the particular **use** or activity. The Planning Board or other such Board or person as may have jurisdiction shall make findings of fact, based on the evidence presented by the applicant, City staff, and the public, respecting

whether the conditional **use** is or is not in compliance with the approval criteria of Section 10.243.

- 10.242.20 The applicant shall provide, through the introduction of sufficient evidence, through testimony, or otherwise, that the proposed **use, development,** or activity, if completed as proposed, will satisfy the general and specific requirements as contained in the Ordinance.

10.243 Approval Criteria

- 10.243.10 A conditional use permit shall be granted only if the Planning Board or other such Board or person as may have jurisdiction determines that the proposal conforms to all applicable conditional use permit criteria, as set forth below or in other sections of this Ordinance.

- 10.243.20 Conditional uses designated in Section 10.440 – Table of Uses, as well as other conditional uses for which no specific criteria are set forth in the Ordinance, shall comply with all of the following criteria:

10.243.21 The design of proposed **structures**, their height and scale in relation to the site’s surroundings, the nature and intensity of the proposed **use** or activity, and the layout and design of the site will be compatible with adjacent and nearby properties, **buildings** and **uses**, will complement or enhance the character of surrounding **development**, and will encourage the appropriate and orderly **development** and **use** of land and buildings in the surrounding area.

10.243.22 All necessary public and private utility infrastructure and services will be available and adequate to serve the proposed **use**.

10.243.23 The site and surrounding **streets** will have adequate vehicular and pedestrian infrastructure to serve the proposed **use** consistent with the City’s Master Plan.

10.243.24 The proposed **structures, uses,** or activities will not have significant adverse impacts on abutting and surrounding properties on account of traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare.

10.243.25 The proposed **structures** and **uses** will not have significant adverse impacts on natural or scenic resources surrounding the site, including **wetlands**, floodplains, and significant wildlife habitat.

10.243.26 The proposed **use** will not cause or contribute to a significant decline in property values of adjacent properties.

- 10.243.30 Where specific standards or criteria are set forth in this Ordinance for the particular **use** permitted by conditional use permit, those standards and criteria shall apply in lieu of the general standards in Section 10.243.20.

10.244 Conditions of Approval

Conditional use permits may be granted subject to appropriate conditions, including but not limited to the following:

- 10.244.10 **Front, side and rear yards** in excess of the minimum requirements of this Ordinance;
- 10.244.20 **Landscaping** and/or screening of the premises from the **street** or **adjacent** property in excess of the minimum requirements of this Ordinance;
- 10.244.30 Modification of the exterior features, **buildings** or other **structures**;
- 10.244.40 Limitations on the size of **buildings** and other **structures** more stringent than the minimum or maximum requirements of this Ordinance;
- 10.244.50 **Off-street parking** and loading spaces in excess of the minimum requirements of this Ordinance;
- 10.244.60 Regulation of the number, size, lighting of **signs** more stringent than the requirements of the Ordinance; and
- 10.244.70 Other performance standards as may relate to the standards and criteria for approval.

10.245 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the **Board** by an applicant for a conditional use permit concerning features of proposed **buildings, structures, parking or uses** shall be deemed conditions upon such conditional use permit.

10.246 Expiration and Abandonment of Approvals

- 10.246.10 A conditional use permit shall expire unless a **building permit** is obtained within a period of one year from the date granted, unless otherwise stated in the conditions of approval. The **Board** may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.

10.246.20 Failure to use a property for a **use** authorized by a conditional use permit for a period exceeding eight months shall result in the termination of the conditional use permit.

10.247 Repetitive Application

If an application for a conditional use permit is denied by the Planning Board or other such Board or person as may have jurisdiction, no application for a conditional use permit for the same or similar **use** may be made for one year from the date of said denial, unless the applicant demonstrates to the satisfaction of the Board that the circumstances have altered and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

Section 10.250 Penalty

Any **person** violating any provisions of this Ordinance, any of the conditions under which a permit is issued, or any decision rendered by the **Board** of Adjustment or Historic District Commission, may be fined in accordance with state law. Each day that such violation continues shall constitute a separate offense.

Article 3 Nonconforming Lots, Buildings, Structures and Uses

- Section 10.310 Nonconforming Lots
- Section 10.320 Nonconforming Buildings and Structures
- Section 10.330 Nonconforming Uses

Section 10.310 Nonconforming Lots

- 10.311 Any **lot** that has less than the minimum **lot area** or **street frontage** required by this Ordinance shall be considered to be **nonconforming**, and no **use** or **structure** shall be established on such **lot** unless the **Board** of Adjustment has granted a variance from the applicable requirements of this Ordinance.

- 10.312 Notwithstanding the provision of Section 10.311, a **lot** that has the minimum **lot area** but has less than the minimum **street frontage** required by this Ordinance shall be considered to be in compliance with respect to the **frontage** requirement if one of the following conditions applies:
 - 10.312.10 The **lot** was shown on a recorded plan or described in a recorded deed on or before March 21, 1966, and such **lot** was not held in common ownership with any adjoining or **contiguous lot** on or before March 21, 1966; or

 - 10.312.20 The **lot** was shown on a recorded plan or described in a recorded deed on or before March 21, 1966, and the Planning Board has approved a plat demonstrating that such **lot** and all adjoining or **contiguous lots** under common ownership have been combined to create a **lot** or **lots** most nearly consistent with the minimum **street frontage** requirement; or

 - 10.312.30 The **lot** was shown on a plan or described in a deed recorded after March 21, 1966, and such **lot** was created in compliance with the Zoning Ordinance, Subdivision Rules and Regulations and such other ordinances and regulations which properly apply and were in effect at the time of recording in the Rockingham County Registry of Deeds.

Section 10.320 Nonconforming Buildings and Structures

- 10.321 A **lawful nonconforming building** or **structure** may continue and be maintained or repaired, but may not be extended, reconstructed or enlarged unless such extension, reconstruction or enlargement conforms to all the regulations of the district in which it is located.

10.322 A **lawful nonconforming building or structure** that is damaged or destroyed by any cause other than the willful act of the owner or the owner's agent may be restored or reconstructed, provided that such restoration or reconstruction shall not enlarge the overall floor space or height of the **building** or cause the **building** to become more **non-conforming**. A **building permit** must be applied for within eighteen months of the damage. Nothing in this Section shall prevent the **demolition** of the remains of any **building** so damaged or destroyed.

10.323 Notwithstanding the preceding paragraphs, the following modifications to a **lawful nonconforming building or structure** may enlarge or expand the nonconformity, provided that the modification is the minimum necessary to comply with the applicable code:

10.323.10 Installation or replacement of components required for egress purposes pursuant to the **Building Code**; or

10.323.20 Installation or replacement of accessible egress components.

10.324 Any restoration, reconstruction, maintenance or repair work on a **non-conforming building or structure** in the Historic District shall comply with Section 10.630.

Section 10.330 Nonconforming Uses

10.331 A **lawful nonconforming use** may continue, but may not be extended, enlarged or changed except in conformity with this Ordinance.

10.332 A **lot, building or structure** in which a **lawful nonconforming use** is discontinued for a period exceeding eight months, or which is superseded by a conforming **use**, may not again be devoted to a **nonconforming use**. Failure to use a property for a **nonconforming use** for a period of eight months shall create a presumption of abandonment of the **use**.

10.333 A **nonconforming use** located in a portion of a **building or structure** shall not be extended throughout other parts of the **building or structure**.

10.334 A **nonconforming use** of land may not be extended into any part of the remainder of a **lot** of land.

10.335 A **lawful nonconforming use** may be changed to another **nonconforming use**, provided that the proposed **use** is equally or more appropriate to the district than the existing **use**, and the impact on **adjacent** properties is less adverse than the impact of the existing **use**. Such determination shall be made by application for a special exception from the Board of Adjustment.

10.336 A **nonconforming use** of land which is incidental to or accessory to a **nonconforming use** within a **building** shall be discontinued at the same time the **nonconforming use** of the **building** is discontinued.

Article 4 Zoning Districts and Use Regulations

Section 10.410 Establishment and Purpose of Districts
 Section 10.420 District Location and Boundaries
 Section 10.430 Use Regulations
 Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts
 Section 10.450 Table of Uses – Pease/Airport Districts
 Section 10.460 Table of Uses – Municipal and Conservation Districts
 Section 10.470 Uses Permitted in the Transportation Corridor District

Section 10.410 Establishment and Purpose of Districts

The City of Portsmouth is hereby divided into the following zoning districts (the statements of purpose are for descriptive purposes and are not regulatory):

| District | Purpose |
|---------------------------------------|--|
| Residential Districts | |
| Rural Residential | R To provide areas for single-family dwellings and appropriate accessory uses at rural densities (up to one dwelling per five acres), and limited agricultural uses . |
| Single Residence A | SRA |
| Single Residence B | SRB |
| | To provide areas for single-family dwellings at low to medium densities (approximately 1 to 3 dwellings per acre), and appropriate accessory uses . |
| General Residence A | GRA |
| General Residence B | GRB |
| General Residence C | GRC |
| | To provide areas for single-family, two-family and multifamily dwellings , with appropriate accessory uses , at moderate to high densities (ranging from approximately 5 to 12 dwelling units per acre), together with appropriate accessory uses and limited services. |
| Garden Apartment/ Mobile Home Park | GA/MH To provide areas for garden apartment development at moderate densities (up to 4 dwelling units per acre), and to accommodate existing developed mobile home parks. |
| Mixed Use Districts | |
| Mixed Residential Office | MRO To provide areas where a limited range of business establishments , including live/work units , can be located near or adjacent to residential development , providing a transition between residential neighborhoods and commercial districts. |
| Mixed Residential Business | MRB |

| District | | Purpose |
|---|--------|--|
| Gateway Neighborhood Mixed Use Corridor | G1 | The purpose of this district is to facilitate a broad range of housing types together with compatible commercial, fabrication, and civic uses in a high-quality pedestrian environment with moderate to high density. |
| Gateway Neighborhood Mixed Use Center | G2 | This district is intended to facilitate a broad range of residential and mixed use development at a pedestrian scale and moderate density providing commercial uses that benefit residents of the district and surrounding neighborhoods along major corridors. |
| Character Districts | | |
| Character District 4-L1 | CD4-L1 | To promote the development of walkable, mixed-use, human-scaled places by providing standards for building form and placement and related elements of development . |
| Character District 4-L2 | CD4-L2 | |
| Character District 4-W | CD4-W | |
| Character District 4 | CD4 | |
| Character District 5 | CD5 | |
| Business Districts | | |
| General Business | GB | To provide for a wide range of retail and commercial uses in areas with excellent regional highway access. |
| Business | B | To provide for a mix of retail, commercial and residential uses in areas of the City where a mix of such uses is desirable. |
| Waterfront Business | WB | To accommodate and support business uses that depend on the ocean or the Piscataqua River for transport or resources. |
| Office Research | OR | To provide for campus-style development of offices buildings , research and development facilities, and complementary uses . |
| Industrial Districts | | |
| Industrial | I | To accommodate industrial, wholesale and storage uses whose operational and physical characteristics do not have detrimental impacts on surrounding areas. |
| Waterfront Industrial | WI | To provide for industrial and related uses that depend on direct access to the Piscataqua River. |

| District | | Purpose |
|--------------------------------|-------|--|
| Pease/Airport Districts | | |
| Airport | AIR | To provide for uses associated with the operation of an airport , including aviation-related facilities, structures and activities. |
| Airport Industrial | AI | To provide for industrial uses requiring proximity to an airport and aviation-related facilities, structures and activities servicing industrial users . |
| Pease Industrial | PI | To provide for industrial uses which do not require direct access to an airport . |
| Airport Business Commercial | ABC | To provide for business, commercial and trade-related enterprises in a campus setting. |
| Other Districts | | |
| Civic District | CIVIC | To preserve existing buildings and uses that are open to the general public and owned and operated by a not-for-profit entity other than the City of Portsmouth. |
| Municipal | M | To recognize areas that are in municipal ownership for governmental, civic, service, educational or recreational use . |
| Natural Resource Protection | NRP | To recognize areas that are in governmental or nonprofit ownership and are dedicated to protection and enhancement of the City’s natural resources and ecology. |
| Transportation Corridor | TC | To provide for future transportation uses and related facilities as well as recreational trail use . |

Section 10.420 District Location and Boundaries

10.421 District Location and Boundaries

- 10.421.10 Zoning districts are located and bounded as shown on a map entitled “City of Portsmouth Zoning Map,” copies of which are on file in the offices of the City Clerk and Planning Department. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this Zoning Ordinance and may be reissued by the Planning Board to incorporate such amendments as may be made by the City Council.
- 10.421.20 Any property owned or leased by the City of Portsmouth and not shown on the Zoning Map as being in the Municipal or Natural Resource Protection district shall be deemed to be in the Municipal district, and when so identified shall be placed in that district.

- 10.421.30 The following maps are incorporated by reference in the Zoning Map:
- 10.421.31 The Regulating Plan and Special Requirements Maps for the Character Districts (Maps 10.5A21A through 10.5A21C), as most recently amended.
 - 10.421.32 The Flood Insurance Rate Maps (FIRM) for the City of Portsmouth, prepared by the Federal Emergency Management Agency (FEMA), as most recently amended.
 - 10.421.33 The “FAR Part 77 Imaginary Surfaces Plan” for Pease International Tradeport, dated May 1995.

10.422 Interpretation of District Bounds

The location of district boundary lines shown upon the Zoning Map shall be determined as follows:

- 10.422.10 Where a boundary is shown as following a **street**, railroad or utility, the boundary shall be the center line thereof unless otherwise indicated.
- 10.422.20 Where a boundary is shown outside of a **street**, railroad or utility and approximately parallel thereto, it shall be deemed parallel to the nearest line thereof, and the figure placed on the Zoning Map between the boundary and such line shall be the distance in feet between them as measured at a right angle from such line, unless otherwise indicated.
- 10.422.30 Where a boundary is shown as following a water course, the boundary shall coincide with the center line thereof as said center line existed at the date of the Zoning Map as amended.
- 10.422.40 Where a boundary apparently follows a **lot line**, it shall be interpreted as such. Such **lot line** shall be interpreted as one existing at the time of the enactment of this Zoning Ordinance or a pertinent amendment.
- 10.422.50 Where a district boundary line divides a **lot**, either zoning district shall be interpreted as extending 20 feet into the **adjacent** district.
- 10.422.60 In case of uncertainty, the Planning Board shall determine the exact location of the zoning district boundary.

Section 10.430 Use Regulations

- 10.431 All **buildings** or **structures** hereafter erected, reconstructed, altered, enlarged or moved, and all **uses** hereafter established, shall be in conformity with the provisions of this Zoning Ordinance.
- 10.432 No **building, structure**, or land shall be used for any purpose or in any manner other than that which is permitted in the district in which it is located.

10.433 **Buildings, structures** and land owned or leased by the City of Portsmouth shall be exempt from all provisions of this Ordinance except Article 10, Environmental Protection Standards. Nevertheless, the City is urged to comply with all relevant land **use** controls whenever possible and feasible.

10.434 The **use** regulations for all zoning districts are listed in Section 10.440 (Residential, Mixed Residential, Business and Industrial Districts), Section 10.450 (Pease/Airport Districts) and Section 10.460 (Municipal and Conservation Districts).

10.434.10 The following key applies to the Tables of Uses in Sections 10.440, 10.450 and 10.460:

| Symbol | Meaning |
|--------|---|
| AP | use is permitted by right through Administrative Approval |
| P | use is permitted in the district |
| S | use is allowed in the district upon the granting by the Board of Adjustment of a special exception |
| CU | use is allowed in the district upon the granting by the Planning Board of a conditional use permit |
| N | use is prohibited in the district |

10.434.20 More than one **use** category on one **lot**:

10.434.21 Different **uses** are permitted on one **lot** where each **use** is allowed in the underlying district.

10.434.22 When a proposed **development** includes different **uses** on one **lot**, the **use** which triggers the higher level of review for the zoning district shall determine the level of review for the entire application. (For example, in the MRB district **multifamily dwellings** are permitted and **retail sales** require a special exception; therefore, a proposed **development** including both these uses would require a special exception.)

10.434.30 In addition to the basic **use** regulations by district as described in 10.434.10, a particular **use** may be subject to additional standards or requirements specified in other sections of the Ordinance. The last column of the Table of Uses provides cross-references to some key supplemental standards and requirements; however, this column is provided for informational purposes and is not regulatory. In the case of any conflict between this reference column and

any other section of the Zoning Ordinance, such other section of the Ordinance shall apply.

- 10.434.40 Any **use** not specifically authorized in Article 4 (including **uses** defined in Article 15 but not listed in Article 4), shall be deemed prohibited in all zoning districts.

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts

| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|---|----|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|-----------------------------------|
| 1. Residential Uses | | | | | | | | | | | | | | | | | | |
| 1.10 Single family dwelling | P | P | P | P | N | P | P | P | N | N | P | P | N | N | N | N | N | |
| 1.20 Accessory dwelling unit | | | | | | | | | | | | | | | | | | 10.814 (Accessory Dwelling Units) |
| 1.21 Attached accessory dwelling unit (AADU) | | | | | | | | | | | | | | | | | | |
| 1.211 Up to 750 sq. ft. GLA and entirely within an existing single-family dwelling | AP | AP | AP | AP | N | AP | AP | AP | CU | N | CU | CU | N | N | N | N | N | |
| 1.212 Up to 750 sq. ft. GLA and in an expansion of an existing single-family dwelling | CU | CU | CU | CU | N | CU | CU | CU | N | N | CU | CU | N | N | N | N | N | |

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|---|----|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--------------------------|
| 1.22 Detached accessory dwelling unit (DADU) | | | | | | | | | | | | | | | | | | |
| 1.221 Up to 600 sq. ft. GLA and entirely within an existing accessory building that conforms with the dimensional requirements of this Ordinance. | CU | CU | AP | AP | N | AP | AP | AP | N | N | N | N | N | N | N | N | N | |
| 1.222 Up to 750 sq. ft. GLA and entirely within an existing accessory building that conforms with the dimensional requirements of this Ordinance. | CU | CU | CU | CU | N | CU | CU | CU | N | N | N | N | N | N | N | N | N | |
| 1.223 Up to 600 sq. ft. GLA in an existing accessory building that does not conform with the dimensional requirements of this Ordinance or includes the expansion of the existing accessory building . | CU | CU | CU | CU | N | CU | CU | CU | N | N | N | N | N | N | N | N | N | |
| 1.224 Up to 750 sq. ft. GLA on a lot and in a new building that complies with all lot and building dimensional standards of this Ordinance for a single-family dwelling | CU | CU | CU | CU | N | CU | CU | CU | N | N | N | N | N | N | N | N | N | |

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|---|----|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--|
| 1.30 Two-family dwelling | N | N | P | P | P | P | P | P | P | N | P | P | N | N | N | N | N | 10.640 (Downtown Overlay district) |
| 1.40 Townhouse | N | N | S | P | P | P | P | P | P | N | P | P | P | N | N | N | N | 10.640 (Downtown Overlay district) |
| 1.50 Multifamily dwelling | | | | | | | | | | | | | | | | | | 10.5A32 (Character district permitted uses) |
| 1.51 3 or 4 dwelling units | N | N | S | P | P | P | P | P | P | N | P | P | P | N | N | N | N | 10.640 (Downtown Overlay district) |
| 1.52 5 to 8 dwelling units | N | N | N | S | P | P | P | P | P | N | P | P | P | N | N | N | N | 10.813 (Multifamily Dwellings in the Business District) |
| 1.53 More than 8 dwelling units | N | N | N | N | P | N | N | N | P | N | P | P | P | N | N | N | N | |
| 1.60 Conversion of a building existing on January 1, 1980, with less than the required minimum lot area per dwelling unit specified in Article 5 | | | | | | | | | | | | | | | | | | 10.640 (Downtown Overlay District) |
| 1.61 To 2 dwelling units | N | N | S | S | N | P | P | P | S | N | N | N | N | N | N | N | N | 10.812 (Conversion of Existing Dwelling to Multifamily Dwelling) |
| 1.62 To 3 or 4 dwelling units | N | N | S | S | N | P | P | P | S | N | N | N | N | N | N | N | N | |
| 1.63 To 5 to 8 dwelling units | N | N | N | S | N | S | S | S | S | N | N | N | N | N | N | N | N | |
| 1.64 To more than 8 dwelling units | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 1.70 Live/work unit | N | N | N | N | N | P | P | P | P | N | P | P | P | N | N | N | N | |
| 1.80 Manufactured housing park | N | N | N | N | P | N | N | N | N | N | N | N | N | N | N | N | N | 10.816 (Manufactured Housing Park Dimensional Standards) |
| 1.90 Planned unit development (PUD) | | | | | | | | | | | | | | | | | | 10.720 (Planned Unit Developments) |
| 1.91 Open space PUD | CU | CU | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |

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| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|--|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--------------------------|
| 1.92 Residential density incentive PUD | N | N | CU | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 2. Institutional Residence or Care Facilities | | | | | | | | | | | | | | | | | | |
| 2.10 Assisted living facility | | | | | | | | | | | | | | | | | | |
| 2.11 Assisted living center | N | N | N | N | N | N | N | N | P | P | S | S | P | N | N | N | N | |
| 2.12 Assisted living home | S | S | S | S | S | S | S | S | N | N | S | S | N | N | N | N | N | |
| 2.20 Residential care facility | | | | | | | | | | | | | | | | | | |
| 2.21 5 or fewer residents | S | S | S | S | S | S | S | S | N | N | S | S | S | N | N | N | N | |
| 2.22 More than 5 residents | N | N | N | N | N | S | S | S | P | S | S | S | S | N | S | N | N | |
| 3. Educational, Religious, Charitable, Cultural and Public Uses | | | | | | | | | | | | | | | | | | |
| 3.10 Place of assembly | | | | | | | | | | | | | | | | | | |
| 3.11 Religious | S | S | S | N | N | S | S | S | S | S | S | S | S | N | N | N | N | |
| 3.12 Other nonprofit | N | N | N | N | N | S | S | S | S | S | S | S | S | N | N | N | N | |
| 3.20 School | | | | | | | | | | | | | | | | | | |
| 3.21 Primary or secondary | N | N | N | N | N | S | S | P | P | P | S | S | P | P | N | N | N | |
| 3.30 Post-secondary | N | N | N | N | N | S | S | P | P | P | S | S | P | N | P | P | N | |

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|--|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--|
| 3.30 Historic preservation building | S | S | S | S | S | P | P | P | P | P | P | P | P | N | P | N | N | 10.821 (Historic Preservation Buildings and Museums) |
| 3.40 Museum | N | N | N | N | N | P | P | N | P | P | S | S | P | N | P | N | N | 10.821 (Historic Preservation Buildings and Museums) |
| 3.50 Performance facility | | | | | | | | | | | | | | | | | | |
| 3.51 Indoor performance facility | | | | | | | | | | | | | | | | | | |
| 3.511 Occupancy up to 500 persons | N | N | N | N | N | N | N | N | P | P | S | S | S | N | N | N | N | 10.592 (location) 10.860 (hours of operation) |
| 3.512 Occupancy more than 500 | N | N | N | N | N | N | N | N | S | P | N | N | N | N | N | N | N | |
| 3.52 Outdoor performance facility | | | | | | | | | | | | | | | | | | |
| 3.521 Occupancy up to 500 persons | N | N | N | N | N | N | N | N | S | S | S | S | N | N | N | N | N | 10.592 (location) 10.822 (yards) 10.860 (hours of operation) |
| 3.522 Occupancy more than 500 | N | N | N | N | N | N | N | N | S | S | N | N | N | N | N | N | N | |
| 3.60 Cemetery | S | S | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 3.70 Club, fraternal or service organization | N | N | N | N | N | N | S | S | P | S | S | S | S | N | N | N | N | |
| 3.80 Municipally operated park and related activities | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | For other municipal uses see Section 10.460 (Municipal districts) |
| 4. Recreational Uses | | | | | | | | | | | | | | | | | | |
| 4.10 Religious, sectarian or private non-profit recreational use | N | S | N | N | N | S | S | N | P | P | S | S | P | N | N | N | N | |
| 4.20 Cinema or similar indoor amusement use with no live performance | N | N | N | N | N | N | N | N | P | P | S | S | P | N | N | N | N | 10.825 (noise) 10.860 (hours of operation) |

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO | CD4- | CD4- | MRB | CD5 | GB | G1 | G2 | B | WB | OR | I | WI | Supplemental Regulations |
|---|---|------------|------------|------------|-----------|------------|------|------|-----|-----------|----|----|----|---|----|----|---|----|--|
| | | | | | | CD4- L1 | L2 | CD4 | | CD4- W | | | | | | | | | |
| 4.30 Indoor recreation use , such as bowling alley or arcade | N | N | N | N | N | N | N | N | N | P | P | S | S | P | N | N | N | N | 10.825 (noise) 10.860 (hours of operation) |
| 4.40 Health club, yoga studio, martial arts school, or similar use | | | | | | | | | | | | | | | | | | | |
| 4.41 Up to 2,000 sq. ft. GFA* | N | N | N | N | N | S | S | P | P | P | P | P | P | P | N | N | S | N | |
| 4.42 More than 2,000 sq. ft. GFA | N | N | N | N | N | N | N | N | N | S | P | S | S | S | N | N | S | N | |
| 4.50 Outdoor recreation use | N | N | N | N | N | N | N | N | N | N | S | P | P | N | N | N | N | N | 10.592 (location) 10.860 (hours of operation) |
| 4.60 Amusement park, water park or theme park | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 5. Office Uses, Non-Medical | | | | | | | | | | | | | | | | | | | |
| 5.10 Professional office | N | N | N | N | N | P | P | S | P | P | P | P | P | P | N | P | P | N | 10.833 (Mixed Residential districts) |
| 5.20 Business office (incl. real estate office) | N | N | N | N | N | P | P | P | P | P | P | P | P | P | N | P | P | N | 10.833 (Mixed Residential districts) |
| 5.30 Financial institution | | | | | | | | | | | | | | | | | | | |
| 5.31 Financial services office | N | N | N | N | N | P | P | P | P | P | P | P | P | P | N | P | P | N | |
| 5.32 Retail bank | N | N | N | N | N | N | S | P | P | P | P | P | P | P | N | S | N | N | |
| 5.40 Social service campus | | | | | | | | | | | | | | | | | | | 10.823 |
| 5.41 Nonresidential | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | |

*GFA = gross floor area.

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|---|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--------------------------|
| 5.42 Residential | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | |
| 5.50 Media studio | | | | | | | | | | | | | | | | | | |
| 5.51 Excluding any transmitting antenna tower | N | N | N | N | N | S | S | S | P | P | S | S | P | N | N | P | N | |
| 5.52 Including accessory transmitting antenna tower | N | N | N | N | N | N | N | N | N | S | N | N | S | N | N | S | N | 10.834 |
| 5.60 Publishing facility or similar electronic production operation | N | N | N | N | N | S | S | S | P | P | P | P | P | N | P | P | N | |
| 5.70 Call Center | N | N | N | N | N | N | N | N | N | P | N | N | N | N | N | S | N | |
| 6. Medical Services and Health Care | | | | | | | | | | | | | | | | | | |
| 6.10 Hospital | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | N | |
| 6.20 Medical offices and clinics (outpatient only) | N | N | N | N | N | S | S | S | P | P | P | P | P | N | P | N | N | |
| 6.30 Clinics with inpatient care | N | N | N | N | N | N | N | N | N | S | S | N | S | N | S | N | N | |
| 6.40 Ambulatory surgical center | N | N | N | N | N | N | N | N | N | S | S | N | S | N | S | N | N | |
| 6.50 Substance abuse treatment facility | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 6.60 Psychiatric hospital for the criminally insane | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 7. Services, Other Than Health Care | | | | | | | | | | | | | | | | | | |
| 7.10 Day Care | | | | | | | | | | | | | | | | | | |

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|---|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|---|
| 7.11 Family day care facility | P | P | P | N | N | P | P | P | N | N | P | P | N | N | N | N | N | |
| 7.12 Group day care facility including private preschool and kindergarten | S | S | S | S | N | S | S | P | P | P | S | S | P | N | N | N | N | 10.824 (group day care facilities) 10.860 (hours of operation) |
| 7.20 Personal services | N | N | N | N | N | N | S | S | P | P | P | S | P | N | N | N | N | |
| 7.30 Consumer services such as copy shop, bicycle repair, and pet grooming | N | N | N | N | N | N | S | S | P | P | P | S | P | N | N | N | N | |
| 7.40 Trade, craft and general service establishments , such as shops for plumbers, electricians, painters, paper hangers, upholsterers, sign painters and printers | N | N | N | N | N | N | N | S | P | P | P | S | P | N | P | P | P | All storage of materials and equipment shall be located within a building |
| 7.50 Veterinary Care | N | N | N | N | N | N | N | S | N | S | S | S | S | N | S | S | N | 10.832 |
| 7.60 Laundry and dry cleaning establishments | | | | | | | | | | | | | | | | | | |
| 7.61 Drop-off/pick-up only for items to be dry cleaned or laundered off site | N | N | N | N | N | P | P | P | P | P | P | P | P | N | S | N | N | |
| 7.62 Self-service laundry for use by the general public | N | N | N | N | N | S | S | P | S | P | P | S | P | N | N | N | N | |
| 7.63 Dry cleaning establishment with on-site cleaning facilities. | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | |

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|--|---|------------|------------|------------|-----------|------------|------|-----|-----|----|----|----|-----------|----|----|---|----|-----------------------------|
| | | | | | | CD4- L1 | L2 | | CD4 | | | | CD4- W | | | | | |
| 7.70 Undertaking establishment , funeral parlor or mortuary chapel, excluding crematorium | N | N | N | N | N | N | N | P | N | P | S | S | P | N | N | N | N | |
| 8. Retail Trade | | | | | | | | | | | | | | | | | | |
| 8.10 Convenience goods | | | | | | | | | | | | | | | | | | 10.860 (hours of operation) |
| 8.11 Convenience goods 1 | | | | | | | | | | | | | | | | | | |
| 8.111 Hours of operation between 6:00 AM and 11:00 PM | N | N | N | N | N | N | P | P | P | P | P | P | P | N | N | N | N | |
| 8.112 24 hours per day operation | N | N | N | N | N | N | N | N | P | P | S | N | S | N | N | N | N | |
| 8.12 Convenience goods 2 | | | | | | | | | | | | | | | | | | |
| 8.121 Hours of operation between 6:00 AM and 11:00 PM | N | N | N | N | N | N | P | S | P | P | P | P | P | N | N | N | N | |
| 8.122 24 hours per day operation | N | N | N | N | N | N | N | N | S | S | S | N | S | N | N | N | N | |
| 8.30 Retail sales conducted within a building | | | | | | | | | | | | | | | | | | |
| 8.31 Not marine-related | N | N | N | N | N | N | P | S | P | P | P | P | P | N | N | N | N | |
| 8.32 Marine-related | N | N | N | N | N | N | N | N | P | P | P | P | P | P | N | N | N | |
| 8.40 Shopping center | N | N | N | N | N | N | N | N | P | P | P | P | S | N | N | N | N | |
| 8.50 Retail sales, large format | N | N | N | N | N | N | N | N | N | S | N | N | N | N | N | N | N | |
| 8.60 Fish market | N | N | N | N | N | N | N | N | P | P | P | P | P | P | N | N | N | 10.860 (hours of operation) |

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|--|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--|
| 8.70 Manufacture of goods sold at retail on the premises, such as crafts, coffee roasting and bakery goods | N | N | N | N | N | N | S | S | P | P | P | P | P | N | N | P | N | Maximum of 5 persons employed in manufacture |
| 8.80 Sexually oriented business | N | N | N | N | N | N | N | N | N | S | N | N | N | N | N | N | N | 10.930 (Sexually Oriented Businesses) |
| 9. Eating and Drinking Places | | | | | | | | | | | | | | | | | | |
| 9.10 Nightclub or bar | | | | | | | | | | | | | | | | | | 10.590 (location) |
| 9.11 Occupant load less than 250 | N | N | N | N | N | N | N | N | P | P | P | S | N | N | N | N | N | |
| 9.12 Occupant load from 250 to 500 | N | N | N | N | N | N | N | N | S | S | S | S | N | N | N | N | N | |
| 9.13 Occupant load greater than 500 | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 9.20 Restaurant, take-out only | N | N | N | N | N | N | N | N | P | P | P | P | P | N | N | N | N | |
| 9.30 Restaurant, fast food | N | N | N | N | N | N | N | N | P | P | P | P | P | N | N | N | N | |
| 9.40 Restaurant, place of public assembly or function room | | | | | | | | | | | | | | | | | | 10.590 (location) 10.860 (hours of operation) |
| 9.41 Occupant load less than 50 | N | N | N | N | N | N | P | N | P | P | P | P | P | N | N | N | N | |
| 9.42 Occupant load from 50 to 250 | N | N | N | N | N | N | N | N | P | P | P | S | S | N | N | N | N | |
| 9.43 Occupant load from 250 to 500 | N | N | N | N | N | N | N | N | P | S | S | S | N | N | N | N | N | |
| 9.44 Occupant load greater than 500 | N | N | N | N | N | N | N | N | S | S | N | N | N | N | N | N | N | |
| 9.50 Permanently moored vessel used as restaurant or bar , with occupant load less than 250 | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |

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| 10. Lodging Establishments | | | | | | | | | | | | | | | | | | |
| 10.10 Boarding house | N | N | N | N | N | N | N | N | N | S | S | N | S | N | N | N | N | |
| 10.20 Bed and breakfast | | | | | | | | | | | | | | | | | | |
| 10.21 Bed and Breakfast 1 | N | N | S | N | N | S | S | P | P | N | S | S | P | N | N | N | N | |
| 10.22 Bed and Breakfast 2 | N | N | N | N | N | S | S | P | P | N | S | S | P | N | N | N | N | |
| 10.30 Inn | N | N | N | N | N | N | S | S | P | P | S | S | P | N | N | N | N | |
| 10.40 Hotel or motel | | | | | | | | | | | | | | | | | | 10.836 (Office Research districts) |
| 10.41 Up to 125 rooms | N | N | N | N | N | N | N | N | P | S | S | S | N | N | P | N | N | |
| 10.42 126 to 250 rooms | N | N | N | N | N | N | N | N | P | S | S | S | N | N | S | N | N | |
| 10.42 251 to 500 rooms | N | N | N | N | N | N | N | N | P | S | S | N | N | N | N | N | N | |
| 10.43 More than 500 rooms | N | N | N | N | N | N | N | N | P | S | S | N | N | N | N | N | N | |
| 10.50 Conference hotel | N | N | N | N | N | N | N | N | P | P | S | N | N | N | N | N | N | |
| 10.60 Conference center | N | N | N | N | N | N | N | N | P | P | S | N | N | N | N | N | N | |
| 11. Motor Vehicle-Related Uses | | | | | | | | | | | | | | | | | | |
| 11.10 Sales, renting or leasing of passenger cars and light trucks , motorcycles, tractors, snowmobiles and small power equipment (e.g., lawnmowers), including accessory repair services | N | N | N | N | N | N | N | N | N | P | S | N | S | N | N | N | N | 10.592 (location) 10.843 (motor vehicle related uses) |

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| | | | | | | CD4- L1 | L2 | CD4 | | CD4- W | | | | | | | | | |
| 11.20 Motor vehicle service station | N | N | N | N | N | N | N | N | N | N | CU | CU | CU | CU | N | N | CU | N | 10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses) |
| 11.21 Car wash | N | N | N | N | N | N | N | N | N | N | CU | CU | N | CU | N | N | CU | N | |
| 11.30 Sales, rental, leasing, distribution, and repair of trucks over 10,000 lb gross vehicle weight (GVW), recreational vehicles , marine craft or manufactured housing , and related equipment | N | N | N | N | N | N | N | N | N | N | S | S | N | S | N | N | S | N | 10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses) |
| 11.40 Impound lot (principal or accessory use) | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | |
| 11.50 Truck fueling facility | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | 10.581 (lot area) 10.592 (location) 10.843 (motor vehicle related uses) |
| 11.60 Truck terminal | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | 10.592 (location) 10.843 (motor vehicle related uses) |
| 12. Marine Craft Related Uses | | | | | | | | | | | | | | | | | | | |
| 12.10 Boat landings, boat docks, boathouses and associated marine uses | | | | | | | | | | | | | | | | | | | |
| 12.11 Non-commercial | P | P | P | P | P | P | P | P | P | P | P | P | P | P | N | N | N | N | |
| 12.12 Fishing boat landing 1 | N | S | S | N | N | N | N | N | N | P | P | N | N | N | P | N | N | P | 10.837.10 (Residential districts) |
| 12.13 Fishing boat landing 2 | N | N | N | N | N | N | N | N | N | N | S | N | N | N | S | N | N | P | |

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| | | | | | | CD4- L1 | L2 | | CD4 | | | | CD4- W | | | | | |
| 12.20 Marina | | | | | | | | | | | | | | | | | | |
| 12.21 With no repair, servicing or fueling facilities | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | N | N | |
| 12.22 With repair, servicing or fueling facilities | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | N | N | 10.581 (lot area) 10.592 (location) 10.860 (hours of operation) |
| 12.30 Repair of commercial marine craft and marine-related structures | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | S | P | 10.581 (lot area) 10.592 (location) 10.860 (hours of operation) |
| 12.40 Landside support facility for commercial passenger vessel | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | N | P | |
| 13. Wholesale Trade, Warehousing and Distribution | | | | | | | | | | | | | | | | | | |
| 13.10 Wholesale use | | | | | | | | | | | | | | | | | | |
| 13.11 Not marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | |
| 13.12 Marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | P | |
| 13.20 Wholesale sales devoted to, and in the same establishment as, a permitted retail use | | | | | | | | | | | | | | | | | | |
| 13.21 Occupying up to 20% of gross floor area of establishment | N | N | N | N | N | N | N | N | P | P | S | N | P | N | N | N | N | |

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|---|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--------------------------|
| 13.22 Occupying 21% to 40% of gross floor area of establishment | N | N | N | N | N | N | N | N | N | P | N | N | P | N | N | N | N | |
| 13.30 Wholesale lumber yards, lumber and contractor sales | | | | | | | | | | | | | | | | | | |
| 13.31 Not marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | |
| 13.32 Marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | S | |
| 13.40 Warehousing or distribution of non-flammable, non-hazardous materials, not classified as a high hazard use | | | | | | | | | | | | | | | | | | |
| 13.41 Not marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | |
| 13.42 Marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | P | P | |
| 14. Industrial Uses | | | | | | | | | | | | | | | | | | |
| 14.10 Light industry | | | | | | | | | | | | | | | | | | |
| 14.11 Not marine-dependent | N | N | N | N | N | N | N | N | N | S | S | S | N | N | N | P | N | |
| 14.12 Marine-dependent | N | N | N | N | N | N | N | N | N | S | N | N | N | N | N | P | P | |
| 14.20 Research and development | | | | | | | | | | | | | | | | | | |
| 14.21 Not marine-dependent | N | N | N | N | N | N | N | P | N | S | S | N | S | N | S | P | N | |
| 14.22 Marine-dependent | N | N | N | N | N | N | N | N | N | S | N | N | S | P | S | P | P | |

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| 14.30 Food processing | | | | | | | | | | | | | | | | | | 10.592 (location) 10.851 (use contained in building) |
| 14.31 Not including seafood processing | N | N | N | N | N | N | N | N | N | P | S | N | N | N | N | P | P | |
| 14.32 Including seafood processing | N | N | N | N | N | N | N | N | N | S | N | N | N | N | N | S | S | |
| 14.40 Electronics manufacturing | N | N | N | N | N | N | N | N | N | S | S | N | S | N | N | P | N | |
| 14.50 General manufacturing | | | | | | | | | | | | | | | | | | |
| 14.51 Not marine-dependent | N | N | N | N | N | N | N | N | N | N | S | S | N | N | N | P | N | |
| 14.52 Marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | P | N | P | S | |
| 14.60 Biological or chemical laboratory | | | | | | | | | | | | | | | | | | |
| 14.61 Not marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | |
| 14.62 Marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | S | |
| 14.70 Recycling facility or recycling plant | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | 10.592 (location) 10.853 |
| 14.80 High hazard use , including other uses listed in this section but not including uses described in 14.90 | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | 10.593 (location) |

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| | | | | | | CD4- L1 | L2 | | CD4 | | | | CD4- W | | | | | |
| 14.90 Storage (other than normal accessory use), processing, disposal, or transfer of petroleum, petrochemicals, natural gas and liquid petroleum products, coal, alcohol, wood pulp, solid or liquid waste, junk or hazardous waste as classified by Federal or State law | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 15. Transportation and Utilities | | | | | | | | | | | | | | | | | | |
| 15.10 Public or private transformer station, substation, pumping station or automatic telephone exchange, not including any business office , storage yard or storage building | | | | | | | | | | | | | | | | | | |
| 15.11 Essential to service the area in which it is located | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | P | S | |
| 15.12 Providing community-wide or regional service | N | N | N | N | N | N | N | N | N | S | N | N | N | N | N | S | S | |
| 15.20 Heliport or helipad | | | | | | | | | | | | | | | | | | |
| 15.21 Helipad , as an accessory use to a permitted hospital use | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | S | S | |
| 15.22 Heliport | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |

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| 16. Wireless Telecommunications Facilities | | | | | | | | | | | | | | | | | | |
| 16.10 Satellite dish receiver 42 inches or less in diameter: | | | | | | | | | | | | | | | | | | |
| 16.11 Building -mounted, maximum height less than or equal to 4 feet from the roof surface | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 16.12 Ground-mounted, complying with all yard requirements for the district | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 16.20 Satellite dish receiver more than 42 inches in diameter: | | | | | | | | | | | | | | | | | | |
| 16.21 Building -mounted, maximum height less than or equal to 4 feet from the roof surface | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | |
| 16.22 Ground-mounted, complying with all yard requirements for the district | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | |
| 16.30 Whip antenna not more than 30 feet in height | S | S | S | S | S | S | S | S | P | P | S | S | P | P | P | P | P | |
| 16.40 Other wireless telecommunications facility not included above | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | 10.460 (Municipal districts) 10.920 (Wireless telecommunications facilities) |

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|--|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--------------------------|
| 17. Agricultural Uses | | | | | | | | | | | | | | | | | | |
| 17.10 Farm, not including the keeping of farm animals | P | P | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 17.20 Keeping of farm animals | S | S | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 18. Temporary Uses | | | | | | | | | | | | | | | | | | |
| 18.10 Construction trailer | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 18.20 Temporary structure | | | | | | | | | | | | | | | | | | |
| 18.21 Up to 30 days | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 18.22 31 to 90 days | S | S | S | S | S | S | S | S | S | S | S | S | S | S | P | P | P | |
| 18.23 91 to 180 days | N | N | N | N | N | N | N | N | N | N | N | N | N | N | S | S | S | |
| 18.24 More than 180 days | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| 18.30 Manufactured housing not on a foundation, as temporary replacement housing for a dwelling on the same lot destroyed by natural causes, provided that there is an active building permit for rebuilding the destroyed dwelling | | | | | | | | | | | | | | | | | | |
| 18.31 Up to 180 days | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 18.32 More than 180 days | S | S | S | S | S | S | S | S | S | S | S | S | S | S | P | P | P | |

P = Permitted AP = Administrative Approval S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|---|----|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|---|
| 18.40 Carts or trailers, including outdoor display area, used for the seasonal sale of dry goods, Christmas trees, flowers, fruits, vegetables, seasonal products and prepared food | N | N | N | N | N | N | N | N | P | P | S | N | P | N | P | P | P | |
| 19. Accessory Uses | | | | | | | | | | | | | | | | | | |
| 19.10 Accessory use to a permitted principal use , but not including any outdoor storage | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 10.811 (residential accessory uses) |
| 19.20 Home occupation | | | | | | | | | | | | | | | | | | |
| 19.21 Home occupation 1 | P | P | P | P | P | P | P | P | P | P | P | P | P | N | N | N | N | |
| 19.22 Home occupation 2 | CU | CU | CU | CU | N | CU | CU | P | P | P | P | P | P | N | N | N | N | |
| 19.30 Concessions and services located within the principal building | N | N | N | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 19.40 Drive-through facility , as accessory use to a permitted principal use | N | N | N | N | N | N | N | N | N | CU | CU | N | CU | N | CU | N | N | 10.835 (accessory drive-through uses) |
| 19.50 Outdoor dining or drinking area, as accessory use to a permitted principal use | N | N | N | N | N | N | CU | N | P | P | P | P | CU | N | N | N | N | |
| 19.60 EV fueling space A | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 10.811 (Accessory uses to permitted residential uses) |
| 19.70 EV fueling space B | N | N | N | N | N | CU | N | N | N | P | CU | CU | CU | N | CU | P | N | 10.843 (motor vehicle related uses) |

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| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO | CD4- | CD4- | MRB | CD5 | GB | G1 | G2 | B | WB | OR | I | WI | Supplemental Regulations | |
|------------------------------|---|---|------------|------------|-----------|------------|------|------|-----|-----------|----|----|----|---|----|----|---|----|--------------------------|-----------|
| | | | | | | CD4- L1 | L2 | CD4 | | CD4- W | | | | | | | | | | |
| 20. Accessory Storage | | | | | | | | | | | | | | | | | | | | |
| 20.10 | Indoor storage of motor vehicles or boats as an accessory use | | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 20.20 | Outdoor storage of registered motor vehicles owned by residents of the premises or business. Such vehicles may include only one commercial vehicle , which shall be limited to no more than 2 axles and 6 wheels. | | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 20.30 | Outdoor storage for not more than 9 consecutive months of boats owned by residents of the property: | | | | | | | | | | | | | | | | | | | |
| | 20.31 | Not more than one motorboat or sailboat longer than 12 feet | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| | 20.32 | Any number of (a) motorboats or sailboats up to 12 feet in length, or (b) hand-powered craft (canoes and kayaks) without restriction as to length | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| 20.40 | Outdoor storage of lobster traps, lobster buoys and associated rope | | | | | P | P | P | P | P | P | P | P | P | P | P | N | P | P | 10.811.20 |
| 20.50 | Outdoor storage of raw or partially finished material | | | | | | | | | | | | | | | | | | | |
| | 20.51 | Not marine-dependent | | | | N | N | N | N | N | N | N | N | N | N | N | N | S | N | |

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| Use | R | SRA SRB | GRA GRB | GRC (A) | GA/ MH | MRO CD4- L1 | CD4- L2 | MRB | CD5 CD4 | GB | G1 | G2 | B CD4- W | WB | OR | I | WI | Supplemental Regulations |
|--|---|------------|------------|------------|-----------|-------------------|------------|-----|------------|----|----|----|----------------|----|----|---|----|--------------------------|
| 20.52 Marine-dependent | N | N | N | N | N | N | N | N | N | N | N | N | N | S | N | S | S | |
| 20.60 Outdoor storage of machinery, equipment and vehicles | | | | | | | | | | | | | | | | | | |
| 20.61 Not marine-dependent | N | N | N | N | N | N | N | N | N | S | N | N | S | N | N | S | N | |
| 20.62 Marine-dependent (other than allowed by 20.30 or 20.40 above) | N | N | N | N | N | N | N | N | N | S | N | N | S | S | N | S | S | |

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

Section 10.450 Table of Uses – Pease/Airport Districts

| Use | AIR | AI | PI | ABC | Supplemental Regulations |
|---|-----|----|----|-----|--------------------------|
| A. Airport-Related Uses | | | | | |
| A1 Military aviation (activities associated with the US Department of Defense, NH National Guard, or other State or Federal defense related activities) and related airport activities | P | P | P | P | |
| A2 Medical emergency flights, provided that any arrivals or departures between 11:00 PM and 6:00 AM shall be limited to locations designated for emergency use during such hours | P | P | N | P | |
| A3 Civil aviation, with no arrivals or departures permitted between 11:00 PM and 6:00 AM: | | | | | |
| A3.1 Commercial cargo/freight air transportation for Stage III aircraft and aircraft with a gross weight of less than 75,000 pounds | P | P | N | N | |
| A3.2 General Aviation (all aviation activity except commercial passenger service and the military) | P | P | N | N | |
| A3.3 Limited commercial passenger service for no more than 30 passengers per flight | P | P | N | N | |
| A3.4 Air charter service for no more than 30 passengers per flight | P | P | N | N | |
| A4 Operation and maintenance activities associated with the airport runway and apron | P | P | N | N | |

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | AIR | AI | PI | ABC | Supplemental Regulations |
|---|-----|----|----|-----|--------------------------|
| A5 Aircraft servicing, maintenance and retrofitting | | | | | |
| A5.1 Operations that require direct access to the aircraft, including aircraft fueling | P | P | N | N | |
| A5.2 Operations that do not require direct access to the aircraft, including but not limited to servicing and maintenance of avionics, flight recorders, tires, brakes, sheet metal, batteries and other aircraft components | P | P | P | N | |
| A6 Maintenance, replacement and operation of underground fuel storage and distribution systems that were in existence prior to January 1, 1989, provided the following requirements are satisfied: (a) To protect the underlying aquifer, no additional fuel storage or distribution systems shall be placed underground; (b) Periodic inspections of not less than every six months shall be conducted by the responsible authority and the results shall be reported to appropriate Federal, State and Local authorities; and (c) Operation shall conform to all applicable federal, state and local statutes, ordinances, regulations and procedures. | P | P | N | N | |
| A7 Above-ground fuel storage tank facility, provided that: (a) Storage tanks shall be either double lined or vaulted; (b) Storage tanks shall be diked with an impervious retention basin capable of containing 1.3 times the holding capacity of the tanks; and (c) All applicable federal, state and local statutes, ordinances and regulations shall be complied with. | P | S | N | N | |
| A8 Airport terminal with associated ticket sales, food and beverage services, retail sales and services, located within the structure , including car rental agencies | P | P | N | N | |

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | AIR | AI | PI | ABC | Supplemental Regulations |
|---|-----|----|----|-----|--|
| A9 Aircraft hangers, servicing and repair facilities, aircraft administration buildings , freight terminals, retrofitting facilities and offices for on-board equipment activities | P | P | N | N | |
| A10 Air freight terminal operations and activities | P | P | N | N | |
| A11 Aerospace and aviation-related training facility | P | P | P | N | |
| A12 Aircraft sales and leasing facility | P | P | S | S | |
| A13 Aircraft and aircraft parts manufacture and retrofitting; aircraft parts and components storage; and aviation research and testing laboratories and activities | N | P | P | N | |
| 3. Educational, Religious, Charitable, Cultural and Public Uses | | | | | |
| 3.30 School, post-secondary (including training center or similar educational facility) | N | N | N | P | |
| 3.60 Performance facility | | | | | |
| 3.61 Indoor performance facility | | | | | |
| 3.611 Occupancy for up to 500 persons | N | N | N | P | 10.592 (location) 10.860 (hours of operation) |
| 3.612 Occupancy for more than 500 persons | N | N | N | S | |
| 3.62 Outdoor performance facility | | | | | |
| 3.621 Occupancy for up to 500 persons | N | N | N | P | 10.592 (location) 10.822 (yards) 10.860 (hours of operation) |
| 3.622 Occupancy for more than 500 persons. | N | N | N | S | |
| 4. Recreational Uses | | | | | |
| 4.40 Outdoor recreational use | N | P | P | P | |
| 4.50 Health club, yoga studio, martial arts school. or similar use | N | N | N | P | |

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | AIR | AI | PI | ABC | Supplemental Regulations |
|---|-----|----|----|-----|---|
| 5. Office Uses, Non-Medical | | | | | |
| 5.20 Business office | N | N | P | P | |
| 5.50 Media studio, including accessory transmitting antenna tower | N | S | S | P | 10.834 |
| 5.80 Trade-related exhibition/conference center, offices and support activities | N | N | N | P | |
| 6. Medical Services and Health Care | | | | | |
| 6.10 Hospital | N | N | N | P | |
| 6.20 Medical office or clinic | N | N | N | P | |
| 9. Eating and Drinking Places | | | | | |
| 9.50 Restaurant , place of public assembly or function room | | | | | 10.590 (location) |
| 9.52 Occupant load up to 500 persons | N | N | N | P | |
| 9.53 Occupancy greater than 500 persons | N | N | N | S | |
| 10. Lodging Establishments | | | | | |
| 10.40 Hotel or motel | N | N | N | P | 10.590 (location) |
| 14. Industrial Uses | | | | | |
| 14.10 Research and development , including high hazard uses | N | P | P | P | |
| 14.30 Food processing , including seafood processing | N | S | S | S | 10.592 (location) 10.851 (use contained in building) |

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | AIR | AI | PI | ABC | Supplemental Regulations |
|---|-----|----|----|-----|--------------------------|
| 14.50 General manufacturing | | | | | |
| (a) with equal to or less than 40 percent associated warehousing | P | P | P | P | |
| (b) with greater than 40 percent associated warehousing. | S | S | S | S | |
| 14.99 Foreign trade zone | S | S | S | S | |
| 15. Transportation and Utilities | | | | | |
| 15.10 Public or private transformer station, substation, pumping station, or automatic telephone exchange, not including any business office , storage yard or storage building | | | | | |
| 15.11 Essential to service the area in which it is located | S | S | S | S | |
| 15.12 Providing community-wide or regional service | S | S | S | S | |
| 15.30 Ground transportation of non-flammable and non-hazardous materials, and related activities and operations, provided that such use is located at least 100 feet from all property lines | N | P | S | N | |
| 15.40 Passenger transportation terminal, including bus terminal, rail terminal, commuter van, taxi and limousine services | P | P | N | P | |

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | AIR | AI | PI | ABC | Supplemental Regulations |
|--|-----|----|----|-----|--------------------------|
| 15.50 Shared vehicular parking garage as a principal use , subject to the following: (a) Dimensional standards shall be as specified in Article 5 except as follows: (1) Minimum lot area : 3 acres (2) Minimum open space : 25% (3) Maximum building/structure height: 70 feet (b) Permitted accessory uses shall be limited to: (1) Group day care facility (no age restriction) with associated outdoor fenced recreation areas (2) Car rental agency (3) Drop off/pick up only for items to be dry cleaned or laundered off site (4) News stand (5) Convenience goods 1, Convenience goods 2 (6) Coffee shop | P | P | P | P | |
| 16. Wireless Telecommunications Facilities | | | | | |
| 16.10 Satellite dish receivers 42 inches or less in diameter | | | | | |
| 16.11 Building -mounted, maximum height less than or equal to 4 feet from the roof surface | P | P | P | P | |
| 16.12 Ground-mounted, complying with all yard requirements for the district | P | P | P | P | |
| 16.20 Satellite dish receiver larger than 42 inches in diameter | | | | | |
| 16.21 Building -mounted, maximum height less than or equal to 4 feet from the roof surface | S | S | S | S | |

P = Permitted S = Special Exception CU = Conditional Use Permit N = Prohibited

| Use | AIR | AI | PI | ABC | Supplemental Regulations |
|--|-----|----|----|-----|------------------------------------|
| 16.22 Ground-mounted, complying with all yard requirements for the district | S | S | S | S | |
| 16.30 Whip antenna not greater than 30' in height | P | P | P | P | |
| 18. Temporary Uses | | | | | |
| 18.10 Construction trailer | P | P | P | P | |
| 19. Accessory Uses | | | | | |
| 19.10 The following accessory uses to a permitted principal use , provided said uses combined occupy less than 20% of the total gross floor area of the building : 19.11 Car rental agency. 19.12 Laundry and dry cleaning establishment 19.13 Personal services 19.14 News stand 19.15 Convenience goods 1, Convenience goods 2 19.16 Restaurant /coffee shop 19.17 Group day care facility (no age restriction) for employees located within the building 19.18 Recreational facility 19.19 Retail bank | P | P | P | P | 10.824 (group day care facilities) |
| 20. Accessory Storage | | | | | |
| 20.50 Outdoor storage of raw or partially finished material | S | S | S | S | |
| 20.60 Outdoor storage of machinery, equipment and vehicles | S | S | S | S | |

Section 10.460 Table of Uses – Municipal and Conservation Districts

| use | Municipal | NRP |
|--|-----------|-----|
| M1 Municipal activities including, but not limited to, police, government, fire department, library, and other public activities | P | N |
| M2 Public facilities, including parking facilities and garages | P | N |
| M3 Temporary activities as authorized by municipal agencies having jurisdiction | P | P |
| M4 Tree farms and related forestry activities | P | P |
| M5 Wildlife refuge | P | P |
| M6 Public parks and playgrounds | P | P |
| M7 Public nature trails, provided that no off road vehicles or bicycles of any type shall be allowed | P | P |
| M8 Airport related equipment, communications and navigational aids and activities | S | S |
| M9 uses of property which are expressly recognized in conservation easement or conservation restriction deeds by which the City of Portsmouth has acquired conservation rights in the property which is the subject of the deed | N | P |
| M10 Telecommunications equipment including towers, attached and detached antenna and cabinets, provided that the City Council approves such installation | P | N |

Note: No septic tank or leach field shall be constructed, reconstructed or enlarged closer than 75 feet to any **wetland** lying within an NRP district.

Section 10.470 Uses Permitted in the Transportation Corridor District

Land in the Transportation Corridor District may be used for the following purposes:

- 10.471 **Rail transport**
- 10.472 **Municipal trail**
- 10.473 **Rail-trail** or **rail-with-trail**
- 10.474 Underground utility lines, including but not limited to water, sewer, drainage, natural gas, electric and telecommunications

Article 5 Dimensional and Intensity Standards

| | |
|----------------|--|
| Section 10.510 | General Requirements |
| Section 10.520 | Residential and Mixed Residential Districts |
| Section 10.530 | Business and Industrial Districts |
| Section 10.540 | Airport Districts |
| Section 10.550 | Conservation Districts |
| Section 10.560 | Municipal District |
| Section 10.570 | Accessory Buildings, Structures and Uses |
| Section 10.580 | Special Dimensional Standards for Certain Uses |
| Section 10.590 | Minimum Distance Between Nonresidential Uses and Residential and Mixed Residential Districts |

Section 10.510 General Requirements

10.511 Interpretation

When this Article specifies two requirements for the same dimension (for example, maximum **building height** stated both in feet and in stories, or minimum **side yard** stated both in feet and as a percentage of **building height**), the more restrictive requirement shall apply unless explicitly stated otherwise.

10.512 Street Access

Every **structure** hereafter erected or moved shall be on a **lot** with access to a public **street** or an approved private **street**, and all **structures** shall be so located so as to provide safe and convenient access for servicing, fire protection, and required **off-street parking**. This requirement shall not apply to **lots** in the Natural Resource Protection district.

10.513 One Dwelling Per Lot

No more than one free-standing **dwelling** shall be built on any **lot** in a Rural, Single Residence A or B, or General Residence A or B district, except where specifically exempted by other provisions of this Ordinance.

10.514 Contiguous Lots in Common Ownership

10.514.10 **Contiguous lots** in common ownership shall not be separated or transferred in ownership so as not to be in compliance with the provisions of this Ordinance except as provided in Section 10.514.20.

10.514.20 **Contiguous lots** in common ownership may be separated or transferred in ownership, and such separation or transfer shall not be treated as a subdivision, if all of the following apply:

10.514.21 The **lots** are located in Atlantic Heights and are identified on the Plat recorded in the Rockingham County Registry of

Deeds on July 17, 1919, and filed under the Recording Number of D-0247; and

- 10.514.22 The **lots** contain a **structure** constructed prior to May 20, 1982, which is located so as to cross a **lot line** shown on the Plat referenced in paragraph 10.514.21; and
- 10.514.23 The property owners provide prior written notification to the Planning Director, who shall notify the Planning Board, Building Inspector and Assessors Office.

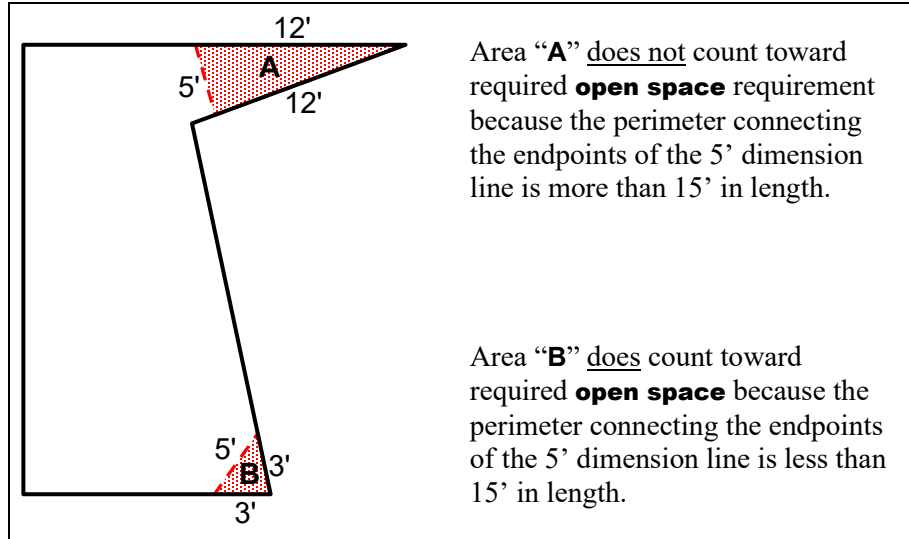
10.515 Measurement Rules

10.515.10 Yards

- 10.515.11 For a **corner lot** or **through lot**, all requirements related to the **front yard** shall apply to the **principal front yard** and all **secondary front yards**.
- 10.515.12 Determinations of **yards** shall not include:
 - (a) gutters, **cornices** or eaves projecting not more than 30 inches from a vertical wall; or
 - (b) balconies, bay windows or awnings projecting not more than 2 feet from a vertical wall, not exceeding 4 feet in width, and cumulatively not exceeding 50% of the width of the **building** face; or
 - (c) **structures** (such as decks and patios) less than 18 inches above ground level.
- 10.515.13 Fences not over 4 feet in height shall be exempt from **front yard** requirements, and fences not over 8 feet in height shall be exempt from side and **rear yard** requirements.

10.515.20 Required Open Space

The calculation of **open space** on a **lot** shall not include any area with a horizontal dimension that is 5 feet or less, unless the perimeter of the **open space** connecting the endpoints of the 5-foot dimension line is less than 15 feet in length.



10.516 Exceptions to Yard Requirements

10.516.10 Front Yard Exception for Existing Alignments

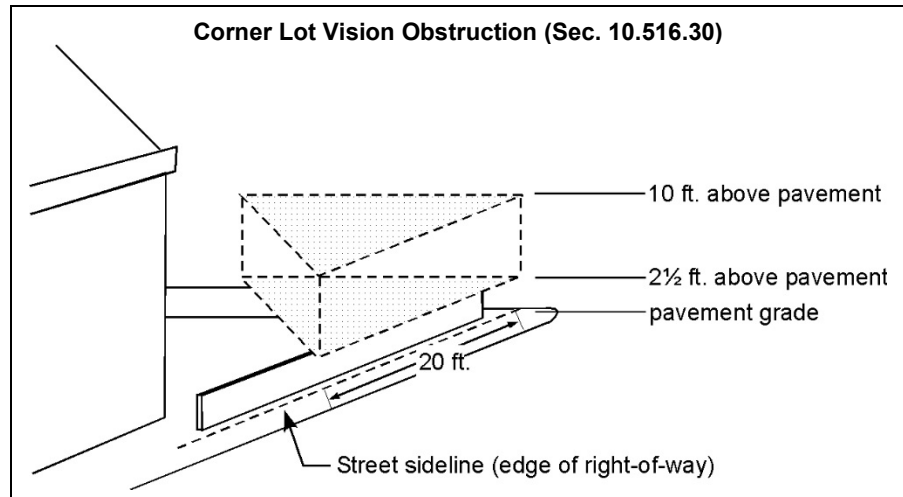
If existing **principal buildings** on the same side of the same **street**, in the same zoning district, and within 200 feet of a **lot** are located closer to the **street** than the minimum required **front yard** specified in this Article, the required **front yard** for the **principal building** on such **lot** shall be the average of the existing alignments of all such **principal buildings**, rounded to the nearest foot. For the purpose of this provision, **buildings** on the subject **lot** shall not be included in the average of existing alignments.

10.516.20 Yard Adjoining a Railroad Right of Way

Notwithstanding any other provision of this Article, in any district where a **rear yard** or **side yard** is required, the minimum **yard** adjoining a railroad right of way shall be 15 feet.

10.516.30 Corner Lot Vision Obstruction

On a **corner lot**, no **structure**, **accessory structure**, **landscaping**, or screening which obstructs visibility shall be erected or maintained between the heights of 2.5 feet and 10 feet above the edge of pavement grades within the area bounded by the sidelines of the intersecting **street** rights-of-way and a straight line joining points along said **street** sidelines 20 feet from the point of intersection of such sidelines or extensions thereof. This provision shall not apply in the Character Districts 4-W, 4 and 5 (CD4-W, CD4 and CD5).



10.516.40 Projections Into Required Yards

In the Single Residence, General Residence and Mixed Residential districts, **building** elements may project into required **yards** by the amounts indicated in the following table:

| | SRA, SRB | | GRA | | GRB, GRC, MRO, MRB | |
|--|---------------------------------------|-------------------|------------|-------------------|--------------------|-------------------|
| | Front Yard | Side or Rear Yard | Front Yard | Side or Rear Yard | Front Yard | Side or Rear Yard |
| Building Elements | Maximum Projection Into Required Yard | | | | | |
| Terraces, decks, steps and stoops that are uncovered and unenclosed and are less than 3 feet in height and less than 100 square feet in area | 5' | 5' | 0' | 5' | 10' | 0' |
| Porches, porticos , steps or stoops that are covered and unenclosed and are less than 12 feet in height (to top of roof) and less than 50 square feet in area | 5' | 5' | 0' | 5' | 5' | 0' |
| Porches and porticos that are covered and enclosed and are less than 12 feet in height (to top of roof) and less than 20 square feet in area | 5' | 5' | 0' | 5' | 5' | 0' |

0' = No projection allowed into required **yard**

10.517 Roof Appurtenances and Other Rooftop Features

- 10.517.10 A **roof appurtenance** may exceed the maximum allowed **structure** height for the zoning district by up to the additional height allowed in Section 10.521 or Section 10.531, as applicable, subject to the provisions of Section 10.517.
- 10.517.20 In the Gateway Neighborhood Mixed Use Districts, features for rooftop access and **use** may exceed the maximum allowed **structure** height for the zoning district as follows:
- 10.517.21 An elevator enclosure for an elevator providing rooftop access may extend an additional 5 feet above the allowed appurtenance height, provided that it is set back at least 30 feet from all edges of the roof and that the combined area of all such enclosures shall not exceed 300 square feet in area.
- 10.517.22 Elevator vestibules and partial shelters such as trellises and pergolas may extend up to the height allowed for rooftop appurtenances, provided that all such features shall be set back from all edges of the roof a distance at least equal to their height above the allowed **structure** height, and that the total area of such features shall not exceed 15 percent of the total roof area of the **structure**.
- 10.517.23 Railings around rooftop use areas may extend above the allowed **structure** height provided that they are less than 4 feet above the roof and that they are set back at least twice their height from the edge of the roof.
- 10.517.30 All **roof appurtenances** and other features that exceed the allowed **structure** height for the zoning district shall not exceed 33 percent of the total roof area of the **structure** and, except for elevators and stair towers, shall be set back at least 10 feet from any edge of the roof.
- 10.517.31 Solar energy panels shall not be subject to the 33 percent limitation provided that they are not visible from a point 20 feet above the edge of the **street** right-of-way on the opposite side of the **street**.
- 10.517.40 The area of **roof appurtenances** shall not be considered as part of the **building's gross floor area** calculations.

Section 10.520 Residential and Mixed Residential Districts

10.521 Table of Dimensional Standards – Residential and Mixed Residential Districts ¹

| | R | SRA | SRB | GRA | GRB | GRC | GA/MH | MRO | MRB |
|-------------------------------------|---------|--------|------------------|----------|----------|------------------|--------------------|----------|-----------------|
| Minimum Lot Dimensions | | | | | | | | | |
| Lot area | 5 acres | 1 acre | 15,000 sf | 7,500 sf | 5,000 sf | 3,500 sf | 5 acres | 7,500 sf | 7,500 sf |
| Lot area per dwelling unit | 5 acres | 1 acre | 15,000 sf | 7,500 sf | 5,000 sf | 3,500 sf | 10,000 sf | 7,500 sf | 7,500 sf |
| Continuous street frontage | NA | 150' | 100' | 100' | 80' | 70' | N/A | 100' | 100' |
| Depth | NA | 200' | 100' | 70' | 60' | 50' | N/A | 80' | 80' |
| Minimum Yard Dimensions | | | | | | | | | |
| Front | 50' | 30' | 30' ² | 15' | 5' | 5' | 30' ^{2,4} | 5' | 5' ² |
| Side | 20' | 20' | 10' | 10' | 10' | 10' | 25' | 10' | 10' |
| Rear | 40' | 40' | 30' | 20' | 25' | 20' | 25' | 15' | 15' |
| Maximum Structure Dimensions | | | | | | | | | |
| Structure height | | | | | | | | | |
| Sloped roof | 35' | 35' | 35' | 35' | 35' | 35' ³ | 35' ^{3,4} | 40' | 40' |
| Flat roof | 35' | 30' | 30' | 30' | 30' | 30' | 35' ^{3,4} | 30' | 30' |
| Roof appurtenance height | 8' | 8' | 8' | 8' | 8' | 8' | 8' | 10' | 10' |
| Building coverage | 5% | 10% | 20% | 25% | 30% | 35% | 20% ⁴ | 40% | 40% |
| Minimum open space | 75% | 50% | 40% | 30% | 25% | 20% | 50% | 25% | 25% |

NA = Not Applicable NR = No Requirement

Notes:

1. See Article 5A and Article 5B for dimensional standards in Character and Gateway Neighborhood Mixed Use Districts.
2. See Section 10.533 for special front **yard** requirements on Lafayette Road.
3. Within the General Residence C and Garden Apartment/Mobile Home Park districts an additional 8' of height may be added to the maximum **structure** height in order to provide for **multifamily dwellings** that include vehicular parking spaces located within the residential **building** itself, if the additional height results in increased **open space** when compared to a site plan showing what **open spaces** would remain if required parking spaces were located in the open and in **accessory structures**.
4. See Section 10.816 for requirements within a **manufactured housing park**.

10.522 Multifamily Dwellings

The maximum **building length** of a **multifamily dwelling** shall not exceed 160 feet.

Section 10.530 Business and Industrial Districts

10.531 Table of Dimensional Standards – Business and Industrial Districts ¹

| | B | GB | WB | I | WI | OR |
|-------------------------------------|-----------|-----------|-----------|------------------|------------------|----------------------|
| Minimum Lot Dimensions | | | | | | |
| Lot Area | 20,000 sf | 43,560 sf | 20,000 sf | 2 acres | 2 acres | 3 acres ² |
| Lot Area per dwelling unit | 2,500 sf | NR | NR | NA | NA | NA |
| Continuous street frontage | 100' | 200' | 100' | 200' | 200' | 300' ² |
| Depth | 80' | 100' | 100' | 200' | 200' | 300' ² |
| Minimum Yard Dimensions | | | | | | |
| Front | 20' | 30' | 30' | 70' | 70' | 50' ² |
| Side | 15' | 30' | 30' | 50' | 50' | 75' ² |
| Rear | 15' | 50' | 20' | 50' | 50' | 50' |
| Maximum Structure Dimensions | | | | | | |
| Structure height | 50' | 60' | 35' | 70' ³ | 70' ³ | 60' ³ |
| Roof appurtenance height | 10' | 10' | 10' | 10' | 10' | 10' |
| Building coverage | 35% | 30% | 30% | 50% | 50% | 30% |
| Floor Area Ratio | NR | NR | NR | NR | NR | NR |
| Minimum open space | 15% | 20% | 20% | 20% | 20% | 30% |

Notes:

NA = Not Applicable NR = No Requirement

1. See Article 5A and Article 5B for dimensional standards in Character and Gateway Neighborhood Mixed Use Districts.
2. See Section 10.532.10 for requirements for lots adjacent to North Mill Pond.
3. See Section 10.532.20 for reduced structure height within 200' of North Mill Pond or Piscataqua River.

10.532 Exceptions to Dimensional Standards for Certain Lots in the Industrial and OR Districts

10.532.10 North Mill Pond

In the Office Research district, **lots** in the area bounded by North Mill Pond, Maplewood Avenue, Islington Street and Bartlett Street shall be subject to the requirements of the Industrial district with respect to minimum **lot area, street frontage, lot depth, and yards.**

10.532.20 Building Height Setback from Waterfront

In the Industrial, Waterfront Industrial and Office Research districts, no portion of a **building** that is less than 200 feet from the **highest observable tide line** of the Piscataqua River or the North Mill Pond shall exceed 45 feet in height. Docking and offloading **structures** and equipment (such as cranes) are exempt from this restriction.

10.533 Special Yard Requirements on Lafayette Road

Notwithstanding the minimum **front yard** requirements specified in Section 10.521 or Section 10.531, for any **lot** adjoining Lafayette Road between the Route 1 Bypass and the Rye town line, no **building, structure,** parking area, or display or storage area shall be located less than 80 feet from the centerline of Lafayette Road or 30 feet from the sideline of Lafayette Road, whichever represents the greater **setback,** except as otherwise permitted by this Ordinance.

10.534 Inclusion of Waterfront Public Access in Open Space

In a Business or Industrial District, a portion of a **lot** that is used to provide public access along a waterfront shall be counted as **open space** for the purpose of satisfying the requirement for minimum **open space** on a **lot,** as follows:

10.534.10 Each square foot of **lot area** that is duly recorded and enforceable by the City as waterfront public access shall be counted as 1.5 square feet of required **open space.**

10.534.20 Each square foot of **lot area** that is used for, but not enforceable by the City as, waterfront public access shall be counted as 1.0 square foot of required **open space.**

Section 10.540 Airport Districts

In the Airport, Airport Industrial, Pease Industrial and Airport Business Commercial districts, land use controls are governed by State statute. The statute provides that land acquired by the Pease Development Authority (PDA) from the federal government is not subject to the City of Portsmouth's land use controls, including the Zoning Ordinance, but instead is subject to land use controls adopted by the PDA, consistent with the City's Master Plan. The dimensional regulations in the following table therefore have no direct

regulatory effect, but do represent the City’s land use policy for these districts and thus are set forth as guidance for the PDA.

| | Air | PI | AI | ABC |
|-------------------------------------|------------|-----------|-----------|------------|
| Minimum Lot Dimensions | | | | |
| Area | NR | 5 acres | 5 acres | 10 acres |
| Continuous street frontage | NR | NR | 100’ | 300’ |
| Depth | NR | NR | 100’ | 200’ |
| Minimum Yard Dimensions | | | | |
| Front | NR | 70’ | 70’ | 70’ |
| Side | NR | 50’ + 50’ | 50’ + 50’ | 30’ + 30’ |
| Rear | NR | 50’ | 50’ | 50’ |
| Maximum Structure Dimensions | | | | |
| Structure height | 85’ | 85’ | 85’ | 85’ |
| Roof appurtenance height | 10’ | 10’ | 10’ | 10’ |
| Building coverage | NR | 30% | 50% | 60% |
| Minimum open space | NR | 50% | 50% | 50% |

NR = No requirement.

Section 10.550 Conservation Districts

| | NRP |
|-------------------------------------|------------|
| Minimum Lot Dimensions | |
| Area | NR |
| Continuous street frontage | NR |
| Depth | NR |
| Minimum Yard Dimensions | |
| Front | 70’ |
| Side | 70’ |
| Rear | 70’ |
| Maximum Structure Dimensions | |
| Structure height | 35’ |
| Roof appurtenance height | 10’ |
| Building coverage | NR |
| Minimum open space | 95% |

NR = No requirement.

Section 10.560 Municipal District

Lots and buildings in the Municipal district are exempt from all dimensional and intensity regulations.

Section 10.570 Accessory Buildings, Structures and Uses

- 10.571 No **accessory building, structure** or **use** shall be located in any required **front yard**, or closer to a **street** than the **principal building**.
- 10.572 In a Character, Business or Industrial district, all **accessory buildings** and **structures** shall conform to the **side yard** and **rear yard** requirements of the applicable zoning district.
- 10.573 In a Residential or Mixed Residential district, an **accessory building** or **structure** may be located in a required **side yard** or **rear yard** subject to the following:
- 10.573.10 An **accessory building** or **structure** not more than 10 feet in height and not more than 100 square feet in area shall be set back at least 5 feet from any **lot line**.
- 10.573.20 An **accessory building** or **structure** more than 10 feet in height or more than 100 square feet in area shall be set back from any **lot line** at least the height of the **building** or the applicable **yard** requirement, whichever is less.
- 10.574 All **accessory buildings** and **structures** shall be included in the computation of **building coverage**.
- 10.575 No dumpster shall be located within 20 feet of a Residential or Mixed Residential zoned **lot** nor within 10 feet of any **lot line**. (See also Section 10.1130, Landscaping and Screening.)
- 10.576 An **accessory use** that does not include a **structure** shall be set back at least 10 feet from a side or **rear lot line**.

Section 10.580 Special Dimensional Requirements for Certain Uses

When this Section 10.580 specifies a minimum **lot area** or minimum **yard** requirement for a specific **use** that is different from a **lot area** or **yard** requirement specified elsewhere in this Article, the **use** shall comply with the more stringent requirement.

10.581 Minimum Lot Area

Lots shall conform to the following minimum **lot area** requirements:

| Use | Minimum Lot Area |
|--|------------------|
| Social service campus | 25 acres |
| Hotel or motel in Industrial district | 10 acres |
| Motor vehicle service station | 1 acre |
| Sales, rental, leasing, distribution, and repair of vehicles, recreational vehicles, marine craft, manufactured housing and related equipment | 2 acres |
| Marine vessel repair | 2 acres |
| Truck fueling facility | 5 acres |
| Truck terminal | 2 acres |
| Recycling facilities and recycling plants | 2 acres |

10.582 Minimum Yards

| Use | Minimum Yard |
|--|--------------|
| Social service campus | 50 feet |
| Hotel or motel in Industrial districts | |
| Front | 175 feet |
| Side | 100 feet |
| Rear | 175 feet |
| Motor vehicle service station | 50 feet |

Section 10.590 Minimum Distance Between Nonresidential Uses and Residential and Mixed Residential Districts

10.591 Minimum Distance Between Structures in Nonresidential Districts and Residential or Mixed Residential Districts

In a General Business District, Industrial District (I, WI, OR) or Airport District (A, PI, AI, ABC), no **structure** or additions to a **structure** shall be located within 100 feet of a parcel in a Residential or Mixed Residential district or Character District 4-L1.

10.592 Additional Distance Between Specific Nonresidential Uses and Residential or Mixed Residential Districts

10.592.10 Based on the location of the lot

A **lot** containing one of the following **uses** shall be separated from a Residential or Mixed Residential district or Character District 4-L1 by the distance indicated:

| Use No. | Use | Minimum distance between lot and any Residential or Mixed Residential district or Character District 4-L1 |
|----------------------|--|--|
| 3.51 | Performance facility, indoor | 200 feet |
| 3.52 | Performance facility, outdoor | 500 feet |
| 4.50 | Outdoor recreation use | 500 feet |
| 7.50 | Veterinary hospital with kennels | 200 feet |
| 9.10 9.50 9.60 | Nightclub or bar (as a principal or accessory use) | 200 feet * |
| 11.20 | Motor vehicle service station | 200 feet |
| 11.50 | Truck fueling facility | 500 feet |
| 11.60 | Truck terminal | 500 feet |
| 12.20 12.30 | Marine vessel repair | 500 feet |
| 14.30 | Food processing | 500 feet |
| 14.70 | Recycling facility or recycling plant | 500 feet |

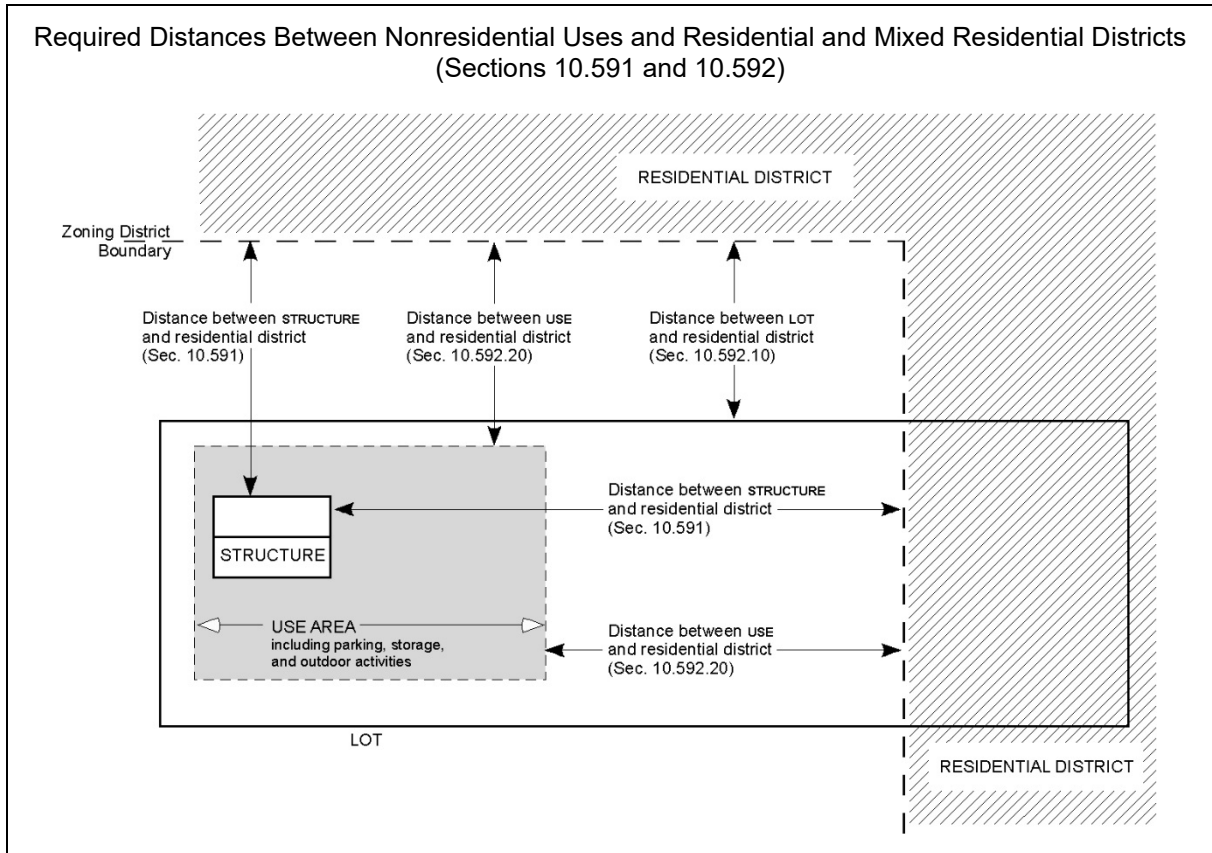
* In Character District 4 or 5 (CD4 or CD5) or the Downtown Overlay District, a **lot** containing a **nightclub** or **bar** may be located less than 200 feet from a Residential or Mixed Residential district but shall not abut such district.

10.592.20 Based on the location of the use

The following **uses** shall be separated from a Residential or Mixed Residential district or Character District 4-L1 by the distance indicated:

| Use No. | Use | Minimum distance between use and any Residential or Mixed Residential district or Character District 4-L1 |
|---------|-----------------------------------|--|
| | Outdoor entertainment | 200 feet |
| 8.90 | Sexually oriented business | See Section 10.930 |

| | | |
|-------|---|----------|
| 10.40 | Parking and access ways for hotel or motel | 100 feet |
| 10.50 | in an Industrial district | |
| 11.10 | Sales, rental, leasing, distribution and repair | 200 feet |
| 12.30 | of vehicles, recreational vehicles, marine craft, manufactured housing and related equipment, including areas for parking, display or storage of vehicles, equipment, goods or materials | |



10.593 Additional Location Restrictions for Certain Nonresidential Uses

- 10.593.10 Any **restaurant** with an **accessory use**, such as a **bar**, place of public assembly or function room, in a General Business or Gateway district shall be located at least 200 feet from a residential district.
- 10.593.20 Any **high hazard use** shall be located at least 500 feet from any other **high hazard use** (or a greater distance if deemed necessary by the Planning Board), and shall include a vegetated buffer area at 500 feet in depth to screen such **use** from any Residential or Mixed Residential district.

Article 5A Character-Based Zoning

- Section 10.5A10 General
- Section 10.5A20 Regulating Plan
- Section 10.5A30 Character District Use Standards
- Section 10.5A40 Character District Development Standards
- Section 10.5A50 Civic Districts
- Section 10.5A60 Definitions

Section 10.5A10 General

10.5A11 Purpose and Intent

The purpose of Article 5A is to encourage **development** that is compatible with the established character of its surroundings and consistent with the City's goals for the preservation or enhancement of the area. This is accomplished by providing a range of standards for the elements of **development** and **buildings** that define a place.

10.5A12 Applicability

- 10.5A12.10 Article 5A shall apply to the Character districts and Civic districts as shown on the **Regulating Plan**.
- 10.5A12.20 Municipal districts are shown on the **Regulating Plan** for reference but are governed by other sections of the Zoning Ordinance (specifically, Sections 10.460 and 10.560) and not by Article 5A.

10.5A13 Compliance with Regulating Plan

- 10.5A13.10 In the Character districts and Civic districts, all **lots, buildings, structures, uses, and development** shall comply with the requirements of Article 5A, as well as with all other provisions of this Zoning Ordinance that are not superseded by Article 5A.
- 10.5A13.20 No **development**, subdivision, re-subdivision or construction of or on any **building, lot** or parcel of land shall occur except pursuant to the **Regulating Plan** and in compliance with all standards and requirements for the district.

10.5A14 Relationship to Other Provisions of the Zoning Ordinance

- 10.5A14.10 The provisions of Article 5A shall take precedence over all other provisions of the Zoning Ordinance that are in conflict with Article 5A.
- 10.5A14.20 All provisions of the Zoning Ordinance that are not specifically modified or superseded by Article 5A, or that are not in conflict with Article 5A, shall apply to **lots, buildings and uses** in the Character districts and Civic districts.

10.5A15 Relationship to Other Regulations, Codes and Ordinances

- 10.5A15.10 Any proposed subdivision of land shall comply with the Subdivision Rules and Regulations, in addition to the requirements of Article 5A.
- 10.5A15.20 Any **development** that requires Site Plan Review under the Site Plan Review Regulations shall comply with such Regulations, in addition to the requirements of Article 5A.
- 10.5A15.30 The provisions of Article 5A do not modify or supersede any provision of the **Building Code**, other City ordinances or regulations, or State laws relating to the **development** of land.

10.5A16 Figures

- 10.5A16.10 The standards and definitions in the following figures are an integral part of Article 5A:
 - Figure 10.5A41.10A – Development Standards: Character District 4– Limited (CD4-L1/CD4-L2)
 - Figure 10.5A41.10B – Development Standards: Character District 4– West End (CD4-W)
 - Figure 10.5A41.10C – Development Standards: Character District 4 (CD4)
 - Figure 10.5A41.10D – Development Standards: Character District 5 (CD5)
 - Figure 10.5A43.10 – Façade Types
 - Figure 10.5A43.60 – Building Types
 - Figure 10.5A45.10 – Community Spaces
- 10.5A16.20 The diagrams, photographs and illustrations contained in the above figures are provided only to provide reference to certain regulating elements and indicate general character within the various districts and shall have regulatory force and effect only to that extent.

10.5A17 Definitions

Terms used throughout Article 5A may be defined in the figures (Façade Types, Building Types, and Community Spaces), in Section 10.5A60, in Article 15 or elsewhere in the Zoning Ordinance. Terms not so defined shall be accorded their commonly accepted meanings. In the event of any conflict between the definitions in Article 5A, those in Article 15, other sections of the Zoning Ordinance, the Subdivision Rules and Regulations, or any other local land use ordinances, rules or regulations, those of Article 5A shall take precedence unless the context clearly indicates otherwise.

Section 10.5A20 Regulating Plan

10.5A21 General

10.5A21.10 Contents of Regulating Plan

The **Regulating Plan** is the Zoning Map for the Character districts and Civic districts. The **Regulating Plan** consists of the following maps:

- Map 10.5A21A – Character Districts and Civic Districts
- Map 10.5A21B – Building Height Standards
- Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout, and Uses

10.5A21.20 Building Height Standards

10.5A21.21 Assignments for specific **building heights** require a **building** to have no more than the designated maximum number of **stories** or the maximum height in feet (whichever is lower) and no less than the designated minimum number of **stories**. Subject to Section 10.635.70 – Review Criteria, within the Historic District, the approved building height may be lower than the maximum designated number of stories or the maximum height in feet provided in Section 10.5A43.30 but shall not be lower than the minimum designated number of stories or the minimum height in feet provided.

10.5A21.22 When a **lot** is assigned to more than one **building height** standard the **lot** shall be apportioned as follows:

- (a) A **building height** standard designated along a **front lot line** on a **public place** shall apply to the portion of the **lot** that is 50 feet or less from such **lot line** along a **public place**.
- (b) A **building height** standard designated along a water body shall apply to the portion of the **lot** that is 100 feet or less from the mean high water line.
- (c) More than 50 feet from a **front lot line** along a **public place** and more than 100 feet from a water body, the **building height** may increase to the highest **building height** standard designated for the **lot**.
- (d) Where a **lot** has less depth from a **front lot line**, along a **public place** or water body than the required minimum distances stated above, the lowest **building height** standard for the **lot** shall be applied to the required linear distance from the **lot line**, **public place**, or water body.

10.5A21.30 Special Requirements for Façade Types, Front Lot Line Buildout, and Uses

The following standards shall apply when so designated by the **Regulating Plan**:

- (a) Specific **façade** type requirements apply to designated properties at the **sidewalk** level. Where a permitted **building** type conflicts with a required **façade** type, the **façade** type shall supersede.
- (b) For waterfront **lots** on Ceres Street, the maximum **front lot line buildout** shall be 50%, and **buildings** shall have a wood-sided appearance.
- (c) Specific **use** requirements apply to designated properties along the waterfront area (see Sections 10.5A34-35).

10.5A22 Regulating Plan Amendment

10.5A22.10 General

The **Regulating Plan** may be amended in accordance with the provisions of Section 10.150 (Changes and Amendments), subject to the further provisions of Section 10.5A22.20.

10.5A22.20 Application Requirements

An application for a **Regulating Plan** amendment initiated by or on behalf of the owner of property shall be accompanied by a site plan for such property that complies with the requirements for a request for Design Review under the Site Plan Review Regulations.

Section 10.5A30 Character District Use Standards

- 10.5A31 **Buildings, structures** and land within a Character district shall comply with the **use** regulations set forth for the applicable district in Section 10.440, except as specified below:
- 10.5A32 A **lot** within the Downtown Overlay District shall comply with the requirements of Section 10.642 Ground Floor Uses.
- 10.5A33 In addition to the **uses** permitted in the underlying Character districts, **lots** in the Waterfront Use Overlay as shown on Map 10.5A21C shall also permit **uses** 9.60, 12.20, 12.22 and 12.40 as set forth in Section 10.440 (Table of Uses).
- 10.5A34 In addition to the **uses** permitted in Character District 4, waterfront **lots** on Ceres Street as shown on Map 10.5A21C shall also permit the **uses** permitted in the Waterfront Industrial district as set forth in Section 10.440.

Section 10.5A40 Character District Development Standards

10.5A41 Development Standards

Development, structures and lots within Character districts shall comply with the applicable general description and standards set forth in Figures 10.5A41.10A-D (Development Standards) and elsewhere in Article 5A.

FIGURE 10.5A41.10A DEVELOPMENT STANDARDS CHARACTER DISTRICT 4—LIMITED (CD4-L1/CD4-L2)

These districts consist of medium density areas with a mix of medium to large **houses**. Upper floor **uses** are almost entirely residential. **Ground floors** include some commercial **office uses**; areas zoned CD4-L2 also allow some **restaurant** and retail **uses** on the **ground floor**. There are shallow **front yards** and shallow to medium **side yards**, with variable private **landscaping**, and on-site accessory parking. **Streets** have **sidewalks** and **street trees**, and define medium to large **blocks**.



**FIGURE 10.5A41.10A DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4—LIMITED (CD4-L1/CD4-L2)**



BUILDING PLACEMENT – PRINCIPAL BUILDING

| | | |
|-------------------------------------|---|----------|
| Maximum principal front yard | 15 ft | A |
| Maximum secondary front yard | 12 ft | B |
| Side yard | 5 ft min. to 20 ft max. | C |
| Minimum rear yard | Greater of 5 ft from rear lot line or 10 ft from center line of alley | D |
| Front lot line buildout | 60% min. to 80% max. | |

BUILDING AND LOT OCCUPATION

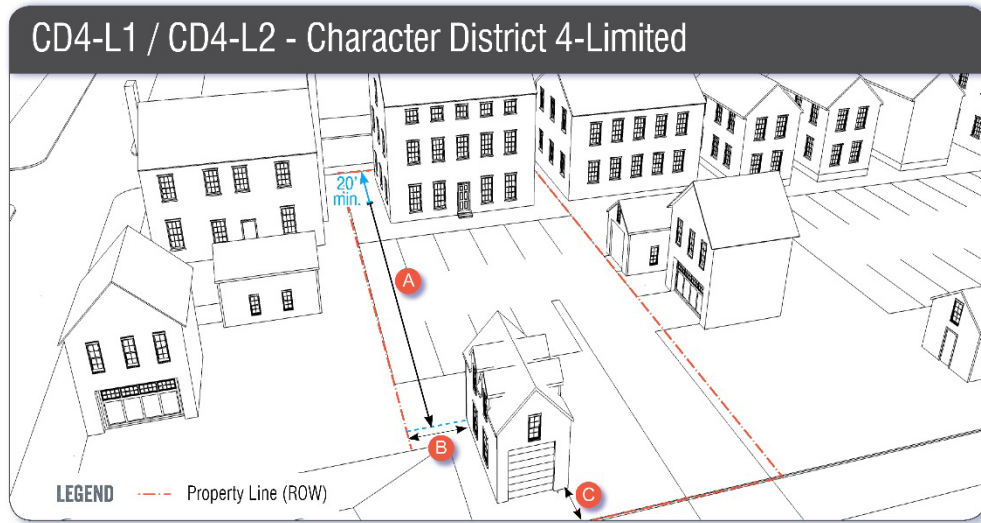
| | | |
|---|--------------------------------|----------|
| Maximum building block length | 80 ft | E |
| Maximum façade modulation length | 50 ft (see Section 10.5A43.20) | |
| Maximum entrance spacing | NR | |
| Maximum building coverage | 60% | |
| Maximum building footprint | 2,500 sf | |
| Minimum lot area | 3,000 sf | |

| | |
|---|----------|
| Minimum lot area per dwelling unit | 3,000 sf |
| Minimum open space | 25% |
| Maximum ground floor GFA per use | NR |

BUILDING FORM – PRINCIPAL BUILDING

| | | |
|---|--|----------|
| Building height | See Map 10.5A21.B & Section 10.5A43.30 | F |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" | |
| Minimum ground story height | 11 ft | |
| Façade glazing: Shopfront façade Other façade types | 70% min. 20% min. to 40% max. | |
| Roof type | flat, gable, hip, gambrel, mansard | |
| Roof pitch, if any Gable Hip Mansard/gambrel | 6:12 min. to 12:12 max 3:12 min. 6:12 min. to 30:12 max. | |

**FIGURE 10.5A41.10A DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4—LIMITED (CD4-L1/CD4-L2)**



BUILDING PLACEMENT – OUTBUILDING

| | | |
|---------------------------|---|----------|
| Minimum front yard | 20 ft behind a façade of a principal building | A |
| Minimum side yard | 3 ft | B |
| Minimum rear yard | 3 ft | C |

BUILDING TYPES

See Figure 10.5A43.60 for **building** type definitions

| | |
|----------------------------------|--|
| House | permitted* |
| Duplex | permitted* |
| Rowhouse | permitted* |
| Apartment building | permitted* |
| Live/work building | permitted** |
| Small commercial building | CD4-L1: not permitted CD4-L2: permitted |
| Large commercial building | not permitted |
| Cottage | not permitted |
| Paired House | permitted* |
| Gateway Townhouse | not permitted |
| Mixed-Use Building | permitted** |
| Flex Space Building | permitted |
| Community Building | permitted |

*Not permitted in the Downtown Overlay District

Residential **uses are not permitted on the **ground floor** in the Downtown Overlay District

BUILDING & LOT USE

See Sections 10.5A30 and 10.440

FAÇADE TYPES

See Figure 10.5A43.10 for **façade** type definitions
Except where required **façade** types are indicated on Map 10.5A21C, the below standards apply:

| | |
|-----------------------|---|
| Porch | permitted |
| Stoop | permitted* |
| Step | only permitted where indicated on Map 10.5A21C |
| Shopfront | CD4-L1: only permitted where indicated on Map 10.5A21C CD4-L2: permitted |
| Officefront | only permitted where indicated on Map 10.5A21C |
| Forecourt | permitted* |
| Recessed-entry | permitted |
| Dooryard | permitted |
| Terrace | not permitted |
| Gallery | not permitted |
| Arcade | not permitted |

*Not permitted in the Downtown Overlay District

PARKING

See Section 10.5A44.30

COMMUNITY SPACE

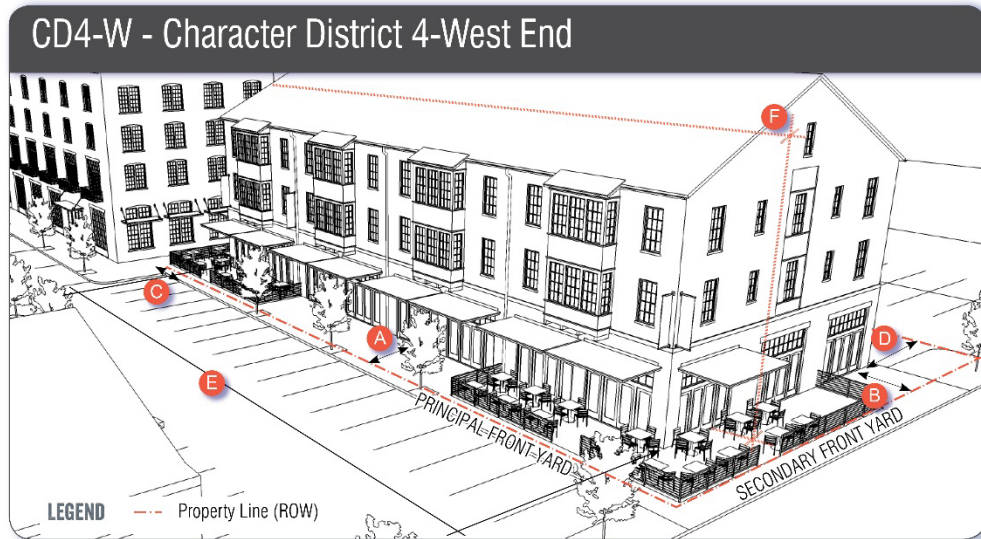
See Section 10.5A45

**FIGURE 10.5A41.10B DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4—WEST END (CD4-W)**

This district consists of a medium-to-high density area with a mix of **building** types and residential, retail, and other commercial **uses**. There are shallow or no **front yards** and medium to no **side yards**, with variable private **landscaping** and on-site accessory parking. **Streets** have **sidewalks** and **street trees** or other pedestrian amenities, and define medium **blocks**.



**FIGURE 10.5A41.10B DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4—WEST END (CD4-W)**



BUILDING PLACEMENT – PRINCIPAL BUILDING*

| | | |
|--|---|---|
| Maximum principal front yard | 10 ft | A |
| Maximum secondary front yard | 15 ft | B |
| Side yard | NR | C |
| Minimum rear yard | Greater of 5 ft from rear lot line or 10 ft from center line of alley | D |
| Minimum front lot line buildout | 50% | |

* Except for items listed under Section 10.5A42.12

BUILDING AND LOT OCCUPATION

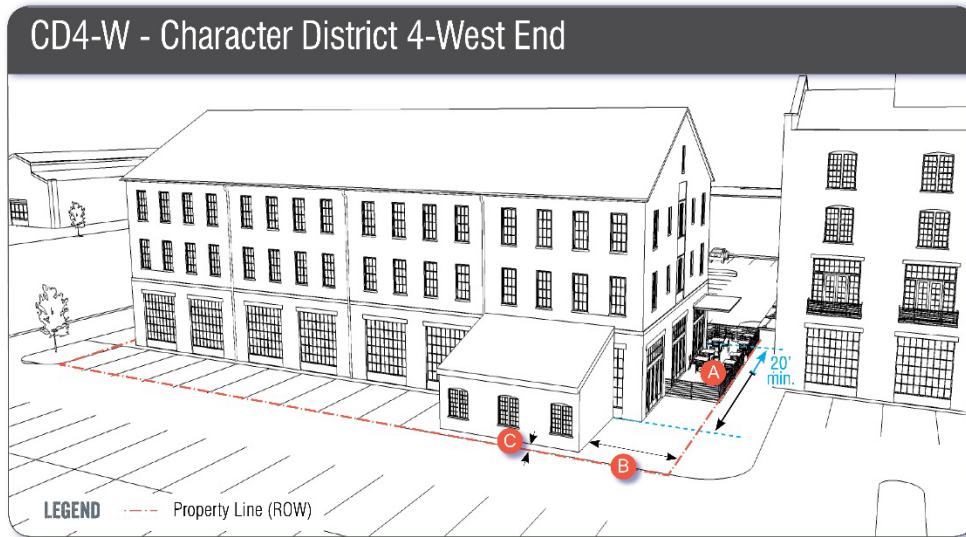
| | | |
|---|---|---|
| Maximum building block length | 200 ft | E |
| Maximum façade modulation length | 80 ft (see Section 10.5A43.20) | |
| Maximum entrance spacing | 50 ft | |
| Maximum building coverage | 60% | |
| Maximum building footprint | 15,000 sf (or as allowed by Section 10.5A43.40) | |

| | |
|---|-----------|
| Minimum lot area | 5,000 sf |
| Minimum lot area per dwelling unit | 2,500 sf |
| Minimum open space | 15% |
| Maximum ground floor GFA per use | 15,000 sf |

BUILDING FORM – PRINCIPAL BUILDING

| | | |
|---|---|---|
| Building height | See Map 10.5A21.B & Section 10.5A43.30 | F |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" | |
| Minimum ground story height | 12 ft | |
| Façade glazing: Shopfront façade | 70% min. | |
| Other façade types | 20% min. to 50% max. | |
| Roof type | flat, gable, hip, gambrel, mansard | |
| Roof pitch, if any | | |
| Gable | 6:12 min. to 12:12 max | |
| Hip | 3:12 min. | |
| Mansard/gambrel | 6:12 min. to 30:12 max. | |

**FIGURE 10.5A41.10B DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4—WEST END (CD4-W)**



BUILDING PLACEMENT – OUTBUILDING

| | | |
|---------------------------|---|----------|
| Minimum front yard | 20 ft behind a façade of a principal building | A |
| Minimum side yard | 0 ft | B |
| Minimum rear yard | 3 ft | C |

BUILDING TYPES

See Figure 10.5A43.60 for **building** type definitions

| | |
|----------------------------------|---------------|
| House | not permitted |
| Duplex | not permitted |
| Rowhouse | permitted |
| Apartment building | permitted |
| Live/work building | permitted* |
| Small commercial building | permitted |
| Large commercial building | permitted |
| Cottage | not permitted |
| Paired House | not permitted |
| Gateway Townhouses | not permitted |
| Mixed-Use Building | permitted* |
| Flex Space Building | permitted |
| Community Building | permitted |

*Residential **uses** are not permitted on the **ground floor**

BUILDING & LOT USE

See Sections 10.5A30 and 10.440

FAÇADE TYPES

See Figure 10.5A43.10 for **façade** type definitions
Except where required **façade** types are indicated on Map 10.5A21C, the below standards apply:

| | |
|-----------------------|---------------|
| Porch | not permitted |
| Stoop | permitted |
| Step | permitted |
| Shopfront | permitted |
| Officefront | permitted |
| Forecourt | not permitted |
| Recessed-entry | permitted |
| Dooryard | permitted |
| Terrace | not permitted |
| Gallery | permitted |
| Arcade | permitted |

PARKING

See Section 10.5A44.30

COMMUNITY SPACE

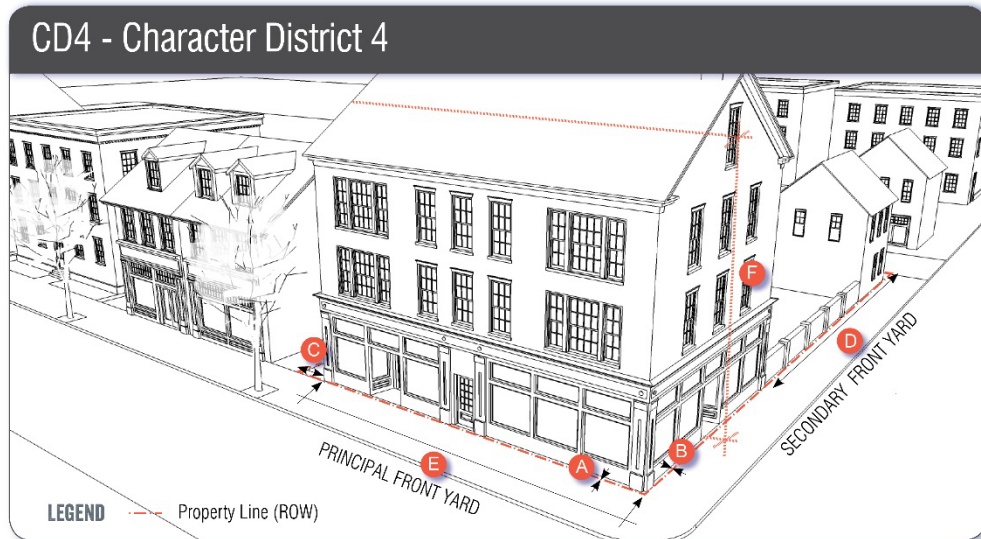
See Section 10.5A45

**FIGURE 10.5A41.10C DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4 (CD4)**

This district consists of a medium-to-high density transitional area with a mix of **building** types and residential, retail, and other commercial **uses**. There are shallow or no **front yards** and medium to no **side yards**, with variable private **landscaping**. **Streets** have **sidewalks** and **street** trees or other pedestrian amenities, and define small to medium **blocks**.



**FIGURE 10.5A41.10C DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4 (CD4)**



BUILDING PLACEMENT – PRINCIPAL BUILDING*

| | | |
|-------------------------------------|---|-----|
| Maximum principal front yard | 10 ft | (A) |
| Maximum secondary front yard | 15 ft | (B) |
| Side yard | NR | (C) |
| Minimum rear yard | Greater of 5 ft from rear lot line or 10 ft from center line of alley | (D) |
| Front lot line buildout | | |
| On Ceres Street | 50% max. (See Map 10.5A21C) | |
| Everywhere else | 50% min. | |

* Except for items listed under Section 10.5A42.12

BUILDING AND LOT OCCUPATION

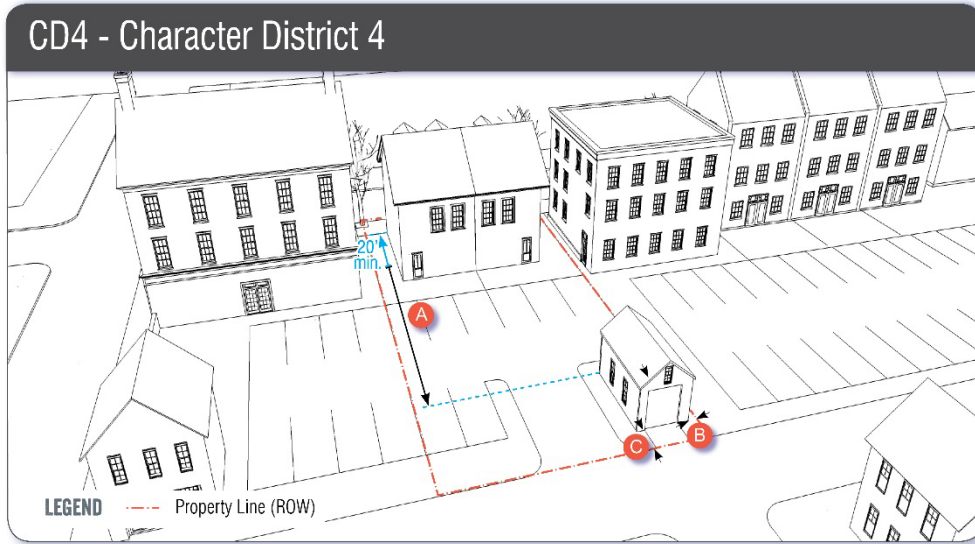
| | | |
|---|---|-----|
| Maximum building block length | 200 ft | (E) |
| Maximum façade modulation length | 80 ft (see Section 10.5A43.20) | |
| Maximum entrance spacing | 50 ft | |
| Maximum building coverage | 90% | |
| Maximum building footprint | 15,000 sf (or as allowed by Section 10.5A43.40) | |

| | |
|---|-----------|
| Minimum lot area | NR |
| Minimum lot area per dwelling unit | NR |
| Minimum open space | 10% |
| Maximum ground floor GFA per use | 15,000 sf |

BUILDING FORM – PRINCIPAL BUILDING

| | | |
|--|---|-----|
| Building height | See Map 10.5A21.B & Section 10.5A43.30 | (F) |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" | |
| Minimum ground story height | 12 ft | |
| Minimum second story height | 10 ft | |
| Façade glazing: | | |
| Shopfront façade | 70% min. | |
| Other façade types | 20% min. to 50% max. | |
| Roof type | flat, gable, hip, gambrel, mansard | |
| Roof pitch, if any | | |
| Gable | 6:12 min. to 12:12 max | |
| Hip | 3:12 min. | |
| Mansard/gambrel | 6:12 min. to 30:12 max. | |

**FIGURE 10.5A41.10C DEVELOPMENT STANDARDS
CHARACTER DISTRICT 4 (CD4)**



BUILDING PLACEMENT – OUTBUILDING

| | | |
|---------------------------|---|----------|
| Minimum front yard | 20 ft behind a façade of a principal building | A |
| Minimum side yard | 0 ft | B |
| Minimum rear yard | 3 ft | C |

BUILDING TYPES

See Figure 10.5A43.60 for **building** type definitions

| | |
|----------------------------------|---------------|
| House | not permitted |
| Duplex | not permitted |
| Rowhouse | permitted* |
| Apartment building | permitted* |
| Live/work building | permitted** |
| Small commercial building | permitted |
| Large commercial building | permitted |
| Cottage | not permitted |
| Paired House | not permitted |
| Gateway Townhouses | not permitted |
| Mixed-Use Building | permitted** |
| Flex Space Building | permitted |
| Community Building | permitted |

*Not permitted in the Downtown Overlay District
 Residential **uses are not permitted on the **ground floor** in the Downtown Overlay District

BUILDING & LOT USE

See Sections 10.5A30 and 10.440

FAÇADE TYPES

See Figure 10.5A43.10 for **façade** type definitions
 Except where required **façade** types are indicated on Map 10.5A21C, the below standards apply:

| | |
|-----------------------|---------------|
| Porch | not permitted |
| Stoop | permitted |
| Step | permitted |
| Shopfront | permitted |
| Officefront | permitted |
| Forecourt | not permitted |
| Recessed-entry | permitted |
| Dooryard | permitted |
| Terrace | not permitted |
| Gallery | permitted |
| Arcade | permitted |

PARKING

See Section 10.5A44.30

COMMUNITY SPACE

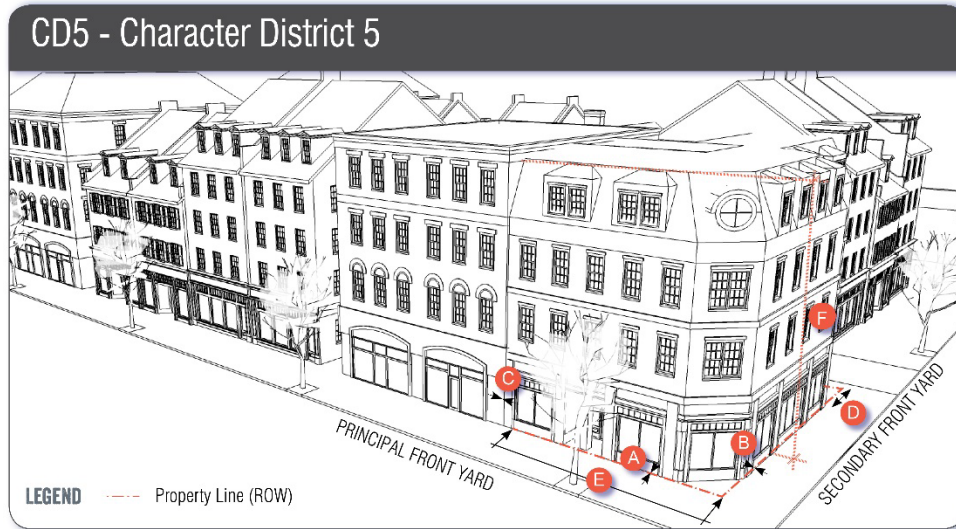
See Section 10.5A45

**FIGURE 10.5A41.10D DEVELOPMENT STANDARDS
CHARACTER DISTRICT 5 (CD5)**

This district consists of a high density center with a mix of **building** types and residential, retail and other commercial **uses**. There are no **front yards** or **side yards**, and limited **landscaping** and public parking facilities. **Streets** have **sidewalks** and trees or other pedestrian amenities, and define small to medium **blocks**.



**FIGURE 10.5A41.10D DEVELOPMENT STANDARDS
CHARACTER DISTRICT 5 (CD5)**



BUILDING PLACEMENT – PRINCIPAL BUILDING*

| | | |
|--|---|----------|
| Maximum principal front yard | 5 ft | A |
| Maximum secondary front yard | 5 ft | B |
| Side yard | NR | C |
| Minimum rear yard | Greater of 5 ft from rear lot line or 10 ft from center line of alley | D |
| Minimum front lot line buildout | 80% | |

* Except for items listed under Section 10.5A42.12

BUILDING AND LOT OCCUPATION

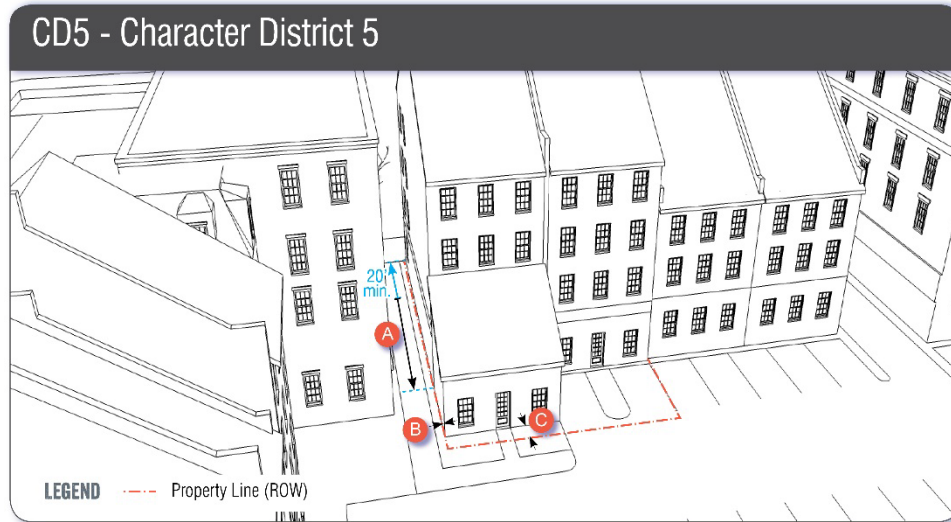
| | | |
|---|---|----------|
| Maximum building block length | 225 ft | E |
| Maximum façade modulation length | 100 ft (see Section 10.5A43.20) | |
| Maximum entrance spacing | 50 ft | |
| Maximum building coverage | 95% | |
| Maximum building footprint | 20,000 sf (or as allowed by Section 10.5A43.40) | |

| | |
|---|-----------|
| Minimum lot area | NR |
| Minimum lot area per dwelling unit | NR |
| Minimum open space | 5% |
| Maximum ground floor GFA per use | 15,000 sf |

BUILDING FORM – PRINCIPAL BUILDING

| | | |
|--|---|----------|
| Building height | See Map 10.5A21.B & Section 10.5A43.30 | F |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" | |
| Minimum ground story height | 12 ft | |
| Minimum second story height | 10 ft | |
| Façade glazing: | | |
| Shopfront façade | 70% min. | |
| Other façade types | 20% min. to 50% max. | |
| Roof type | flat, gable, hip, gambrel, mansard | |
| Roof pitch, if any | | |
| Gable | 6:12 min. to 12:12 max | |
| Hip | 3:12 min. | |
| Mansard/gambrel | 6:12 min. to 30:12 max. | |

**FIGURE 10.5A41.10D DEVELOPMENT STANDARDS
CHARACTER DISTRICT 5 (CD5)**



BUILDING PLACEMENT – OUTBUILDING

| | | |
|---------------------------|---|----------|
| Minimum front yard | 20 ft behind a façade of a principal building | A |
| Minimum side yard | 0 ft | B |
| Minimum rear yard | 3 ft | C |

BUILDING TYPES

See Figure 10.5A43.60 for **building** type definitions

| | |
|----------------------------------|---------------|
| House | not permitted |
| Duplex | not permitted |
| Rowhouse | not permitted |
| Apartment building | not permitted |
| Live/work building | permitted* |
| Small commercial building | permitted |
| Large commercial building | permitted |
| Cottage | not permitted |
| Paired House | not permitted |
| Gateway Townhouses | not permitted |
| Mixed-Use Building | permitted* |
| Flex Space Building | permitted |
| Community Building | permitted |

*Residential **uses** are not permitted on the **ground floor** in the Downtown Overlay District

BUILDING & LOT USE

See Sections 10.5A30 and 10.440

FAÇADE TYPES

See Figure 10.5A43.10 for **façade** type definitions
Except where required **façade** types are indicated on Map 10.5A21C, the below standards apply:

| | |
|-----------------------|---------------|
| Porch | not permitted |
| Stoop | permitted |
| Step | permitted |
| Shopfront | permitted |
| Officefront | permitted |
| Forecourt | not permitted |
| Recessed-entry | permitted |
| Dooryard | not permitted |
| Terrace | not permitted |
| Gallery | permitted |
| Arcade | permitted |

PARKING

See Section 10.5A44.30

COMMUNITY SPACE

See Section 10.5A45

10.5A42 Building Placement

10.5A42.10 Yards

10.5A42.11 **Yards** shall be as required in Figures 10.5A41.10A-D (Development Standards).

10.5A42.12 **Yards** may be increased above the maximum permitted for truncated corners or other subtractive massing techniques, alleys, vehicular **accessways**, increased **sidewalk** width or **community spaces**.

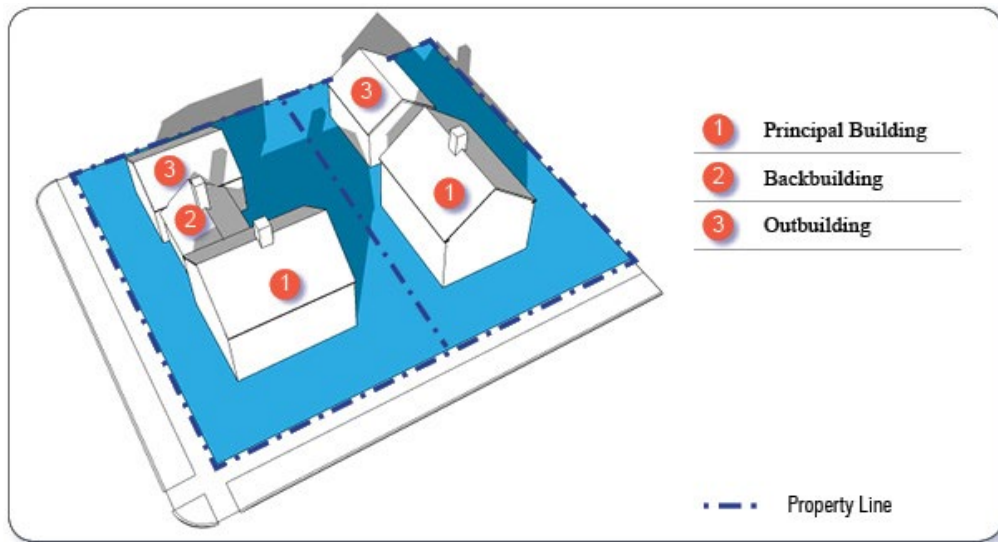
10.5A42.20 Façade Alignment

The **façade** facing the **principal front yard** shall be parallel to the **front lot line**. Where the **front lot line** is curved, the **façade** shall be parallel to a straight line connecting the points of intersection of the **front lot line** and the **side lot lines**.

10.5A42.30 Outbuildings and Backbuildings

A detached **outbuilding**, or an **outbuilding** attached to a **principal building** with a **backbuilding**, may be built on each **lot** to the rear of the **principal building**, as illustrated generally in Figure 10.5A42.10 (Principal Building/Backbuilding/Outbuilding).

FIGURE 10.5A42.10 PRINCIPAL BUILDING/BACKBUILDING/ OUTBUILDING



10.5A42.40 North Mill Pond Public View Corridors

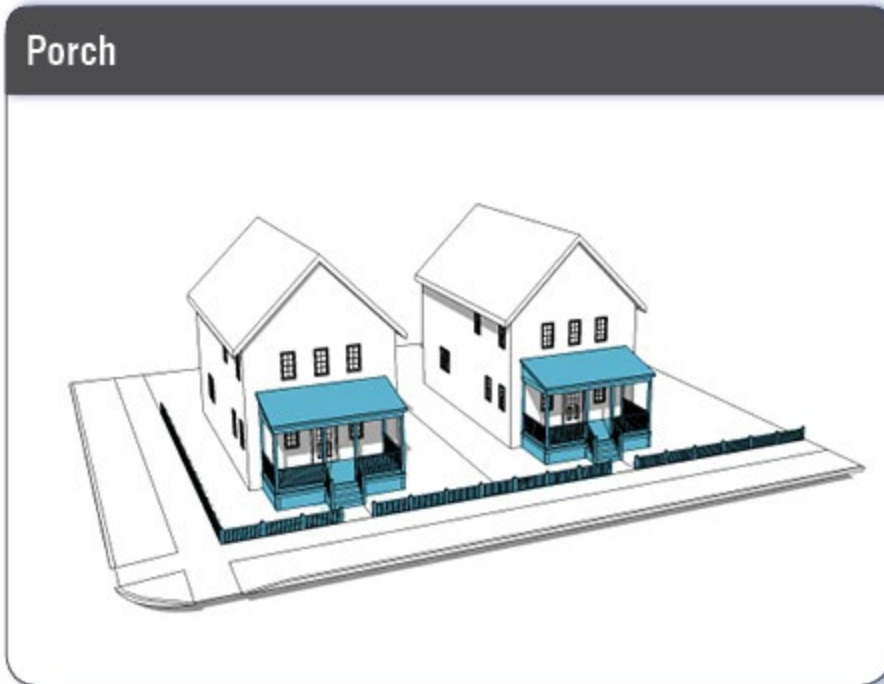
All new **buildings** or structures located within 400' of the North Mill Pond shall be located in such a way as to maintain existing public views with a terminal vista of the North Mill Pond from the intersecting **streets** of Dover Street, Cabot Street, Cornwall Street and Langdon Street. Except for existing obstructions, the public view corridor shall be maintained for a minimum width of the existing public right-of-way of the nearest intersecting **street** as listed above.

10.5A43 Building Form and Façades

10.5A43.10 Façade Types

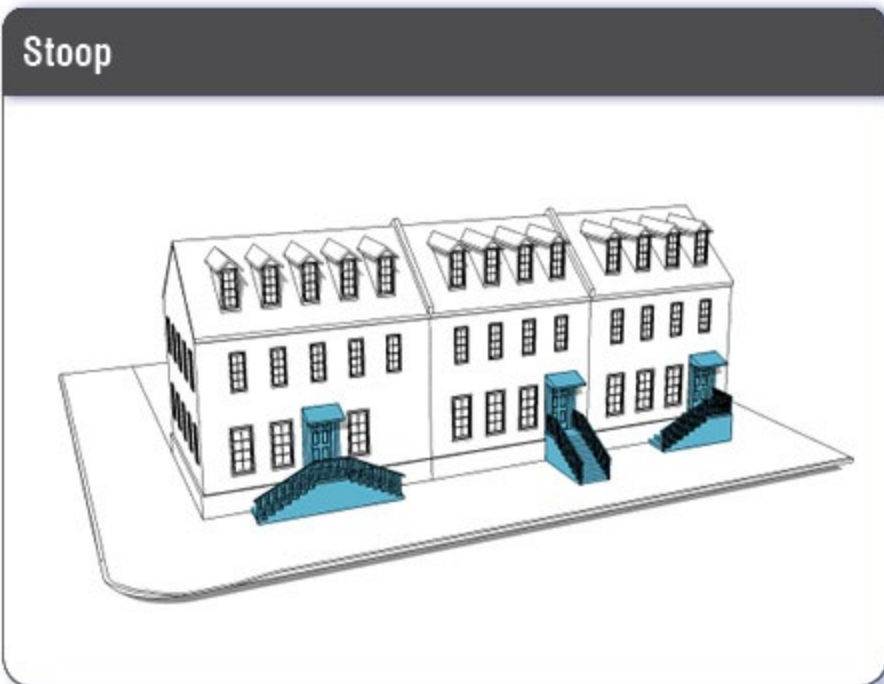
The **façade** facing the **principal front yard** shall conform to Figure 10.5A43.10 (Façade Types) and Figures 10.5A41.10A-D (Development Standards), and to any applicable **façade** type requirements indicated on the **Regulating Plan**. Permitted **building** form and **façade** types may be combined.

FIGURE 10.5A43.10 FAÇADE TYPES



The **façade** is set back from the **front lot line** with an attached porch or stoop permitted to **encroach**. This may be used with or without a fence to maintain **street** spatial definition.

Permitted districts:
CD4-L1, CD4-L2, G1, G2



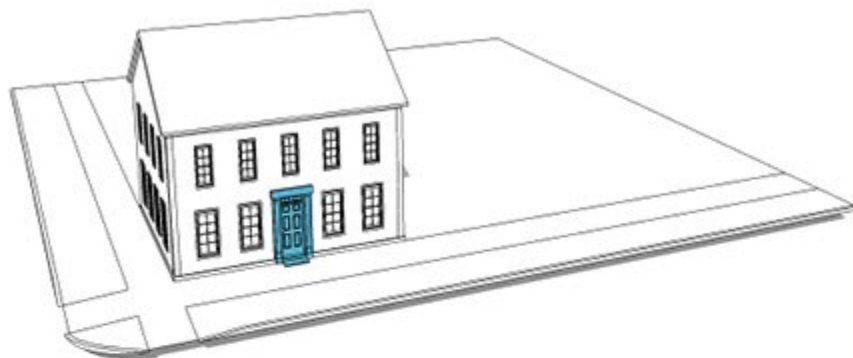
The **façade** is aligned close to the **front lot line** with the **ground floor** elevated from the **sidewalk** for privacy. The entrance has an exterior stair and landing.

This type is recommended for **ground floor residential use**.

Permitted districts:
CD5, CD4, CD4-W, CD4-L1, CD4-L2, G1, G2

FIGURE 10.5A43.10 FAÇADE TYPES (CONTINUED)

Step



The **façade** is aligned close to the **front lot line** with the **ground floor** elevated from the **sidewalk** for privacy. The entrance has an exterior single step without a landing.

This type is recommended for **ground floor** residential, **office** or retail **use**.

Permitted districts:

CD5, CD4, CD4-W, G1, G2
Only permitted in CD4-L1 & CD4-L2 where indicated on Map 10.5A21C.

Shopfront



The **façade** is aligned close to the **front lot line** with the **building** entrance at **sidewalk** grade and with substantial glazing on the **ground floor**.

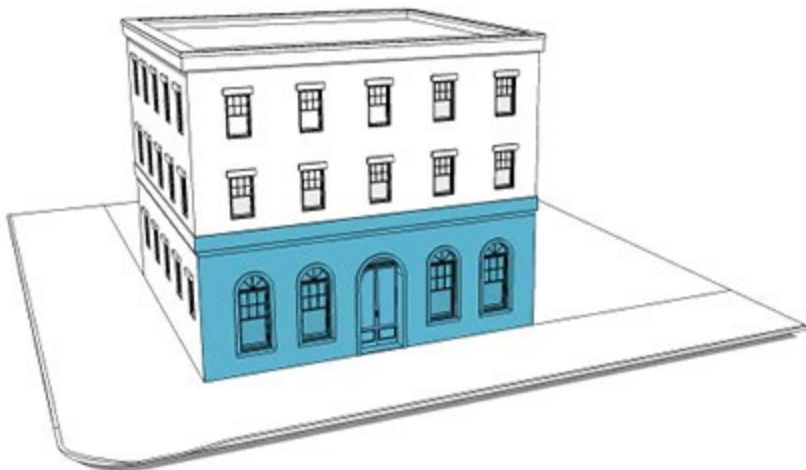
This type is conventional for retail, **office** or **restaurant use**.

Permitted districts:

CD5, CD4, CD4-W, CD4-L2, G1, G2
Only permitted in CD4-L1 where indicated on Map 10.5A21C.

FIGURE 10.5A43.10 FAÇADE TYPES (CONTINUED)

Officefront



The **façade** is aligned close to the **front lot line** with the building entrance at or elevated above **sidewalk** grade. It may have substantial glazing on the **sidewalk** level.

This type is conventional for **office use**.

Permitted districts:

CD5, CD4, CD4-W, G1, G2
Only permitted in CD4-L1 & CD4-L2 where indicated on Map 10.5A21C.

Forecourt



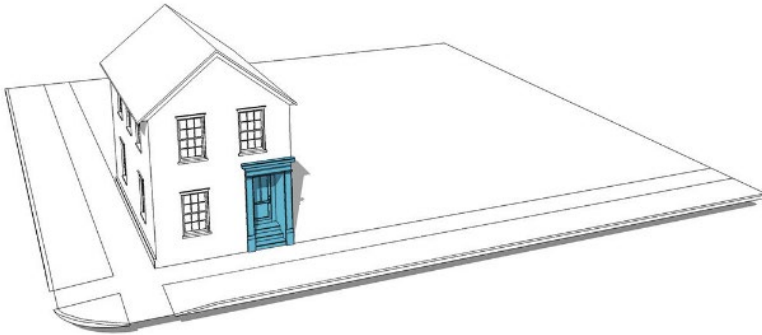
The two ends of the **façade** are close to the **front lot line** and the central portion is set back.

Permitted districts:

CD4-L1, CD4-L2, G1, G2
This **façade** type is not permitted in the Downtown Overlay District.

FIGURE 10.5A43.10 FAÇADE TYPES (CONTINUED)

Recessed-Entry



The **façade** is aligned close to the **front lot line** and the primary **building** entrance is recessed within the **façade**.

This type is conventional for residential **use**.

Permitted districts:

CD4-L1, CD4-L2, CD4, CD4-W, CD5, G1, G2

Dooryard



The **building** facade is aligned close to the **street** line, and the **frontage** is defined by a low wall, decorative fence or hedge providing a strong spatial definition from the public **sidewalk**. The result is a small semi-private yard containing the principal entrance. The yard may be slightly raised, sunken, or at-grade, and may be planted or landscaped. A paved walkway from the **sidewalk** to the front door is required. This type is commonly associated with **ground floor** residential **use**.

Permitted districts: G1, G2, CD4-L1, CD4-L2, CD4-W, CD4

This **façade** type is not permitted in the Downtown Overlay District.

FIGURE 10.5A43.10 FAÇADE TYPES (CONTINUED)

Terrace



Building facade is at or near the **street** line with an elevated terrace that may encroach into the **front yard** or **setback** providing level or terraced public circulation along the façade. This type can be used to provide at-grade access while accommodating a grade change along a **street** line. Frequent steps up to the terrace are necessary to avoid dead walls and maximize access. This type is required to be used in conjunction with other facade types to define individual or shared entries facing the **street**.

Permitted districts: G1, G2, CD4-W

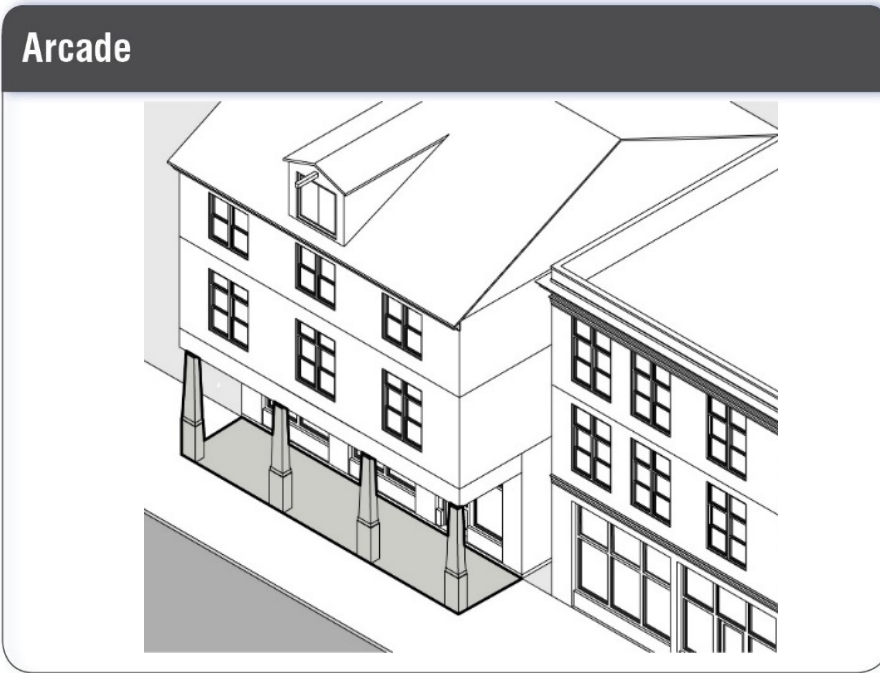
Gallery



The **building** facade is set back from the **street** line with an attached one or two **story** cantilevered shed or a lightweight colonnade that is built to the **street** line. This type is intended for **buildings** with **ground floor** commercial, hospitality or retail uses. This facade type is required to be used in conjunction with other types to define individual or shared first floor entries facing the street.

Permitted districts: G1, G2, CD4-W

FIGURE 10.5A43.10 FAÇADE TYPES (CONTINUED)



Only the **ground floor** level of the **building** facade is set back from the **street** line. The **building** facade for the upper floors is at the **street** line and is supported by a colonnade with habitable space above. This façade type is intended for **buildings** with **ground floor** commercial, hospitality or retail uses. This type is required to be used in conjunction with other facade types to define individual or shared first floor entries facing the street.

Permitted districts: G1, G2, CD4-W, CD4, CD5

10.5A43.20 Façade Modulation

10.5A43.21 Except as listed in 10.5A43.22, a **façade** shall be modulated by major breaks in the **façade** plane and/or changes in exterior materials or rooflines. No individual section of a **façade** shall be longer than the maximum **façade** modulation length listed in Figures 10.5A41.10A-D (Development Standards).

10.5A43.22 In the Historic District, **Façades** that have a high degree of fenestration, traditional masonry detailing, and traditional window styling (including windows recessed in the openings and with multiple panes) shall be exempt from the **façade** modulation requirements listed in Figures 10.5A41.10A-D (Development Standards).

10.5A43.30 Building and Story Heights

10.5A43.31 Specific height requirement areas are designated on Map 10.5A21B. The maximum **building height** in each height requirement area shall be as follows:

| Height Requirement Area | Minimum Height in Stories | Maximum Height in Stories | Maximum Height in Feet |
|--------------------------------------|---------------------------|---------------------------|------------------------|
| 1 story | 1 | 1 | 20 |
| 2 stories | 2 | 2 | 35 |
| 2 stories (short 3 rd) | 2 | 2 + short 3 rd | 35 |
| 2-3 stories | 2 | 3 | 40 |
| 2-3 stories (short 4 th) | 2 | 3 + short 4 th | 45 |
| 2-4 stories | 2 | 4 | 50 |
| 2-4 stories (short 5 th) | 2 | 4 + short 5 th | 60 |
| 2-5 stories | 2 | 5 | 60 |

10.5A43.32 A **roof appurtenance** may exceed the maximum allowed **building height** as specified on Map 10.5A21B (Building Height Standards) by 10 feet, subject to the following:

- (a) All **roof appurtenances** and other features that exceed the allowed **building height** for the zoning district shall not exceed 33 percent of the total roof area of the **structure** and, except for elevators, stair towers, and decorative railing no taller than four feet in height, shall be set back at least 10 feet from any edge of the roof.
- (b) Solar energy panels shall not be subject to the 33 percent limitation provided that they are not visible from a point 20 feet above the edge of the **street** right-of-way on the opposite side of the **street**.
- (c) The area of **roof appurtenances** that comply with this section shall not be considered as part of the **building’s gross floor area** calculations.

10.5A43.33 For a **development** with a mix of residential and non-residential uses located within a CD4, CD4W, or CD5 **Character District** that is not located in an incentive overlay district and that contains at least one acre of

lot area, the Planning Board may grant a conditional use permit to allow an additional **story** in height (up to 15 feet) for houses, duplexes, or mixed-use **buildings** where the building type is otherwise permitted by this Ordinance and if all of the following requirements are met:

- a) **Community Space** – The **development** shall have at least 50% of the property assigned and improved as a **community space**. Given the large scale of the **development**, the **community space** shall include a Plaza or Square of at least 5,000 sq. ft. per acre and any combination of the following: a Pedestrian Passage; a Wide Pedestrian Sidewalk; a Pedestrian Arcade; a Pocket Park; a Playground, or a Public Observation Deck, as further described and depicted in Figure 10.5A45.10. Such **community space** shall count toward the required **open space** listed in Figures 10.5A41.10A-D (Development Standards). The size, shape, location and type of the **community space** shall be determined by the Planning Board and be based on the proposed land use and the size and location of the **buildings** within the **development**, and the **adjacent uses** and public amenities.
- b) **Workforce Housing** – The **development** shall have either: 1) 10% of any proposed for sale **dwelling units** within a **development** shall be **workforce housing units** (**affordable** to a household with an income of no more than 100 percent of the **area median income** for a 4-**person** household); or 2) 5% of any proposed for rent **dwelling units** within a **development** shall be **workforce housing units** (**affordable** to a household with an income of no more than 60 percent of the **area median income** for a 3-**person** household). Any **workforce housing units** shall be at least 600 sq. ft. in **gross floor areas** and be distributed throughout the **building** wherever **dwelling units** are located.
- c) Calculations for **workforce housing unit** requirements shall be rounded to the nearest whole number, with 0.5 and below being rounded down.
- d) The proposal is consistent with the findings, goals, and objectives of the Portsmouth Master Plan.

10.5A43.40 Maximum Building Footprint

10.5A43.41 No **building** or **structure** footprint shall exceed the applicable maximum **building footprint** listed in Figures 10.5A41.10A-D (Development Standards) except as provided in Sections 10.5A43.42-44 below.

10.5A43.42 In the CD5 district, a detached **liner building** may have a **building footprint** of up to 30,000 sq. ft. if it meets all other **development standards** and is integrated into a **parking structure** through the provision of **community space** or shared access.

10.5A43.43 For a **building** that contains **ground floor** parking, a **parking garage** or **underground parking levels**, and is not subject to Section 10.5A43.42,

the Planning Board may grant a conditional use permit to allow a **building footprint** of up to 30,000 sq. ft. in the CD4 or CD4-W districts, and up to 40,000 sq. ft. in the CD5 district, if all of the following criteria are met:

- (a) No **story** above the **ground floor** parking shall be greater than 20,000 sq. ft. in the CD4 or CD4-W districts or 30,000 sq. ft. in the CD5 district.
- (b) All **ground floor** parking areas shall be separated from any public or private **street** by a **liner building**.
- (c) At least 50% of **the gross floor area** of the **ground floor** shall be dedicated to parking.
- (d) For **developments** with more than five (5) **dwelling units** at least 10% of the property shall be assigned and improved as **community space** and comply with the **workforce housing** requirements listed in (e). For **developments** with 5 or less **dwelling units**, 30% of the property shall be assigned and improved as **community space**. Such **community space** shall count toward the required **open space** listed under Figures 10.5A41.10A-D (Development Standards) and **community space** required under Section 10.5A46.20. The size, location and type of the **community space** shall be determined by the Planning Board based on the size and location of the **development**, and the proposed and **adjacent uses**.
- (e) For **developments** with more than five (5) **dwelling units**, the **dwelling units** within a **building** shall be **workforce housing units** in compliance with state law for either: 1) 10% of any proposed for sale **dwelling units** within a **development** shall be **workforce housing units (affordable** to a household with an income of no more than 100 percent of the **area median income** for a 4 **person** household) or 2) 5% of any proposed for rent **dwelling units** with in a **development** shall be **workforce housing units (affordable** to a household with an income of no more than 60 percent of the **area median income** for a 3 **person** household). Such **units** shall be at least 600 sq. ft. The **workforce housing units** shall be distributed throughout the **building** wherever **dwelling units** are located.
- (f) The **development** shall comply with all applicable standards of the ordinance and the City's land use regulations.
- (g) Calculations for **workforce housing unit** requirements shall be rounded to the nearest whole number, with 0.5 and below begin rounded down.
- (h) The proposal is consistent with the findings, goals, and objectives of the Portsmouth Master Plan.

10.5A43.44 The **building footprint** of a **parking structure** shall be no greater than 40,000 sq. ft., and the **façade** length shall be no greater than 300 feet.

10.5A43.50 Streetscreens

Any **streetscreen** in a **front yard** shall be built on the same plane as the **façade** of the **principal building** and shall be between 3.5 and 4.0 feet in height.

10.5A43.60 Building Types

Buildings in each Character district shall be of one or more of the **building** types specified for such Character district in Figure 10.5A43.60 (Building Types).

FIGURE 10.5A43.60 BUILDING TYPES

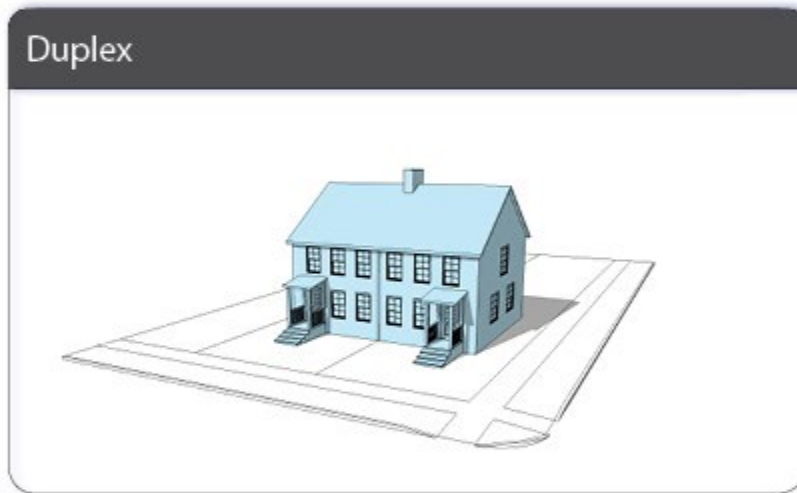


A residential **building** that has the appearance of a **single-family dwelling**, with **yards** on all sides.

Permitted districts:

CD4-L1, CD4-L2

This **building** type is not permitted in the Downtown Overlay District.



A residential **building** with two vertically-separated units with separate entrances. The **building** may have **yards/setbacks** on all sides, or it may be divided along the party wall by a **lot line** where permitted by the standards of the Character district.

Permitted districts:

CD4-L1, CD4-L2

This **building** type is not permitted in the Downtown Overlay District.



A **building** that may occupy the full width of the **lot** and shares a party wall with one or more **buildings** of the same type, with a minimal **yard/setback** along the front of the lot or development site.

Permitted districts:

CD4, CD4-W, CD4-L1, CD4-L2

This **building** type is not permitted in the Downtown Overlay District.

FIGURE 10.5A43.60 BUILDING TYPES (CONTINUED)

Apartment Building



A **building** designed for residential **use** that has the appearance of a **multifamily dwelling**, with **yards/setbacks** on all sides.

Permitted districts:

CD4, CD4-W, CD4-L1, CD4-L2, G1, G2

This **building** type is not permitted in the Downtown Overlay District.

Live / Work Building



A **building** designed to accommodate a **ground floor commercial use** and a residential **use** above or beside.

Permitted districts:

CD5, CD4, CD4-W, CD4-L1, CD4-L2, G1, G2

Residential **uses** are not permitted on the **ground floor** in the Downtown Overlay District.

Small Commercial Building



A **building** designed for non-residential **use** with a **shopfront** or **officefront façade** type and minimal or no **front yard/setback** along the front of the lot or development site, and that is no more than 3 **stories** in height.

Permitted districts:

CD5, CD4, CD4-W, CD4-L2, G1, G2

FIGURE 10.5A43.60 BUILDING TYPES (CONTINUED)

Large Commercial Building



A **building** with a shopfront or **officefront façade** type and minimal or no **yard/setback** along the front of the lot or development site, and that is 4 or more **stories** in height.

Permitted districts:
CD5, CD4, CD4-W, G1, G2

Cottage



A small detached **single family dwelling** with narrow massing.

Permitted districts: G1, G2

Paired House



A **building** designed for residential use with narrow massing and horizontally attached or semi-attached **dwelling units** generally perpendicular to the front of the lot or development site. These **buildings** contain up to 3 **dwelling units** and are often designed to resemble large farmhouses with attached carriage houses.

Permitted districts: G1, G2, CD4-L1, CD4-L2

This **building** type is not permitted in the Downtown Overlay District.

FIGURE 10.5A43.60 BUILDING TYPES (CONTINUED)

Gateway Townhouse



These small footprint attached **single family** residential **buildings** have narrow massing and may be located on individual or common **lots**. Each unit is separated horizontally by a common wall and groups of buildings may be separated by a common driveway or **community space**.

Permitted districts: G1, G2

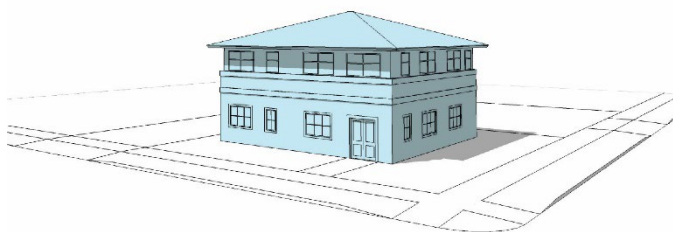
Mixed Use Building



A variable footprint **building type** that typically accommodates a variety of **ground floor** commercial uses and upper residential and office uses at the scale that compliments the historic character of the neighborhood.

Permitted districts: G1, G2, CD-4, CD4-W, CD5, CD4-L1/L2

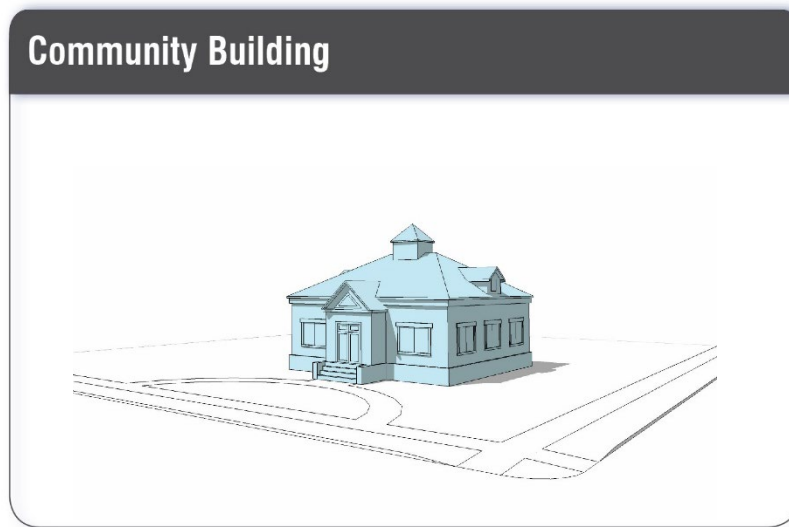
Flex Space / Fabrication Building



A **building** located and designed to accommodate a small footprint for fabrication and light industrial uses. Flex buildings are also used to provide affordable space to small and creative business enterprises.

Permitted districts: G1, G2, CD4-W, CD4-L1/L2

FIGURE 10.5A43.60 BUILDING TYPES (CONTINUED)



A **building** located and designed to accommodate public or civic uses such as a neighborhood center and similar public gathering facilities and spaces. Community Buildings may be privately owned and operated as an accessory **building** and amenity for a residential and mixed use developments.

Permitted districts: All Districts

10.5A44 Off-Street Parking and Loading Requirements

10.5A44.10 General

10.5A44.11 Except as otherwise provided in this Section, all **buildings, structures** and **uses** in the Character districts and Civic districts shall comply with the **off-street parking** requirements set forth in Section 10.1110.

10.5A44.12 **Buildings, structures** and **uses** in the Character districts and Civic districts that are also within the Downtown Overlay District shall comply with the additional standards in Section 10.643.

10.5A44.20 Number of Required Spaces

10.5A44.21 **Uses** in the Character districts and Civic districts that are not located in the Downtown Overlay District shall provide **off-street parking** in accordance with Section 10.1112.

10.5A44.22 **Uses** in the Character districts and Civic districts that are included in the Downtown Overlay District shall comply with the **off-street parking** requirements for the Downtown Overlay District in accordance with Section 10.1115.

10.5A44.23 Subject to approval by the Planning Board, any portion of the required **off-street parking** spaces may be dedicated to public use.

10.5A44.30 Parking, Loading, and Driveway Locations and Standards

10.5A44.31 All **off-street parking** spaces shall be located at least 20 feet behind any **façade** of a **principal building**, except when in an **underground parking level**. This restriction shall not apply to **off-street parking** for a **single-family** or **two-family dwelling**.

10.5A44.32 **Parking lots** and loading areas shall be screened from the **street** by a **building** or **streetscreen** except for any **driveway**.

10.5A44.33 **Driveways** at the **street** and within a required **front yard** shall be no wider than 24 feet.

10.5A44.34 All **parking lots, garages,** and **parking structures** shall include a pedestrian exit directly to a **front lot line**.

10.5A44.35 The above-ground portion of a **parking structure** or **garage** shall have a **liner building** at least the height of the **ground floor** along the entire width of any **front yard** except for **driveways** and pedestrian entrances.

10.5A44.36 A **parking lot** containing more than 75 parking spaces shall have least one internal pedestrian walkway at least 8 feet wide that is paved differently from the parking spaces with respect to texture, material, style, and/or color.

10.5A44.40 Parking Lot Landscaping

Parking lots that contain 10 or more spaces shall conform to the following:

10.5A44.41 Landscape islands:

- (a) **Parking lots** shall contain one landscaped island for every 10 parking spaces.
- (b) A **parking lot** with more than one landscaped island shall have such islands distributed throughout the **parking lot**.
- (c) Each landscaped island shall be a minimum of 325 square feet.

10.5A44.42 Trees:

- (a) **Parking lots** shall contain at least one tree for every 7 parking spaces.
- (b) No parking space shall be more than 75 feet from a tree within the **lot**, as measured from the center of the tree to the nearest line demarcating the space.
- (c) All trees shall be separated from paved surfaces by at least 3 feet.

10.5A44.43 All **landscaping** required pursuant to this Section 10.5A44.40 shall be located and designed in a manner to protect the vegetation from vehicular damage.

10.5A44.50 Loading Docks, Storage and Service Areas

Loading docks, storage and service areas shall not be permitted between the **principal building** and any **front lot line**.

10.5A45 Community Spaces

10.5A45.10 Figure 10.5A45.10 (Community Spaces) describes the types of **community spaces** that may be provided as part of a **development** in accordance with Sections 10.5A42, 10.5A43 or 10.5A46.10.

10.5A45.20 A **community space** that is provided on site and otherwise qualifies as **open space** shall count towards the **open space** requirement for the **development**.

FIGURE 10.5A45.10 COMMUNITY SPACES



An area of natural, semi-natural, or planted space set aside for human enjoyment and recreation or for the protection of wildlife or natural habitats. A **park** may consist of grassy areas, trees and other natural or planted landscape features, and may also contain walking **paths** and trails, monuments, fountains, playground equipment, benches, picnic tables and similar amenities.

Permitted Districts: All Districts



A linear **community space** that may follow natural corridors providing unstructured and limited amounts of structured recreation. A **greenway** may be spatially defined by **landscaping** rather than buildings. Its landscape shall consist of **paths** and trails, waterbodies, and trees, naturalistically disposed.

Permitted Districts: All Districts



A paved/brick pedestrian connector between buildings. **Pedestrian alleys** provide shortcuts through long blocks and connect **community spaces** and parking areas with **streets**. **Pedestrian alleys** may be covered by a roof and/or lined by **shopfronts**. The minimum width shall be 15 feet.

Permitted Districts: All Districts



A wide pedestrian **sidewalk** (a minimum of 10' in width unless otherwise defined by the Ordinance) located between the building façade and the public right of way. Wide pedestrian **sidewalks** provide space between the **façade** and the curblines for comfortable pedestrian movement, **street** trees and **street** furniture.

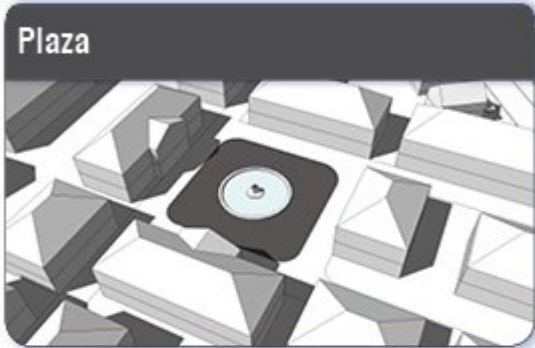
Permitted Districts: All Districts

FIGURE 10.5A45.10 COMMUNITY SPACES (CONTINUED)



A **community space** available for unstructured recreation and community purposes. A **square** is spatially defined by buildings. Its landscape shall consist of **paths**, ground cover and trees, formally disposed. **Squares** shall be located at the intersection of important **streets**. The minimum size shall be 1/8 acre.

Permitted Districts: All Districts



A **community space** available for community purposes and commercial activities. A **plaza** should be spatially defined by buildings. Its landscape should consist primarily of pavement. Trees are optional. **Plazas** should be located at the intersection of important **streets**. The minimum size shall be 1/8 acre.

Permitted Districts: All Districts



A **community space** available for informal activities in close proximity to neighborhood residences. A **pocket park** is spatially defined by buildings. Its landscape shall consist of **paths**, lawns and trees, formally disposed. The minimum size shall be 500 sq. ft.

Permitted Districts: All Districts



A **community space** designed and equipped for the recreation of children. A **playground** should be fenced and may include an open shelter. **Playgrounds** shall be interspersed within residential areas and may be placed within a block. **Playgrounds** may be included within **parks** and greens. The minimum size shall be 500 sq. ft.

Permitted Districts: All Districts

FIGURE 10.5A45.10 COMMUNITY SPACES (CONTINUED)



A publicly accessible **open space** designed and equipped for active recreation and organized sports. Playing fields and courts may include grass, artificial turf, clay, dirt, stone dust, concrete, asphalt, ice or other pervious or impervious materials to support various sporting events.

Permitted districts: All Districts



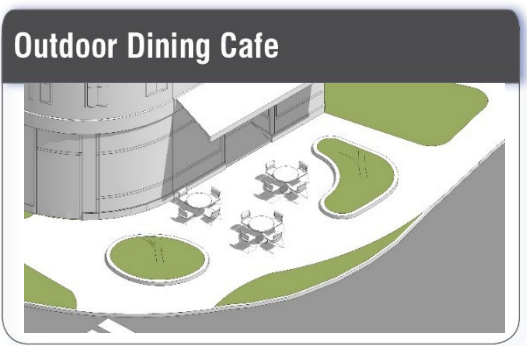
A space for active and passive recreation and gathering purposes. A common or green is a free-standing site with thoroughfares on all sides and landscape consisting of naturally disposed lawns, paths, and trees.

Permitted districts: All Districts



A space designed as individual garden plots available to residents for urban agriculture purposes, including storage facilities for necessary equipment. Community gardens may be freestanding or incorporated as a subordinate feature of a community park, neighborhood park, or pocket park.

Permitted districts: All Districts



An outdoor dining cafe **community space** is permitted as an ancillary activity of a food and drink establishment where the **principal use** is otherwise allowed in the district. The area must provide deeded public access to qualify as Community Space in the Character Districts.

Permitted districts: G1, G2, CD4-L2, CD4, CD4-W, CD-5

FIGURE 10.5A45.10 COMMUNITY SPACES (CONTINUED)

Courtyard



A courtyard or court is an enclosed area, often surrounded by a **building** or complex that is open to the sky.

Permitted districts: All Districts

Pedestrian Passage



A pedestrian passage (a minimum of 8 feet in width if less than 75 feet in length and a minimum of 12 feet in width if longer than 75 feet in length)), covered by and through a **building** or **buildings**, located on the same level as, and open to, the **adjacent sidewalk** and any **community space** interior to the block. Pedestrian Passageways shall connect **community space** and public areas within the **development** to **adjacent** public ways. Pedestrian Passageways shall not exceed 125 feet in length.

Permitted Districts: All Districts

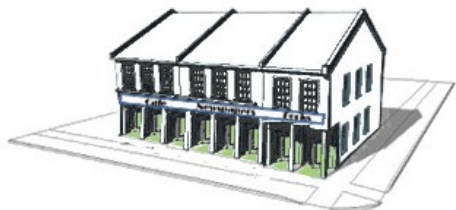
Observation Deck



An open or covered observation deck that provides public access and amenities on either a waterfront boardwalk or deck on the roof of a **building**. The minimum size shall be 500 SF.

Permitted Districts: All Districts

Pedestrian Arcade



A covered pedestrian arcade, a minimum of 10 feet in width within the **ground floor** or **street** level of a **building** that is otherwise generally open to the adjacent **sidewalks** and storefronts and that provides public access to the storefronts and connects to **community space** areas within the **development** and to **adjacent** public ways.

Permitted Districts: All Districts

Shared Multi-Modal Way



A pedestrian priority way where pedestrians, cyclists and motorists all share the multimodal way that shall be designed to promote slow vehicle travel through the use of decorative pavers, **street** furniture, signage and plantings commensurate to allow the entire **street** to function effectively as shared **public space**.

Permitted Districts: All Districts

10.5A46 Incentive Overlay Districts

The Incentive Overlay Districts are designated on Map 10.5A21B. In such areas, certain specified **development** standards may be modified as set forth in Section 10.5A46.10 below, if the **development** provides **community space** or **workforce housing** in accordance with Section 10.5A46.20, as applicable:

10.5A46.10 Incentives to Development Standards

| DEVELOPMENT STANDARDS | INCENTIVES | |
|---|---|---|
| | North End Incentive Overlay District | West End Incentive Overlay District |
| Maximum building coverage | No Change | 80% |
| Maximum building footprint | 30,000 sf | 30,000 sf ^{1,2} |
| Maximum building block length | No Change | No Change ³ |
| Minimum lot area | No Change | 2,000 sf |
| Minimum lot area per dwelling unit | No Change | No minimum |
| Maximum building height | Plus 1 story up to 10 ft ⁴ | Plus 1 story up to 10 ft ^{4,5} |
| Minimum ground story height | No Change | 9 feet |
| Minimum off-street parking | No Change | Non-residential: 25% reduction from underlying standard |
| Ground story parking | Permitted with a liner building ⁶ | Permitted with a liner building ⁶ |

¹ In CD4-L1 and CD4-L2 the maximum **building footprint** shall be 3,500 SF. Where the **building footprint** exceeds 2,500 SF, individual **building blocks** shall be separated by **open space, community space**, or surface parking areas of at least 30 feet in width. Parking areas located between **buildings** are not required to be set back from the **building** façade.

² For properties located within 200 feet of the North Mill Pond in the CD4-W District, the maximum **building footprint** shall be 20,000 sq. ft.

³ In CD4-L1 and CD4-L2 the maximum **building block** length shall be 100 feet.

⁴ In order to receive the **building height** incentive, the **sidewalk** width in front of any **façade** shall be at least 10 feet plus two feet for each story of **building height** above three stories. Any property area needed to comply with this requirement shall count as **open space** as required in Figures 10.5A41.10A-D (Development Standards) and as **community space**; even if less than 15 feet in width.

⁵ For parcels over 80,000 sq. ft. in area that are located south of Islington Street, up to two stories or 20 feet may be added to the maximum **building height** provided both requirements listed under Section 10.5A46.22 (1) and (2) are met.

⁶ If **ground story** parking is proposed, at least 50% of the **ground story** facing a **street** shall include a **liner building**.

10.5A46.20 Requirements to Receive Incentives to the Development Standards

10.5A46.21 For a **lot** located **adjacent** to, or within 100 feet of, North Mill Pond, Hodgson Brook or the Piscataqua River, the Planning Board may grant a conditional use permit to allow the incentive to the development standards listed under 10.5A46.20, provided the **development** shall include **community space** equal to 20% of the **lot area** that includes a continuous public **greenway** at least 20 feet in width with a multi-use path and that is parallel and located within 50 feet of the waterfront with at least a 10 foot setback from adjacent **buildings**. Trail connections to abutting **street(s)** and sidewalks shall be provided and there shall be no buildings between the waterfront and the greenway unless otherwise approved by the Planning Board. The **greenway** shall include legal and physical access to abutting **lots** or public ways. When access is not available due to current conditions on an abutting **lot**, provisions shall be made for future access in a location determined by the Planning Board.

10.5A46.22 For a **lot** that is more than 100 feet from North Mill Pond, Hodgson Brook or the Piscataqua River, the Planning Board may grant a conditional use permit to allow the incentive to the development standards listed under Section 10.5A46.20, provided the **development** shall include both **community space and workforce housing** as specified below:

- (1) **Community space** option – All of the following criteria shall be met:
 - (a) The **community space** shall be a **community space** type that is permitted within the applicable Character district.
 - (b) For **developments** with more than 5 **dwelling units** the **community space** shall constitute at least 10% of the gross area of the **lot** and shall not have any dimension less than 15 feet. For **developments** with five (5) or less **dwelling units**, 20% of the property shall be assigned **community space**.
 - (c) The **community space** shall adjoin the public **sidewalk** and shall be open on one or more sides to the **sidewalk**.
 - (d) The **community space** shall include trees and other **landscaping** to provide shade and reduce noise, and pedestrian amenities such as overlooks, benches, lighting and other **street** furniture.
 - (e) The proposal is consistent with the findings, goals, and objectives of the Portsmouth Master Plan.
 - (f) The **community space** shall be located on or **adjacent** to the same **lot** as the **development**, except as provided in (g) below.
 - (g) The Planning Board may grant a conditional use permit to allow a proposed **community space** to be located on a different **lot** than the **development** if it finds that all of the following criteria will be met:

- (i) An appropriate **community space** cannot feasibly be provided on the same **lot** as the **development**.
 - (ii) The proposed **community space** is within the same Incentive Overlay District as the **development**.
 - (iii) The proposed **community space** is suited to the scale, density, **uses** and character of the surrounding properties.
 - (iv) The proposal is consistent with the findings, goals, and objectives of the Portsmouth Master Plan.
- (2) **Workforce housing** option – One of the following criteria shall be met:
- (a) For **developments** with five (5) or less **dwelling units**, no **workforce housing units** are required. For a **development** with more than five (5) **dwelling units**, at least 20% of the **dwelling units** within a **building**, shall be **workforce housing units** for sale (**affordable** to a household with an income of no more than 100 percent of the **area median income** for a 4-**person** household). Such units shall be at least 600 sq. ft. The **workforce housing units** shall be distributed throughout the **building** wherever **dwelling units** are located; or at least 10% of the **dwelling units** within a **building** shall be **workforce housing units** for rent (**affordable** to a household with an income of no more than 60 percent of the **area median income** for a 3-**person** household). Such units shall be at least 600 sq. ft. The **workforce housing units** shall be distributed throughout the **building** wherever **dwelling units** are located.
 - (b) Calculations for **workforce housing unit** requirements shall be rounded to the nearest whole number, with 0.5 and below being rounded down.
 - (c) The proposal is consistent with the findings, goals, and objectives of the Portsmouth Master Plan.

10.5A46.23 When a proposed **development** in an Incentive Overlay District includes **community space** in excess of the amount required to support a proposed incentive under Section 10.5A43.43 or Sections 10.5A46.10 through 10.5A46.22, the Planning Board may grant a conditional use permit to allow the excess **community space** to be credited to the developer or its assigns for use in another **development** in the same Incentive Overlay District.

- (1) The conditional use permit shall specify the total amount of **community space** provided, the portion of such **community space** to be credited toward incentives in the proposed **development**, and the amount of excess **community space** that may be credited toward a future project in accordance with the standards set forth in Section 10.5A43.43 or Sections 10.5A46.10 through 10.5A46.22.

- (2) The conditional use permit may allow for conveyance to the City of unimproved land in lieu of **community space** that conforms to the types shown in Figure 10.5A45.10, subject to the following:
 - (a) The application for a conditional use permit to credit unimproved land in lieu of **community space** shall include a complete site plan and design for the proposed **community space**.
 - (b) In order for a future **development** to receive incentive credit for the excess unimproved land, the future developer will be required to improve the land to be a conforming **community space** as determined by the Planning Board at the time of site plan approval, except as provided in (c) below.
 - (c) At any time after receiving title to such unimproved land, the City may, at its option, improve such land to be a conforming **community space**. If the City exercises this option, in order for a future **development** to receive the incentive credit, the future developer shall pay to the City an amount representing the cost to the City of carrying out the improvements that were required to improve the land to be a conforming **community space**.
- (3) The terms of the conditional use permit shall be documented in a Prospective Development Incentive Agreement (PDIA) to be entered into between the developer and the Planning Department. The maximum term of a PDIA shall not exceed fifteen (15) years, following which the rights to any unused incentive shall become null and void.
- (4) The only effect of a conditional use permit and PDIA under this section shall be to increase the allowable **building footprint** or **building height**, or to reduce the required **off-street parking**, in accordance with Section 10.5A43.43 or Sections 10.5A46.10 through 10.5A46.22.
- (5) The granting of a conditional use permit and the execution of a PDIA under this Section 10.5A46.23 shall not be deemed to supersede or waive any of the other provisions of this Article 5A or other applicable provisions of this Ordinance, nor shall such approval be considered to represent the granting of land use approval for any future **development**.
- (6) Future use of the excess **community space** to support a future project shall require the granting of a conditional use permit by the Planning Board, whether or not the **community space** is on the same parcel as the future project.

Section 10.5A50 Civic Districts

10.5A51 Purpose

10.5A51.10 Civic districts are designated to preserve existing **buildings** and **uses** which are open to the general public and owned and operated by a not-for-profit organization or entity other than the City of Portsmouth.

10.5A52 Standards

10.5A52.10 Permitted **uses** in the Civic district are **uses** open to the general public and dedicated to arts, culture, education, religion, recreation, government, transit, gardening, horticulture, public gathering, assembly or meeting.

10.5A52.20 **Structures** may be converted to other civic **uses** permitted under 10.5A52.10.

10.5A52.30 When specified in the Site Plan Review Regulations, **Site Plan** approval is required for changes made to existing **structures** or the **lot**.

10.5A52.40 New **structures**, **alterations** and expansions of existing **structures** in the Civic district are exempt from the requirements of 10.5A42 and 10.5A43 provided that all **uses** remain civic.

10.5A52.50 **Structures** in the Civic district that are proposed for and/or converted to non-civic **uses** permitted under 10.5A30 shall require **Regulating Plan** amendment as set forth in Section 10.5A22.

Section 10.5A60 Definitions

This Section provides definitions for certain terms in Article 5A and Article 5B that are not otherwise defined in Article 5A, Article 5B, or Article 15:

Backbuilding

A single-story **structure** connecting a **principal building** to an **outbuilding**. See Figure 10.5A42.10 (Principal Building/Backbuilding/Outbuilding).

Block

The aggregate of private **lots**, service streets/rear alleys and rear lanes, circumscribed by **streets**, **paths** or **pedestrian alleys**.

Building Stepback

The step-like recession in the profile of a **building** from the **street** right-of-way line to control the enclosure of the **street** and allow light to reach the **public realm**. Where **height** limitation requires, buildings must be **setback** or **stepped back** from the **street** right-of-way line a specified distance for every added **height** interval.

Community space

As applicable to Article 5B, an area that is privately-owned and oriented and accessible to the public, or as applicable to Article 5A, an area dedicated for public **use** with permanent deeded access to the City of Portsmouth. Such areas must conform to the types shown in Figure 10.5A45.10.

Development Site

Any **lot** or group of **contiguous lots** owned or controlled by the same person or entity, assembled for the purpose of a single **development**.

Development Site Area

The cumulative area of all **contiguous lots** that the site is composed of. Site area does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use.

Entrance spacing

The distance between any two publicly accessible pedestrian entrances to a **building** along a **façade**.

Façade

The side of a **building** facing a **front yard**.

Façade glazing

The portion of a **façade** that consists of transparent windows and doors.

Front lot line buildout

The portion of the width of the required **front yard** or front building setback that is occupied by a **building**.

Liner building

A **building** that is at least 20 feet deep measured from the **façade** and is specifically designed to mask a **parking lot** or a **parking structure** from the **street**. A **liner building** may be separated from a **parking structure** by **community space** if directly integrated with subsurface parking or vehicular access to a **parking structure**.

Outbuilding

A **building**, usually located toward the rear of the same **lot** as a **principal building**, and sometimes connected to the **principal building** by a **backbuilding**. See Figure 10.5A42.10 (Principal Building/Backbuilding/Outbuilding).

Path

A pedestrian way traversing a **park, square** or other **open space**, or otherwise separated from **streets** by landscaped areas, and ideally connecting directly with the urban **sidewalk** network.

Public Realm

Includes exterior **open spaces** and linkages that are physically and/or visually accessible to the general public, during all business hours, or the majority of the day for residential buildings, regardless of ownership.

Regulating Plan

The zoning map or set of maps that shows the Character districts, Municipal districts, Civic districts and any additional requirements of areas subject to, or potentially subject to, regulation by Article 5A.

Streetscreen

A freestanding wall or fence built on the same plane as a **façade** to mask a **parking lot, structure** or **use** from the **street**, provide privacy to a **side yard**, and/or strengthen the spatial definition of the **public realm**.

Article 5B Gateway Neighborhood Mixed Use Districts

Section 10.5B10 General

10.5B11 Purpose

10.5B11.10 The purpose of Article 5B is to implement and support the goals of the City's Master Plan and Housing Policy to encourage walkable mixed-use **development** and continued economic vitality in the City's primary gateway areas, ensure that new **development** complements and enhances its surroundings, provide housing stock that is suited for changing demographics, and accommodate the housing needs of the City's current and future workforce.

10.5B11.20 The standards set forth herein are intended to:

- a) Promote **development** that is consistent with the goals of the Master Plan to create vibrant, authentic, diverse, connected and resilient neighborhoods;
- b) Encourage high quality housing for a variety of household types and income ranges.
- c) Guide the physical character of **development** by providing a menu of **building** and site **development** types that are based on established community design principles;
- d) Create quality places by allowing for whole site **development** with meaningful public spaces and neighborhood centers.

10.5B12 Applicability

10.5B12.10 Article 5B shall apply to the Gateway Neighborhood Mixed Use Corridor (G1) and Gateway Neighborhood Mixed Use Center (G2) (collectively referred to as Gateway Neighborhood Mixed Use Districts) as shown on the City of Portsmouth Zoning Map.

10.5B12.11 No **development**, subdivision, re-subdivision or construction of or on any **building, lot** or parcel of land shall occur except in compliance with all standards and requirements for these districts.

10.5B13 Relationship to Other Provisions of the Zoning Ordinance

10.5B13.10 The provisions of Article 5B shall take precedence over all other provisions of the Zoning Ordinance that conflict with Article 5B.

10.5B13.20 All provisions of the Zoning Ordinance that are not specifically modified or superseded by Article 5B, or that are not in conflict with Article 5B, shall apply to **lots, buildings** and **uses** in the Gateway Neighborhood Mixed Use Districts.

10.5B14 Relationship to Other Regulations, Codes and Ordinances

- 10.5B14.10 Any proposed subdivision of land shall comply with the Subdivision Rules and Regulations, in addition to the requirements of Article 5B.
- 10.5B14.20 Any **development** that requires Site Plan Review under the Site Plan Review Regulations shall comply with such Regulations, in addition to the requirements of Article 5B.
- 10.5B14.30 The provisions of Article 5B do not modify or supersede any provision of the **Building Code**, other City ordinances or regulations, or State laws relating to the **development** of land.

10.5B15 Figures and Tables

- 10.5B15.10 The standards and definitions included in the figures and tables in this Article are an integral part of Article 5B.
- 10.5B15.20 The diagrams, photographs and illustrations contained in the figures in this Article are provided only to provide reference to certain regulating elements and indicate general character within the various districts and shall have regulatory force and effect only to that extent.

10.5B16 Allowed Uses

Buildings, structures, and land within the Gateway Neighborhood Mixed Use Districts shall comply with the **use** regulations set forth in Section 10.440, Table of Uses. The Planning Board shall be the Conditional Use Permit Granting Authority for all **uses** requiring a Conditional Use Permit in the Gateway Neighborhood Mixed Use Districts.

10.5B17 Definitions

Terms used throughout Article 5B may be defined in the figures, Section 10.5A60, Article 15 or elsewhere in the Zoning Ordinance. Terms not so defined shall be accorded their commonly accepted meanings. In the event of any conflict between the definitions in Article 5B, Article 5A, Article 15, other sections of the Zoning Ordinance, or any other local land **use** ordinances, rules or regulations, those of Article 5A shall take precedence unless the context clearly indicates otherwise.

Section 10.5B20 General Standards for All Buildings and Development

10.5B21 Building Setback Encroachments

Determination of **building setbacks** from **lot lines** shall not include the exceptions specified in Section 10.515 and 10.516 as well as the following:

- 10.5B21.10 Chimneys and flues may encroach up to four (4) feet, provided that at least two (2) feet is maintained from the vertical plane of any **lot line**.

10.5B21.20 Unenclosed fire escapes or emergency egress stairways may encroach up to four (4) feet into a required side or rear **building setback** from **lot lines**, provided that at least two (2) feet is maintained from the vertical plane of any **lot line**.

10.5B21.30 Certain **Building** Façade Types as permitted in 10.5B60.

10.5B22 Building Height, Setback and Stepback

10.5B22.10 **Building Height Exceptions:** Roof decks, roof gardens, and related **structures** and appurtenances shall not be counted in the **building height** limits. All other **building height** exceptions shall comply with Section 10.517.

10.5B22.20 **Building Stepback and Street Enclosure:** **Buildings** taller than 35 feet that front on **streets** with right-of-way widths of 60' or less shall be required to be set back or stepped back from the right-of-way line in accordance with Figure 10.5B22.10. The purpose of this requirement is to enhance the pedestrian environment and prevent excessive shadowing on narrower **streets** in the district.

| Distance from street right-of-way line | Maximum building height |
|---|--------------------------------|
| 0' to 24' | 35' |
| 25' to 49' | 45' |
| 50' or more | 60' |

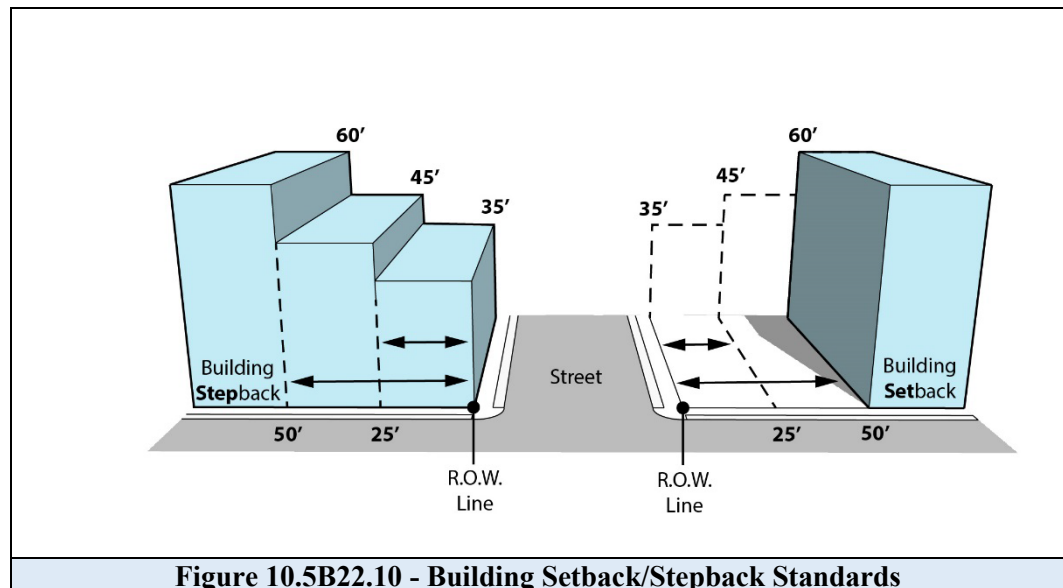


Figure 10.5B22.10 - Building Setback/Stepback Standards

10.5B22.30 **Building Setbacks and Separation:** Front, side, and rear **building setbacks** from **lot lines** are specified by **building type**. Where **buildings** are located on the same **lot** and not attached by a common wall, the minimum separation between **buildings** shall be 10 feet unless otherwise specified in this Section.

10.5B22.40 **Special Setback Requirements on Lafayette Road:** For all **lots** and **development sites** with **frontage** on Lafayette Road **buildings** shall be **setback** a minimum of 70 feet and a maximum of 90 feet from the centerline of the road. For all **lots** and **development sites** with **frontage** on the Route 1 Bypass **buildings** shall be **setback** a minimum of 30 feet and a maximum of 50 feet from the sideline of the road.

10.5B23 Façade Composition Standards

10.5B23.10 **Façade Glazing:** For **building types** with specific Façade Glazing requirements as defined in Section 10.5B34, the following general standards shall apply:

- (a) **Façades** shall have windows and doors with highly transparent, low reflectivity glass for a percentage of the total area of a **façade**, measured for each story independently.
- (b) **Façade** glazing of a **ground story façade** is measured between two (2) feet and twelve (12) feet above the abutting **sidewalk**.
- (c) **Façade** glazing requirements are only applicable to **façades** facing a **front lot line**.

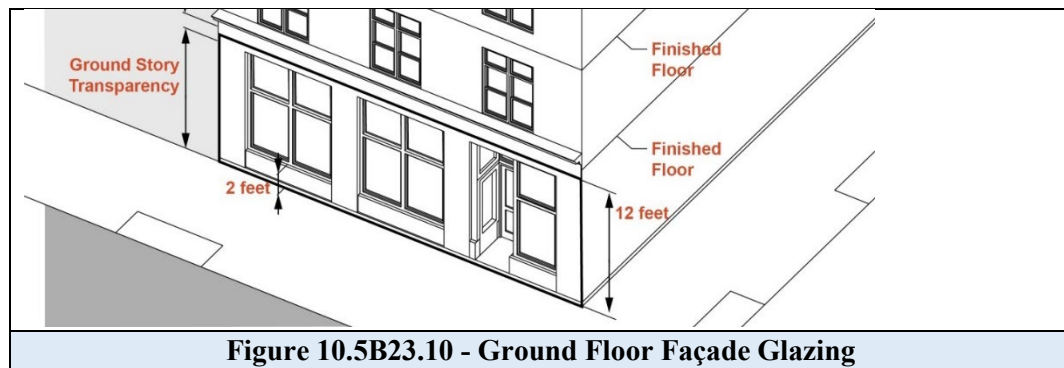
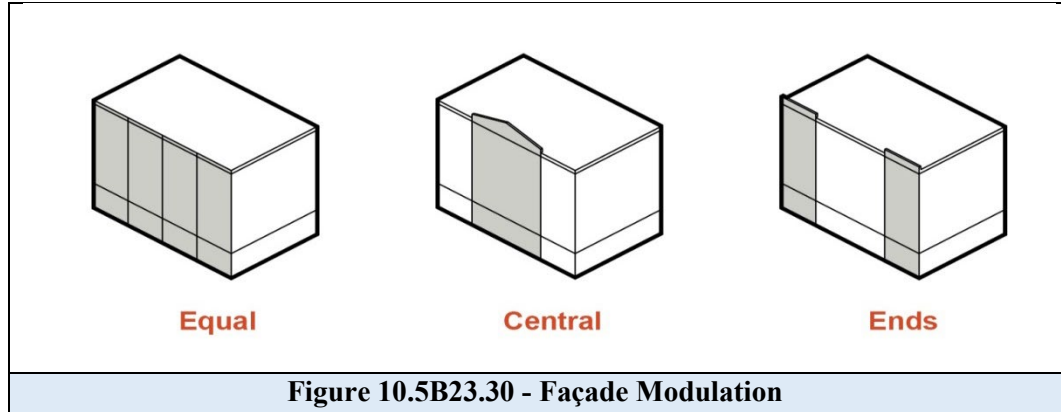


Figure 10.5B23.10 - Ground Floor Façade Glazing

10.5B23.20 **Façade Modulation**

- (a) **Building façades** shall be vertically articulated with architectural bays between six (6) feet and fifty (50) feet in width to create an equal, central, and/or ends focused composition as illustrated in Figure 10.5B23.30.



- (b) **Buildings** greater than one hundred (100) feet in width shall be designed to read as a series of smaller **buildings** with varied architectural design and **façade** glazing patterns or include a change in vertical plane of the **façade** of at least four (4) feet (in depth or projection) for at least one (1) bay in width for every one hundred (100) feet of total **façade** width. This change in plane applies to the entire **height** of the **façade**.

10.5B23.30 Horizontal Articulation and Massing Elements: **Building façades** shall be horizontally articulated with a clearly defined base, middle, and top.

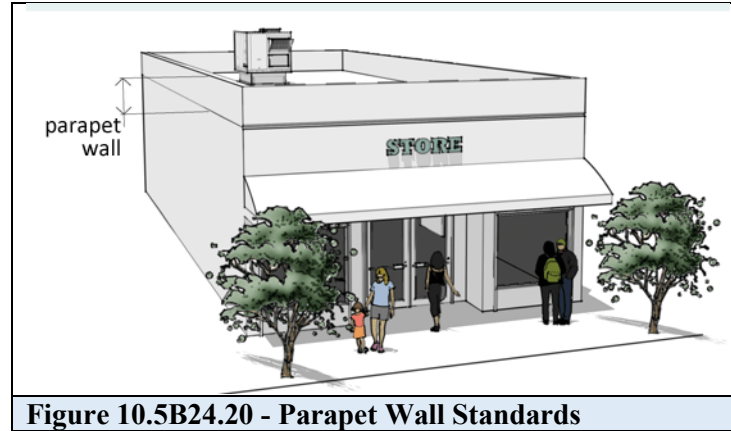
10.5B23.40 Pedestrian Access: Where pedestrian access is required for specific **building** types, entrances shall be located on the **street-facing façade** of a **building**, provide both ingress and egress, and be operable and accessible. This requirement does not exclude the **building** from providing pedestrian access to the side or rear of the **building**.

10.5B24 Roof Types and Design

10.5B24.10 Roof Shapes and Rooflines: The shape and proportion of the roof shall be visually compatible with the architectural style of the **building** and with those of neighboring **buildings**. Pitched roofs shall have a minimum slope as follows:

- (a) Shed: 2:12 minimum
- (b) Hip: 3:12 minimum
- (c) Gable: 6:12 minimum to 12:12 maximum.
- (d) Gambrel: 6:12 minimum to 30:12 maximum.

10.5B24.20 Flat Roofs: **Buildings** with **flat roofs** shall be capped by an articulated **parapet wall** design that acts as a structural expression of the **building façade** and its materials, visible from all sides of the **building**.



10.5B25 Building Length and Number of Dwelling Units

- 10.5B25.10 The maximum **building length** for residential and **mixed use building** types shall be no more than 200 linear feet.
- 10.5B25.20 Unless otherwise specified in Section 10.5B34, no more than 24 **dwelling units** per **building** shall be allowed without a conditional use permit from the Planning Board as provided in Section 10.5B72.

Section 10.5B30 Building Types and Standards

10.5B31 General

- 10.5B31.10 All new **buildings** in the Gateway Neighborhood Mixed Use Districts shall be **building** types specified in this Section and defined in Section 10.5A43.60.

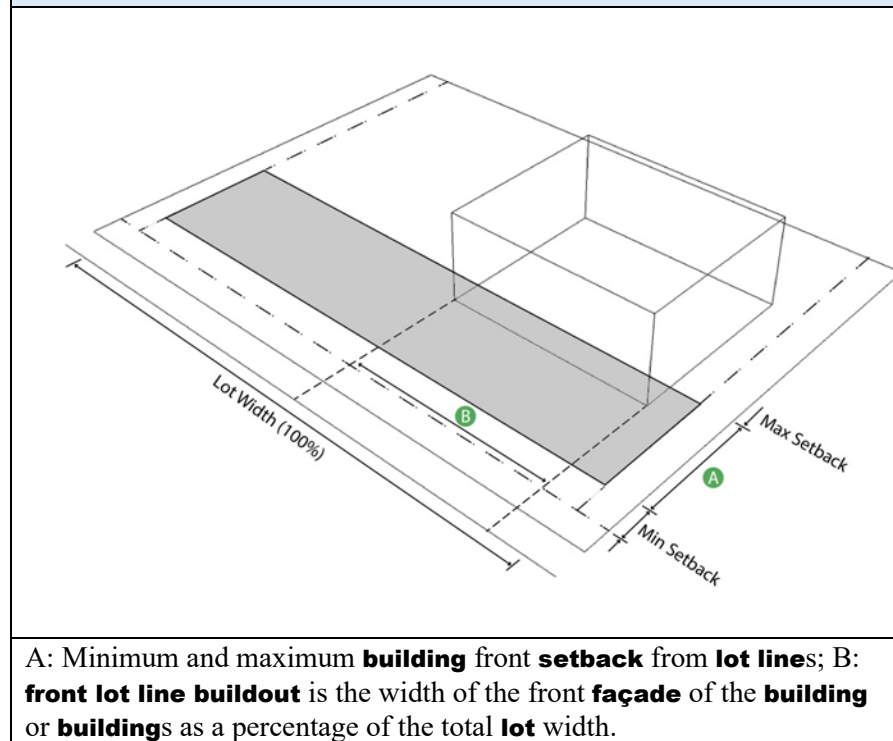
10.5B32 Building Lots

- 10.5B32.10 **Lot Dimensions:** **Building lot** requirements designate the range of **lot** sizes that a given **building** type as identified in this Section can be built on. If a **lot** is smaller than the minimum required for a certain **building** type, a different **building** type must be selected.
- 10.5B32.20 **Number of Buildings:** No more than one principal **building** type is allowed on a **lot** except where otherwise specified in Section 10.5B40.
- 10.5B32.30 **Special Frontage Requirement:** **Lots** with both **frontage** on and **driveway** access from Lafayette Road, Woodbury Ave, or Market Street must have a minimum of 100 feet of **street frontage**.

10.5B33 Building Placement and Orientation

- 10.5B33.10 **Building Placement:** All **buildings** and **structures** must be located outside of any required front, side, or rear **building setbacks** from **lot lines** except as otherwise permitted by this Ordinance. The **façade** of a **principal building** must be built at or in front of any required maximum front **building setback** from the **lot line** for each story of a **building**.
- 10.5B33.20 **Front Lot Line Build Out:** All **buildings** must have a **front lot line build out** of at least 50% for residential and community **building** types, and 75% for commercial and **mixed use buildings** types.

Figure 10.5B33.21 – Front Building Setback and Front Lot Line Build Out



- 10.5B33.30 **Façade Orientation:** The primary **façade** of a **principal building** must be built parallel to a **front lot line** or to the tangent of a curved **front lot line**. On a **corner lot**, the **façade** may be retracted at a 45-degree angle between the curb radius to allow for **community space** and for safe sight distance at the corner. All other requirements pertaining to corner visibility in Section 10.516.30 shall apply.

10.5B34 Building Type Standards

10.5B34.10 Cottage

LOT STANDARDS

| | |
|---|-------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 30 ft |
| Front building setback from lot line | 5 ft min. to 20 ft max. |
| Minimum side building setback from lot line | 5 ft |
| Minimum rear building setback from lot line | 10 ft |
| Minimum open space coverage | 20% |

BUILDING AND LOT USE

| | |
|---|-----------------------|
| Maximum dwelling units per building | 1 |
| Maximum dwelling unit size | 1,400 GFA; 2 Bedrooms |

DESIGN STANDARDS

| | |
|---|-------------------------------------|
| Maximum building height | 1.5 stories or 20 ft |
| Minimum street facing façade height | 10 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" |
| Maximum building coverage | 50% |
| Maximum building footprint | 1,000 sf |
| Maximum façade modulation length | 18 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 20% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | gable, hip |
| Façade types | dooryard, stoop, step, porch |

ADDITIONAL STANDARDS

| |
|---|
| Only allowed in a Pocket Neighborhood Development (see Section 10.5B41) |
|---|

10.5B34.20 Paired House

LOT STANDARDS

| | |
|---|--------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 50 ft |
| Front building setback from lot line | 10 ft min. to 30 ft max. |
| Minimum side building setback from lot line | 10 ft |
| Minimum rear building setback from lot line | 20 ft |
| Minimum open space coverage | 20% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | 3 |
| Dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|-------------------------------------|
| Maximum building height | 2.5 stories or 35 ft |
| Minimum street facing façade height | 12 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" |
| Maximum building coverage | 50% |
| Maximum building footprint | NR |
| Maximum façade modulation length | 18 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 20% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | gable, hip, gambrel |
| Façade types | dooryard, stoop, step, porch |

ADDITIONAL STANDARDS

| |
|---|
| Only allowed in a Pocket Neighborhood Development (see Section 10.5B41) |
|---|

10.5B34.30 Gateway Townhouse

LOT STANDARDS

| | |
|---|-------------------------|
| Minimum lot depth | 50 ft |
| Minimum street frontage | 20 ft |
| Front building setback from lot line | 5 ft min. to 15 ft max. |
| Minimum side building setback from lot line | 10 ft |
| Minimum rear building setback from lot line | 15 ft |
| Minimum open space coverage | 20% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | 1 |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|---|
| Maximum building height | 2.5 stories or 35 ft |
| Minimum street facing façade height | 12 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" |
| Maximum building coverage | 50% |
| Maximum building footprint | NR |
| Maximum façade modulation length | required every 4th Unit (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 20% ground floors |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | all |
| Façade types | dooryard, stoop, recessed entry, step, porch |

ADDITIONAL STANDARDS

A maximum of 8 units can be attached by a common wall before a separation of 20 feet or more is required.

10.5B34.40 Apartment Building

LOT STANDARDS

| | |
|---|--------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 50 ft |
| Front building setback from lot line | 10 ft min. to 30 ft max. |
| Minimum side building setback from lot line | 15 ft |
| Minimum rear building setback from lot line | 20 ft |
| Minimum open space coverage | 20% |

BUILDING AND LOT USE

| | |
|---|-------------------|
| Dwelling units per building | 4 min. to 24 max. |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|---|
| Maximum building height | 4 stories or 50 ft |
| Minimum street facing façade height | 24 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 36" |
| Maximum building coverage | 50% |
| Maximum building footprint | NR |
| Maximum façade modulation length | 50 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 20% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | All |
| Façade types | forecourt, recessed entry, dooryard, step, porch |

10.5B34.50 Live/Work Building

LOT STANDARDS

| | |
|---|-------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 20 ft |
| Front building setback from lot line | 0 ft min. to 15 ft max. |
| Minimum side building setback from lot line | 10 ft |
| Minimum rear building setback from lot line | 20 ft |
| Minimum open space coverage | 15% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | 1 |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|--|
| Maximum building height | 2.5 stories or 35 ft |
| Minimum street facing façade height | 18 ft |
| Finished floor surface of ground floor above sidewalk grade | 0” min. to 24” max. |
| Maximum building coverage | 50% |
| Maximum building footprint | NR |
| Maximum façade modulation length | 18 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 50% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | all |
| Façade types | dooryard, recessed entry, porch, shopfront, terrace |

10.5B34.60 Small Commercial Building

LOT STANDARDS

| | |
|---|-------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 50 ft |
| Front building setback from lot line | 0 ft min. to 20 ft max. |
| Minimum side building setback from lot line | 10 ft |
| Minimum rear building setback from lot line | 15 ft |
| Minimum open space coverage | 10% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | NR |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|---|
| Maximum building height | 3 stories or 40 ft |
| Minimum street facing façade height | 18 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 24” |
| Maximum building coverage | 70% |
| Maximum building footprint | 10,000 sf |
| Maximum façade modulation length | 50 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 50% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | all |
| Façade types | forecourt, recessed entry, porch, officefront, shopfront, terrace, gallery, arcade |

10.5B34.70 Large Commercial Building

LOT STANDARDS

| | |
|---|-------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 100 ft |
| Front building setback from lot line | 0 ft min. to 50 ft max. |
| Minimum side building setback from lot line | 15 ft |
| Minimum rear building setback from lot line | 15 ft |
| Minimum open space coverage | 10% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | NR |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|---|
| Maximum building height | 4 stories or 50 ft |
| Minimum street facing façade height | 18 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 24" |
| Maximum building coverage | 70% |
| Maximum building footprint | 40,000 sf |
| Maximum façade modulation length | 100 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 50% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | all |
| Façade types | forecourt, recessed entry, porch, officefront, shopfront, terrace, gallery, arcade |

10.5B34.80 Mixed Use Building

LOT STANDARDS

| | |
|---|-------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 50 ft |
| Front building setback from lot line | 0 ft min. to 50 ft max. |
| Minimum side building setback from lot line | 15 ft |
| Minimum rear building setback from lot line | 20 ft |
| Minimum open space coverage | 20% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | 24 |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|---|
| Maximum building height | 4 stories or 50 ft |
| Minimum street facing façade height | 18 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 24" |
| Maximum building coverage | 60% |
| Maximum building footprint | 20,000 sf |
| Maximum façade modulation length | 100 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 50% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | all |
| Façade types | forecourt, recessed entry, porch, officefront, shopfront, terrace, gallery, arcade |

10.5B34.90 Flex Space/Fabrication Building

LOT STANDARDS

| | |
|---|-------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 50 ft |
| Front building setback from lot line | 0 ft min. to 30 ft max. |
| Minimum side building setback from lot line | 20 ft |
| Minimum rear building setback from lot line | 20 ft |
| Minimum open space coverage | 10% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | NR |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|--|
| Maximum building height | 2.5 stories or 40 ft |
| Minimum street facing façade height | 12 ft |
| Maximum finished floor surface of ground floor above sidewalk grade | 24" |
| Maximum building coverage | 70% |
| Maximum building footprint | 20,000 sf |
| Maximum façade modulation length | 100 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 20% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | all |
| Façade types | dooryard, recessed entry, officefront, shopfront, terrace |

10.5B34.100 Community Building

LOT STANDARDS

| | |
|---|--------------------------|
| Minimum lot depth | NR |
| Minimum street frontage | 50 ft |
| Front building setback from lot line | 10 ft min. to 40 ft max. |
| Minimum side building setback from lot line | 15 ft |
| Minimum rear building setback from lot line | 20 ft |
| Minimum open space coverage | 20% |

BUILDING AND LOT USE

| | |
|---|----|
| Maximum dwelling units per building | NR |
| Maximum dwelling unit size | NR |

DESIGN STANDARDS

| | |
|---|--|
| Maximum building height | 3 stories or 45 ft |
| Minimum street facing façade height | 18 ft |
| Finished floor surface of ground floor above sidewalk grade | 2 ft min. to 6 ft max. |
| Maximum building coverage | NR |
| Maximum building footprint | NR |
| Maximum façade modulation length | 100 ft (see Section 10.5A43.20) |
| Minimum street facing façade glazing | 30% ground floor |
| Street facing entrance | required |
| Maximum street facing entrance spacing | NR |
| Roof type | all |
| Façade types | dooryard, forecourt, stoop, recessed entry, step, porch, terrace, gallery, arcade |

Section 10.5B40 Development Site Standards

10.5B41 General

- 10.5B41.10 Allowed by Conditional Use Permit approval from the Planning Board, a **development site** is any **lot** or group of **contiguous lots** owned or controlled by the same person or entity, assembled for the purpose of a single **development** and including more than one **principal building** or **building** type. Unless otherwise specified by this Ordinance, **development site** standards as provided in this Section supersede **lot** dimensional standards for individual **building** types provided in Section 10.5B34 including **lot depth**, **street frontage**, **building coverage**, and **open space coverage**. Where no equivalent **development site** standard is provided, the **building** type standards shall apply.
- 10.5B41.20 Site Area: **Development site area** is the cumulative area of all **contiguous lots** that the site is composed of.
- 10.5B41.30 Site Width: **Development site** width is the cumulative width of all **contiguous lots** that the site is composed of and measured along the **front lot line** between the side **lots** of the **development site**.
- 10.5B41.40 Site Depth: **Development site** depth is the distance between the front and rear property lines measured along a line midway between the outside edge of all **contiguous lots**.

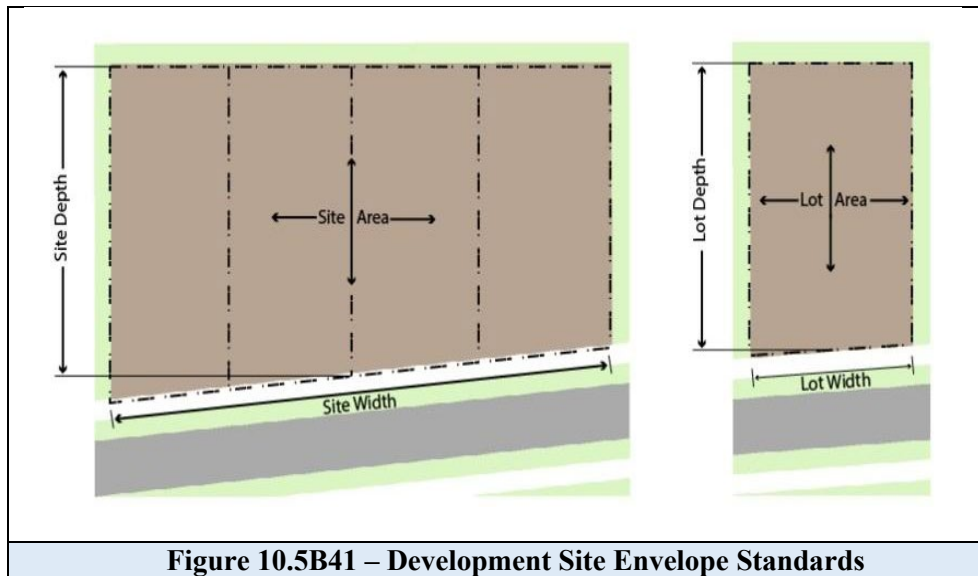
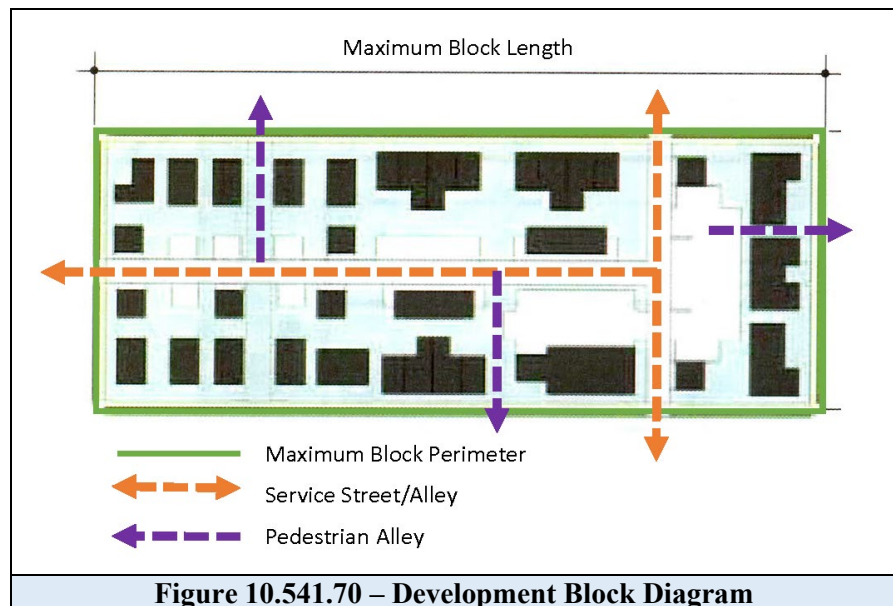


Figure 10.5B41 – Development Site Envelope Standards

- 10.5B41.50 Permitted Building Types: A **development site** may include a combination of **building** types as permitted in Section 10.5B43 that are assembled on an individual **lot** or group of **contiguous lots** for the purpose of a single **development**.

10.5B41.60 **Perimeter Buffer:** The perimeter buffer requirements apply to the outside boundary of the **development site** where the site abuts adjoining properties that are not part of the **development site**, but not along the primary **street frontage**. In addition to the minimum perimeter buffer required, the Planning Board may require **landscaping**, fencing, or an increase in the **building setback** from **lot lines** where adjacent land **uses** may be incompatible. Perimeter buffer requirements supersede **parking setback** requirements and **building setbacks** from **lot lines** requirements for individual **building** types.

10.5B41.70 **Development Block Standards:** These standards establish maximum **block** length along public **streets** or private **accessways** within a **development site** as a method to ensure that access and walkability are integrated into the placement of **buildings**, **community spaces**, and site utility areas. Generally, **blocks** are laid out in order to orient **buildings** to the **street** and **public realm** while concentrating utility elements such as electrical service, **parking**, and refuse collection to the center of **blocks**, at the rear of the **buildings**.



- 1) **Size and Dimension:** Each **development site** has a standard for the maximum **block** length and **block** perimeter under Section 10.5B42 and illustrated in Figure 10.5B41.70 above.
- 2) **Access and Service:** Where shared **parking** areas or **community spaces** are located within the interior of the **block**, a vehicular and/or pedestrian **accessway** shall be provided every 200 linear feet along a **block** face.

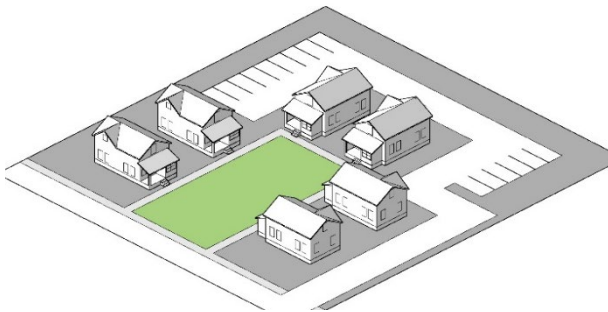
- 10.5B41.80 **Open Space and Community Space Coverage**
- 1) Unless otherwise specified in this Ordinance, **community space coverage** shall be counted toward the minimum required **open space coverage** for the **development site**.
 - 2) In the G1 District, the minimum **community space coverage** shall be equal to 10% of the total site area of the **development site**.
 - 3) In the G2 District, the minimum **community space coverage** shall be equal to 20% of the total site area of the **development site**.
 - 4) In the GNOD, the minimum **community space coverage** shall be equal to 10% of the total site area of the **development site**.
- 10.5B41.90 **Public Street Frontage**: All **development sites** must have a minimum of 50 feet of **frontage** on a public **street** providing access to internal **accessways** located within the **development sites**. All **development sites** with direct access to Lafayette Road must have a minimum of 100 feet of **frontage** along the corridor.
- 10.5B41.100 **Building Setbacks for Interior Lot Lines**: Where a **development site** includes a more than one **building** type, the minimum **building setback** to interior **lot lines** shall be 0 feet.

10.5B42 Development Site Standards

10.5B42.10 Pocket Neighborhood Development

A Pocket Neighborhood is a cohesive cluster of homes gathered around a variety of common **open space** amenities. In the Gateway Neighborhood Mixed Use Districts, the following **Pocket Neighborhood Development Sites** are permitted:

- (a) **Cottage Court:** This **Pocket Neighborhood** consists of multiple small, detached **single family dwellings**, arranged around a courtyard. The shared courtyard takes the place of private yard space and becomes an important community-enhancing element of this **development site**. The **cottage court** is appropriately scaled to fit within or nearby medium-density neighborhoods. The **pocket neighborhood** enables appropriately scaled, well-designed, higher density **developments** important for providing a broad choice of housing types in a walkable environment. **Cottage courts** consist of **cottages, paired houses, and community building** types meeting the design standards in Table 10.5B34 and the density thresholds in Section 10.5B70.



- (b) **Cohousing/Housing Cooperative:** **Cohousing** is a community of private **dwellings** clustered around shared **building and community spaces**. Each attached or **single family dwelling** has traditional residential amenities, including a private kitchen. Shared spaces typically feature a common house, which may include a large kitchen and dining area, laundry, and recreational spaces. Other shared spaces include community garden plots, recreational fields, and shared work spaces. **Cohousing developments** consists of **cottages, paired houses, and community building** types meeting the design standards in Table 10.5B33 and the density thresholds in Section 10.5B70.

DEVELOPMENT STANDARDS

| | |
|---|---|
| Minimum development site area | 10,000 sf |
| Minimum site width | 75 ft |
| Minimum site depth | 100 ft |
| Minimum perimeter buffer | NR |
| Maximum development block dimensions | block length 300 ft; block perimeter 1,200 linear ft |
| Maximum building coverage | 50% |
| Minimum open space coverage | 20% |
| Community space types | greenway, courtyard, park, pocket park, playground, recreation field or court, community garden, common or green |

PERMITTED BUILDING TYPES

Cottages, paired houses, community buildings

ADDITIONAL STANDARDS

| | |
|---|---------------------------|
| Maximum cottage unit size | 1,400 GFA and 2 bedrooms |
| Maximum cohousing unit size | 1,800 GFA and 3 bedrooms |
| Minimum courtyard design | 3,000 GFA and 40 ft width |
| Minimum courtyard area per dwelling unit | 600 sf |

Buildings shall be centered on a common courtyard in groups of 16 or less.

Cottage courts and cohousing developments may include a community garden, common house, co-work space, and other common access site amenities.

For cottage court development **blocks**, the cottages will face a central **courtyard** in the interior areas of the **block**, and a service road will provide access to **parking** areas and **building lots** along the perimeter of the **block**.

10.5B42.20 Mixed Use Development

A **development** project containing multiple residential, nonresidential, and **mixed use building** types. Mixed Use Developments may include a combination of horizontally and vertically mixed **buildings** and **uses** on site subject to all applicable **building** type standards in Section 10.5B30.



DEVELOPMENT STANDARDS

| | |
|---|---|
| Minimum development site area | 20,000 sf |
| Minimum site width | 100 ft |
| Minimum site depth | 100 ft |
| Minimum perimeter buffer | 75 ft from a Residential District, Mixed Residential District, or Character District 4-L1 |
| Maximum development block dimensions | block length 800 ft; block perimeter 2,200 linear ft |
| Maximum building coverage | 70% |
| Minimum open space coverage | 20% |
| Community space types | all |

PERMITTED BUILDING TYPES

apartment building, gateway townhouse, live/work building, small commercial building, large commercial building, mixed use building, small flex space/fabrication building, community building

10.5B42.30 General Residential Development

A **development** project containing one or more residential **building** types in accordance with allowed **building** types and design standards in Section 10.5B34.



DEVELOPMENT STANDARDS

| | |
|---|---|
| Minimum development site area | 10,000 sf |
| Minimum site width | 75 ft |
| Minimum site depth | 100 ft |
| Minimum perimeter buffer | 75 ft from a Residential District, Mixed Residential District, or Character District 4-L1 |
| Maximum development block dimensions | block length 500 ft; block perimeter 1,500 linear ft |
| Maximum building coverage | 50% |
| Minimum open space coverage | 20% |
| Community space types | greenway, park, pocket park, playground, recreation field or court, common or green, community garden, square, plaza |

PERMITTED BUILDING TYPES

apartment building, gateway townhouse, live/work building, community building

10.5B42.40 General Commercial Development

A **development** project containing one or more commercial **building** types in accordance with allowed **building** types and design standards in Section 10.5B34.



DEVELOPMENT STANDARDS

| | |
|---|---|
| Minimum development site area | 10,000 sf |
| Minimum site width | 75 ft |
| Minimum site depth | 100 ft |
| Minimum perimeter buffer | 100 ft from a Residential District, Mixed Residential District, or Character District 4-L1 |
| Maximum development block dimensions | block length 700 ft; block perimeter 2,000 linear ft |
| Maximum building coverage | 70% |
| Minimum open space coverage | 10% |
| Community space types | park, pedestrian alley, wide pedestrian sidewalk, common or green, outdoor dining café, greenway, square, plaza, courtyard |

PERMITTED BUILDING TYPES

small commercial building, large commercial building, small flex space/fabrication building

10.5B43 Review and Approval Process

10.5B43.10 Conditional Use Permit Criteria: Prior to granting a conditional use permit for **development sites** in the Gateway Neighborhood Mixed Use Districts according to the requirements of this Article, the Planning Board shall make the following findings.

- 1) The **development** project is consistent with the Portsmouth Master Plan.
- 2) The **development** project has been designed to allow **uses** that are appropriate for its context and consistent with City's planning goals and objectives for the area.
- 3) The project includes measures to mitigate or eliminate anticipated impacts on traffic safety and circulation, demand on municipal services, stormwater runoff, natural resources, and adjacent neighborhood character.
- 4) The project is consistent with the purpose and intent set forth in Section 10.5B11.

Section 10.5B50 Pre-Existing Buildings and Lots

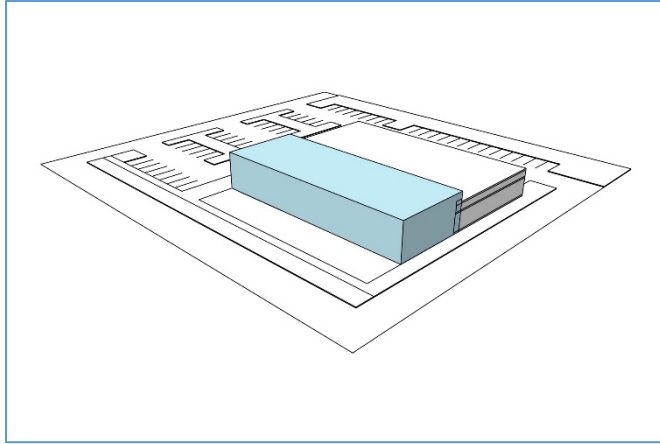
10.5B51 Purpose

The purpose of this section is to establish standards for the continued utilization of existing **buildings** in Gateway Neighborhood Mixed Use Districts constructed prior to the effective date of Article 10.5B. Where the provisions of this section conflict with Article 3: Non-Conforming Lots, Buildings, Uses and Structures, this section shall apply.

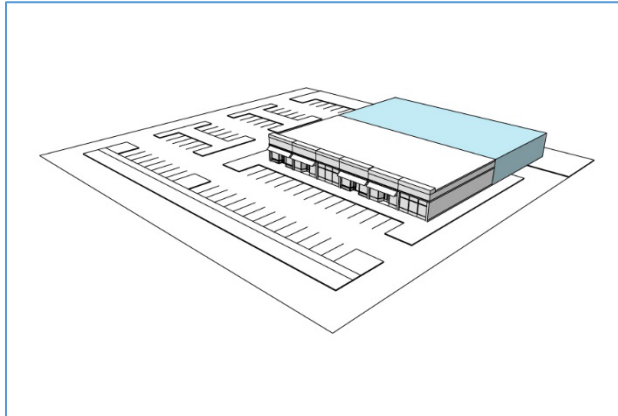
10.5B52 Non-Conforming Building Additions and Retrofits

A **building** in the Gateway Neighborhood Mixed Use Districts that existed prior to the effective date of Article 5B may be expanded or altered without complying with all of the standards of Section 10.5B34, but shall comply with the following minimum standards for the allowed **building** type as defined in 10.5A36.60 that is most similar to the existing **building**:

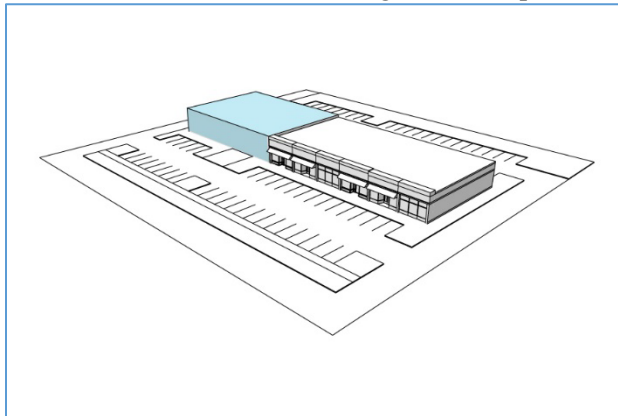
10.5B52.10 Front Addition: Any addition to the front of the **building** is allowed up to the minimum front **building setback** from the **lot line** for the specified **building** type.



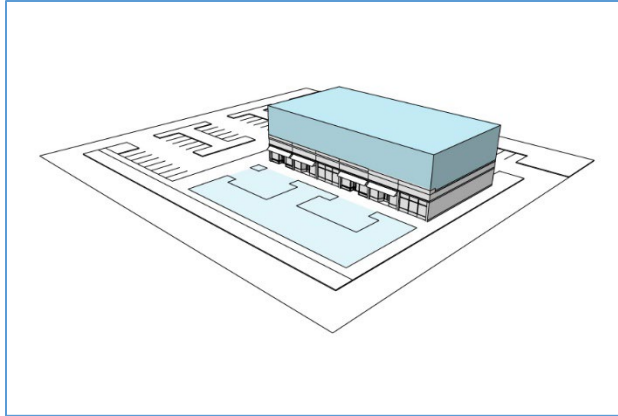
10.5B52.20 **Rear Addition:** Rear additions are allowed up to the minimum rear **building setback** from the **lot line** for the specified **building** type.



10.5B52.30 **Side Addition:** Side additions are allowed up to the minimum side **building setback** from the **lot line** and to a maximum length of 200 feet for residential and **mixed use building** types and consistent with the maximum **façade** modulation length for the specified **building** type.



10.5B52.40 **Story Addition:** Story additions are allowed up to the maximum story and **building height** for the specified **building** type.

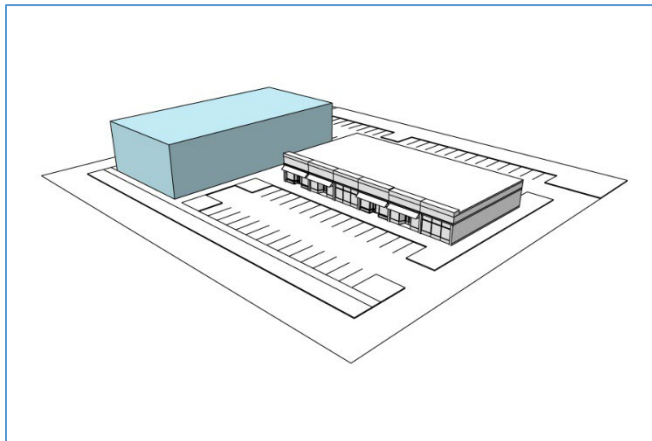


10.5B52.50 Residential Density: Maximum density is 1 **dwelling unit** per 2,000 **gross floor area** of the existing **building** being converted or expanded for residential **use**.

10.5B53 New Buildings

New **building(s)** that are constructed on a **lot** or **development site** that includes one or more non-conforming **buildings** that existed prior to the effective date of Article 5B, shall comply with the standards for **development sites** as required by Section 10.5B40 except as follows:

10.5B53.10 If the minimum **front lot line buildout** has not been met, new **buildings** must be placed within the minimum and maximum front **building setback** from the **lot line**.



Section 10.5B60 Building Façade Types

10.5B61 General

At least one (1) **façade** type as defined in Section 105A43.10 is required for each principal **building** type.

10.5B62 Permitted Building Façade Types by Building Type

10.5B62.10 **Building Façade** Types

| FAÇADE TYPES | BUILDING TYPES | | | | | | | |
|-------------------|----------------|-----------------|-----------------------|----------------------|-----------------------|--|-----------------------|-------------------------------------|
| | A. Cottage | B. Paired House | C. Apartment Building | D. Gateway Townhouse | E. Live/Work Building | F. Large and Small Commercial Building | G. Mixed-Use Building | H. Flex Space/ Fabrication Building |
| A. Dooryard | P | P | P | P | P | | | P |
| B. Forecourt | | | P | | | P | P | |
| C. Stoop | P | P | | P | | | | |
| D. Recessed Entry | | | P | P | P | P | P | P |
| E. Step | P | P | P | P | | | | |
| F. Porch | P | P | P | P | P | P | P | |
| G. Officefront | | | | | | P | P | P |
| H. Shopfront | | | | | P | P | P | P |
| I. Terrace | | | | | P | P | P | P |
| J. Gallery | | | | | | P | P | |
| K. Arcade | | | | | | P | P | |

P = Permitted

Section 10.5B70 Density Thresholds and Bonuses

10.5B71 Residential Density

10.5B71.10 New **development** or redevelopment that consists of one principal residential or mixed residential **building** according to the standards for **building** type in Section 10.5B34 on a single **lot** shall comply with the following density requirements for the maximum number of **dwelling units** per acre.

Dwelling Units Per Acre

| Building Type | Gateway Corridor (G1) | | Gateway Center (G2) | |
|--------------------|-----------------------|----|---------------------|----|
| | P | CU | P | CU |
| Cottage | NR | NR | NR | NR |
| Paired House | NR | NR | NR | NR |
| Apartment Building | 16 | 24 | 16 | 24 |
| Gateway Townhouse | 16 | 24 | 16 | 24 |
| Live-Work/Building | 16 | 24 | 16 | 24 |
| Mixed Use Building | 16 | 24 | 16 | 24 |

P = Permitted

CU = Conditional Use Permit under the provisions for Density Bonuses in Section 10.5B72

10.5B71.20 New **development** or redevelopment that is constructed according to the standards for a **development site** in Section 10.5B43 shall comply with the density requirement for the maximum number of **dwelling units** per acre for all of the **buildings** in the **development**.

Dwelling Units Per Acre

| Development Sites | Gateway Corridor (G1) | | Gateway Center (G2) | |
|---------------------------------|-----------------------|----|---------------------|----|
| | P | CU | P | CU |
| Pocket Neighborhood | 16 | 20 | 12 | 16 |
| Mixed Use Development | 20 | 36 | 20 | 36 |
| General Residential Development | 20 | 36 | 20 | 36 |

P = Permitted

CU = Conditional Use Permit under the provisions for Density Bonuses in Section 10.5B72

10.5B72 Density Bonus Incentives

A conditional use permit may be granted by the Planning Board for increased housing density or for increased **building height** and **footprint** as described in this section. Such conditional use permit shall be contingent upon satisfying the requirements of Section 10.5B73.

10.5B72.10 **Dwelling Units Per Building:** The Planning Board may, by conditional use permit, allow up to a maximum of 36 **dwelling units** per **building**.

10.5B72.20 **Dwelling Units per Acre:** The Planning Board may, by conditional use permit, allow higher density up to the maximum established in Section 10.5B71.

10.5B72.30 **Building Height and Building Footprint:** The Planning Board may, by conditional use permit, allow an increase in the maximum **building height** by one (1) story or 10' and an increase in the maximum **building footprint** and square footage by 20 percent.

10.5B73 Bonus Incentive Requirements

In order to be eligible one of the bonus incentives outlined in section 10.5B72, a **development** shall include **workforce housing** according to the requirements of 10.5B73.10. In order to be eligible for multiple bonus incentives outlined in Section 10.5B72 a **development** shall also provide **public realm** improvements according to the requirements of 10.5B73.20. Required documentation for these improvements must be submitted with the application as outlined in Section 10.5B74.

10.5B73.10 **Workforce Housing Requirement:** At least 20% of the **dwelling units** in the **development**, but no less than three units, shall be **workforce housing units** for sale or rent complying with the following criteria:

- 1) For sale units shall be at least the average **gross floor area** of the proposed units in the **building** or 1,000 sq. ft., whichever is greater.
- 2) Rental units shall be at least the average **gross floor area** of the proposed units in the **building** or 800 sq. ft., whichever is greater.
- 3) The **workforce housing units** shall be distributed throughout the **building** wherever **dwelling units** are located.

10.5B73.20 **Public Realm Improvements:** All **public realm** improvements used for a density bonus shall be recommended in plans adopted by the City of Portsmouth including but not limited to the Master Plan, Bicycle and Pedestrian Plan, and Capital Improvement Program. Eligible improvements include the following:

- 1) Design and construction of an off-road trail or **path** that is at least equal to the linear public **street frontage** of the site and expands the Portsmouth Bicycle and Pedestrian Network consistent with the Portsmouth Bicycle and Pedestrian Plan. The trail or **path** shall be

located on or adjacent to the project's **building lot** or **development site**, except as provided in (4) below.

- 2) Design and construction of a public park or athletic facility that is designed for active or passive recreation equal to at least 20% of the project's **gross floor area** that is located on or adjacent to the project's **building lot** or **development site**, except as provided in (d) below.
- 3) On-site **public realm** improvements provided for the purpose of satisfying the requirements of this section shall not be counted toward the required minimum **community space coverage**.
- 4) The Planning Board may allow a proposed **public realm** improvement to be located on a different **lot** than the **development** it if finds that all of the following criteria will be met:
 - (a) An appropriate **public realm** improvement cannot feasibly be provided on the same **lot** as the **development**.
 - (b) The proposed **public realm** improvement is within the same Zoning District as the **development**.

10.5B74 Approval of Density Bonus Incentives

10.5B74.10 Required Information: In order to be eligible for bonus incentives as described in 10.5B72, the following submissions must be included with an application for a Conditional Use Permit:

10.5B74.11 Workforce Housing:

- 1) A description of the **workforce housing units**, identifying quantity, location, and type;
- 2) Documentation that the proposed units qualify as **workforce housing units** as defined by this Ordinance;
- 3) Proposed covenant or other legally binding documents that provide enforceable restrictions as to price and occupancy to ensure long-term availability and affordability of the units.

10.5B74.12 Public Realm Improvements:

- 1) A written description of the intended site **development** or District improvements, the relevant City plan, the public benefit provided, provision for design, construction, management and maintenance if required, and plans showing the location and type, size and extent of each of the eligible improvements.
- 2) A specific time frame for the completion of all required on-site and off-site improvements shall be incorporated as a condition of approval of the Planning Board.

- 3) A list of all permits and approvals required in connection with any proposed **public realm** improvements with the application. These approvals shall be obtained prior to approval of the **development**, unless authorized by the Planning Board.
- 10.5B74.13 Any requests by the applicant for the Planning Board to modify specific standards and requirements set forth in this Section 10.5B70 as allowed under Section 10.5B74.30 and a detailed justification for the requested modification.
- 10.5B74.20 Planning Board Findings: Prior to granting a conditional use permit for density bonus incentives under this section, the **Board** shall make the following findings:
- 10.5B74.21 The proposed project (and any conditions of approval) satisfies the requirements in Section 10.5B73;
 - 10.5B74.22 The proposed project is consistent with the purpose and intent set forth in Section 10.5B11.
- 10.5B74.30 Modification of Standards: In granting a conditional use permit, the Planning Board may modify specific standards and requirements set forth in Section 10.5B20, 10.5B30, 10.5B40 and 10.5B70 provided that the Planning Board finds such modification will promote design flexibility and overall project quality, or that such modification is required for the **development** to provide a proposed **workforce housing** component, and that such modification is consistent with the purpose and intent set forth in Section 10.5B11.
- 10.5B74.31 In considering a request for a modification of the standards and requirements, the Planning Board may request that the applicant provide additional documentation and information from the applicant demonstrating that the requirements of this Ordinance are prohibitive to the successful completion of the project as proposed. Such information shall include, but not be limited to, project cost factors related to land acquisition, improvements for roads, utilities & drainage, insurance, labor, **building** materials, and profit to identify a total gross cost of the project and per unit gross costs.

Section 10.5B80 Parking and Loading Requirements and Standards

10.5B81 General

- 10.5B81.10 Except as otherwise provided in this Section, all **buildings**, **structures**, uses, and **development sites** in the Gateway Neighborhood Mixed Use Districts shall comply with the **off-street parking** and loading requirements set forth in Section 10.1110 and Section 10.1120.

10.5B82 Number of Required Spaces

- 10.5B82.10 Uses in the Gateway Neighborhood Mixed Use Districts shall provide **off-street parking** in accordance with Section 10.1112, except as follows:
- a) For **developments** located on a public transit route with year-round, 5-days-per-week, fixed-route service and where at least 50% of the **building(s)** are within ¼ mile of a transit stop, the minimum **off-street parking** required for motor vehicles shall be reduced by 20% of the total required for all **uses**.

10.5B83 Location of Motor Vehicle Parking Facilities

- 10.5B83.10 Required **off-street parking** spaces shall not be located between a **principal building** and a **street** or within any required perimeter buffer area.
- 10.5B83.20 **Development sites** that include multiple **lots** shall not be subject to the requirements of 10.1113.10 requiring **off-street parking** spaces to be located on the same **lot** as the principal **use**. **Off-street parking** spaces shall be located within the same **development site** for the principal **use** they are intended to serve.

Section 10.5B90 Pedestrian Access and Circulation

- 10.5B91 Pedestrian walkways shall provide connections through the **lot/site** to the public **street** right-of-way, and between the **lot/site** and **adjacent** land **uses**.
- 10.5B92 At least one 8-foot wide pedestrian walkway shall be provided throughout the **lot/site**, connecting **adjacent streets**, **accessways**, **sidewalks** and **off-street parking** areas to the entrances of all **principal buildings**.
- 10.5B93 Pedestrian areas shall be clearly distinguished from vehicular and bicycle traffic areas through the **use** of paving materials, **landscaping**, or other means.
- 10.5B94 A **lot/site** with more than one **principal building** or **off-street parking** area shall include an internal pedestrian network that provides logical and direct routes for pedestrians throughout site.
- 10.5B95 **Parking lots** shall include internal walkways spaced not more than 150 feet apart. Where possible, these walkways shall be aligned to connect with major **building** entries or other destinations.

Section 10.5B100 Community Space

10.5B101 General Requirements

10.5B101.10 **Community spaces** meeting one or more of the types described in Figure 10.5A45.10 must be provided according to the standards for **development sites** as described in Section 10.5B40.

10.5B101.20 A **community space** that is provided on-site and otherwise qualifies as **open space** as defined by this Ordinance shall count towards the **open space coverage** requirement for the **development**.

10.5B101.30 In the G2 Districts, **community spaces** shall be designed to support new **mixed use** centers, provide convenient access to residents, and support neighborhood events and activities.

10.5B102 Permitted Community Spaces by Development Site Type

Only **community space** Types that are listed as *permitted* shall count toward the required **community space coverage** requirement specified for the **development site**.

| COMMUNITY SPACE TYPES | DEVELOPMENT SITES | | | |
|--------------------------|-----------------------|---------------------|---------------------------------|--------------------------------|
| | Mixed Use Development | Pocket Neighborhood | General Residential Development | General Commercial Development |
| Park | P | P | P | P |
| Greenway | P | P | P | P |
| Pedestrian Alley | P | | P | P |
| Wide Pedestrian Sidewalk | P | | P | P |
| Pocket Park | P | P | P | P |
| Playground | P | P | P | |
| Recreation Field | P | P | P | |
| Common or Green | P | P | P | P |
| Community Garden | P | P | P | |
| Outdoor Dining Cafe | P | | | P |
| Square | P | | P | P |
| Plaza | P | | P | P |
| Courtyard | P | P | P | P |

P = Permitted

Article 6 Overlay Districts

| | |
|----------------|-----------------------------------|
| Section 10.610 | Overlay Districts Generally |
| Section 10.620 | Floodplain District |
| Section 10.630 | Historic District |
| Section 10.640 | Downtown Overlay District |
| Section 10.650 | Osprey Landing Overlay District |
| Section 10.660 | Airport Approach Overlay District |
| Section 10.670 | Highway Noise Overlay District |

Section 10.610 Overlay Districts Generally

10.611 Relationship to Underlying Zoning Districts

Overlay districts apply special rules to manage land use in specific areas that may be portions of a single zoning district or that may overlap two or more zoning districts. The rules for **overlay districts** supplement the regulations contained in other sections of this Ordinance. Except as specifically provided otherwise in the regulations for an **overlay district**, all regulations of the underlying zoning district shall apply. Where there is a conflict between the regulations of an **overlay district** and those of the underlying district, the **overlay district** regulations control.

10.612 Establishment of Overlay Districts

The following **overlay districts** are established:

| Overlay District Name | Abbreviation |
|---|--------------|
| Floodplain District | FP |
| Historic District | HD |
| Downtown Overlay District | DOD |
| Osprey Landing Overlay District | OL |
| Airport Approach Overlay District | AA |
| North End Incentive Overlay District ¹ | NOD |
| West End Incentive Overlay District ¹ | WOD |
| Highway Noise Overlay District | HNOD |

10.613 Overlay District Locations

10.613.10 The **Floodplain District** (FP) consists of:

- (a) all lands designated as **special flood hazard areas** by the Federal Emergency Management Agency (FEMA) in its “**Flood Insurance Study** for the County of Rockingham County, NH” dated January 29, 2021 or as amended, together with associated **Flood Insurance**

¹ Administrative note: See Section 10.5A46 for North End Incentive Overlay District and West End Incentive Overlay District descriptions and requirements.

Rate Maps (FIRM) dated January 29, 2021 or as amended, which are declared to be part of this Ordinance and are hereby incorporated by reference; and

- (b) all **extended flood hazard areas** as defined in Section 10.622.20, each of which shall be contiguous and adjacent to a **special flood hazard area** and shall be delineated on the basis of mapped or surveyed elevations.

10.613.20 The **Historic District** is identified on the Zoning Map.

10.613.30 The **Downtown Overlay District (DOD)** is identified on the Zoning Map.

10.613.40 The **Osprey Landing Overlay District (OL)** is identified on the Zoning Map.

10.613.50 The **Airport Approach Overlay District (AA)** consists of:

- (a) the Approach Zones shown on the Airport Obstruction Chart AOC 678 with the associated Obstruction Data Sheet ODS 678 (Surveyed October 1990, 1st Edition, for Pease Air Force Base, Portsmouth, NH), along with two detailed drawings (Exhibits 1 and 2), a legend (Exhibit 3), and the accompanying FAR Part 77.25, Civil Airport Imaginary Surfaces (Exhibit 4), all of which documents collectively are hereinafter called the “Airport Obstruction Chart” or “AOC”; and
- (b) all the land within a distance of two miles from the **airport** reference point shown on the Pease International Tradeport Approach Map.

10.613.60 The **Highway Noise Overlay District (HN)** is identified on the Zoning Map.

Section 10.620 Floodplain District

10.621 Purpose

10.621.10 The regulations in this Section shall apply to land in the **Floodplain District**, and shall overlay and supplement the regulations of any underlying district.

10.621.20 If any provision of this Section differs or appears to conflict with any other provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

10.622 Definitions

10.622.10 Rules of Construction

10.622.11 The definitions of words and terms in Section 10.622.20 apply to the Floodplain District regulations (Section 10.620).

When a term is used in the Floodplain District Regulations and is defined in Section 10.622.20, it shall have that meaning, which shall supersede any definition in Article 15.

- 10.622.12 When a term is used in Section 10.620 and is not defined in Section 10.622.20, its meaning shall be determined in accordance with Article 15.
- 10.622.13 When a term appears in a section of the Zoning Ordinance other than Section 10.620, its meaning for the purpose of that section shall be determined in accordance with Article 15.

10.622.20 Terms Defined for the Floodplain District

Area of special flood hazard

The land in the **floodplain** within the City of Portsmouth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the **FIRM** as Zones A and AE.

Base flood

The **flood** having a one percent possibility of being equaled or exceeded in any given year.

Base flood elevation (BFE)

The **water surface elevation** having a one percent possibility of being equaled or exceeded in any given year as defined on the **flood insurance rate map (FIRM)** currently in effect.

Basement

Any area of a **building** having its floor subgrade on all sides.

Building

See **structure** in this Section.

Development

Any man-made change to improved or unimproved real estate, including but not limited to **buildings** or other **structures**, mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment or materials. For the purposes of this Ordinance, only storage of equipment or materials that has the potential to increase flood levels is included in this definition.

Extended flood hazard area

Any contiguous area of land adjacent to a **special flood hazard area** and less than two feet above the **base flood elevation** in that **special flood hazard area**.

FEMA

The Federal Emergency Management Agency.

FIRM

See **flood insurance rate map**.

Flood or **flooding**

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM)

An official map, incorporated with this Ordinance, on which **FEMA** has delineated both the **special flood hazard areas** (SFHAs) and the Risk Premium Zones applicable to the City of Portsmouth.

Flood insurance study

An examination, evaluation, and determination of **flood** hazards and if appropriate, corresponding **water surface elevations**, or an examination and determination of mudslide or **flood**-related erosion hazards.

Floodplain or **flood-prone area**

Any land area susceptible to being inundated by water from any source.

Flood proofing

Any combination of structural and non-structural additions, changes, or adjustments to **structures** which reduce or eliminate **flood** damage to real estate or improved real property, water and sanitation facilities, **structures** and their contents.

Floodway

See **regulatory floodway**.

Highest adjacent grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a **structure**.

Historic structure

Any **structure** that is:

- a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- c. Individually listed on the New Hampshire State Register of Historic Places.

Lowest floor

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 Ordinance.

Manufactured home

A **structure**, transportable in one or more sections, which is built on a permanent chassis and is designed for **use** with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes **manufactured homes** located in a **manufactured home park or subdivision**.

Manufactured home park or subdivision

For the purposes of the **Floodplain District**, a **parcel** (or contiguous **parcels**) of land divided into two or more **manufactured home** lots for rent or sale.

Mean sea level

The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which **base flood elevations (BFE)** shown on a community's **FIRM** are referenced.

New construction

A **structure** for which the **start of construction** commenced on or after the effective date of this **floodplain** management regulation and includes any subsequent improvements to such **structure**.

Recreational vehicle

A vehicle that is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory floodway

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.

Special flood hazard area (SFHA)

See **Area of special flood hazard**.

Start of construction (including substantial improvement)

The date on which the **building permit** was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date.

- (a) 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 a **manufactured home** on a foundation.
- (b) “Permanent construction” does not include any of the following:
 - (1) land preparation, such as clearing, grading and filling;
 - (2) the installation of **streets** and/or walkways;
 - (3) excavation for a **basement**, footings, piers, or foundations or the erection of temporary forms;
 - (4) the installation on the property of **accessory buildings**, such as garages or sheds not occupied as **dwelling units** or part of the main **structure**.

Structure

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**.

Substantial damage

Damage of any origin sustained by a **structure** whereby the cost of restoring the **structure** to its before damaged condition would equal or exceed 50 percent of the market value of the **structure** before the damage occurred.

Substantial improvement

Any combination of repairs, reconstruction, additions, rehabilitation, **alterations**, or improvements to a **structure** in which the cost equals or exceeds 40 percent of the market value of the **structure**. The market value of the **structure** should equal:

- (a) the appraised value at the time of the submission of a building permit application for the 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 first **alteration** of any wall, ceiling, floor, or other structural part of the **building** 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** 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**.

Violation

The failure of a **structure** or other **development** to be fully compliant with the floodplain management regulations. A **structure** or other **development** without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation

The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of **floods** of various magnitudes and frequencies in the **floodplains**.

10.623 Building Permits

- 10.623.10 All proposed **development** in a **special flood hazard area** or **extended flood hazard area** shall require a **building permit**.
- 10.623.20 The **Code Official** shall review all **building permit** applications for **new construction** or **substantial improvements** to determine (a) whether the proposed **building** site will be in a **special flood hazard area** and (b) if so, that all **new construction** or **substantial improvements** will comply with the requirements of this section.
- 10.623.30 The **Code Official** shall not grant a **building permit** until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

10.624 Water and Sewer Systems

Where new or replacement water and sewer systems (including on-site systems) are proposed in a **special flood hazard area**, the applicant shall provide the **Code Official** with assurance that these systems will be designed to minimize or eliminate infiltration of **flood** waters into the systems and discharges from the systems into **flood** waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of **flooding**.

10.625 Flood Information

- 10.625.10 For all new or substantially improved **structures** located in Zones A or AE the applicant shall furnish the following information to the **Code Official**:
 - (a) A completed and certified copy of a **FEMA** Elevation Certificate that includes the as-built elevation (in relation to **mean sea level**) of the lowest floor of the **structure** and whether or not the **structure** has a basement.

- (b) If a non-residential **structure** includes **floodproofing**, a completed and certified copy of the **FEMA** Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to **mean sea level**) to which the **structure** was floodproofed and certification of **floodproofing**.

10.625.20 The **Code Official** shall maintain the above information for public inspection and shall furnish such information upon request.

10.626 Watercourse Alteration, Relocation or Encroachment

10.626.10 In riverine situations, prior to the **alteration** or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the **Code Official** in addition to the copies required by provisions of State law. Further, the applicant shall be required to submit copies of said notification to those **adjacent** communities as determined by the **Code Official**, including notice of all scheduled hearings before the Wetlands Bureau.

10.626.20 The applicant shall submit to the **Code Official** certification provided by a registered professional engineer assuring that the **flood** carrying capacity of an altered or relocated watercourse can and will be maintained.

10.626.30 The **Code Official** 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.”

10.626.40 Along watercourses that have not had a **regulatory floodway** designated, no **new construction, substantial improvement** 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 on 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.

10.627 Determination of Base Flood Elevation

10.627.10 In a **special flood hazard area** (SFHA) the **Code Official** shall determine the **base flood elevation** in the following order of precedence according to the data available:

- 10.627.11 In Zone AE, refer to the elevation data provided in the community's **flood insurance study** and accompanying **FIRM**;
- 10.627.12 In Zone A, the **Code Official** shall obtain, review, and reasonably utilize any **base 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);
- 10.627.13 In Zone A where a **base flood elevation** is not available, the **base flood elevation** shall be at least two feet above the highest adjacent grade.

10.628 Construction Standards in Special Flood Hazard Areas and Extended Flood Hazard Areas

- 10.628.10 In Zones A and AE, any **new construction** or **substantial improvement** shall be reasonably safe from flooding and:
 - (a) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the **structure** resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) be constructed with materials resistant to **flood** damage;
 - (c) be constructed by methods and practices that minimize **flood** damage; and
 - (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during conditions of **flooding**.
- 10.628.20 Any **new construction** of a residential **structure** shall have the **lowest floor** (including **basement**) elevated to at least two (2) feet above the **base flood elevation** if in Zone A or AE, and to at least two (2) feet above **the base flood elevation** of the adjacent **special flood hazard area** if in an **extended flood hazard area**.
- 10.628.30 Any **substantial improvement** of a residential **structure** shall have the lowest floor (including basement) elevated to at least one (1) foot above the **base flood elevation** if in Zone A or AE.
- 10.628.40 Any **new construction** of a nonresidential **structure** shall have the **lowest floor** (including **basement**) elevated to at least two (2) feet above the **base flood elevation** if in Zone A or AE, and to at least two (2) feet above the **base flood elevation** of the adjacent **special flood hazard**

area if in an **extended flood hazard area**; or together with attendant utility and sanitary facilities, shall:

- (a) be floodproofed so that below two (2) feet above the **base flood elevation** in Zone A or AE, or below two (2) feet above the **base flood elevation** of the adjacent **special flood hazard area** in an **extended flood hazard area**, the **structure** is watertight with walls substantially impermeable to the passage of water;
- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

10.628.50 Any **substantial improvement** of a nonresidential **structure** shall have the lowest floor (including basement) elevated to at least one (1) foot above the **base flood elevation** if in Zone A or AE; or together with attendant utility and sanitary facilities, shall:

- (a) be floodproofed so that areas below one (1) foot above the **base flood elevation** in Zone A or AE, the structure is watertight with walls substantially impermeable to the passage of water;
- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

10.628.60 Any **manufactured home** to be placed or substantially improved within a **special flood hazard area** shall be elevated on a permanent foundation such that the **lowest floor** of the **manufactured home** is at least two (2) feet above the **base flood elevation**; and be securely anchored to resist floatation, 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;

10.628.70 For any **new construction** or **substantial improvement**, fully enclosed areas below the **lowest floor** that are subject to **flooding** are permitted provided they meet the following requirements:

- (a) the enclosed area is unfinished or **flood** resistant, usable solely or the 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 floodwater certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to **flooding** shall be provided.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

- 10.628.80 Any **recreational vehicle** placed on a site within Zones A and AE for 180 or more consecutive days shall either:
- (a) be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or
 - (b) meet all standards of Section 10.623.10 of this ordinance and the elevation and anchoring requirements for **manufactured homes** in Section 10.628.60 of this ordinance.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

10.629 Variances and Appeals

- 10.629.10 Any order, requirement, decision or determination of the **Code Official** made under this Section 10.620 may be appealed to the Board of Adjustment as set forth in accordance with the provisions of State law.
- 10.629.20 If the applicant, upon appeal, requests a variance as authorized by the provisions of State law, the applicant shall have the burden of showing in addition to the usual variance standards under State law:
- (a) That the variance will not result in increased **flood** heights, additional threats to public safety, or extraordinary public expense;
 - (b) 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; and
 - (c) That the variance is the minimum necessary considering the **flood** hazard, to afford relief.
- 10.629.30 The Board of Adjustment shall notify the applicant in writing that:

- (a) The issuance of a variance to construct below the required elevation may result in increased premium rates for **flood** insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- (b) Such construction below the required elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

10.629.40 The community shall:

- (a) Maintain a record of all variance actions, including their justification for their issuance, and
- (b) Report such variances issued in its annual or biennial report submitted to **FEMA**'s Federal Insurance Administrator.

Section 10.630 Historic District

10.631 Purpose, Objectives and Applicability

10.631.10 The Historic District is established to preserve the architectural and historic resources of the City of Portsmouth; to foster its architectural and historic character and its sense of place; to conserve property values; to strengthen the local economy; and to promote the **use** of the District for education, pleasure and welfare of residents and visitors.

10.631.20 This Section is intended to achieve the following objectives:

- (1) To preserve the integrity of the Historic District;
- (2) To maintain the special character of the District as reflected in the scale, mass, location and style of **buildings**;
- (3) To assess the historical and architectural value of **buildings** and **structures**, their settings, and their local or national significance in terms of the represented time period, visible architecture, construction materials, or relationship to a historically recognized individual or event;
- (4) To encourage designs for new **buildings** and **structures**, additions to **buildings** and **structures**, and the reuse of existing **buildings** and **structures** that complement and enhance the City's architectural and historic character and contribute to its sense of place;
- (5) To foster Portsmouth's heritage and economic well-being through the conservation and enhancement of property values; and

(6) To promote the District’s contribution to the education, pleasure and welfare of the City’s residents and visitors.

- 10.631.30 Within the Historic District, **demolition, new construction** or additions, some **signs**, and most **alterations** are all subject to review by the Commission or **Code Official**. In each instance, the appropriate level of review shall be based upon the scope of the proposed activities.
- 10.631.40 The provisions of this Section shall apply to **lots** and **structures** located within the Historic District, and are in addition to all other regulations contained in the Zoning Ordinance. Nothing contained in this Section shall be interpreted to permit a **use** or activity which is contrary to any other provision of the Zoning Ordinance.
- 10.631.50 Where the Historic District boundary bisects a portion of a **structure**, the entire **structure** shall be deemed to be within the Historic District. In case of uncertainty, the Planning Board shall determine the District’s boundary.

10.632 Guiding Principles for Review

- 10.632.10 The Historic District includes most of the City’s oldest **structures**. While not every **structure** in the District has historic significance on its own, the District’s architectural value and its sense of place are shaped by the interaction and focus of many and varied **structures**, and the City’s architectural and historic character is derived from the combination of features that have gained significance over time. Therefore, it is in the public interest to ensure architectural review and approval of all new **structures** and significant changes to existing **structures** within the District.
- 10.632.20 A tension often exists between the public’s interest in preserving and enhancing the City’s historic fabric and sense of place, and other interests that might damage that goal. Therefore, the Commission’s role includes assisting applicants to understand and respect the Historic District and its relationship to the heritage and economic well-being of the City.
- 10.632.30 The Design Guidelines adopted by the Commission and approved by the City Council are intended as a tool to help manage change and protect the City’s architectural and historical resources. They are used in the review process to encourage the retention and repair of the existing historic fabric and to provide a framework for the review of new construction within the historic context of the surrounding neighborhood.

10.633 Scope of Review

10.633.10 Activities Requiring a Certificate of Approval

A Certificate of Approval from the Commission is required for any construction, **demolition**, repair, renovation or **alteration** of a **building** or **structure** except as specifically exempted under Section 10.633.20.

10.633.20 Staff Level Exemptions from Certificate of Approval

The following activities shall not require a Certificate from the Commission but require review and certification by the Code Official:

- (1) Ordinary maintenance and repair of any exterior architectural feature, which does not involve a change in design, materials or outer appearance thereof;
- (2) Painting or repainting **structures** without regard to color;
- (3) Maintenance and repair of exterior walls, chimney repairs, entryway repairs, or deck repairs provided these are of the same design and material (including the use of lime-based mortar for repointing historic brick);
- (4) Placement or replacement of shutters that are (1) constructed of wooden material, (2) one-half the width of the sash they are covering, (3) installed with hinges and dogs, and (4) louvered, paneled or constructed of boards as appropriate to the style of the building;
- (5) Replacement roofing on existing **structures** provided that (1) the roof plane and remains the same and the material remains the same regardless of color, or (2) asphalt roofing is replaced with slate, composite-slate, or wood shingles;
- (6) Replacement of an exterior door, window or storm window, provided that (1) the same design and materials are used, or (2) materials are used that restore the original architectural features, including but not limited to the number and arrangement of window lights; using true and non-removable divided lights; and ensuring that the size of the opening does not change;
- (7) Placement or replacement of roof-mounted mechanical or electrical equipment and ventilation terminators or **roof-mounted solar energy systems** where the equipment (1) is not located on a roof surface that faces or is visible from a public way, (2) does not exceed 27 cubic feet, and (3) does not extend more than 3 feet above the roof plane;
- (8) Placement or replacement of wall-mounted mechanical or electrical equipment and ventilation terminators where the equipment (1) is painted a similar color to match or blend with the wall color, (2) does not extend more than six inches out from the wall plane, and (3) does not vent directly into a public way; and where (4) all duct work or equipment feeds enter the building's interior at ground level so as not to be visible;
- (9) Placement or replacement of ground-mounted mechanical or electrical equipment (including a generator) where (1) the equipment is located behind the **structure** and is not in public view, and (2) all duct work or equipment feeds are located in the building's interior or immediately adjacent to the equipment;
- (10) Placement or replacement of storm windows, storm doors, screen windows and screen doors, provided they are constructed with wood frames, with any metal or vinyl tracks concealed by the wood frames. Window guards provided they are

constructed with bars or rods of wrought iron, or metal formed and painted to resemble wrought iron. Mesh guards are not exempt;

- (11) Placement or replacement of chimney caps or bishop pots that are constructed of masonry or bluestone, or of other material with a black, dark brown or copper finish;
- (12) Placement or replacement of gas and electric meters if mounted on an exterior wall, not facing or visible from a public way. **Landscaping** or fencing may be used as a visual screen;
- (13) Construction, **alteration** or **demolition** of any **structure** or element of a **structure** that the **Code Official** documents as being necessary to avoid an immediate health or safety emergency prior to the Commission convening a meeting to consider the matter. In such instance, the **Code Official** shall immediately provide written notification to the Commission of such action;
- (14) New **signs** and refacing of existing **signs**, except that new freestanding **signs** and **signs** requiring review and approval by the **Board** of Adjustment shall not be exempt;
- (15) Awning replacement if a canvas fabric is used and no **alterations** (including but not limited to the wall fittings and fastenings) are made to the **structure**;
- (16) Placement of a temporary toilet, trailer, tent or tensile **structure**;
- (17) Accessible ramp systems on **single-family** or **two-family dwellings** provided the ramp and rail system consists of black metal modular components;
- (18) The placement, removal or replacement of wood or metal fence (except for chain-link which may only be removed) provided the replacement fence is in substantially the same location with substantially the same height, material, and design;
- (19) The replacement of exterior lighting provided the replacement lighting is substantially in the same in location with substantially the same height, material, and design;
- (20) The replacement or restoration of wood siding (including removal of non-wood materials) provided the replacement siding is the same exposure, material, and design;
- (21) Placement or replacement of terraces, walks, **driveways**, and **sidewalks** and in-ground swimming pools provided that any such element is substantially at the existing grade plane of the property;
- (22) Placement or replacement of building accessories and décor, such as window-mounted portable air conditioning units, play equipment, residential trash enclosures, snow guards, benches, trellises, non-commercial boat rack storage **structures**, window boxes, raised planters, mailboxes less than 18” in all

dimensions, flags, hose reels, door bells and knockers, weathervanes, bells, wind chimes, birdfeeders, artwork, sculpture, and other similar exterior décor;

- (23) New or replacement piers, floats, docks or gangways for **single-family and two-family dwellings** provided any vertical handrail support systems are constructed with metal, wire, rope or wood;
- (24) Placement or replacement of wood, brick or granite steps or landings;
- (25) Placement or replacement of a commercial solid waste enclosure provided the enclosure: (1) is fully enclosed with the use of gates; (2) is constructed of wood or stone material; and (3) is no greater than 60” in height or 100 sq. ft. in area;
- (26) Placement or replacement of wood or copper gutters and downspouts.
- (27) Parking ticket kiosks, freestanding signs and other site elements related to public parking in private parking lots when authorized under a permit from the Department of Public Works.
- (28) Installation of **roof-mounted solar energy systems**, and any associated support structures and conduit lines provided that the application satisfies all of the following requirements:
 - (1) The elements of the proposed **roof-mounted solar energy system** will be placed in a regular manner with no disjointed panels (example: symmetrically placed or in even rows and columns) and shall be **minimally visible**;
 - (2) The accessory elements of the **roof-mounted solar energy system** including associated support structures and conduit lines shall be **minimally visible** and not cause damage to or alteration of **character defining architectural features** of the **structure** (such as the removal of slate or wood shingled roofs, chimneys, dormers or altering exiting roof lines);
 - (3) Any **roof-mounted solar energy systems** proposed to be mounted on a sloped roof will be flush mounted and **minimally visible**;
 - (4) Any **roof-mounted solar energy systems** proposed to be mounted on a flat roof shall be set back from the edge of the roof, and angled as necessary, to be **minimally visible**;
 - (5) The applicant has provided a statement from a licensed architect or engineer that the roof proposed for the **roof-mounted solar energy system** is adequate to support the proposal without significant external modification to the **structure**; and
 - (6) Any proposed **roof-mounted solar energy system** that does not satisfy all of the above requirements shall be reviewed with an application submission to the Commission, as elaborated in 10.634.

10.633.30 Administrative Approval

The **Code Official** may grant administrative approval for minor modifications to an existing **structure** for work for which a Certificate of Approval has previously been

issued, provided that the **Code Official** determines that the modifications do not alter the overall quality or character **structure** and the determination is certified as appropriate by the Commission. In the case of work for a modification to a prior approval the **Code Official** shall indicate compliance with this section as a written addendum to an existing Certificate of Approval. Such approval shall be subject to Historic District Commission approval at the next meeting of the Historic District Commission. A list of the administrative approvals shall be submitted to the Historic District Commission prior to the meeting and the administrative approvals shall be automatically ratified unless rejected specifically by the Historic District Commission at that meeting.

10.634 Application Procedure

10.634.10 Application Submission

The property owner or authorized representative shall submit to the Commission, through the **Code Official**, a written application for a Certificate of Approval (Certificate) as elaborated in Section 10.634.20, along with all required fees. The application shall be accompanied by a completed Building / Change of Use Permit Application, where required. The applicant shall also be required to submit digital files in Portable Document Format (PDF) of all application materials including the application form, plans, photos, renderings, and other supporting documents used at both a Work Session(s) and Public Hearing. The applicant may request a waiver from this requirement if they are unable to comply due to undue financial burden or other hardship.

10.634.20 Application Contents

An application for a Certificate of Approval shall state the location and nature of the matter or item for which the Certificate is sought and shall include scaled site plans, **building** plans, elevations, samples, photographs, sketches or other information reasonably required by the **Code Official** to determine the aptness of the application under this Section. Such plans shall clearly state the overall height, width and depth of the proposed **building**.

10.634.21 For a project whose cost of exterior renovations would exceed \$50,000, the application shall include scaled and dimensioned plans of the project, and streetscapes showing the project as viewed from any side having **frontage** on or access to a public **street** or public walkway, or having waterfront **frontage**, unless otherwise waived by the Commission following a work session. Where possible, the view shall include an architectural rendering of the existing **structure**. The Commission may require that a view be submitted showing the project as viewed from abutting properties.

10.634.22 For a project whose cost of exterior renovation would be \$50,000 or less, the application shall include photographs showing existing conditions as viewed from a public **street** or public walkway or from the water, and perspective drawings superimposed on the photographs in a manner which shows the proposed work.

- 10.634.23 An electronic and/or physical scale massing model shall be required for new construction of any proposed **building** or addition over 10,000 s.f. **gross floor area**. Said model shall include the proposed **building** and all existing and approved **buildings** within 250 feet of the proposed **building** on every **street** which the proposed **building** abuts. Said model shall accurately reflect the scale and relationships of the project and its surrounding **buildings**. Electronic or physical models of **buildings** may be required for smaller projects at the discretion of a majority of the Commission. The type, scale and details shall be stated, if said model is required.
- 10.634.24 A letter of certification from a licensed architect or engineer may be required for any application proposing elements that will create a new structural load by the addition to or removal of elements from a **structure**. Such a letter will certify that the proposal will not require significant external modification to the **structure**, or if the proposal will require such modification, then the details of those modifications shall be furnished to the Commission for inclusion in its review.

10.634.30 Entry Onto Site

By virtue of applying for a Certificate, the applicant authorizes **Code Officials** and Commissioners to enter onto the subject site to view existing conditions and **structures**.

10.635 Review by the Commission

10.635.10 No Ex Parte Communication

Commissioners shall not receive information about an application or potential application from or on behalf of an applicant or a pending applicant except during a duly convened Commission meeting. If information should be given to a Commissioner, it shall be disclosed at the next meeting of the Commission. (This prohibition on ex parte communication does not apply to information provided by City officials as part of the administration of this Section.)

10.635.20 Work Sessions

- 10.635.21 Applicants may always request a work session with the Commission to explore design alternatives. Applicants are strongly encouraged to request a work session when the cost of exterior improvements exceeds \$25,000.
- 10.635.22 Upon receipt of a written request (containing a conceptual site plan and conceptual level information listed under 10.634.20) by a potential applicant for a work session, either prior to or after the submission of an application for a Certificate, the Commission shall, at a regularly scheduled

public hearing or other authorized time, convene into a work session. The purpose of this session shall be to consider and comment on various design alternatives, issues and options for any project coming under this Section with the aim of providing guidance in preparing an application for public hearing.

- 10.635.23 A notice of a work session, containing the information set forth in Section 10.635.50, shall be published and posted in the same fashion as a public hearing before the Board of Adjustment, and shall be mailed to all **persons** required to be notified of a public hearing before the Board of Adjustment. The work session shall be included as part of the Commission's agenda for that meeting.
- 10.635.24 At the work session, the requesting party shall present the project and then seek Commission comments and suggestions which will be made by those members who are in attendance. No vote, decision or action shall be made at a work session. These are advisory only.
- 10.635.25 Work sessions can be continued and can be convened at any point in the Commission's process.

10.635.30 Public Hearings

- 10.635.31 Public hearings shall be advertised, abutters notified and legal notices posted in accordance with State law regarding hearings by the Board of Adjustment. A decision by the Commission is only binding following a duly convened public hearing.
- 10.635.32 Public hearings may include a Consent Agenda for consideration of applications for which Commission approval is anticipated to be routine or expeditious, subject to the following:
 - (1) An application may be included on the consent agenda if (a) the **Code Official** and the Chair of the Commission jointly recommend in favor of approval; and (b) the applicant concurs in writing with any stipulations or limitations included in the **Code Official's** recommendation.
 - (2) Applications included on the consent agenda shall be considered, voted on and approved as a group rather than individually.
 - (3) Any **person** wishing to address the Commission on a matter contained on the consent agenda shall be permitted to do so during the public hearing on the

consent agenda or, if the application is removed from the consent agenda as provided in paragraph (5) below, during the hearing on that matter.

- (4) Applicants are encouraged to attend the Commission meeting in the event that the Commission or a member of the public has questions or concerns.
- (5) An application may be removed from the consent agenda and considered separately as a regular agenda item by majority vote of the Commissioners present.

10.635.40 Site Visits

- 10.635.41 Site visits are encouraged when feasible, and when they are appropriate to meet the objectives of this Section.
- 10.635.42 The Commission may schedule a site visit on its own initiative or at the request of an applicant or other **person**. A site visit shall comply with state law regarding public meetings. The applicant shall be responsible for any expense required to accommodate the public on a site visit.
- 10.635.43 During a site visit, Commission members shall observe the premises or site and shall direct questions or comments solely towards the applicant and/or City officials. A site visit is not the forum for a public discussion of an application with the Commission as a whole or Commissioners individually.
- 10.635.44 In a site visit, questions and comments by the applicant shall be directed to the Commission as a whole. Comments shall be limited to identifying significant architectural features and responding to any questions that the Commission may have.

10.635.50 Notices

Notices of public hearings and work sessions shall provide the following information.

- (1) Identification of the Applicant.
- (2) Identification of work site by Assessor Plan and **lot** number and **street** address.
- (3) Zoning District.
- (4) A brief description of work using one or more of the following statements:
 - (a) The application entails exterior renovations to an existing **structure**.
 - (b) The application entails **new construction** to an existing **structure**.

- (c) The application entails a new **free standing structure**.
 - (d) The application entails a request for **demolition**.
 - (e) The application entails a request concerning **signs**.
 - (f) The application includes a request for a partial approval.
 - (g) The application entails an adjustment to a previous approval.
 - (h) The application is for work otherwise authorized under this Section.
- (5) An invitation to all interested parties to attend the work session or public hearing and hear testimony by providing the time, date, and location of the Commission meeting.
- (6) An invitation to the public to review the complete application.

10.635.60 Review Factors

In conducting reviews under this Section, the Commission shall consider factors that render a site architecturally or historically significant, including:

- (1) the historical time period, context or immediate setting;
- (2) the **structure**'s architecture, including stylistic features, design elements and mass;
- (3) construction materials, including technological systems and features; and
- (4) importance relative to a historically recognized individual or event.

10.635.70 Review Criteria

The Commission shall review an application for a Certificate of Approval and determine whether the application is consistent with and furthers the purpose and objectives set forth in Section 10.631. In making this determination, the Commission shall make Findings of Fact by referring to the following criteria:

- (1) The special and defining character of surrounding properties, including architectural details, design, height, scale, mass, width of surrounding **structures**, **street frontages**, types of roofs, **façades** and openings.
- (2) The significant historical or architectural value of an existing **structure** for which a Certificate is sought, including its setting, scale and mass; and the general size of **new construction** with consideration of such factors as height, width, materials and architectural details.
- (3) The extent to which a proposed project's exterior design, scale, arrangement, texture, detailing and materials complement or enhance the existing **structure**

and are compatible with surrounding properties and the Commission’s adopted Design Guidelines.

- (4) Encouraging the innovative **use** of technologies, materials and practices provided these are compatible with the character of surrounding properties.

10.636 Decision by the Commission

10.636.10 Approval or Disapproval

At the conclusion of its review, the Commission shall issue in writing one of the following:

- 10.636.11 **Certificate of Approval:** If the majority of the Commission members present and voting decides that the applicant’s proposal meets the objectives of this Section, and after the consideration of each element of the Scope of Review, the Commission shall issue a Certificate of Approval signed by the Chair together with any changes, conditions or stipulations necessary to secure the objectives of this Section.
- 10.636.12 **Notice of Disapproval:** If the majority of the Commission members present and voting decides that the applicant’s proposal does not meet the objectives of this Section, the Commission shall issue a Notice of Disapproval signed by the Chair of the Commission and which states the manner in which the proposal does not comply with the purpose and objectives set forth in Section 10.631, or the review criteria set forth in Section 10.635.70. The issuance of such a denial shall prohibit the **Code Official** from issuing a **demolition permit**, **building permit**, change of **use permit** or other permits for the specified work.

10.636.20 Partial Approval

Except as authorized by this Section, the **Code Official** shall not allow construction work to commence on any application coming under the Commission’s review until the Commission has granted a Certificate for the entire application before it. The only partial approvals the Commission may consider must meet all of the following stipulations.

- 10.636.21 A request to consider a partial approval must be scheduled, advertised and conducted as part of a public hearing.
- 10.636.22 In order to approve a request for a partial approval, the Commission must grant a waiver of this requirement by a two-thirds majority of the members present, voting and constituting a quorum. In considering this waiver, the Commission shall consider such factors as:
 - (a) Site safety if this would become a concern due to delays in commencing the project;

- (b) **Demolition** where such **demolition** has been approved or where public safety is a concern; and
- (c) Other mitigating factors where, in the opinion of the Commission, the public interest is better served by the project proceeding in phases.

10.636.23 Where the Commission has acted to grant a waiver, the Commission shall state what actions are authorized to commence and which still require Commission consideration. Prior to the start of any activity coming under a partial approval, the applicant shall place on file in the application for a Building/Change of Use Permit a statement indicating an awareness of an obligation to complete this application process and that all outstanding work has not been approved and is still subject to review under this Section.

10.636.30 Time Period for Review

The Commission shall file a Certificate of Approval or a Notice of Disapproval within 30 days after the filing of a complete application for the Certificate unless the applicant agrees to a longer time period.

10.636.40 Application to Commission for Rehearing

- 10.636.41 Any party may apply to the Commission for a rehearing in respect to any matter determined, covered or included in its decision or order, specifying in the application for rehearing the ground therefor; and the Commission may grant such rehearing if in its opinion good reason therefor is stated in the application.
- 10.636.42 An application for a rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.
- 10.636.43 An application for a rehearing shall be made within 30 days after the decision of the Commission. The 30-day period shall begin on the day after the date of the Commission's vote; except that if the minutes of the meeting at which the vote was taken, including the written decision, are not filed within five business days after the vote, the 30-day period shall begin on the date on which the written decision was filed.
- 10.636.44 Upon the filing of an application for a rehearing, the Commission shall within 30 days either grant or deny the application for a rehearing, or suspend the order or decision complained of pending further consideration. Any order of

suspension may be upon such terms and conditions as the Commission may prescribe.

10.636.50 Appeals of Commission’s Decision

- 10.636.51 Any party aggrieved by a decision of the Commission may appeal such decision to the Board of Adjustment; provided that no appeal from any order or decision of the Commission shall be taken unless the appellant has first made application for rehearing as provided in this Section.
- 10.636.52 An appeal to the Board of Adjustment shall be made within 30 days after the decision of the Commission. The 30-day period shall begin on the day after the date of the Commission’s vote; except that if the minutes of the meeting at which the vote was taken, including the written decision, are not filed within five business days after the vote, the 30-day period shall begin on the date on which the written decision was filed.
- 10.636.53 No ground not set forth in an application to the Commission for rehearing shall be given consideration by the Board of Adjustment unless the **Board** for good cause shown allows the appellant to specify additional grounds.

10.636.60 Reapplication After Disapproval

- 10.636.61 An applicant who has received a Notice of Disapproval may, and is encouraged to, make modifications to the proposed plans based on the Notice of Disapproval and submit a revised application.
- 10.636.62 Within one year after the date of the Commission’s denial the applicant may reapply to the Commission with no additional filing fees other than incurred costs for posting, publishing and abutter notification. Following that one-year period, a new application shall be submitted, along with all required fees.

10.636.70 Expiration of Approvals

- 10.636.71 A Certificate of Approval shall lapse one year from date of the Commission’s action unless the applicant requests an extension of no more than one year prior to the expiration of the original action. Such extensions may be granted without a public hearing unless the Commission deems one to be in the public interest.
- 10.636.72 No more than one extension shall be granted unless authorized following a public hearing convened to consider such a request.

10.637 Review of Permit Applications Within the District

10.637.10 The Planning Board shall consult with **Code Officials** and the Commission upon a request to review applications for Certificates to determine that the Ordinance’s objectives are being properly followed.

10.637.20 **Code Officials** shall make themselves available to discuss any proposed changes with citizens or anyone contemplating work in the district.

Section 10.640 Downtown Overlay District

10.641 Establishment and Purpose

10.641.10 The Downtown Overlay District (DOD) is an overlay district applied to portions of the Character Districts. All properties located in the DOD must satisfy the requirements of both the DOD and the underlying districts.

10.641.20 The purpose of the DOD is to promote the economic vitality of the downtown by ensuring continuity of pedestrian-oriented business **uses** along **streets**.

10.642 Ground Floor Uses

Within the DOD, the **ground floor** of any **building** shall consist entirely of the following **uses**:

1. Nonresidential **principal uses** permitted in the underlying zoning district.
2. Entries, lobbies, stairs, and elevators providing pedestrian access to permitted upper-floor residential **uses**, not exceeding 20 percent of the **ground floor** area.

Section 10.650 Osprey Landing Overlay District

10.651 Purpose

The purpose of the Osprey Landing Overlay District is to assure conformance with the requirements for rental housing and **affordable** housing that are set forth in the covenants and regulatory documents of the New Hampshire Housing Finance Authority and the U.S. Department of Housing & Urban Development, all as previously approved by the City of Portsmouth and set forth in agreements of record at the Rockingham County Registry of Deeds.

The intent of this Section is to recognize the requirements set forth in said covenants and regulatory documents as particularly applied to the “Apartment Component.”

10.652 Rental Housing Requirements

At least two-thirds of all **dwelling units** in the Osprey Landing Overlay District, and at least 329 **dwelling units** in parcels 213-2-1500, 217-2-1300 and 218-2-1100, shall be rental housing.

10.653 Affordable Housing Requirements

10.653.10 The following percentages of rental units in the Osprey Landing Overlay District shall be maintained as **affordable** housing for the periods indicated:

| Maximum income for occupancy, as percentage of area median income adjusted for family size | Minimum percentage of rental units in Osprey Landing Overlay District | | |
|--|---|--------------------------|--------------------------|
| | Through November 8, 2014 | Through November 8, 2024 | Through November 8, 2034 |
| 50% | 20% | 20% | 20% |
| 60% | 16% | 16% | 0% |
| 80% | 14% | 0% | 0% |
| Total required affordable units | 50% | 36% | 20% |

10.653.20 The **dwelling units** intended to meet the affordability criteria specified herein shall be interspersed with the market rate rental **dwelling units**.

Section 10.660 Airport Approach Overlay District

10.661 Purpose

The purpose of this Section is to regulate the height of **structures** and trees for the protection of life and property in relation to **use** of the aerial approaches to the runways of the Pease International Tradeport.

10.662 Applicability

The regulations of this Section apply to all land within the Airport Approach Overlay District as defined in Section 10.613.50.

10.663 Civil Airport Imaginary Surfaces

The following information, based on Federal Aviation Regulation (FAR) Part 77, Objects Affecting Navigable Airspace, describes the “civil airport imaginary surfaces” for Pease International Tradeport:

10.663.10 Horizontal surface: A horizontal plane 150 feet above the established **airport** elevation, the perimeter of which is constructed by swinging arcs with a radius of 10,000 feet from the center of each end of the primary

surface of the runway and connecting the **adjacent** arcs by lines tangent to those arcs [FAR 77.25(a)(2)].

- 10.663.20 Conical surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet [FAR 77.25(b)].
- 10.663.30 Primary surface: A surface longitudinally centered on the runway. The primary surface has a width of 1,000 feet and extends 200 feet beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline [FAR 77.25(c)(3)(iii)].
- 10.663.40 Approach surface: A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based upon the type of approach available or planned for that runway end.
- (a) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 16,000 feet [FAR 77.25(d)(1)(vi)].
 - (b) The approach surface extends for a horizontal distance of 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 [FAR 77.25(d)(2)(iii)].
- 10.663.50 Transitional surface: These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline [FAR 77.25(e)].

10.664 Restrictions

- 10.664.10 No **structure** shall be erected or altered, and no tree shall be allowed to grow, within the civil **airport** imaginary surfaces defined in Section 10.663.
- 10.664.20 No **use** may be made of land in the Airport Approach Overlay District in such manner as to create electrical interference with radio aids or communications between the **airport** and aircraft, make it difficult for flyers to distinguish between **airport** lights and others, result in **glare** in the eyes of flyers using the **airport**, impair visibility in the vicinity of the **airport** by the creation and discharge of smoke, steam, dust or other obstructions to visibility or otherwise endanger the landing, taking off or maneuvering of aircraft.

10.665 Permits and Variances

- 10.665.10 Within the Airport Approach Overlay District, no variance or permit shall be granted that would allow the **establishment** or creation of an **airport** hazard or that would permit a **nonconforming use, structure** or tree to be made or become higher, or become a greater hazard to air navigation, than it was on December 12, 1957, or than it is when application for a permit is made.
- 10.665.20 Within the Airport Approach Overlay District, the authorization of a variance by the Board of Adjustment shall be required for any material change (including erecting new **structures**; replacing, rebuilding or substantially altering or repairing existing **structures**; planting new trees; or allowing the growth of existing trees) in violation of Section 10.664.
- 10.665.30 In granting a variance under this Section, the **Board** shall impose such conditions as it deems advisable to effectuate the purposes of this Ordinance and reasonable in the circumstances, including requiring the owner of the **structure** or tree in question at its own expense to install, operate and maintain thereon, such marker and lights as may be necessary to indicate to flyers the presence of an **airport** hazard. Said marker or lights shall be subject to approval by the Pease Development Authority.

10.666 Nonconforming Uses, Structures and Trees

The regulations of this Section 10.660 shall not be construed to require the removal, lowering or other change or **alteration** of any **structure** or tree not conforming to the regulations as of December 12, 1957, or otherwise interfere with the continuance of any **nonconforming use**.

10.667 Pease International Tradeport Approach Plan

This **Airport** Approach Plan is based upon the ultimate **development** of the following:

- | | |
|--|--|
| 1. Runway dimensions | 11,318 feet long, 150 feet wide. |
| 2. Airport Reference Point (center of runway) coordinates | Lat 43° 04' 40.328" N Lon 70° 49' 25.604" W |
| 3. Airport elevation | 101' MSL |
| 4. Width of primary surface | 1000' |
| 5. Width of transitional surface | a) 1,050' from edge of primary surface (slopes from airport elevation up to 251' MSL) b) 5,000' from edge of the approach surface |
| 6. Width of horizontal surface | 8,450' from the edge of the primary transitional surface |

- 7. Width of conical surface 4,000' from the edge of the horizontal surface (slopes from 251' MSL up to 451' MSL)
- 8. Dimensions of approach surfaces
 - a) 50:1 surface - 1,000' wide centered on extended runway centerline starting 200' from the end of the runway, then extending 10,000' horizontally at which point it is 4,000' wide.
 - b) 40:1 surface - starts at the end of the 50:1 surface (4,000 wide) then extends horizontally 40,000' at which point it is 16,000' wide.
 - c) South end of runway:
 - 50:1 - starts at 85'MSL and slopes up to 285'MSL
 - 40:1 starts at 285'MSL and slopes up to 1,285'MSL
 - d) North end of runway:
 - 50:1 - starts at 95'MSL and slopes up to 295'MSL
 - 40:1 starts at 295'MSL and slopes up to 1,295'MSL

Section 10.670 Highway Noise Overlay District

10.671 Purpose

The purpose of this Section is to minimize the impact of highway traffic noise on individuals, businesses and other activities, and to protect the general health, safety and welfare of the City by regulating certain uses, activities, and **development** within areas subject to projected intense highway traffic noise. This Section is adopted specifically to make the City of Portsmouth eligible for participation in the New Hampshire Department of Transportation's Type II noise abatement program.

10.672 Applicability

- 10.672.10 The provisions of this Section shall apply to all land within the Highway Noise Overlay District as defined in Section 10.613.60, except land subject to the land use regulations of the Pease Development Authority.
- 10.672.20 The provisions of this Section shall overlay and supplement the regulations of any underlying district. If any provision of this Section differs from or appears to conflict with any other provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

10.673 Standards

Noise sensitive land uses within the Highway Noise Overlay District shall be planned, designed and constructed to comply with the following standards:

| Structures and Uses | Loudest Traffic Hour Sound Level |
|--|----------------------------------|
| Interior of dwelling , institutional residence or residential care facility , hospital or lodging establishment | 45 dba |
| Interior of other noise sensitive use | 55 dba |
| Uses with outdoor activity areas , measured at edge of the active use area closest to the highway | 65 dba |

10.674 Conditional Use

- 10.674.10 Within the HNOD, **noise sensitive land uses** shall require a conditional use permit from the Planning Board.
- 10.674.11 An addition or extension to a **single-family** or **two-family** dwelling that lawfully existed prior to the effective date of this Ordinance, or that was constructed subject to a validly issued conditional use permit, shall be exempt from the standards in Section 10.675 and from the requirement for a conditional use permit, provided that the **building footprint** area of the addition or extension, together with the footprint area of all prior such additions and extensions, shall not exceed 25 percent of the area of the **building footprint** of the principal heated **structure** existing prior to the effective date of this Ordinance or constructed pursuant to a validly issued conditional use permit. This 25 percent threshold shall not be based on pre-existing attached or detached garages, sheds, decks, porches, breezeways, or similar **buildings** or **structures**.
- 10.674.20 A noise analysis prepared in compliance with Section 10.675 must be submitted with any application for a conditional use permit under this section.
- 10.674.30 An application for a conditional use permit for a **noise sensitive land use** in the Highway Noise Overlay District may be approved only if a noise analysis prepared in compliance with Section 10.675 demonstrates that any applicable exterior and interior sound level standards established in Section 10.673 will be met through one or more of the following measures:
 - (a) Site design to ensure that **noise sensitive land uses** are placed outside of the applicable noise contour;
 - (b) Site design that achieves **noise mitigation** through placement of accessory **structures** between the noise source and the noise receiver;

- (c) Installation of a noise barrier; or
- (d) **Superinsulated** building design and construction.

10.674.40 The Planning Board shall grant a conditional use permit for a **noise sensitive land use** only upon finding that any applicable exterior and interior sound level standards will be met as demonstrated by a noise analysis.

10.675 Noise Analysis

A noise analysis must be prepared by a registered engineer or qualified professional transportation noise analyst who has been trained in the use of the Federal Highway Administration (FHWA) Transportation Noise Model or a replacement model that has been approved by the FHWA. A noise analysis must include the following:

- (1) A description of the proposed **development**.
- (2) A narrative description of the proposed site configuration and any proposed **noise mitigation** measures.
- (3) A diagram showing the proposed site configuration including the location of **noise sensitive land uses** and any proposed **noise mitigation** measures.
- (4) Unadjusted 60, 65 and 70 **dB**A noise contours for the **loudest traffic hour sound levels** shown as an overlay on the site diagram. Noise contours must be developed using the FHWA Transportation Noise Model (or a replacement model that has been approved by the FHWA).
- (5) If the noise analysis shows that projected noise levels will exceed the sound level standard for the applicable activity at the location specified, the noise analysis must include:
 - (a) Any adjusted noise contours and site-specific analyses used to adjust the noise contours based on improved topography;
 - (b) Calculations to support the noise level reduction of any proposed **noise mitigation** measure;
 - (c) A description of the width, depth, height, length, and materials used in any proposed noise barrier; and
 - (d) A description of construction methods and materials used in any proposed **superinsulated** building design. The sound transmission class must be provided for materials used.
 - (e)

Section 10.680 Gateway Neighborhood Overlay District

10.681 Purpose

The Gateway Neighborhood Overlay District is hereby created for the purpose of creating additional housing opportunities in certain neighborhoods and is referred to herein as the GNOD. This overlay shall allow for higher density housing in order to create neighborhoods where residents can live and work. A proposed **development** electing to use the provisions of the GNOD is referred to below as a GNOD **development**.

10.682 Applicability

10.682.10 The provisions of the GNOD shall apply to all land identified on the Zoning Map as the Gateway Neighborhood Overlay District (GNOD).

10.682.20 The requirements and provisions of the GNOD shall apply to any **development** containing residential uses, and/or any **development** electing any of the incentives of the GNOD. If the GNOD overlay options are not a part of a proposed **development**, then the underlying provisions of the zoning district shall apply.

10.683 Standards

10.683.10 All residential or **mixed-use** GNOD **developments** that include a residential use shall comply with the provisions of Article 5B of this Ordinance, with the following exceptions:

- (1) No more than 24 **dwelling units** per **building** shall be allowed without providing Incentive Bonus Option(s) as provided herein.
- (2) Maximum **building height** for any **apartment building** or **mixed-use building** containing residential uses shall not exceed 4 stories or 50 feet without providing Incentive Bonus Option(s) as provided herein.
- (3) Maximum **building length** shall not exceed 400 linear feet without an approved conditional use permit.
- (4) Front, side, and rear **building setback** from **lot lines** shall be a minimum of 10 feet.
- (5) Maximum **building coverage** shall not exceed 75%.
- (6) Minimum **open space coverage** shall be 10%.
- (7) Except for the above setback requirements, the requirements of Sections 10.5B22.20, .30 and .40, 10.5B33, and 10.5B71 shall not apply to land within the GNOD.

- (8) A **development** within the GNOD may include multiple lots owned or controlled by the same person or entity and assembled for a GNOD **development site without a CUP**. A GNOD **development** may contain more than one principal **building** or **building** type on the same **lot**.

10.683.20 Relationship to Other Provisions of this Zoning Ordinance

The provisions of the GNOD shall take precedence over all other provisions of the Zoning Ordinance that directly conflict with the provisions of the GNOD; otherwise, all other provisions shall apply.

10.684 Allowed Uses

In addition to the uses permitted in the underlying district, the following uses shall be permitted within the GNOD:

1. Multifamily Dwelling
2. Assisted Living Facility
3. **Retail Sales** conducted within a **building**
4. **Restaurant**, place of public assembly or function room
5. **Personal Services**
6. Consumer services such as copy shop, bicycle repair, and pet grooming.
7. Health club, yoga studio, martial arts school or similar **use**.

10.685 Parking

In the GNOD, the shared parking provisions of Section 10.1112.62 shall apply, and shared parking shall be permitted on separate **lots**, whether in common ownership or separate ownership without the requirement of a conditional use permit. The provisions of Section 10.1113 (Location of Vehicular Use Facilities) shall not apply to a GNOD **development**.

10.686 Optional Density Bonus Incentives

Buildings in the GNOD containing residential **dwelling units** are permitted to be up to four stories and to contain up to 24 units per **building** as a matter of right. In order to encourage **multifamily** housing within the GNOD, additional opportunities are provided through the optional incentives below that permit increased **building** heights and increased numbers of **dwelling units** per **building**.

The following incentives apply to residential **developments** and mixed-use **developments** that include residential uses in the GNOD, with allowable bonuses as indicated in Table 1.

| 10.686.10 Table 1: Optional Density Bonus Incentives Maximums (If Requirements Are Met) | | | |
|--|---------------------------------|-------------------------|--|
| Incentive Option | Building Height Stories/Feet | Dwelling Units/Building | Approval Requirements |
| For All GNOD Developments over 4 Stories, 50 Feet and 24 Units Per Building: | | | |
| 10.686.10 Public Realm Improvements | 5/68 | 80 | Director of Planning and Sustainability |
| And For Additional Height and Density, One of the Following: | | | |
| 10.686.20 Workforce Housing | 6/80 | 120 | Conditional Use Permit by the Planning Board |
| 10.686.20 Payment in Lieu | 6/80 | 120 | Conditional Use Permit by the Planning Board |
| 10.686.30 Land Transfer | 6/80 | 120 | City Council Approval |

10.686.10 Public Realm Improvements Incentive Option

In order to qualify for a **public realm** improvements incentive bonus in the GNOD, as described here and in Section 10.5B73.20, the proposed **public realm** improvements shall be reviewed by the Planning Board as a part of site plan approval. The Planning Board shall then make written comments regarding the proposed public realm improvements to the Director of Planning and Sustainability. To the extent that the Planning Board’s comments are not followed or incorporated into the Director of Planning and Sustainability’s decision, the Director shall set forth findings relative to the Planning Board’s comments.

All public realm improvements shall be subject to administrative approval by the Director of Planning and Sustainability. The Director of Planning and Sustainability shall review all proposed public realm improvements for compliance with Section 10.5B73.20, ensure that proposed public realm improvements are constructed to City standards, and are in the public interest. Public realm improvements under this section shall be permitted on a different lot than the **development**, and the remaining requirements of Section 10.5B73.20 (4) shall not apply to **public realm** improvements within the GNOD.

10.686.20 Workforce Housing or Payment in Lieu Incentive Option

The Planning Board may grant a conditional use permit for this optional bonus in accordance with Sections 10.240, et. seq. To qualify for this bonus, a development shall include either or a combination of the following:

- (1) Workforce Housing may be provided in accordance with Section 10.5B73.10.
- (2) A payment to the City in lieu of providing workforce housing in an amount based on the particular makeup of the development and in accordance with the fees established annually by the Fee Committee and the City Council in the fee schedule.

10.686.30 Land Transfer Incentive Option

In order to facilitate future development of below-market rate housing, there may be appropriate circumstances where applicants may convey real property to the City in lieu

of or in conjunction with meeting the other requirements for workforce housing of the GNOD. However, recognizing the unique nature of land, not all property may be suitable or desirable for this purpose. Therefore, any real property offered to the City pursuant to this section shall be subject to acceptance by the City Council, and in accordance with the following requirements.

- (1) In lieu of constructing workforce housing units within a GNOD Development, an applicant may offer real property to the City. Any real property offered to the City shall be suitable for developing workforce housing of a size set forth in section 10.686.40 and shall not require a conditional use permit from the Planning Board. Instead, the conveyance shall be subject to approval and acceptance by the City Council. In exchange for transferring land to the City, the developer shall be permitted to construct buildings up to six stories and 80 feet in height, and to construct up to 120 units per building.
- (2) Any applicant must, at their own expense, provide a certificate of title and a Phase One environmental report for any property offered to the City Council. All closing costs shall be borne by the applicant. The City Council may request any additional information regarding the offered real property or the proposed transfer, the preparation of which shall be by the applicant.
- (3) Any applicant must, at their own expense, demonstrate the suitability of the proposed land to be conveyed to the City for workforce housing purposes. This requirement shall be met by submitting a constraints site plan to the Director of Planning and Sustainability depicting: boundaries, existing and proposed; the setbacks; wetlands and wetlands buffers, if any; rights of way; utility easements; and, other identifiable **development** constraints. The Director of Planning and Sustainability shall provide comments on the proposed site's suitability based on the constraints site plan to the City Council prior to acceptance.
- (4) Prior to acceptance by the City Council, the Planning Board shall provide written comments to the City Council regarding the offered real property and its compliance with this Article. Any comments offered by the Planning Board shall be advisory in nature only, but the City Council shall, to the extent that the Planning Board's comments are not followed or incorporated into the City Council's decision, set forth findings relative to the Planning Board's comments.
- (5) The City Council shall not accept any real property offered if acceptance would subject the municipality to potential liability as an owner of property under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., RSA 147-A and 147-B, and any other federal or state environmental statute which imposes strict liability on owners for environmental impairment of the real estate involved.
- (6) In addition to the circumstances described in paragraph 2, the City Council may refuse to accept any offered real property whenever in its judgment acceptance and ownership of the real estate would subject the municipality to undesirable obligations or liability risks, including obligations under real estate covenants or

obligations to tenants, or for any other reason would be contrary to the public interest.

- (7) In order to qualify for this optional incentive, the amount of the proposed land transfer will be dependent on the size of the proposed GNOD development as follows:
 - (a) The developer shall convey at least one contiguous acre of **Developable Upland** to the City for up to twenty acres of **Developable Upland** in a proposed GNOD (the Parcel). For a GNOD larger than twenty acres, the size of the Parcel shall increase in the proportion of one acre of **Developable Upland** per each additional twenty acres of **Developable Upland** in the proposed GNOD.
 - (b) The City Council, at its sole discretion and following a recommendation by the Planning Board, may accept multiple parcels of not less than one acre each, if the City Council determines it is in the best interest of the City.
- (8) Any property acquired by the City pursuant to this section shall be primarily utilized for below-market rate housing. The City Council shall designate the appropriate method for procurement, development, form of ownership, disposition and administration of individual parcels of land acquired pursuant to this section.
- (9) Any land conveyed under this section may be conveyed as a condition subsequent to final Planning Board approval(s) and execution of the site review agreement, but in any event shall be conveyed prior to the issuance of a building permit for any project.
- (10) If land is conveyed under this section, there shall be no further requirement to meet any specific percentage of workforce housing units in a GNOD as provided in Section 10.5B73.10, unless a building is proposed over 400 linear feet in length, in which case the Bonus Incentive Requirements of Section 10.5B73.10 shall apply.

10.686.40 Transfer of Development Rights Acquired through Land Transfer

- (1) Land may be conveyed in conjunction with, or separately from a proposed **development** (GNOD conveyance). In the event that a GNOD conveyance exceeds the amount required in order to support a proposed **development**, or when land is conveyed separately from any proposed development, the developer or its assigns will receive future credit for a future project or projects in accordance with the standards set forth below.
- (2) Following any acceptance of real property by the City Council and successful transfer of fee ownership with warranted title, if there is any excess acreage above what is necessary for a proposed GNOD **development**, the Director of Planning and Sustainability shall notify the Planning Board and the transferor of

land of the amount of Land Credit the developer shall receive, which shall be memorialized in a Proposed Development Incentive Agreement (PDIA), as defined below.

- (3) Contemporaneous with any GNOD conveyance, the City and the developer shall enter into a PDIA, which shall specify the amount of land conveyed to the City, the amount if any used for a pending development, and the amount of excess land that may be credited toward a future project in accordance with the GNOD. Any excess land credit may only be used within the GNOD but may be sold or transferred without limitation for GNOD purposes. A sale or transfer of excess credits pursuant to this section is only valid upon written notice of the transfer to the Director of Planning and Sustainability.
- (4) The maximum term of any PDIA shall not exceed fifteen (15) years, following which the rights to any unused incentive shall automatically expire and become null and void.
- (5) Entering into a PDIA under this section shall not be deemed to supersede or waive any of the other provisions of the GNOD or Article 5B or other applicable provisions of this Ordinance, nor shall any approval be considered to represent the granting of land use approval or vesting for any future **development**.
- (6) Future use of the excess land credit to support a future project shall require administrative approval of the Director of Planning and Sustainability, who shall certify to the Planning Board both the amount of land credit used as a part of a **development** and the remaining land credit pursuant to the PDIA.
- (7) Excess land credits may be used in full or partial fulfillment of the requirements of a future **development** set forth in section 10.686.20.

10.687 Definitions

Developable Upland

Net land area of property suitable for, or used for, **development**, excluding any public rights of way or street rights of way platted as a part of the **development**, wetlands, and wetland buffers.

Article 7 Flexible Development

Section 10.710 General
Section 10.720 Planned Unit Developments

Section 10.710 General

10.711 Purpose

The purpose of this Article is to permit large parcels to be developed in a more flexible manner than would otherwise be allowed in the underlying zoning district, provided that the **development** advances specific goals of the Master Plan and addresses community and environmental impacts. In order to achieve these objectives, the Planning Board is authorized to grant conditional use permits for specific types of **development** that consider the entire site as an integrated project and give broad consideration to impacts and relationships to surrounding areas.

10.712 Conditional Use Permit

- 10.712.10 The Planning Board may grant a conditional use permit for a **development** authorized in this Article, in accordance with the specific provisions and standards set forth herein for the particular **development** type.
- 10.712.20 The Planning Board shall adopt appropriate rules and regulations to implement the conditional use permit review and approval processes.
- 10.712.30 The applicant is encouraged to request a work session with the Planning Board prior to submitting an application for a conditional use permit.
- 10.712.40 While the intent of this Article is to provide flexibility in the design and review of **developments**, not every parcel is suitable for a particular flexible **development** option. Nothing contained herein shall compel the Planning Board to approve a conditional use permit under this Article.
- 10.712.50 A **development** authorized by conditional use permit under this Article shall comply with all applicable zoning, site plan and subdivision regulations other than those waived or modified hereunder.

Section 10.720 Planned Unit Developments

10.721 Planned Unit Development Types and Purposes

- 10.721.10 This Section provides for two types of **planned unit development (PUD)**, each intended to advance specific community goals:
- 10.721.11 An **open space planned unit development (OS-PUD)** permits the clustering of residential **dwelling units** so as to preserve natural features and create usable **open space**.
- 10.721.12 A **residential density incentive planned unit development (RDI-PUD)** permits an increase in the allowable residential **development** intensity of a parcel based on the provision of **dwelling units** that will be restricted for sale or rental at below-market prices, in order to further the housing goals of the Portsmouth Master Plan.
- 10.721.20 The provisions of Sections 10.722 through 10.724 and Section 10.727 apply to all **PUDs**.

10.722 Permitted Uses

- 10.722.10 A **PUD** may include the following **uses**, provided that each **dwelling unit** has direct access to the ground with no shared or common hallways or stairwells:
- (a) **Single family dwelling**
 - (b) **Two-family dwelling**
 - (c) **Townhouse**
 - (d) **Multifamily dwelling**
- 10.722.20 A **PUD** may include the following **accessory uses** provided that they serve only the residents of the **PUD** and their guests and not the community at large:
- (a) Recreational facilities;
 - (b) Up to 3,000 square feet of space for a self-service laundry and for pickup and delivery, on a periodic basis only, for dry cleaning, tailoring or shoe repair. Such **use** shall conform to the **off-street parking** requirements of Article 11.
- 10.722.30 A **dwelling unit** in a **PUD** may include **accessory uses** as permitted in the underlying zoning district, including **home occupations**, except that the following **accessory uses** are not permitted in an **RDI-PUD**: **family day care facility; home occupation 2**.
- 10.722.40 An **OS-PUD** may include a **group day care facility**.

10.723 Base Residential Density

- 10.723.10 The **base residential density** in a **PUD** shall be either of the following, at the option of the applicant:
- 10.723.11 The number obtained by dividing the **developable area** of the parcel by the minimum **lot area** per **dwelling unit** required in the underlying zoning district.
- 10.723.12 The number of **lots** that could be developed in a conventional subdivision of the **lot**, as demonstrated to the satisfaction of the Planning Board.
- 10.723.20 Where the **PUD** includes area in more than one zoning district, the number of **dwelling units** for each district shall be calculated separately, and the number from each district shall be added together to determine the maximum number of **units** that could be placed in the overall project site.

10.724 Streets and Infrastructure

- 10.724.10 Vehicular circulation within a **PUD** may be provided by public or private **streets** or by private **accessways**.
- 10.724.20 Public and private **streets** shall comply with the requirements of the City's Subdivision Rules and Regulations and Site Review Regulations for residential **streets**. If the **PUD** is developed with private **accessways** such that there is insufficient width to accommodate said requirements, the conditional use permit shall include a condition prohibiting a future petition for acceptance as a public **street**.
- 10.724.30 Utilities shall be placed underground and shall comply with the requirements of the City's Subdivision Rules and Regulations and Site Review Regulations. Facilities shall be designed to meet City standards and specifications as indicated by the Department of Public Works.
- 10.724.40 The Planning Board may, at its sole discretion, grant waivers to **street** design standards or utility standards according to procedures established in the City's Subdivision Rules and Regulations. If such a waiver is granted, the conditional use permit shall include a condition prohibiting a future petition for acceptance as a public **street**.

10.725 Open Space Residential PUD

10.725.10 Required Lot Area

An **OS-PUD** shall include at least 10 acres of land, which may consist of one or more **lots** provided that such **lots** shall be separated by no more than 50 feet.

10.725.20 Maximum Residential Density

The maximum residential density of an **OS-PUD** shall be the **base residential density** as determined under Section 10.723.

10.725.30 Dimensional Requirements

10.725.31 Minimum continuous **street frontage** on an existing public **street** or **streets**: 100 feet, which may consist of two separate 50-foot rights-of-way.

10.725.32 Minimum external **yards**:

Front 100 feet from the right-of-way line of a public **street**

Side and rear 50 feet from **lot lines** at the perimeter of the **OS-PUD**

External **yards** shall be landscaped and shall not be used for vehicular parking.

10.725.33 Minimum internal **yards**:

Front 20 feet, measured from the right-of-way line of a public or private **street**, or from the edge of pavement of a private **accessway**

Side and rear 25 feet from **lot lines** within the **OS-PUD**

10.725.34 Minimum separation between **structures**: 30 feet

10.725.40 Common Open Space

10.725.41 A minimum of 25 per cent of the total site area shall be permanently dedicated for common **open space**.

10.725.42 The percentage of the minimum required **open space** that is **developable area** shall not be less than the percentage of **developable area** in the **OS-PUD** as a whole.

10.725.43 Common **open space** shall be preserved in perpetuity by restrictive covenant which shall be enforceable by the City of Portsmouth and such common **open space** shall be owned by one of the following:

- (a) A private, non-profit corporation, association, or other non-profit legal entity established by the applicant for the benefit and enjoyment of the residents of the **PUD** and over which the residents of the **PUD** have control (such as a condominium agreement or homeowners association);
- (b) A public body (such as the City) which shall maintain the land as **open space** for the benefit of the general public; or
- (c) A private non-profit organization (such as The Nature Conservancy) which has as a purpose the preservation of **open space** through ownership and control, provided that the residents of the **PUD** shall have access to the common **open space** for appropriate recreational **uses**.

10.725.44 Linear **open space** that connects or contributes to other public or private **open space** is encouraged.

10.725.45 Regulated public access to the common **open space** is encouraged. Suitable controls governing such public access shall be considered as part of the conditional use permit review.

10.726 Residential Density Incentive Planned Unit Development (RDI-PUD)

10.726.10 Required Lot Area

The minimum required **lot area** for an **RDI-PUD** shall be one acre.

10.726.20 Residential Density Incentive

10.726.21 An **RDI-PUD** conditional use permit shall permit an increase in the total number of **dwelling units** based on the number of **affordable units** provided, as set forth in this Section 10.726.20. The number of **dwelling units** in excess of the **base residential density** determined under Section 10.723 are referred to as “incentive **units**.”

10.726.22 The preliminary number of incentive **units** shall be equal to the number of **affordable units** multiplied by 1.50. For the purpose of this computation, “**affordable unit**” shall mean a **dwelling unit affordable** to, and restricted to occupancy by, households with annual incomes at or below 120 percent of the **area median family income**, adjusted for household size, as of the date of application.

10.726.23 Fractional incentive **units** shall be rounded to the nearest whole number (i.e., fractions less than 0.5 shall be rounded down, and fractions of 0.5 or more shall be rounded up).

10.726.24 The total number of **dwelling units** permitted through an **RDI-PUD** conditional use permit shall be the sum of (1) the preliminary number of incentive **units** computed in accordance with paragraph 10.726.22 above, and (2) the **base residential density** as determined under Section 10.723, provided that the total number of **dwelling units** shall not exceed 150 percent of the **base residential density**.

10.726.30 Maximum number of dwelling units per building and per lot

10.726.31 A free-standing **building** in an **RDI-PUD** may contain up to 6 **dwelling units**.

10.726.32 An **RDI-PUD** shall not be subject to the requirements of the underlying zoning district as to maximum number of **dwelling units per lot**.

10.726.40 Dimensional Requirements

10.726.41 Minimum **side yard** and **rear yard** dimensions at the perimeter of the site shall be increased by two times the percentage increase in density over the **base residential density**. For example, if the density of the **RDI-PUD** is 25 percent greater than the **base residential density**, the **side yards** and **rear yards** shall be increased by 50 percent (two times 25 percent) over the requirements in the applicable zoning district.

10.726.42 Minimum internal **yards**:

| | |
|----------------------|---|
| Front | 20 feet measured from the right-of-way line of a public or private street , or from the edge of pavement of a private accessway |
| Side and rear | 25 feet from lot lines within the RDI-PUD |

10.726.43 Minimum separation between **structures**: 30 feet

10.726.50 Recreational Open Space

The Planning Board may require that common **open space** be reserved for recreational **use** for the residents of the **RDI-PUD**, in addition to the **open space** which will result from the minimum external and internal **yard** requirements. Such recreational **uses** may include, but not be limited to, children's play areas, walking trails, and picnic and seating areas.

10.726.60 Design Requirements

10.726.61 The **development** shall be constructed in a manner that is harmonious with neighboring **developments**, housing, and natural surroundings.

10.726.62 **Affordable units** shall be dispersed throughout the **development** to ensure a true mix of market-rate and **affordable** housing.

- 10.726.63 The exterior design of **units** within the **development** shall be comparable and, to the extent possible, indistinguishable, regardless of restrictions on price or occupancy.

10.727 Application, Review and Approval Procedure

10.727.10 Application

An application for a conditional use permit under this Section shall include all information required under the Subdivision Regulations and Site Plan Review Regulations.

10.727.20 Planning Board Review

10.727.21 The Planning Board shall review an application for a **PUD** conditional use permit according to the procedures, required exhibits and standards applicable to a subdivision as contained in the City's Subdivision Rules and Regulations, and regulations adopted by the **Board** to implement this Section.

10.727.22 The Planning Board shall afford the Conservation Commission an opportunity to comment on the particulars of a proposed **PUD**, including but not limited to the natural features of the parcel and how these may be impacted by the proposed project.

10.727.23 A conditional use permit by the Planning Board shall be subject to Site Plan Review under the City's Site Plan Review Regulations.

10.727.24 As appropriate to verify compliance with this Section, the Legal Department may review as to content and form any restrictive covenants, cooperative agreements or similar instruments requiring the participation of the City, and any condominium or cooperative agreements that are enacted as part of a project.

10.727.30 Planning Board Findings

10.727.31 Prior to granting a conditional use permit for an **PUD**, the Planning Board shall make the following findings:

10.727.311 The site is appropriate for an **OS-PUD** or **RDI-PUD**, as applicable.

10.727.312 The anticipated impacts of the proposed **PUD** on traffic, market values, stormwater runoff or environmental factors will not be more detrimental to the surrounding area than the impacts of conventional residential **development** of the site.

10.727.32 In addition to the above findings, prior to granting a conditional use permit for an **RDI-PUD**, the Planning Board shall make the following findings:

10.727.321 The proposed **RDI-PUD** includes **affordable units** as required in this Section, and the residential density increase

authorized by the conditional use permit is consistent with the level of housing affordability provided.

- 10.727.322 Covenants or other legally binding documents have been executed restricting the **affordable units** as to (a) rental costs or sale and resale prices, and (b) occupancy restrictions. Said covenants shall be for the longest legally binding term, and shall be recorded at final approval of the **development**.

10.727.40 Planning Board Action

10.727.41 At its discretion, the Planning Board shall consider one of the following courses of action when considering a project under this Section:

10.727.411 To grant a conditional use permit for the maximum number of allowable **dwelling units** authorized under this Section;

10.727.412 To grant a conditional use permit for a number of **dwelling units** which is less than the maximum number authorized under this Section; or

10.727.413 To deny the conditional use permit for a Residential Density Incentive.

10.727.50 Conditions of Approval

10.727.51 The Planning Board may attach such conditions as it finds necessary to further the purposes of this Ordinance, in addition to those conditions required elsewhere in this Ordinance. Such conditions may include form and recording of covenants or deed restrictions and, if applicable, long-term monitoring of affordability restrictions.

10.727.52 Representations made at public hearings or in materials submitted to the Planning Board by an applicant for a conditional use permit for a **PUD** (including specifications for exterior **building** design and features; **dwelling** types, e.g., garden style, **townhouse**, free standing; **dwelling unit** sizes; number of **buildings** on **lot**; mix of market rate and **affordable units**; and parking) shall be deemed conditions and shall be documented in a **development** agreement entered into between the applicant and the City. Said **development** agreement shall be reviewed and approved by the City Attorney prior to Planning Board approval of a conditional use permit.

Article 8 Supplemental Use Standards

| | |
|----------------|--|
| Section 10.810 | Residential and Institutional Residence or Care Uses |
| Section 10.820 | Educational, Religious, Charitable, Cultural, Public and Recreational Uses |
| Section 10.830 | Business Uses |
| Section 10.840 | Motor Vehicles and Motor Vehicle Uses |
| Section 10.850 | Industrial Uses |
| Section 10.860 | Hours of Operation |

Section 10.810 Residential and Institutional Residence or Care Uses

10.811 Accessory Uses to Permitted Residential Uses

10.811.10 The following **uses** are permitted as **accessory uses** to permitted residential **uses**, in addition to those **accessory uses** listed in Section 10.440:

- (a) The keeping of dogs and cats and other **household pets**, but not including **kennels**.
- (b) **Yard sale**.
- (c) The **outdoor storage** of one travel trailer or camper that is not used for occupancy or business purposes. The connection of any utility or service such as electrical, water, gas or sewage to the travel trailer or camper for any continuous period exceeding 48 hours shall be prima facie evidence that it is being used for habitation or business purposes.
- (d) Roadside stand or display area in conjunction with a farm for the sale of products raised on the premises by the owner or lessee thereof provided that all the following conditions are met:
 - (1) Such stand or display area shall not cover more than 150 square feet of **gross floor area** or ground area.
 - (2) Such stand or display area shall be located at least 30 feet from the **street** right-of-way.
 - (3) Adequate **off-street parking** shall be provided and arranged in such a way that vehicles will not back into the **street**.
- (e) **EV fueling space A**.

10.811.20 The **outdoor storage** of lobster traps, lobster buoys and associated rope is permitted as an **accessory use** to a permitted residential **use**, provided that all the following conditions are met:

- (a) All traps, buoys and rope shall be owned by a resident of the property who holds a New Hampshire lobstering license.
- (b) No more than 800 traps may be stored outside at any one time.
- (c) All traps, buoys and rope shall be located at least 10 feet from side and rear property lines, except that on a **lot** abutting salt water storage may extend to the property line abutting the shoreline in compliance with all state regulations.
- (d) Traps, buoys and rope shall not be stored within the required **front yard**, nor extend closer to the **street** than the horizontal face of the residence. In case of conflict, the greater distance shall apply.
- (e) All traps, buoys and rope shall be screened from the public way in accordance with Section 10.1130 and the Planning Board’s Site Plan Review Regulations.
- (f) Traps shall not be stacked higher than six traps high.
- (g) Repair of traps is limited to only the traps that are being stored on the property.

10.811.20 The **accessory uses** listed in Sections 10.811.10 and 10.811.20, when incidental and subordinate to a permitted **principal use**, shall not require a separate **use** permit but shall be subject to all other requirements of this Ordinance.

10.811.30 All accessory storage of vehicles and boats shall comply with the **yard** requirements of the zoning district.

10.811.40 Where an **accessory use** is specifically regulated by another provision of this Ordinance, such other provisions shall prevail over this section 10.811.

10.811.50 Other **accessory uses** and **accessory structures**, may be permitted if the **Code Official** determines that such **uses** or **structures** are customarily associated with and subordinate to a principal **permitted use**.

10.811.60 Any lot containing one or two **dwelling units** is permitted to construct and maintain one-story detached **accessory structure** used as a tool or storage shed, playhouse, treehouse, or similar use per **dwelling unit** on the property, with a square footage not greater than 120 square feet. **Accessory structures** permitted by this section shall not require any permit and shall be generally exempt from all provisions of this ordinance except Article 10, Environmental Protection Standards, Section 10.516.30, Corner Lot Vision Obstruction, and Section 10.630 Historic District.

10.811.61 Swings and other playground equipment as well as above-ground prefabricated pools and hot tubs are permitted as **accessory** to single- and two-family **dwelling**s and are generally exempt from all provisions of this

ordinance except Article 10, Environmental Protection Standards and Section 10.516.30, Corner Lot Vision Obstruction.

10.812 Conversion of Existing Dwelling to Multifamily Dwelling

The conversion of a **dwelling** existing on January 1, 1980, to additional **dwelling** units as a permitted **use** or by special exception with less than the minimum required **lot area** per **dwelling unit** (per Section 10.440, use 1.50) shall comply with all the following requirements:

10.812.11 The conversion shall not include any change to the exterior of the **building** except for minimum egress components required for **Building Code** compliance.

10.812.12 The **lot** shall comply with the applicable minimum **open space** and maximum **building coverage** requirements in Article 5 and the **off-street parking** requirements in Article 11.

10.812.13 The **lot** shall comply with the following standards:

| District | Minimum lot area per dwelling unit |
|----------|--|
| GRA | 3,000 sq. ft. |
| GRB | 3,000 sq. ft. |
| GRC | 1,000 sq. ft. |
| MRO | 1,500 sq. ft. |
| MRB | 1,500 sq. ft. |

10.813 Multifamily Dwellings in the Business (B) District

In the Business (B) district, **multifamily dwellings** are allowed as provided in Section 10.440 provided that at least one-third of the **gross floor area** of the **building** shall be nonresidential **uses**.

10.814 Accessory Dwelling Units

10.814.10 Purpose and Eligibility

10.814.11 The purpose of this section is to provide for additional **dwelling units** within single-family neighborhoods in order to: increase the supply of smaller, more affordable housing units with less need for more municipal infrastructure or further land development; contribute to local housing needs; and provide opportunities for adapted reuse of existing **accessory structures**. The standards in this section are intended to integrate more housing options into the community with minimal impact on the surrounding neighborhood.

10.814.12 Only one **accessory dwelling unit (ADU)** shall be allowed on any **lot** containing a **single-family dwelling**. An **accessory dwelling unit** shall

not be allowed under this Section 10.814 on a **lot** that contains more than one **dwelling unit**.

10.814.13 Except as provided elsewhere in this Section 10.814, in order for a **lot** to be eligible for an **accessory dwelling unit**, the **lot** and all proposed **structures** and additions to existing **structures** shall conform to all zoning regulations as follows:

10.814.131 Any municipal regulation applicable to **single-family dwellings** shall also apply to the combination of a **principal dwelling unit** and an **accessory dwelling unit**. However, an **accessory dwelling unit** shall be allowed without additional requirements for **lot area**, **lot area** per dwelling unit, or frontage beyond those required for a **single-family dwelling** without an ADU in the same zoning district.

10.814.132 An **attached accessory dwelling unit** is permitted on existing **nonconforming lots** and within an existing **nonconforming building** provided no increased or new nonconformity is created.

10.814.133 Newly constructed **detached accessory dwelling units** shall be governed by the provisions of this Ordinance and the **side** and **rear yard** requirements for the applicable zoning or Character District.

10.814.14 Notwithstanding all of the above provisions, an **accessory building** existing on the effective date of this ordinance may be converted to a **detached accessory dwelling unit** as provided in this Ordinance.

10.814.20 Standards for All Accessory Dwelling Units

All **accessory dwelling units** shall comply with the following standards:

10.814.21 The **principal dwelling unit** and the **accessory dwelling unit** shall not be separated in ownership (including by condominium ownership).

10.814.22 Either the **principal dwelling unit** or the **accessory dwelling unit** shall be occupied by the owner's principal place of residence. The owner shall provide documentation demonstrating compliance with this provision to the satisfaction of the City.

10.814.221 When the property is owned by an entity, one of the **dwelling units** shall be the principal place of residence of one or more principals of that entity, such as a member or beneficiary.

10.814.23 **Accessory dwelling units** shall not have more than two bedrooms.

- 10.814.24 Neither the **principal dwelling unit** nor the **accessory dwelling unit** shall be used for any business, except that the property owner may have a **home occupation** use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.
- 10.814.25 Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.
- 10.814.26 1 **off-street parking** space shall be provided for an **ADU** in addition to the spaces that are required for the principal **single-family dwelling**.

10.814.30 Additional Standards for Attached Accessory Dwelling Units

The following standards are intended to ensure proportionality and aesthetic continuity between the **AADU** and the principal **dwelling unit**.

An **attached accessory dwelling unit (AADU)** shall comply with the following additional standards:

- 10.814.31 An interior door shall be provided between the **principal dwelling unit** and the **AADU**.
- 10.814.32 The **AADU** shall not be larger than 750 sq. ft. in **gross living area (GLA)**. For the purpose of this provision, the **gross living area** of the **AADU** shall not include storage space, shared entries, or other spaces not exclusive to the **AADU**.
- 10.814.33 The **AADU** shall be subordinate to the principal **dwelling unit** in scale, height and appearance, as follows:
- 10.814.331 If there are two or more doors in the front of the principal **dwelling unit**, one door shall be designed as the principal entrance and the other doors shall be designed to appear to be secondary.
- 10.814.332 An addition to or expansion of an existing **building** for the purpose of creating an **AADU** shall be recessed or projected at least 18 inches from the existing front wall of the principal **dwelling unit**. Where the addition includes the construction of an attached, street-facing garage, it shall be set back at least 10 feet from the front wall of the principal **dwelling unit**.
- 10.814.333 The **building height** of any addition or expansion that includes an increase in **building footprint** shall be no greater than 75% of the height of the existing **building**. In the case of a single-story **building**, an addition or

expansion may include either an additional story to the existing **building** or a single-story addition at the same height as the existing **building**.

10.814.40 Additional Standards for Detached Accessory Dwelling Units

The following standards are intended to ensure proportionality and aesthetic continuity between the DADU and the principal dwelling unit.

A **detached accessory dwelling unit (DADU)** shall comply with the following additional standards:

- 10.814.41 The **DADU** shall not be larger than 750 sq. ft. in **gross living area**.
- 10.814.411 A **DADU** that is created from an existing **accessory building** that does not comply with its minimum **yard** requirements shall not exceed 750 sq. ft. in **gross living area**.
- 10.814.42 A **DADU** that is created from an existing **accessory building** that does not comply with its minimum **yard** requirements shall comply with the following additional requirements:
- 10.814.421 The existing **accessory building** shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.; except that the Planning Board may grant a conditional use permit to allow the **gross living area** of the **accessory building** to be expanded up to a total of 600 sq. ft. as provided in this Ordinance.
- 10.814.422 A **DADU** that is within a required **side yard** or **rear yard** setback for the zoning district shall not have any windows, balconies, or doors higher than eight feet above grade facing adjacent property.
- 10.814.43 The **DADU** shall be subordinate to the principal **single-family dwelling** in scale, height and appearance as follows:
- 10.814.431 The front wall of a **DADU** that is not created within an existing **accessory building** shall be **set back** at least 10 feet further from the **front lot line** than the existing front wall of the principal **dwelling unit**.
- 10.814.432 The **building height** of the **building** containing the **DADU** shall be no greater than 22 feet.

- 10.814.433 When the **building** containing the **DADU** is taller than the **principal building**, its required setback from all property lines shall be increased by the difference in **building height** between the **DADU** and the **principal building**.
- 10.814.434 The **building footprint** of the **building** containing the **DADU** shall be no greater than 750 sq. ft.
- 10.814.435 The **gross floor area** of the **building** containing the **DADU** shall be no greater than 1,600 sq. ft. **gross floor area** or 75 percent of the **gross floor area** of the **principal dwelling unit**, whichever is less.
- 10.814.436 The **DADU** may include roof dormers provided they are located outside the required setbacks from all property lines and occupy no greater than 33% of any individual roof plane.
- 10.814.437 The **DADU** shall comply with the drainage requirements of this Ordinance.
- 10.814.438 The **DADU** shall comply with the lighting requirements of this Ordinance.
- 10.814.44 A newly constructed **DADU** shall be separated no less than 5 feet from the **principal structure** or as required by the Building Code, whichever is greater.

10.814.50 Architectural Design Standards

Where the creation of an **accessory dwelling unit** involves the construction of a new **building** or an addition to or expansion of an existing **building**, the exterior design shall be architecturally consistent with or similar in appearance to the **principal building** using the following design standards:

- 10.814.51 The new **building**, addition or expansion shall be architecturally consistent with or similar in appearance to the existing **principal building** with respect to the following elements:
- Massing, including the shape and form of the **building footprint**, roof or any projecting elements;
 - Architectural style, design, and overall character;
 - Roof forms, slopes, and projections;
 - Siding material, texture, and profile;
 - Window spacing, shapes, proportions, style and general detailing;
 - Door style, material and general detailing;

- Trim details, including window and door casings, cornices, soffits, eaves, dormers, shutters, railings and other similar design elements;
- Exposed foundation materials and profiles.

10.814.52 If provided, the following elements shall be architecturally consistent with or similar in appearance to the corresponding elements on the **principal building** in terms of proportions, materials, style and details:

- Projections such as dormers, porticos, bays, porches and door canopies;
- Chimneys, balconies, railings, gutters, shutters and other similar design elements.

10.814.53 If provided, all street-facing garage doors shall be limited to 9 feet in width.

10.814.60 Review and Approval Process

10.814.61 When Section 10.440 indicates that an **attached** or **detached ADU** is permitted by administrative approval (“AP”), the following shall apply:

10.814.611 For a period of at least 30 days following the date of application to the City, the applicant shall post a notice, in the form of a sign provided by the city, that describes the proposed **ADU** application subject to the following:

(1) Such sign(s) shall be located on the perimeter of the **lot** where it can easily be viewed and readable from all abutting public ways.

(2) The applicant shall also provide the sign notice information to the City. The City shall send notice by certified mail to all owners of any property located within 100 feet of the **lot**.

10.814.612 Any person may submit written comments on the **ADU** application. In order to be considered by the Planning Director, such comments shall be submitted to the Planning Director within the 30-day notice period, which begins on the date the certified mailing is sent by the City.

10.814.613 The determination as to whether the **ADU** complies with all requirements shall be made as an Administrative Approval by the Planning Director. The Planning Director may approve, deny, or request additional information from the applicant. The Planning Director may refer the application to

the Planning Board for a conditional use permit, if appropriate.

10.814.614 The Planning Director shall not approve an application for an **ADU** until the conclusion of the 30-day notice period.

10.814.62 When Section 10.440 requires a conditional use permit for an **attached** or **detached ADU**, the Planning Board shall make the following findings before granting approval:

10.814.621 The **ADU** complies with all applicable standards of this Section 10.814 or as may be modified by the conditional use permit.

10.814.622 The exterior design of the **ADU** is architecturally consistent with or similar in appearance to the existing **principal dwelling** on the lot.

10.814.623 The site plan provides adequate and appropriate **open space** and landscaping for both the **ADU** and the **principal dwelling unit** and complies with the **off-street parking** requirements of Section 10.814.26.

10.814.624 The **ADU** will maintain a compatible relationship with the character of **adjacent** and neighborhood properties in terms of location, design, and **off-street parking** layout, and will not significantly reduce the privacy of **adjacent** properties.

10.814.63 In granting a conditional use permit for an **accessory dwelling unit**, the Planning Board may modify a specific standard set forth in Sections 10.814.26 and 10.814.30 through 10.814.50 (except the size and height of any **ADU**), including requiring additional or reconfigured **off-street parking** spaces, provided that the Board finds such modification will be consistent with the required findings in Section 10.814.62.

10.814.70 Post-Approval Requirements

10.814.71 Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, together with an affidavit that either the **principal dwelling unit** or the **accessory dwelling unit** will be occupied by the owner of the **dwelling** as the owner's principal place of residence, as required by Section 10.814.22.

10.814.72 A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department. A certificate of use shall not be issued prior to recording of documentation as required by this Ordinance.

10.814.73 The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.

10.815 [Reserved]

10.816 Manufactured Housing Park Dimensional Standards

10.816.10 In addition to the minimum **yard** dimensions in Table 10.521, the following standards shall apply:

10.816.11 The minimum separation between any two **structures**, excluding sheds, shall be 20 feet.

10.816.12 Where the existing separation between any two **structures**, excluding sheds, is less than 20 feet on an approved site plan, the existing separation may be maintained or reduced to 10 feet provided that the **manufactured housing** unit is replaced in-kind or is no greater than 14 feet wide.

10.816.20 The maximum height of any **structure** shall be 18 feet with only one **story** of living space.

10.816.30 Maximum **building coverage** shall comply with Table 10.521 and with the following standards:

| | |
|--|----------|
| Maximum building coverage per dwelling unit including any associated garage or carport..... | 2,250 sf |
| Maximum building coverage by all other structures (decks, sheds, porches, etc.) per dwelling unit | 225 sf |

Section 10.820 Educational, Religious, Charitable, Cultural, Public and Recreational Uses

10.821 Historic Preservation Buildings and Museums

The following shall be permitted as **accessory uses** to **historic preservation buildings** or **museums**:

10.821.10 In any zoning district:

10.821.11 **Caretaker residence.**

10.821.12 Exhibitions, displays and similar events directly related to the mission of the facility.

10.821.13 Accessory **office** space for activities related to the operation of the facility.

10.821.20 In Mixed Residential or Business districts:

10.821.21 Periodic events not directly related to the mission of the facility, including facility rental for private functions, provided that in a Mixed Residential district such events shall not constitute a business or commercial **use**.

10.822 Outdoor Performance Facility

10.822.10 Outdoor seating or **use** shall not be located in a required **yard** area.

10.823 Social Service Campus

10.823.10 Outdoor recreation areas and play spaces shall be located at least 50 feet from any **lot line**.

10.823.20 Outdoor recreation areas and play spaces shall be located at least 25 feet from any vehicular way, or shall be separated from such way by fencing.

10.823.30 The Board of Adjustment shall not approve a **residential social service use** unless the City Manager has submitted a finding that the municipal fiscal impact of the proposed **use** will not be more adverse than the fiscal impact of any **use** permitted in the Industrial district. The fiscal impact shall be determined by an analysis of the municipal costs likely to be generated by the proposed **use** on such services as schools, public safety and social services.

10.824 Group Day Care Facilities

10.824.10 Adequate parking shall be available to allow safe passage from the parking area to the facility.

10.824.20 Outdoor recreation areas shall be fenced.

10.825 Indoor Recreation and Amusement

10.825.10 Noise shall be confined to the inside of the **building**.

Section 10.830 Business Uses

10.831 Greenhouses and nurseries with retail sales

10.831.10 All outdoor displays shall be set back at least 30 feet from the **street** right-of-way

10.832 Veterinary Clinics

10.832.10 All **kennels** shall be located within an enclosed **building**.

10.833 Offices in Mixed-Use Districts

An **office use** in a MRB or MRO district shall meet the following standards:

- 10.833.10 No exterior storage of equipment and/or machinery is allowed.
- 10.833.20 Overnight parking of business and/or **office** vehicles shall be limited to no more than 5 vehicles, each having no more than two axles or six wheels. The storage of tractor trailers or utility trailers is prohibited.
- 10.833.30 The maximum **gross floor area** for any individual **use** shall be 5,000 square feet.

10.834 Media Studios with Antenna Towers

- 10.834.10 Antenna towers shall comply with all FCC and FAA regulations, and certificates from said Commissions shall be filed with the City.
- 10.834.20 Antenna towers shall be set back from all property lines a distance at least equal to the combined height of the tower and antennae.

10.835 Accessory Drive-Through Uses

10.835.10 Applicability

- 10.835.11 This section applies to any **lot**, parcel, **building** or **structure** that contains a **drive-through facility**.
- 10.835.12 All **drive-through facilities** shall be shall be subject to Site Plan Review.

10.835.20 Performance Standards

- 10.835.21 A **drive-through** canopy shall not project more than 26 feet from the **principal building** and shall be consistent with the architectural style of the **building**.
- 10.835.22 Illuminated menu boards or other **signs** associated with the **drive-through facility** shall be shielded from public **streets** and residential properties.

10.835.30 Setbacks

- 10.835.31 All outdoor service facilities (including transaction windows, menu boards, speakers, etc.) shall be located a minimum of 100 feet from any residential zoning district, and 50 feet from any **lot line**.

10.835.32 All **drive-through lanes**, **bypass lanes**, and **stacking lanes** shall be located a minimum of 50 feet from any residential zoning district, and 30 feet from any **lot line**.

10.835.40 Traffic Capacity and Safety

10.835.41 In addition to the standards and conditions for special exceptions set forth in Section 10.233, the Planning Board may grant a conditional use permit for a **drive-through facility** under this section only if it determines that the level of service and traffic safety conditions of all **streets** and intersections to be impacted by the project will be the same as, or better than, predevelopment conditions.

10.835.42 In making its determination, the **Board** shall consider the traffic impact analysis and additional available information, including review by independent consultants if deemed necessary.

10.836 Lodging

10.836.10 Hotels and Motels in Office Research District

10.836.11 Access to and egress from the **lot** shall be on an arterial **street** and located within one mile of either Interstate 95 or NH Route 16.

10.837 Marine Related Uses

10.837.10 Fishing Boat Landings in Residential Districts

10.857.11 No **fish processing** or **fish preparation** or sales of sea-related products shall take place in a residential district.

10.857.12 Landings, sheds, **structures**, holding tanks and such equipment as lobster traps, associated with a **use**, shall be located no less than 75 feet from a **lot line**.

Section 10.840 Motor Vehicles and Motor Vehicle Uses

10.841 Construction Trailers

Construction trailers may be located on a site prior to and during construction pursuant to a site plan approved by the Planning Board.

10.842 Unregistered Vehicles

10.842.10 No vehicle with two or more axles, designed for on-road **use**, which is unregistered, uninspected, or inoperable shall be permitted to remain on a **lot** within the City for more than 60 days in any 12-month period unless such vehicle and its parts are enclosed within a conforming **building**,

except as permitted in 10.842.20. This requirement shall not apply to a legally existing **junk yard, motor vehicle service station or motor vehicle repair** facility.

10.842.20 A two-axle vehicle or motorcycle that is over 25 years old and is maintained for use in exhibitions, club activities, parades and other functions of public interest and which possesses one or more of the characteristics in 10.842.10 may be permitted provided that it is located at least 10 feet from the side and **rear lot lines**, and meets the **front yard** for the district in which it is located.

10.842.30 No more than one unregistered motorized vehicle for off-road or recreational use, including but not limited to snowmobiles, all-terrain vehicles, recreational campers and ultralight aircraft, shall be permitted to remain on any property within the City for more than 180 days in any 12-month period unless such vehicle and its parts are enclosed within a conforming **building**.

10.843 Motor Vehicle, Marine Craft and Equipment Sales, Service and Related Uses

10.843.10 General

10.843.12 There shall be no more than two 40-foot wide curb cuts or access or egress points on each abutting **street**.

10.843.13 All repair and service work shall take place within an enclosed **building** or in a defined area approved by the Board of Adjustment. Any such exterior area shall be no less than 50 feet from a **side or rear lot line**, and shall not be located in a required **front yard**.

10.843.14 No vehicles in an inoperative condition shall remain on the site for more than the period specified below, unless enclosed in a **building**:

| | |
|--------------------------------------|---------|
| Motor vehicle service station | 14 days |
| Other use | 90 days |

10.843.20 Sales, Rental, Leasing, Distribution and Repair of Vehicles, Recreational Vehicles, Marine Craft, Manufactured Housing and Related Equipment

10.843.21 All areas for parking, **outdoor storage** and outdoor display of vehicles or equipment shall be set back from **lot lines** as follows:

Business districts: at least 40 feet from the **street** right-of-way

Industrial districts: at least 50 feet from the **street** right-of-way and from all **lot lines**

10.843.22 All **accessory uses** shall be located within a **building**.

10.843.30 Motor Vehicle Service Stations

10.843.31 All repairs and service work shall take place within an enclosed **building**.

10.843.32 Repaired or rebuilt vehicles shall not be sold upon the premises.

10.843.33 All pump islands shall be set back at least 40 feet from all **lot lines**.

10.843.34 Except for **EV fueling space A**, all above ground **EV** charging support equipment shall be set back 10 feet from all **lot lines**.

10.843.35 Sale of **convenience goods 1 and 2** as an **accessory use**

10.843.40 Truck Fueling Facility or Truck Terminal

10.843.41 All queuing areas, docking areas and outdoor vehicle parking areas shall be located at least 50 feet from all **lot lines**.

10.843.42 All repair and service work shall be accessory to the **principal use**.

Section 10.850 Industrial Uses

10.851 Food Processing Facilities

10.851.10 The **use** and its related products and waste products shall be contained within a **building**.

10.852 Industrial Occupancy

Industrial uses shall comply with the following standards:

10.852.10 An industrial occupancy that is classified as a **high hazard use** requires a special exception (see Section 10.440, use 14.80).

10.852.20 Average daily use of less than 20,000 gallons per day of water from the City water supply system.

10.852.30 Average daily output of less than 5,000 gallons per day of wastewater into the City sewerage system.

10.853 Recycling Facilities and Recycling Plants

10.853.10 Applicable to Recycling Facilities and Recycling Plants

10.853.11 No liquid or solid hazardous waste material (as classified by federal or state law) shall be recycled, processed or transferred.

10.853.20 Applicable to Recycling Facilities

10.853.21 The facility shall be located no less than 100 feet from the **street** and from all property lines.

10.853.22 Transfer facilities shall comply with New Hampshire Statutes regarding such operation.

Section 10.860 Hours of Operation

10.861 The following **uses** are limited to operation during the times specified:

| Use No.* | Use | District with time limitations | From | To |
|----------------|---|-------------------------------------|------|-------|
| 3.51 | Performance facility, indoor | CD5, CD4, CD4-W, GB, G1, G2, B | 8 AM | 11 PM |
| 3.52 | Performance facility, outdoor | CD5, CD4, CD4-W, GB, G1, G2, B | 4 PM | 11 PM |
| 4.50 | Outdoor recreation use | GB, G1, G2 | 9 AM | 11 PM |
| 7.12 | Group day care facility (non-accessory) | R, SRA, SRB, GRA, GRB, GRC | 7 AM | 7 PM |
| 8.111 8.121 | Convenience goods 1 & Convenience goods 2 | MRB, CD5, CD4, CD4-W, GB, G1, G2, B | 6 AM | 11 PM |
| 8.60 | Fish market | WB | 8 AM | 9 PM |
| 12.30 | Repair of marine craft and marine-related structures | WB, I, WI | 7 AM | 7 PM |
| 19.22 | Home occupation 2 | R, SRA, SRB, GRA, GRB, GRC | 8 AM | 5 PM |

* Refer to Section 10.440, Table of Uses.

10.862 The above time limitations apply unless different time limitations are established under a special exception or conditional use permit.

Article 9 Special Uses

- Section 10.910 Small Wind Energy Systems
- Section 10.920 Wireless Telecommunications Facilities
- Section 10.930 Sexually Oriented Businesses

Section 10.910 Small Wind Energy Systems

10.911 Purpose

The purposes of this Section are:

- (1) To accommodate **small wind energy systems** in appropriate locations, while protecting the public's health, safety and welfare; and
- (2) To provide a permitting process for **small wind energy systems** to ensure compliance with the provisions of the requirements and standards established herein.

10.912 Definitions

Meteorological tower (met tower)

A **temporary structure** for monitoring or transmitting environmental data needed to assess the potential of a **small wind energy system**. A **met tower** includes a tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time either for instantaneous wind information or to characterize the wind resource at a given location.

Modification

Any change to the **small wind energy system** that materially alters the size, type or location of the **small wind energy system**. A like-kind replacement shall not be construed to be a modification.

Net metering

The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's **small wind energy system** that is fed back into the electric distribution system over a billing period.

Power grid

The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

Shadow flicker

The visible flicker effect when rotating blades of the **wind generator** cast shadows on the ground and nearby **structures** causing a repeating pattern of light and shadow.

Small wind energy system (SWES)

A wind energy conversion system consisting of a **wind generator**, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

System height

The vertical distance from ground level to the tip of the **wind generator** blade when it is at its highest point.

Tower

The monopole, guyed monopole or lattice **structure** that supports a **wind generator**.

Tower height

The height above grade of the fixed portion of the tower, excluding the **wind generator**.

Wind generator

The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

10.913 Development Standards

10.913.10 **Setbacks:**

10.913.11 The **small wind energy system** shall be set back from all **lot lines**, utility lines, **streets** and **buildings** in proportion to the **system height**, as follows:

| Setback from: | Setback Multiplier |
|--|--------------------|
| Building on same lot | 0.0 |
| Building on abutting lot | 1.5 |
| Lot line | 1.1 |
| Utility line | 1.1 |
| Street | 1.5 |

10.913.12 The required **setbacks** shall be calculated by multiplying the **setback** multiplier by the **system height**, measuring from the center of the **tower** base to the nearest point on a **lot line**, **street**, or **building** foundation.

10.913.13 The **small wind energy system** must meet all **setbacks** for principal **structures** for the zoning district in which the system is located.

10.913.14 Guy wires used to support the **tower** are exempt from the **small wind energy system setback** requirements.

- 10.913.20 The maximum **tower height** shall be the lesser of (a) 35 feet above the tree canopy within 300 feet of the **small wind energy system**, or (b) 150 feet.
- 10.913.30 All **signs**, including flags, streamers and decorative items, both temporary and permanent, are prohibited on the **small wind energy system**, except for manufacturer identification or appropriate warning **signs**.
- 10.913.40 Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the **small wind energy system** and as otherwise prescribed by applicable laws, regulations, and ordinances.
- 10.913.50 The **tower** shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- 10.913.60 The manufacturer and model of the **wind generator** to be used in the proposed **small wind energy system** must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- 10.913.70 Compliance with other laws:
- 10.913.71 The **small wind energy system** shall comply with all applicable sections of the **Building Code**.
- 10.913.72 The **small wind energy system** shall comply with all applicable federal and state regulations regarding installations close to **airports**.
- 10.913.73 If the proposed **small wind energy system** is to be connected to the **power grid** through **net metering**, it shall adhere to RSA 362-A:9.

10.914 Performance Standards

- 10.914.10 A **small wind energy system** shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- 10.914.20 A **small wind energy system** shall be sited in a manner that does not result in significant **shadow flicker** impacts. Significant **shadow flicker** is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the **shadow flicker** will not have significant adverse impact on neighboring or **adjacent uses**. Potential **shadow flicker** will be addressed either through siting or mitigation measures.

- 10.914.30 A **small wind energy system** may create some visual impacts due to the **tower height** needed to access wind resources. The purpose of this section is to reduce such visual impacts without restricting the owner's access to the optimal wind resources on the property.
- 10.914.31 The applicant shall demonstrate through project site planning and proposed mitigation that the **small wind energy system's** visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to, information regarding site selection, **wind generator** design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
- 10.914.32 The color of the **small wind energy system** shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
- 10.914.33 A **small wind energy system** shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the **small wind energy system**.

10.915 Procedure for Review

- 10.915.10 **Small wind energy systems** and **met towers** are permitted **accessory uses** in all zoning districts.
- 10.915.20 The erection, construction, installation or physical modification of a **small wind energy system** or **met tower** shall require a **building permit** from the building inspector. Any such facility that is not accessory to a residential **use** shall also require site plan review and approval by the Planning Board.
- 10.915.30 A **building permit** for a **met tower** shall be for a temporary basis not to exceed 3 years from the date the permit was issued.
- 10.915.40 An application for a **building permit** for a **small wind energy system** or **met tower** shall include the following information:
- (a) Location of the proposed **small wind energy system**, foundations, guy anchors and associated equipment.
 - (b) **Tower** foundation blueprints or drawings.

- (c) **Tower** blueprints or drawings.
- (d) **Tower setback** requirements.
- (e) Location of **buildings** and utility lines within 300 feet of the proposed **small wind energy system** or **met tower**.
- (f) **Small wind energy system** specifications, including manufacturer, model, rotor diameter, **tower height**, **tower** type, nameplate generation capacity.
- (g) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the **Building Code**.
- (h) Sound level analysis prepared by the **wind generator** manufacturer or qualified engineer.
- (i) Copy of the application for interconnection with the electric utility provider for a **small wind energy system** that will be connected to the **power grid**.

10.915.50 The building inspector shall notify all abutters and the local governing body by certified mail upon application for a **building permit** to construct a SWES. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the **building permit**.

10.915.60 The building inspector shall review the application for regional impacts as set forth in state law. If the proposal is determined to have potential regional impacts, the building inspector shall follow the notification and public hearing procedures for a **development** of regional impact as set forth in state law.

10.916 Abandonment

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

10.916.20 The property owner shall physically remove the **small wind energy system** within 90 days after the date of abandonment or discontinuation of **use**. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to, removal of the **wind generator** and **tower** and related above-grade **structures**; and restoration of the location of the **small wind energy system** to its natural condition, except that any **landscaping**, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

- 10.916.30 In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous 12-month period. After the 12 months of non-use, the building inspector may issue a Notice of Abandonment to the owner of the **small wind energy system**. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the **code official** shall determine if the **small wind energy system** has been abandoned. If it is determined that the **small wind energy system** has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
- 10.916.40 If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the **small wind energy system** has been abandoned or discontinued, the owner of the **small wind energy system** shall remove the **wind generator** and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the **small wind energy system** after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the **small wind energy system** removed at the owner's expense.

10.917 Violation

It is unlawful for any **person** to construct, install, or operate a **small wind energy system** that is not in compliance with this Ordinance. **Small wind energy systems** installed prior to the adoption of this Ordinance are exempt from this Ordinance except when modifications are proposed to the **small wind energy system**.

Section 10.920 Wireless Telecommunications Facilities

10.921 Purpose

The purpose of this Section is to regulate the siting, construction and removal of wireless telecommunications facilities so as to promote the safety, welfare and aesthetic interests of the City of Portsmouth. It is the intent of this Section to:

- (a) encourage the concealment of wireless telecommunications facilities within pre-existing **structures**, other than **dwellings** or **accessory structures** thereto;
- (b) encourage the camouflaging of wireless telecommunications facilities attached to pre-existing **structures**;
- (c) encourage, where location on pre-existing **structures** is not feasible, the co-location of wireless telecommunications facilities on free-standing towers currently in existence or for which special exceptions have been issued as of the effective date of this Ordinance;

- (d) encourage the **use** of wireless communications facilities which employ the least visually intrusive technology available in the industry;
- (e) discourage the construction or location of free-standing towers;
- (f) maintain and preserve the residential character of the City by eliminating or minimizing the adverse visual and aesthetic impact of all wireless telecommunications facilities; and
- (g) encourage competition among the providers of wireless telecommunication services to develop creative solutions to the particular and unique problems associated with the providing of wireless telecommunications services within the City that do not detract from the aesthetic qualities of the City generally and the neighborhoods in particular where such facilities are proposed to be located.

10.922 Definitions

The following definitions shall apply to **wireless communications facilities** under this Section 10.920, in addition to the general definitions in Article 15.

Antenna

Any apparatus designed for telephonic, radio, or television communications through the sending or receiving of electromagnetic waves.

Co-location

The **use** of a single free-standing wireless telecommunications facility by more than one carrier.

Provider or carrier

Any **person**, corporation or other entity engaged in the business of providing wireless telecommunication services.

Wireless telecommunications facility

A facility consisting of the **structures**, including towers and antennas mounted on towers and **buildings**, equipment and equipment shelters, **accessory buildings** and **structures**, and site improvements, involved in sending and receiving telecommunications or radio signals from a mobile communications source and transmitting those signals to a central switching computer which connects the mobile unit with land based or other telephone lines.

Wireless telecommunications facility, camouflaged

A **wireless telecommunications facility** that is disguised, shielded, hidden, or made to appear as an architectural component of an existing or proposed **structure** the **use** of which is otherwise permitted under this Ordinance. No **wireless telecommunications facility** attached to an existing **structure** shall be deemed camouflaged for the purpose of this Ordinance where it extends vertically more than 10 feet above the height of the **structure** nor horizontally more than 10 feet beyond the face of any exterior side wall or the exterior of any surface of a **structure** with no side walls.

Wireless telecommunications facility, concealed

A **wireless telecommunications facility** that is entirely contained within the architectural features of an existing or proposed **structure** the **use** of which is otherwise permitted under this Ordinance such that no part of the facility is visible from the exterior of the **structure**. Antennas and other components of a **wireless telecommunications facility** situated within a **free-standing wireless telecommunications facility** shall not be deemed concealed or camouflaged for the purpose of this Ordinance.

Wireless telecommunications facility, free-standing

Any **structure** that is designed and constructed primarily to support one or more **antennas** including without limitation self-supporting lattice towers, guy towers or monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular and personal communication service towers.

10.923 Use Regulations

10.923.10 Facilities Permitted in All Zoning Districts

- 10.923.11 **Wireless telecommunications facility** providing safety or emergency services for any federal, state or municipal body.
- 10.923.12 Amateur radio antenna licensed by the Federal Communications Commission, provided that such antenna is not used for any commercial purpose and does not exceed 35 feet in height.
- 10.923.13 Home television or internet access **antennae**.
- 10.923.14 Medical facilities for transmittal of clinical medical information.

10.923.20 Facilities Permitted in All Business and Industrial Districts

- 10.923.21 **Concealed wireless telecommunications facility**.
- 10.923.22 **Camouflaged wireless telecommunications facility**.

10.923.30 Facilities Allowed by Special Exception

- 10.923.31 **Free-standing wireless telecommunications facility**.
- 10.923.32 Any other wireless telecommunications facility the **use** of which is not permitted under Section 923.10 or 923.20 and which is not prohibited under Section 923.40.

10.923.40 Prohibited Facilities

- 10.924.41 **Free-standing wireless telecommunications facility** within the Historic District or any area listed in the National Registry of Historic Places.
- 10.924.42 **Concealed wireless telecommunications facility** or **camouflaged wireless telecommunications facility** within any residential **structure** or any **accessory structure** to a residential **use**.

10.924 Indemnification

Any **building permit** or special exception issued for a facility pursuant to Section 10.923 shall require the holder of such **building permit** or special exception to indemnify and hold harmless the City of Portsmouth and its **boards**, commissioners, committees, officers, employees, agents and representatives from and against all claims, causes of action, suits, damages, costs and liability of any kind which arise out of the construction, location, operation or **use** of the subject **wireless telecommunications facility** in the City.

10.925 Standards for Facilities

10.925.10 Standards for Towers

[Reserved]

10.925.20 Standards for Building-Mounted Facilities

[Reserved]

10.926 Special Exception Procedures

10.926.10 Contents of application

Each applicant for a special exception under Section 10.923.30 shall include in the application the following information:

- (1) Evidence of the applicant's ownership of the **lot** where a proposed facility is to be located; or evidence of the applicant's right to possession and/or control of the premises where the applicant is not the owner of record;
- (2) A narrative description of the proposed facility including the location and identification of all components together with a statement describing the purpose of each component and its intended function plus photographs or other graphic illustrations fairly depicting the physical appearance of the proposed components;
- (3) A locus plan prepared and certified by a professional engineer depicting all **lot lines**, the exact location and dimension of all components of the proposed facility including

all **structures**, **streets**, landscape features including contours, **dwelling**s and all **building**s within 500 feet of the proposed facility;

- (4) An itemized description of other **wireless telecommunications facilities** owned or operated by the applicant or for which the applicant is currently seeking approval, and which are located in the City of Portsmouth or within a two-mile radius of the City or are capable of providing service to customers operating within the City;
- (5) A description of all federal, state and local licenses, permits, or other approvals obtained by the applicant to date or to be obtained by the applicant prior to construction of the proposed facility;
- (6) A statement as to whether an Environmental Assessment (EA), a Draft Environmental Impact Statement (DEIS) or Environmental Impact Statement (EIS) is or will be required under the National Environmental Protection Act or the National Historic Preservation Act, and if so, a copy of the said EA, DEIS, or EIS;
- (7) A description in both geographical and radio frequency terms of the scope and quality of the service currently being provided to the City of Portsmouth by the applicant's existing facilities, if any;
- (8) A description in both geographical and radio frequency terms as to the need to be addressed by the proposed facility;
- (9) A description in both geographical and radio frequency terms as to precisely the manner in which the proposed facility addresses the needs identified in item (8) above;
- (10) A statement describing the current state of technology available to provide wireless telecommunications services, and whether any such technology is available and feasible for the purpose of addressing the proposed need described in item (8) above.
- (11) A statement as to whether the applicant considered any alternatives to a free-standing facility including but not limited to co-locating on an existing facility and, if so, the reason(s) such alternatives are not being proposed;
- (12) A statement as to why there exists no feasible alternative to a free-standing facility to address the need identified by the applicant in item (8) above;
- (13) A statement as to whether the need identified in item (8) above may be adequately met by siting a facility on other property;
- (14) A description of the radio frequency testing procedures conducted by the applicant in connection with the proposed facility, if any, and the results thereof;
- (15) A statement as to whether the proposed facility will have any impact on an environmentally, historically or archaeologically significant area in the vicinity of the proposed facility;
- (16) A statement setting forth the applicant's projected future needs for wireless telecommunication facilities within the City of Portsmouth;

- (17) A description of the terms of any co-location agreements between the applicant and any other provider of wireless telecommunication services to the City of Portsmouth; and
- (18) Whether the applicant is seeking approval of co-location facilities on the proposed free standing facility, and if so, a detailed description in compliance with the preceding items of all components of the co-location facility for which the applicant is seeking approval.

10.926.20 Pre-hearing Procedures

After notice of the public hearing has been published but prior to the hearing for which notice has been given thereunder, the applicant shall conduct a balloon or crane test, or such other reasonable equivalent, of the height of the proposed free standing facility. The applicant shall provide at least 48 hours written notice of said test to the **Board** and to all abutters and **persons** required by state law to be notified of a public hearing; and shall submit to the **Board** prior to the hearing a photographic representation from a suitable number of locations so as to depict the visual impact of the proposed facility on the neighborhood and the abutters to the site.

10.926.30 Independent Consultants

The **Board** may at any time assess fees against the applicant for the purpose of employing an independent consultant to evaluate any aspect of the proposed facility, including current service coverage. The applicant shall cooperate fully with the independent consultant selected by the **Board** and shall provide all information reasonably requested by the consultant including but not limited to radiological testing.

10.926.40 Standard for Issuance of Special Exception

The **Board** shall issue a special exception for the construction of a **free-standing wireless telecommunications facility** only where it finds that:

- (1) Existing facilities do not adequately address the need for service,
- (2) There exists no feasible alternative to the proposal that would adequately address the need in a less intrusive manner, and
- (3) The proposed **use** is in harmony with the general purpose and intent of this Ordinance.

10.926.50 Conditions of Issuance of Special Exception

The **Board** may attach such terms and conditions to any special exception issued hereunder in order to protect the safety and welfare of the City and to mitigate the visual impact of any free-standing facility to be constructed pursuant to a special exception issued hereunder. Such terms and conditions may relate to, but shall not be limited to,

- (1) Appearance including color, style and materials;

- (2) The type and dimensions of any fencing surrounding all or part of the facility;
- (3) **Landscaping** requirements at and around the facility;
- (4) Contents and dimensions of any **signs** if any are to be permitted by the **Board**;
- (5) Establishing noise limitations so as not to unreasonably disturb residents surrounding the facility during construction, operation or maintenance of the facility;
- (6) Hours of access to the facility for the purpose of conducting routine maintenance and inspections;
- (7) Limits as to the permissible height of any component of the facility;
- (8) Provisions to assure adequate lighting and lighting that is not intrusive to neighbors;
- (9) Safety provisions to guard against damage to **persons** or property in the event of a collapse or structure failure of any component of the facility;
- (10) Provisions for the removal of the facility upon abandonment or expiration of the special exception, including without limitation a bond or other surety. Such bond or other surety shall be maintained throughout the period of construction, location, operation and **use** of the subject **wireless telecommunications facility**; the Building Inspector shall receive 30 days prior written notice of any cancellation, non-renewal or material amendment of such bond or other surety; and
- (11) Whether co-locations will be pre-approved, and if so, the terms and conditions of any such co-location pre-approval.

10.926.60 Duration of Special Exception

Unless and earlier expiration date is specified by the **Board** in a special exception, all special exceptions issued under this Section 920 shall expire automatically upon the expiration of 5 years from the date of issuance. Prior to expiration the applicant may apply for renewal of the special exception for another 5-year period, said application to comply with all of the provisions of Section 10.926.10 of this Ordinance. In determining whether the special exception shall be renewed, the **Board** shall take into consideration whether there now exist any **structures** and/or technology available to the applicant which would enable the applicant to provide functionally equivalent services in a less intrusive manner. Upon expiration of a special exception which has not been renewed, the applicant shall disassemble and remove the entire facility forthwith at its expense, and any such facility not removed in its entirety within 30 days of the expiration of the special exception shall be deemed abandoned within the meeting of Section 10.927 below.

10.926.70 Modification of Approved Facility

[Reserved]

10.927 Non Use

- 10.927.10 Any **wireless telecommunications facility** that is not operated or that is not in compliance with this Section for a continuous period of 30 days shall be considered to be abandoned, and the **Code Official** may, by written notice sent by certified mail, order that such facility be removed within 30 days. At the time of removal the facility and all associated debris shall be removed from the premises.
- 10.927.20 Any **building permit** or special exception issued for a **wireless telecommunications facility** shall require the holder of such **building permit** or special exception to post a bond or other surety, specifically approved by City Attorney, in an amount and for a term both sufficient to guarantee the removal of the facility in accordance with this section and the lawful disposal of any components thereof. Such bond or other surety shall be maintained throughout the period of construction, location, operation and **use** of the subject wireless telecommunications facility; the **code official** shall receive 30 days prior written notice of any cancellation, non-renewal or material amendment of such bond or other surety. In the event that the posted amount does not cover the cost of such removal and disposal, the City may place a lien upon the premises covering the difference in costs.

Section 10.930 Sexually Oriented Businesses

10.931 Findings

- 10.931.10 **Sexually oriented businesses** present special concerns related to public health and the safety and welfare of the citizenry:
- (a) **Sexually oriented businesses** are frequently used for unlawful sexual activities, including prostitution, and for sexual liaisons of a casual nature.
 - (b) Such activities are contributing factors in the spread of sexually transmitted diseases, which is a significant public health concern.
 - (c) **Sexually oriented businesses** have been documented to have a deleterious effect on the existing businesses around them, causing increased crime and the downgrading of property values.
 - (d) **Sexually oriented businesses** have serious objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the **adjacent** area.
- 10.931.20 Because of the above impacts, **sexually oriented businesses** require special supervision in order to protect and preserve the health, safety, and welfare of both the patrons of such businesses and the residents of the communities where they locate; protect the citizens from increased crime;

preserve the quality of life; preserve property values and character of surrounding neighborhoods; and deter the spread of urban blight.

- 10.931.30 Permitting and/or licensing is a legitimate and reasonable means of accountability to ensure that operators of **sexually oriented businesses** comply with reasonable regulations and to ensure that operators do not knowingly allow their **establishments** to be used as places of illegal sexual activity or solicitation.

10.932 Purpose and Intent

- 10.932.10 The purpose of this Section is to regulate **sexually oriented business** and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of **sexually oriented businesses** within the City.
- 10.932.20 It is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral Ordinance which addresses the secondary effects of **sexually oriented businesses** as well as the health problems associated with such businesses.
- 10.932.30 It is neither the intent nor the effect of this Section to limit or restrict the content of any communicative materials, including sexually oriented materials; nor to restrict or deny access by adults to sexually oriented materials protected by the First Amendment; nor to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- 10.932.40 It is neither the intent nor the effect of this Section to condone or legitimize the distribution of obscene materials. This Ordinance does not supplant or override any State or Federal laws prohibiting the distribution of obscene materials, which are enforced by the City under its police powers.

10.933 Definitions

The following definitions shall apply to **sexually oriented businesses** under this Section 10.930. Where a term is defined both in this Section 10.930 and in Article 15, the definition in this Section shall apply for purposes of regulation under this section, and the definition in Article 15 shall apply for other provisions of this Ordinance.

Adult arcade

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

Adult bookstore or Adult video store

A commercial **establishment** which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe “**specified sexual activities**” or “**specified anatomical areas**”; or
2. Instruments, devices or paraphernalia which are designed for **use** in connection with “**specified sexual activities.**” A commercial **establishment** may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “**specified sexual activities**” or “**specified anatomical areas**” and still be categorized as **adult bookstore** or **adult video store**. Such other business purposes will not serve to exempt such commercial **establishment** from being categorized as an **adult bookstore** or **adult video store** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “**specified sexual activities**” or “**specified anatomical areas**”.

Adult cabaret

A **nightclub, bar, restaurant,** or similar commercial **establishment** which regularly features:

1. **Persons** who appear in a **State of nudity** or **Semi-Nudity**; or
2. Live performances which are characterized by the exposure of “specified anatomical areas” or by “**specified sexual activities**”; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “**specified sexual activities**” or “**specified anatomical areas**”.

Adult theater

A theater, concert hall, auditorium, or similar commercial **establishment** which regularly features **persons** who appear in a **state of nudity** or **semi-nudity** or live performances which are characterized by the exposure of “specified sexual anatomical areas” or by “**specified sexual activities**”.

Establishment

Any of the following:

1. The opening or commencement of any **sexually oriented business** as a new business;
2. The conversion of an existing business whether or not a **sexually oriented business**, to any **sexually oriented business**;
3. The additions of any **sexually oriented business** to any other existing **sexually oriented business**; or
4. The relocation of any **sexually oriented business**.

Nudity or state of nudity

The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breast.

Permittee or Licensee

A **person** in whose name a permit or license to operate a **sexually oriented business** has been issued, as well as the individual listed as an applicant on the application for a permit or license.

Semi-nude

A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center

A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between **persons** of the opposite sex; or
2. Activities between two or more people when one or more of the **persons** is in a **state of nudity** or **semi-nude**.

Sexually oriented business

An **adult arcade, adult bookstore or adult video store, adult cabaret, adult theater, or sexual encounter center**.

Specified anatomical areas

The male genitals in a state of sexual arousal or the vulva or more intimate parts of the female genitals.

Specified sexual activities

Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

Substantial enlargement (of a sexually oriented business)

The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date of the adoption of this Article.

10.934 Procedure

For a **use** to be established under this Section, the applicant must demonstrate to the **Code Official** that the proposed site satisfies all the site requirements of Section 10.935

and secure a special exception from the Board of Adjustment subject to the requirements and procedures of Sections 10.233 and 10.936.

10.935 Site Requirements

A **sexually oriented business**, in addition to all other requirements of this Ordinance, shall, prior to a request for a special exception, demonstrate compliance with the following requirements:

10.935.10 No **sexually oriented business** shall be located within 500 feet from any property line of the following **uses**:

- (a) A public, religious or private nursery school, kindergarten school, elementary school, middle school, junior high school, high school or similar education facility.
- (b) Licensed **group day care facility** (no age restriction).
- (c) A public park, public recreational field or similar publicly owned facility.
- (d) A religious institution or place of worship.
- (e) Any residential district or **use**.
- (f) A Mixed Residential Office District.
- (g) A Mixed Residential Business District.

10.935.20 The proposed site shall be screened by a stockade fence that is no less than 6 feet in height which is to be erected in a manner that limits pedestrian and vehicular access to **adjacent** properties, but which does not restrict adequate lines of sight or create unsafe site conditions. This visual barrier shall be placed no closer than 3 feet to any **adjacent lot line** and shall be maintained by the party to whom the Certificate of Occupancy has been issued.

10.935.30 There shall be a minimum of 1,000 feet between any two **sexually oriented businesses**.

10.936 Special Exceptions

In addition to the conditions for special exceptions contained in Section 10.233 the following conditions shall also apply:

10.936.10 The hours of operation shall only be between 10 AM and 11 PM Monday through Saturday and 12 noon to 9 PM on Sundays.

- 10.936.20 Parking shall be one space per patron based on the occupancy load as established by local and state fire, **building**, or health codes, whichever is greater, plus one space per employee on the largest shift.
- 10.936.30 The site shall be maintained daily in a condition that is free and clear of any sexual paraphernalia or packaging.
- 10.936.40 **Signs** shall not visually depict any **person** in a “**state of nudity**” or “**semi-nude.**”

Article 10 Environmental Protection Standards

Section 10.1010 Wetlands Protection

Section 10.1020 Earth Products Removal and Placement

Section 10.1010 Wetlands Protection

10.1011 Purpose

The purposes of this Section are:

- (1) To maintain, and where possible improve, the quality of surface waters and ground water by controlling the rate and volume of stormwater runoff and preserving the ability of **wetlands** to filter pollution, trap sediment, retain and absorb chemicals and nutrients, and produce oxygen.
- (2) To prevent the destruction of, or significant changes to, **wetlands**, related water bodies and adjoining land which provide **flood** protection, and to protect **persons** and property against the hazards of **flood** inundation by assuring the continuation of the natural or existing flow patterns of streams and other water courses within the City.
- (3) To protect, and where possible improve, potential water supplies and aquifers and aquifer recharge areas.
- (4) To protect, and where possible improve, wildlife habitats and maintain ecological balance.
- (5) To protect, and where possible improve, unique or unusual natural areas and rare and endangered plant and animal species.
- (6) To protect, and where possible improve, shellfish and fisheries.
- (7) To prevent the expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of **wetlands**.
- (8) To require the use of **best management practices** and **low impact development** in and **adjacent** to **wetland** areas.

10.1012 Relationship to Other Regulations

- 10.1012.10 The provisions and criteria set forth in this Section are in addition to the provisions of applicable state and federal laws and regulations, other sections of this Zoning Ordinance, and other local ordinances and regulations.

- 10.1012.20 Where any provision of this Section conflicts with a state or federal law or regulation, another section of this Zoning Ordinance, or another local ordinance or regulation, the more restrictive provision shall apply.
- 10.1012.30 Nothing in this Section shall permit a **use** or activity which is contrary to any other provision of the Zoning Ordinance.
- 10.1012.40 Notwithstanding any other provisions of the Zoning Ordinance, the City of Portsmouth and its administrative and operating agencies and instrumentalities shall comply with the provisions of this Section.

10.1013 Jurisdictional Areas

The provisions of this Section 10.1010 apply to the following jurisdictional areas:

- 10.1013.10 Any **inland wetland**, other than a **vernal pool**, that is 10,000 square feet or more in area;
- 10.1013.20 Any **vernal pool** regardless of area.
- 10.1013.30 Any non-tidal perennial river or stream.
- 10.1013.40 The **tidal wetlands** of Sagamore Creek, Little Harbour, North Mill Pond, South Mill Pond and part of the Piscataqua River, defined as follows:
- (a) Sagamore Creek: Bounded by the easterly side of Peverly Hill Road and the southerly side of Greenleaf Avenue as these cross Sagamore Creek, and extending along the Creek to Little Harbour.
 - (b) Little Harbour: Extending along the Little Harbour shoreline from the municipal line with the Town of Rye to the southerly side of New Castle Avenue, and including Goose Island, Belle Island, Pest Island and that portion of Shapleigh Island lying south of New Castle Avenue.
 - (c) North Mill Pond: Extending along the entire shoreline of North Mill Pond between Bartlett Street and Market Street.
 - (d) South Mill Pond: Extending along the entire shoreline of South Mill Pond west of the tide gate at Pleasant Street.
 - (e) Piscataqua River: Extending along the shoreline of the Piscataqua River from the northwest side of the I-95 bridge up to and including the waterfront parcel fronting on Porpoise Way.

10.1014 Identification and Delineation of Wetlands and Wetland Buffers

10.1014.10 Wetlands

- 10.1014.11 **Wetlands** shall be identified by use of the **Federal Manual** and/or **Field Indicators**, and shall be delineated by on-site inspection of soil types,

vegetation, and hydrology by a **certified wetland scientist** at a time when conditions are favorable for such determination.

10.1014.12 A **created wetland** shall be considered a **wetland** for the purposes of this section.

10.1014.13 Any area which may have been a **wetland** but was filled prior to January 1, 1970 or pursuant to properly issued federal, state and local permits granted prior to the adoption of this Ordinance shall be judged according to the conditions existing at the time an application for a **building permit** or subdivision is filed or submitted.

10.1014.20 Wetland Buffers

10.1014.21 The purpose of a **wetland buffer** is to reduce erosion and sedimentation into the **adjacent wetland, vernal pool** or water body, to aid in the control of nonpoint source pollution, to provide a vegetative cover for filtration of runoff, to protect wildlife habitat, and to help preserve ecological balance.

10.1014.22 The required **wetland buffer** for a jurisdictional **wetland** or water body shall be defined as all land within 100 feet of the jurisdictional area.

10.1014.23 **Wetland buffers**, including **vegetated buffer strips** and limited cut areas, shall be parallel to and measured from the **reference line** for the applicable jurisdictional area on a horizontal plane.

(1) **Inland wetland buffers** shall be measured from the edges of **inland wetlands** and surface water bodies.

(2) **Tidal wetland buffers** shall be measured from the edges of **tidal wetlands** and **highest observable tide lines**.

10.1015 Notification to Planning Director

Notice shall be provided to the Planning Director prior to any construction, **demolition**, tree cutting, vegetation removal, or other **alteration** in a **wetland** or **wetland buffer**.

10.1016 Permitted Uses

10.1016.10 The following **uses**, activities and **alterations** are permitted in **wetlands** and **wetland buffers**:

(1) Any **use** that does not involve the erection or construction of any **structure** or **impervious surface**, will not alter the natural surface configuration by the addition of fill or by dredging, will not result in site **alterations**, and is otherwise permitted by the Zoning Ordinance. Examples of such **uses** include forestry and tree farming, wildlife refuges, parks and recreational **uses**, conservation and

nature trails, and **open spaces** as permitted or required by the Zoning Ordinance or Subdivision Regulations.

- (2) Improvements to existing public rights-of-way and **sidewalks**.
- (3) The construction of piers or docks, provided that all required local, state and federal approvals have been granted.
- (4) The construction of an addition or extension to a **one-family** or **two-family dwelling** that lawfully existed prior to the effective date of this Ordinance or was constructed subject to a validly issued conditional use permit, provided that:
 - (a) The **footprint** area of the addition or extension, together with the area of all prior such additions and extensions, shall not exceed 25 percent of the area of the **footprint** of the principal heated **structure** existing prior to the effective date of this Ordinance or constructed pursuant to a validly issued conditional use permit (this 25 percent limit shall not be based on pre-existing attached or detached garages, sheds, decks, porches, breezeways, or similar **buildings** or **structures**);
 - (b) The addition or extension shall be no closer to a **wetland** or water body than the existing principal **structure**; and
 - (c) The addition or extension shall conform with all other provisions of the Zoning Ordinance and with all other applicable ordinances and regulations of the City of Portsmouth.
- (5) The use of motor vehicles, except for all-terrain vehicles, when necessary for any purpose permitted by this Ordinance.
- (6) Emergency power generator outside the **wetland** and **vegetated buffer strip**, provided that the total **coverage** by equipment and any mounting pad shall not exceed 10 square feet.
- (7) **Uses**, activities and **alterations** that are consistent with a Wetland Protection Plan that has been approved by the Planning Board through the grant of a conditional use permit.
- (8) Construction of fences outside the **vegetated buffer strip**, provided that any posts are no wider than 3” in any dimension, and that there are no footings and no ground disturbance beyond the installation of the posts.

10.1016.20 Any **use**, activity or **alteration** not specifically permitted by Section 10.1016.10 above is prohibited unless authorized by the Planning Board through the grant of a conditional use permit.

- 10.1016.30 When the Planning Director reasonably believes that an existing or proposed **use**, activity or **alteration** that is not specifically permitted by Section 10.1016.10 is located in a **wetland** or **wetland buffer**, and a conditional use permit has not been granted for such **use**, activity or **alteration**, the Planning Director may require a **wetland** delineation complying with Section 10.1014 in order to verify the location or absence of **wetlands** and determine whether the **use**, activity or **alteration** requires a conditional use permit.

10.1017 Conditional Uses

10.1017.10 General

The Planning Board is authorized to grant a conditional use permit for any **use** not specifically permitted in Section 10.1016.10, subject to the procedures and findings set forth herein.

10.1017.20 Application Requirements

10.1017.21 The application shall be in a form prescribed by the Planning Board, and shall include the following information:

- (1) Location and area of **lot** and proposed activities and **uses**;
- (2) Location and area of all jurisdictional areas (**vernal pool, inland wetland, tidal wetland, river or stream**) on the **lot** and within 250 feet of the **lot**;
- (3) Location and area of **wetland buffers** on the **lot**;
- (4) Description of proposed construction, **demolition**, fill, excavation, or any other **alteration** of the **wetland** or **wetland buffer**;
- (5) **Setbacks** of proposed **alterations** from property lines, jurisdictional areas and **wetland buffers**;
- (6) Location and area of **wetland** impact, new **impervious surface**, previously disturbed **upland**;
- (7) Location and description of existing trees to be removed, other **landscaping**, grade changes, fill extensions, rip rap, culverts, utilities;
- (8) Dimensions and **uses** of existing and proposed **buildings** and **structures**.
- (9) Any other information necessary to describe the proposed construction or **alteration**.

10.1017.22 Where the proposed project will involve the temporary or permanent alteration of more than 250 sq. ft. of **wetland** and/or **wetland buffer**, the

application shall provide information about the affected **wetland** and **wetland buffer** as follows:

- (1) Up to 1,000 sq. ft. of **alteration** to the **wetland**: a **wetland** characterization that describes the type of **wetland** (e.g., emergent, scrub-shrub, forested), the percent of invasive species, and whether the **wetland** is seasonally flooded.
- (2) More than 1,000 sq. ft. of alteration to the **wetland**: a functions and values assessment equivalent to the model set forth in Appendix A of *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.
- (3) More than 250 sq. ft. of alteration to the **wetland buffer** (regardless of the amount of **alteration** to the **wetland**): a description of the 100-foot buffer including vegetation type, the percent of the buffer with invasive species, and the percent of the buffer that is paved or developed.

10.1017.23 The application shall describe the impact of the proposed project with specific reference to the criteria for approval set forth in Section 10.1017.50 (or Section 10.1017.60 in the case of utility installation in a right-of-way), and shall demonstrate that the proposed site **alteration** is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Ordinance.

10.1017.24 Where feasible, the application shall include removal of **impervious surfaces** at least equal in area to the area of **impervious surface** impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove **impervious surfaces** from the wetland buffer at least equal in area to the area of new **impervious surface** impact, the application shall include a **wetland buffer** enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

10.1017.25 A **wetland buffer** enhancement plan shall be designed to enhance the functions of the jurisdictional **wetland** and/or **wetland buffer** on the lot, and to offset the impact of the proposed project.

- (1) The **wetland buffer** enhancement plan shall include a combination of new plantings, invasive species removal, habitat creation areas, improved site hydrology, or protective easements provided offsite.
- (2) Where the vegetated buffer strip contains grass or non-native plantings, or is otherwise not intact, the first priority of the **wetland buffer** enhancement plan shall be to include revegetation of the vegetated buffer strip with native, low-maintenance shrubs and other woody vegetation.

10.1017.26 Where the proposed project involves a use, activity or alteration in a **tidal wetland** or **tidal wetland buffer**, the application shall include a **living shoreline** strategy to preserve the existing natural shoreline and/or encourage establishment of a **living shoreline** through restoration, as applicable. Said **living shoreline** strategy shall be implemented unless the Planning Board determines that it is not feasible.

10.1017.30 Application Review Procedure

10.1017.31 The application for a conditional use permit shall be submitted to the Planning Director.

10.1017.32 The Planning Director shall refer the application to the Conservation Commission for review and comment.

10.1017.33 The Planning Board or the Planning Director may require the findings of an independent New Hampshire **certified wetland scientist** or other additional special investigative studies, and may assess the owner reasonable fees to cover the costs of such studies and for the review of documents required by application.

10.1017.34 The Planning Board shall hold a public hearing on the application within 90 days of the initial submittal to the Planning Board, and shall issue a letter of decision within 10 days of the public hearing. The time requirements stated herein may be waived by the applicant.

10.1017.35 Public notice for public hearings shall be made in accordance with State law.

10.1017.36 The application process pursuant to this section may proceed prior to and/or run concurrent with the State and Federal permit processes, but the conditional use permit shall not become effective until the State and Federal permits are received.

10.1017.40 Conditional Use Approval

10.1017.41 The Planning Board shall grant a conditional use permit provided that it finds that all other restrictions of this Ordinance are met and that proposed **development** meets all the criteria set forth in section 10.1017.50 or 10.1017.60, as applicable.

10.1017.42 The Planning Board shall evaluate an application for a conditional use permit in accordance with *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.

10.1017.43 The burden of proof that the criteria required for approval of the conditional use permit exist or are met shall be the responsibility of the applicant.

10.1017.44 Economic considerations alone are not sufficient reason for granting a conditional use permit.

10.1017.45 Where new **impervious surface** is proposed in a **wetland** or **wetland buffer**, the submission of a plan to compensate for such new **impervious surface** does not guarantee that a conditional use permit will be granted.

10.1017.50 Criteria for Approval

Any proposed **development**, other than installation of utilities within a right-of-way, shall comply with all of the following criteria:

- (1) The land is reasonably suited to the **use**, activity or **alteration**.
- (2) There is no alternative location outside the **wetland buffer** that is feasible and reasonable for the proposed **use**, activity or **alteration**.
- (3) There will be no adverse impact on the **wetland** functional values of the site or surrounding properties;
- (4) **Alteration** of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals; and
- (5) The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section.
- (6) Any area within the **vegetated buffer strip** will be returned to a natural state to the extent feasible.

10.1017.60 Public and Private Utilities within Rights-of-Way in Wetlands and Wetland Buffers

The installation of utilities (including power lines and pipelines) within a right-of-way in an **inland wetland** or **wetland buffer** shall comply with all of the following criteria instead of the criteria set forth in section 10.1017.50:

- (1) The proposed construction is in the public interest;
- (2) Design, construction, and maintenance methods will utilize **best management practices** to minimize any detrimental impact of such **use** upon the **wetland** and will include restoration of the site as nearly as possible to its original grade, condition and vegetated state;
- (3) No alternative feasible route exists which does not cross or alter a **wetland** or have a less detrimental impact on a **wetland**; and
- (4) **Alterations** of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.

10.1017.70 Expiration and Extension

10.1017.71 A conditional use permit shall expire one year after the date of approval by the Planning Board unless a **building permit** is issued prior to that date.

10.1017.72 The Planning Board may grant a one-year extension of a conditional use permit if the applicant submits a written request to the Planning Board prior to the expiration date. Any other extension may be granted only after a new public hearing on the reconsideration of the application.

10.1017.80 Wetland Protection Plan

10.1017.81 General

10.1017.811 The owner of a parcel that contains more than 5 acres and more than 5 residential **structures** may apply for a conditional use permit for pre-approval of multiple individual projects over a multi-year time frame by submitting a Wetland Protection Plan conforming to the requirements of this section.

10.1017.82 Submission Requirements and Procedures

10.1017.821 Plan Contents: A Wetland Protection Plan shall include the following information:

- (1) **Wetland** delineation, **wetland buffers** (100 feet), limited cut areas (50 feet) and **vegetated buffer strips** (25 feet).
- (2) Existing **buildings, structures, streets, driveways** and other site improvements.
- (3) Calculations of existing **impervious surface** areas (total and within the **wetland buffer**). For a **manufactured housing park** these calculations shall be provided for each dwelling site and for the park as a whole.
- (4) Proposed protective measures (e.g., rain gardens, tree plantings, shrub plantings).
- (5) Calculations of areas of protective measures and proposed or potential future **impervious surfaces**.

10.1017.822 Initial Submission, Review and Approval Procedures: The initial Wetland Protection Plan shall be submitted to the Planning Department and shall be processed following the procedures for an application for a conditional use permit under Section 10.1017.30 and 10.1017.40.

10.1017.823 Effect of Plan Approval: The grant of a conditional use permit for a Wetland Protection Plan represents an overall pre-approval of impacts within the **wetland buffer** as

described on the Plan, subject to the submission of individual site plans in connection with application for a **building permit** that represents a change or increase in **impervious surface** within the **wetland buffer**.

10.1017.824 Permit Site Plans:

- (1) Following the approval of a Wetland Protection Plan, each application for a **building permit** that proposes a relocation of or increase in **impervious surface** within the **wetland buffer** shall be accompanied by a permit site plan showing the specific **impervious surface** changes and the specific protective measures proposed as compensation. Said protective measures shall be completed prior to or concurrently with the proposed **impervious surface** impact for which they provide compensation.
- (2) The Planning Director may approve a permit site plan that is consistent with an approved Wetland Protection Plan.
- (3) If the Planning Director determines that a permit site plan proposes a significant change from the approved Wetland Protection Plan, the owner shall submit an application to the Conservation Commission and Planning Board for an amendment to the conditional use permit.

10.1017.825 Plan Updates: After every 10 **building permits** have been issued under an approved Wetland Protection Plan, whether authorized administratively or by conditional use permit, the owner shall submit an updated Wetland Protection Plan showing the new existing site conditions and including updated calculations. The updated Plan shall also serve as an application for administrative site plan approval for all site changes that have been made since the previously approved Plan or Plan amendment.

10.1017.83 Wetland Protection Plan Standards

10.1017.831 No net increase in **impervious surface** within the **wetland buffer**: **Buildings, structures** or other **impervious surfaces** may be constructed, expanded or relocated within the **wetland buffer** provided that (1) no new **impervious surface** shall be within 25 feet of the **wetland** boundary, and (2) any new area converted to **impervious surface** shall be compensated for at a 1:1 ratio by the conversion of existing **impervious surface** within the **wetland buffer** to vegetated **open space** (lawn or planted areas). Such

compensatory **open space** does not need to be shown on the approved Wetland Protection Plan, but shall be shown on the permit site plan submitted with the **building permit** application.

10.1017.832 Net increase in **impervious surface** within the **wetland buffer** with compensation: **Buildings, structures** or other **impervious surfaces** may be constructed, expanded or relocated within the **wetland buffer** provided that (1) no new **impervious surface** shall be within 25 feet of the **wetland** boundary, and (2) the net increase in **impervious surface** shall be compensated for by protective measures that are shown on the approved Wetland Protection Plan at the following ratios:

| Protective Measure | Ratio of protective measure area to net impervious surface area | |
|--------------------|--|---------------------------------|
| | 25'-50' from wetland | 50'-100' from wetland |
| Rain garden | 3.0:1 | 2.0:1 |
| Tree plantings | 3.0:1 | 2.0:1 |
| Shrub plantings | 3.0:1 | 2.0:1 |

10.1017.833 Any increase in permanent **impervious surface** permitted through the provision of compensating protective measures shall also permit a temporary impact within the **wetland buffer** equal to two times the area of the permanent impact.

10.1018 Performance Standards

10.1018.10 Stormwater Management

All construction activities and **uses** of **buildings, structures**, and land within **wetlands** and **wetland buffers** shall be carried out so as to minimize the volume and rate of stormwater runoff, the amount of erosion, and the export of sediment from the site. All such activities shall be conducted in accordance with **Best Management Practices** for stormwater management including but not limited to:

1. *New Hampshire Stormwater Manual*, NHDES, current version.
2. *Best Management Practices to Control Non-point Source Pollution: A Guide for Citizens and City Officials*, NHDES, January 2004.

10.1018.20 Vegetation Management

10.1018.21 The required **wetland buffer** includes two smaller areas where additional standards and criteria apply: a **vegetated buffer strip** and a limited cut

area. The width of these areas shall be based on the type of jurisdictional area, as follows:

| Jurisdictional Area | Vegetated Buffer Strip | Limited Cut Area |
|---|-------------------------------|------------------|
| Vernal pool | 0' - 50' | 50' - 75' |
| Inland wetland , other than vernal pool | 0' - 25' | 25' - 50' |
| Non-tidal perennial stream or river | 0' - 25' | 25' - 75' |
| Inter-tidal area or tidal wetland as specified in section 10.1013.40 | 0' - 25' | 25' - 50' |

10.1018.22 If the **vegetated buffer strip** specified in Section 10.1018.21 contains an area that has a slope of 10% or more for at least 10 feet in a direction perpendicular to the edge of the jurisdictional area, the required width of the **vegetated buffer strip** shall be increased to 55 feet from the edge of a **vernal pool** and to 40 feet from the edge of any other **wetland**.

10.1018.23 Removal or cutting of vegetation:

- (1) Chemical control of vegetation is prohibited in all areas of a **wetland** or **wetland buffer**.
- (2) The removal or cutting of vegetation is prohibited in a **wetland** or **vegetated buffer strip**, except that non-chemical control of plants designated by the State of New Hampshire as “New Hampshire Prohibited Invasive Species” is permitted.
- (3) The removal of more than 50% of trees greater than 6" diameter at breast height (dbh) is prohibited in the limited cut area.

10.1018.24 Fertilizers:

- (1) The use of any fertilizer is prohibited in a **wetland**, **vegetated buffer strip** or limited cut area.
- (2) The use of fertilizers other than low phosphate and slow release nitrogen fertilizers is prohibited in any part of a **wetland buffer**.

10.1018.25 Pesticides and herbicides:

The use of pesticides or herbicides is prohibited in a **wetland** or **wetland buffer**, except that application of pesticides by a public agency for public health purposes is permitted.

Section 10.1018.30 Porous Pavement in Wetland Buffer

- 10.1018.31 All new pavement installed in a **wetland buffer** shall be porous pavement. The Planning Board may allow exceptions to this requirement where it can be demonstrated that the height of ground water, condition of soil, or other factors as described in the application are not appropriate for porous pavement.
- 10.1018.32 An application that proposes porous pavement in a **wetland buffer** shall include a pavement maintenance plan addressing erosion control, periodic removal of sediment and debris from the porous surfaces, snow management, and repairs.

10.1018.40 Wetland Boundary Markers

Permanent wetland boundary markers shall be shown on the plan submitted with an application for a conditional use permit and shall be installed during project construction.

Section 10.1020 Earth Products Removal and Placement

10.1021 Applicability and Permit Requirements

- 10.1021.10 The removal or placement of more than 100 cubic yards of sod, loam, sand, gravel or quarried stone at any premises in any 1 year shall require a permit from the Planning Board except when incidental to and in connection with the construction of a **building, street** or other activity authorized by this Ordinance.
- 10.1021.20 Any removal or placement of earth products shall comply with State law regardless of whether a permit from the Planning Board is required.

10.1022 Application Requirements

- 10.1022.10 An application for a permit for earth products removal or placement shall be submitted to the Planning Board in a form specified by the Board.
- 10.1022.20 The application shall be accompanied by a plan of land, prepared and stamped by a registered land surveyor or civil engineer, showing the following information for the property where the proposed removal or placement of materials is to take place and for all land located within 100 feet of the property:
- (a) property lines;
 - (b) vegetative cover;
 - (c) all man-made features;
 - (d) existing topography by 4-foot contour intervals;
 - (e) proposed temporary and permanent drainage;
 - (f) proposed topography at 2-foot contours upon completion of the excavation project.

- 10.1022.30 The estimated quantity of material to be removed or placed and topsoil to be stripped, stockpiled and replaced shall be determined by average end area methods or as approved by the Department of Public Works.

10.1023 Criteria for Approval

The Planning Board shall grant a permit for earth products removal or placement only if a majority of the Board finds that the application complies with all of the following criteria:

- 10.1023.10 The application is complete and provides sufficient information upon which to base an action; and
- 10.1023.20 The proposed earth products removal or placement activity will not result in any hazard to the public or to **adjacent** properties; and
- 10.1023.30 The proposed earth products removal or placement activity will not create a safety hazard due to traffic or other cause; and
- 10.1023.40 The proposed earth products removal or placement activity will not result in a reduction in property values or a change in the character of a residential neighborhood.

10.1024 Conditions of Approval

- 10.1024.10 A permit for earth products removal or placement shall specify conditions pertaining to:
- (a) Control of drainage so as to prevent any adverse impact on adjoining parcels during and after work;
 - (b) Disposition of boulders, vegetation, stumps and other debris including unused material and any **structures** used in connection with the operations;
 - (c) The construction of necessary fencing to protect against hazards;
 - (d) Vegetation to remain as a visual barrier;
 - (e) Hours of operation;
 - (f) Routes for transportation of materials and method of transportation so as to minimize impact on surrounding parcels;
 - (g) **Setbacks** of the proposed removal from public rights of way and property lines shall be specified;
 - (h) The finished level and grading; and
 - (i) The placing of topsoil for purposes of seeding and planting to prevent erosion or dust.

- 10.1024.20 A permit for earth products removal, except in a stone quarry, shall specify the following additional conditions for restoring the site upon completion of excavation:
- (a) The finished slope shall not exceed a grade of 1 foot vertical distance for each 2 feet of horizontal distance unless stabilized in a manner approved by the Planning Board, which may include the use of rip-rap or retaining walls.
 - (b) Topsoil shall be placed on finished slopes to a depth of at least 6 inches and shall be seeded and planted with materials approved by the Planning Board and the Conservation Commission.
- 10.1024.30 A permit for earth products removal or placement shall require the provision of a security in a form and amount approved by the Planning Board, sufficient to guarantee completion of the work in accordance with the conditions in 10.1024.10 and 10.1024.20.

10.1025 Performance Standards

- 10.1025.10 Earth products removal and placement activities shall respect the existing elevations at all **lot lines** with abutting properties, and shall not raise or lower the finished grades at a side or **rear lot line** in such a way as to create any condition that may be detrimental or depreciating to abutting **lots** or **uses**.
- 10.1025.20 Any raising or lowering of finished grades or construction of drainage facilities, swales or retaining walls at a property line shall be subject to review and approval by the **Code Official**.
- 10.1025.30 Earth products removal and placement activities shall be designed and carried out so that stormwater either will be infiltrated on site or will flow to a public surface drainage system or existing natural drainage course, both during the activity and upon completion and final grading. Such activities shall utilize stormwater **Best Management Practices** as set forth in the Planning Board's Site Plan Review Regulations.
- 10.1025.40 No material used in the filling or raising of land within residential **lots** shall include any garbage, ash or organic material, or any material detrimental to the stability of the **structure**, as determined by the **Code Official**.

10.1026 Expansion of Pre-Existing Earth Products Removal Activities

Where an earth products removal operation legally existed on a **lot** prior to December 18, 1995, the extension of such activity beyond the required **yards** of the **lot**, or onto an **adjacent lot** in the same ownership, shall require a permit under this section and shall not be considered an extension of a **nonconforming use**.

Article 11 Site Development Standards

- Section 10.1110 Off-Street Parking
- Section 10.1120 Off-Street Loading
- Section 10.1130 Landscaping and Screening
- Section 10.1140 Outdoor Lighting

Section 10.1110 Off-Street Parking

10.1111 General

- 10.1111.10 The purposes of Section 10.1110 are to manage parking supply to serve development needs without compromising community character or contributing to increased housing development costs. These purposes will be achieved by calibrating **off-street parking** requirements to demands, promoting shared parking arrangements for complementary uses, and providing for flexibility in the administration of **off-street parking** standards.
- 10.1111.20 All new **buildings** and **structures**, as well as additions to or changes in **use** or intensification of **use** in existing **buildings** and **structures**, shall be provided with **off-street parking** spaces in accordance with this Section.
- 10.1111.30 A **use** that is **nonconforming** as to the requirements for **off-street parking** shall not be enlarged or altered unless **off-street parking** is provided for the original **building, structure** or **uses** and all expansions, intensifications or additions sufficient to satisfy the requirements of this Section.

10.1112 Number of Required Parking Spaces

10.1112.10 General Requirements and Interpretation

- 10.1112.11 The number of required **off-street parking** spaces shall be based on the **uses** on the **lot**, as specified in Section 10.1112.30.
- 10.1112.12 For any permitted **use** not covered by Section 10.1112.30, the **Code Official** shall determine the closest similar **use** listed in that table and require **off-street parking** accordingly.
- 10.1112.13 Specially designated parking spaces for the physically disabled shall be provided in compliance with the **Building Code** (see **International Building Code**, Section 1106).
- 10.1112.14 The Planning Board may grant a conditional use permit to allow a **building** or **use** to provide less than the minimum number of **off-street parking** spaces required by Section

10.1112.30, Section 10.1112.61 or Section 10.1115.20, as applicable, or to exceed the maximum number of **off-street parking** spaces allowed by Section 10.1112.51.

10.1112.141 An application for a conditional use permit under this section shall include a parking demand analysis, which shall be reviewed by the City's Technical Advisory Committee prior to submission to the Planning Board, demonstrating that the proposed number of **off-street parking spaces** is sufficient for the proposed **use**.

10.1112.142 An application for a conditional use permit under this section shall identify permanent evidence-based measures to reduce parking demand, including but not limited to provision of rideshare/microtransit services or bikeshare station(s) servicing the property, proximity to public transit, car/van-pool incentives, alternative transit subsidies, provisions for teleworking, and shared parking on a separate **lot** subject to the requirements of 10.1112.62.

10.1112.143 The Planning Board may grant a conditional use permit only if it finds that the number of **off-street parking** spaces required or allowed by the permit will be adequate and appropriate for the proposed **use** of the property. In making this determination, the Board may accept, modify or reject the findings of the applicant's parking demand analysis.

10.1112.144 At its discretion, the Planning Board may require more **off-street parking** spaces than the minimum number requested by the applicant, or may allow fewer spaces than the maximum number requested by the applicant.

10.1112.20 Calculation of Number of Required Spaces

10.1112.21 The number of required **off-street parking** spaces shall be the sum of the requirements for the various individual **uses** on a **lot** computed separately.

10.1112.22 Where the computation of required **off-street parking** spaces results in a fractional number, the computation shall be rounded up to the next whole number.

10.1112.23 Parking spaces occupied by **EV** chargers and supporting equipment may count towards minimum parking requirements.

10.1112.30 Off-Street Parking Requirements

10.1112.31 Parking Requirements for Residential Uses

10.1112.311 The required minimum number of **off-street parking** spaces for **uses** 1.10 through 1.90, including **dwelling units** in mixed-use developments, shall be based on the gross floor area of each **dwelling unit**, as follows:

| Dwelling Unit Floor Area | Required Parking Spaces |
|---------------------------------|--------------------------------|
| Less than 500 sq. ft. | 0.5 spaces per unit |
| 500-750 sq. ft. | 1.0 space per unit |
| Over 750 sq. ft. | 1.3 spaces per unit |

10.1112.312 In addition to the **off-street parking** spaces provided in accordance with Sec. 10.1112.311, any **dwelling** or group of **dwellings** on a **lot** containing more than 4 **dwelling units** shall provide one visitor parking space for every 5 **dwelling units** or portion thereof.

10.1112.32 Parking Requirements for Nonresidential Uses

10.1112.321 The required minimum number of **off-street parking** spaces for **uses** other than 1.10 through 1.90 shall be based on the following table.

Table of Minimum Off-Street Parking Requirements for Nonresidential Uses

| Use No. | Use | Requirement |
|--|---|--|
| 2. Institutional Residence or Care Facilities | | |
| 2.10-2.20 | Assisted living facility or Residential care facility | 0.5 per bed or resident |
| 3. Educational, Religious, Charitable, Cultural and Public Uses | | |
| 3.10 | Place of assembly | 0.4 per seat (fixed seating), or 1 per 4 persons maximum occupancy of assembly area, or Parking demand analysis |
| 3.20 | School | Parking demand analysis |
| 3.30 | Historic preservation building | No requirement |
| 3.40 | Museum | Parking demand analysis |
| 3.50 | Performance facility | 0.4 per seat (fixed seating), or Parking demand analysis |
| 3.60 | Cemetery | No requirement |

| Use No. | Use | Requirement |
|--|--|---|
| 3.70 | Club, fraternal or service organization | Greater of: - 1 per 4 persons maximum occupancy - 1 per 200 sf GFA |
| 3.80 | Municipally operated park and related activities | No requirement |
| 4. Recreational Uses | | |
| 4.10 | Religious, sectarian or private non-profit recreational use | Parking demand analysis |
| 4.20 | Cinema or similar indoor amusement use with no live performance | 0.4 per seat, or Parking demand analysis |
| 4.30 | Indoor recreation use , such as bowling alley or arcade | 1 per 4 persons maximum occupancy |
| 4.40 | Health club, yoga studio, martial arts school, or similar use | 1 per 250 sf GFA |
| 4.50 | Outdoor recreation use | Parking demand analysis |
| 4.60 | Amusement park, water park or theme park | NA – Prohibited Use |
| 5. Office Uses, Non-Medical | | |
| 5.10-5.30 | Professional, business and financial services | 1 per 350 sf GFA |
| 5.40 | Social service campus | Apply standards for component uses |
| 5.50 | Media studio | 1 per 1,000 sf GFA |
| 5.60 | Publishing facility or similar electronic production operation | 1 per 1,000 sf GFA |
| 5.70 | Call Center | 1 per 250 sf GFA |
| 6. Medical Services and Health Care | | |
| 6.10 | Hospital | Parking demand analysis |
| 6.20 | Medical offices and clinics (outpatient only) | 1 per 250 sf GFA |
| 6.30 | Clinics with inpatient care | Greater of: - 2 per bed - 1 per 250 sf GFA |
| 6.40 | Ambulatory surgical center | 1 per 250 sf GFA |
| 6.50 | Substance abuse treatment facility | Parking demand analysis |
| 6.60 | Psychiatric hospital for the criminally insane | NA – Prohibited Use |

| Use No. | Use | Requirement |
|--|---|---|
| 7. Services, Other Than Health Care | | |
| 7.11 | Family day care facility | 4 spaces (including 2 for the single-family dwelling) |
| 7.12 | Group day care facility including private preschool and kindergarten | 0.5 per client or student based on licensed enrollment capacity |
| 7.20-7.40 | Personal services , Consumer services, and Trade, craft and general services | 1 per 400 sf GFA |
| 7.50-7.60 | Veterinary care and Laundry and dry cleaning establishments | 1 per 500 sf GFA |
| 7.70 | Undertaking establishment , funeral parlor or mortuary chapel, excluding crematorium | 1 per 25 sf of floor area for public occupancy |
| 8. Retail Trade | | |
| 8.10-8.90 | All retail trade uses | 1 per 300 sf GFA |
| 9. Eating and Drinking Places | | |
| 9.10-9.50 | All eating and drinking places | 1 per 100 sf GFA |
| 10. Lodging Establishments | | |
| 10.10-10.20 | Boarding house or Bed and breakfast | 2 + 1 per room for rent |
| 10.30-10.40 | Inn, hotel or motel | 1.25 per guest room + 1 per 100 sf of lounge or restaurant area + 1 per 25 sf of conference or banquet facilities |
| 10.50-10.60 | Conference hotel or Conference center | Parking demand analysis |
| 11. Motor Vehicle-Related Uses | | |
| 11.10, 11.30 | Sales, renting or leasing of vehicles, marine craft, power equipment, etc. | 1 per 600 sf GFA + 1 per 2000 sf outside display or storage area |
| 11.20 | Motor vehicle service station, motor vehicle repair or washing facility for passenger cars and light trucks | 2 + 1 per 400 sf GFA EV fueling spaces A and B may count towards minimum parking requirements. |
| 11.40 | Impound lot (principal or accessory use) | No requirement |
| 11.50 | Truck fueling facility | 4 spaces |
| 11.60 | Truck terminal | 1 per 2000 sf GFA + 3 per loading dock |

| Use No. | Use | Requirement |
|--|---|---|
| 12. Marine Craft Related Uses | | |
| 12.11 | Non-commercial boat landings, boat docks, boathouses, etc. | No requirement |
| 12.12 | Fishing boat landing 1 | 4 spaces |
| 12.13 | Fishing boat landing 2 | Parking demand analysis |
| 12.20-12.40 | Marina , repair of commercial marine craft and marine-related structures , or landside support facility for commercial passenger vessel | Parking demand analysis |
| 13. Wholesale Trade, Warehousing and Distribution | | |
| 13.10 | Wholesale use | 1 per 2000 sf GFA |
| 13.20 | Wholesale sales devoted to, and in the same establishment as, a permitted retail use | 1 per 2000 sf area devoted to wholesale |
| 13.30 | Wholesale lumber yards, lumber and contractor sales | No requirement |
| 13.40 | Warehousing or distribution of non-flammable, non-hazardous materials, not classified as a high hazard use | 1 per 2000 sf GFA |
| 14. Industrial Uses | | |
| 14.10-14.20 | Light industry or Research and development | 1 per 500 sf GFA |
| 14.30-14.50 | Food processing, Electronics manufacturing, General manufacturing | 1 per 1000 sf GFA |
| 14.60 | Biological or chemical laboratory | 1 per 500 sf GFA |
| 14.70 | Recycling facility or recycling plant | No requirement |
| 14.80 | High hazard use , including other uses listed in this section but not including uses described in 14.90 | Parking demand analysis |
| 14.90 | Storage (other than normal accessory use), processing, disposal, or transfer of petroleum, petrochemicals, natural gas and liquid petroleum products, coal, alcohol, wood pulp, solid or liquid waste, junk or hazardous waste as classified by Federal or State law | NA – Prohibited Use |

| Use No. | Use | Requirement |
|---|--|---|
| 15. Transportation and Utilities | | |
| 15.10 | Public or private transformer station, substation, pumping station or automatic telephone exchange, not including any business office , storage yard or storage building | No requirement |
| 15.20 | Heliport or helipad | No requirement |
| 16. Wireless Telecommunications Facilities | | |
| 16.10-16.40 | All wireless telecommunications facilities | No requirement |
| 17. Agricultural Uses | | |
| 17.10-17.20 | All agricultural use | No requirement |
| 18. Temporary Uses | | |
| 18.10 | Construction trailer | No requirement |
| 18.20 | Temporary structure | No requirement |
| 18.30 | Manufactured housing not on a foundation, as temporary replacement housing for a dwelling on the same lot destroyed by natural causes | 2 spaces (single-family dwelling) |
| 18.40 | Carts or trailers, including outdoor display area, used for the seasonal sale of dry goods, Christmas trees, flowers, fruits, vegetables, seasonal products and prepared food | No requirement |
| 19. Accessory Uses | | |
| 19.10 | Accessory use to a permitted principal use (not otherwise specified in this section), but not including any outdoor storage | No requirement |
| 19.20 | Home occupation | No minimum requirement (<u>maximum</u> 1 space for the home occupation) |
| 19.30 | Concessions and services located within the principal building | No requirement |
| 19.40 | Drive-through facility , as accessory use to a permitted principal use | No requirement |

| Use No. | Use | Requirement |
|------------------------------|----------------------------|----------------|
| 20. Accessory Storage | | |
| 20.10 – 20.60 | All accessory storage uses | No requirement |

- 10.1112.322 Where the table lists a general **use** category without the subcategories, the parking ratio shall apply to all subcategories within that category (for example, the parking ratio shown for **use** number 2.10 applies to **uses** 2.11 and 2.22).
- 10.1112.323 Where the table indicates that the minimum required number of **off-street parking** spaces shall be based on a parking demand analysis, the applicant shall submit such analysis for review by the Planning Board. Where the table indicates that a parking demand analysis is an alternative to a specified ratio, the applicant may submit such analysis to justify a ratio different from that listed in the table. In either case, the Planning Board may approve the number of parking spaces proposed by the analysis, or may approve a greater or lesser minimum number of parking spaces based on its review.
- 10.1112.324 Where the minimum number of **off-street parking** spaces is based on **maximum occupancy**, the applicant shall submit a code analysis showing the occupant load for the proposed **use** determined in accordance with the Building Code.

10.1112.40 Reserve Parking Area

When Section 10.1112.30 requires the provision of 20 or more **off-street parking** spaces, the Planning Board may approve the construction of fewer **off-street parking** spaces than required, subject to the following:

- 10.1112.41 A “Reserve Parking Area” shall be designated that is sufficient to accommodate the difference between the number of spaces required and the lesser number actually provided.
- 10.1112.42 The site plan shall clearly delineate the Reserve Parking Area and shall demonstrate that it is sufficient to accommodate the additional parking spaces in accordance with the requirements of this Section.
- 10.1112.43 The Reserve Parking Area shall be landscaped with grass, ground covers and/or other plant materials, but shall not be counted toward any minimum **open space** requirement.
- 10.1112.44 The Reserve Parking Area shall not be used as snow storage area and shall not contain any **structure** or mechanical equipment.

10.1112.50 Maximum and Minimum Number of Parking Spaces

10.1112.51 The number of **off-street parking** spaces for any **building** or **use** shall not exceed the following amounts:

| Minimum Number of Spaces Required by Section 10.1112.30 | Maximum Number of Spaces Allowed |
|---|----------------------------------|
| 0-20 | No maximum |
| 21 or more | 120 percent of minimum |

10.1112.60 Shared Parking

10.1112.61 Methodology

Developments that contain a mix of uses on the same parcel shall reduce the number of **off-street parking** spaces in accordance with the following methodology:

- (1) Determine the minimum number of **off-street parking** spaces for each land **use** within the development in accordance with Sections 10.1112.10 through 10.1112.50.
- (2) Multiply the minimum parking requirement for each land use by the corresponding parking occupancy rates for each of the five time periods set forth in Columns (B) through (F) of the Parking Occupancy Rates table below.

Parking Occupancy Rates

| (A) Land Use | Weekday | | Weekend | | (F) Nighttime (Midnight– 6:00 AM) |
|---------------------------|---|--|---|--|--|
| | (B) Daytime (8:00 AM– 5:00 PM) | (C) Evening (6:00 PM– Midnight) | (D) Daytime (8:00 AM– 5:00 PM) | (E) Evening (6:00 PM– Midnight) | |
| Residential | 60% | 100% | 80% | 100% | 100% |
| Office/ Industrial | 100% | 20% | 10% | 5% | 5% |
| Retail/Service | 60% | 90% | 100% | 70% | 5% |
| Hotel/Motel | 70% | 100% | 75% | 100% | 100% |
| Restaurant | 70% | 100% | 80% | 100% | 10% |
| Entertainment | 40% | 100% | 80% | 100% | 10% |
| Conference/ Convention | 100% | 100% | 100% | 100% | 5% |
| Place of Worship* | 10% | 5% | 100% | 50% | 5% |
| Other Institutional | 100% | 20% | 10% | 10% | 5% |

* For a religious use that holds its principal services on a weekday, the weekday and weekend ratios shall be reversed.

- (3) Add the resulting shared parking requirements for each time period to determine the minimum parking requirement for that period.

The required minimum number of parking spaces for the development shall be the highest of the five time-period totals.

10.1112.62 Shared Parking on Separate Lots

The Planning Board may grant a conditional use permit to allow a reduction in the number of required **off-street parking** spaces for uses on separate **lots**, whether in common or separate ownership, subject to the following:

- (1) The shared parking requirement may be determined using the methodology in Section 10.1112.61, or by another method approved or required by the Planning Board.
- (2) The shared parking arrangement shall be secured by a covenant acceptable to the City and recorded at the Rockingham County Registry of Deeds.

10.1113 Location of Vehicular Use Facilities

10.1113.10 Proximity to Principal Use

10.1113.11 All required **off-street parking** spaces shall be located on the same **lot** as the **principal use** they are required to serve except as follows:

10.1113.111 Required parking spaces may be located on a separate **lot** from the **principal use** which they serve where a municipally owned or operated covered parking facility is constructed as part of the overall **development**.

10.1113.112 The Board of Adjustment may authorize a special exception for the provision of required parking on another **lot** in the same ownership as the **lot** in question and within 300 feet of the property line of the **lot** in question.

10.1113.12 In no case shall parking be permitted within any Residential or Mixed Residential District other than that which is accessory to a **principal use** allowed within the district.

10.1113.20 Location of Parking Facilities on a Lot

Required **off-street parking** spaces shall not be located in any required **front yard**, or between a **principal building** and a **street** (including on a **corner lot**). This restriction shall not apply to required **off-street parking** for a **single-family dwelling** (including the combination of a **single-family dwelling** and an **accessory dwelling unit**) or **two-family dwelling**.

10.1113.30 Minimum Distance from Residential and Mixed Residential Zoning Districts

10.1113.31 **Off-street parking** areas, **accessways**, maneuvering areas and traffic aisles serving **uses** in a Business or Industrial district shall be set back from all Residential and Mixed Residential districts as follows:

| District | Minimum Distance from Residential or Mixed Residential District |
|-----------|---|
| B | 50 feet |
| GB, GW | 100 feet |
| I, OR, WI | 100 feet |

10.1113.32 **Off-street parking** areas, **accessways**, maneuvering areas and traffic aisles serving a nonresidential **use** on a **lot** in a

Mixed Residential district that abuts a Residential district shall be set back at least 10 feet from the Residential district boundary and shall be screened in accordance with the screening standards of the Planning Board’s Site Plan Review Regulations.

10.1113.40 Setback from Lot Lines

10.1113.41 **Off-street parking** areas, **accessways**, maneuvering areas and traffic aisles serving **uses** in a Business or Industrial district shall be set back from **front lot lines** as follows:

| District | Minimum Setback from Front Lot Line |
|-----------|--|
| B | 20 feet |
| GB, GW | 40 feet |
| I, OR, WI | 50 feet |

10.1113.42 In a Residential zoning district, **off-street parking** spaces for a **home occupation use**, including **family day care** and **group day care**, shall be set back at least 10 feet from side and rear property lines and shall be screened in accordance with the screening standards of the Planning Board’s Site Plan Review Regulations.

10.1113.43 All required **setbacks** of **off-street parking** areas from front property lines shall be landscaped in accordance with the **landscaping** and screening standards of the Planning Board’s Site Plan Review Regulations.

10.1114 Design of Off-Street Parking Facilities

10.1114.10 Applicability

The provisions of this Section 10.1114 shall apply to all **off-street parking** facilities, whether in parking **structures** or surface **lots**, and whether or not the parking spaces are required or in excess of the requirements for a **use**, except as specifically exempted herein.

10.1114.20 Stall Layout

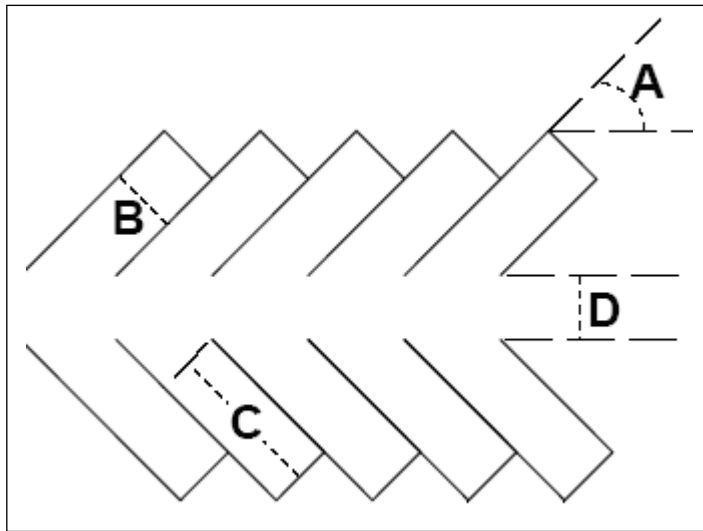
10.1114.21 Parking spaces and **maneuvering aisles** shall be laid out in compliance with the minimum dimensions set forth in the Table of **Off-Street Parking Dimensions**.

Table of Off-Street Parking Dimensions

| A Angle of Parking (degrees) | B Width of Parking Space | C Depth of Parking Space | D Width of Maneuvering Aisle * | |
|--|--|--|---|------------------|
| | | | 1-way traffic | 2-way traffic |
| 0° | 8.5' | 20' | 14' | 24' |
| 45° | 8.5' | 19' | 16' | 24' |
| 60° | 8.5' | 19' | 18' | 24' |
| 90° | 8.5' | 19' | 24' | 24' |

* The minimum width of a **maneuvering aisle** shall be 22 feet for (a) an aisle for 2-way traffic providing access to fewer than 7 parking spaces, or (b) an aisle in a parking structure for 2-way traffic, or (c) an aisle in a parking structure for 1-way traffic with 90-degree parking.

Key to Table of Off-Street Parking Dimensions



- 10.1114.22 Parking areas shall include parking spaces for the physically disabled in compliance with the **Building Code** and *Accessible and Usable Buildings and Facilities* (ICC/ANSI A117.1 latest edition).
- 10.1114.23 Parking spaces located within four feet of an abutting **structure**, **sidewalk**, or public **street** shall be designed with suitable bumper stops.
- 10.1114.24 Parking areas and access drives shall be surfaced with a durable surface that meets the load bearing **maximum occupancy** of the project; minimizes dust, material tracking and erosion; and facilitates snow removal. Examples of such materials include, but are not limited to, bituminous binder, concrete, asphalt, compacted gravel and crushed stone.

Pervious surfaces may be used provided that they meet the above objectives and provide equivalent protection of surface and groundwater resources.

- 10.1114.25 Except for **one-family** and **two-family dwellings**, all **off-street parking** spaces shall be marked and maintained to provide delineation between parking stalls and aisles.

10.1114.30 Vehicular Circulation

- 10.1114.31 Access to and egress from all parking areas shall be only via **driveways** which meet the standards for “General Accessway and Driveway Design” in the Site Plan Review Regulations.

- 10.1114.32 Except for **one-family** and **two-family dwellings**, all **off-street parking** areas shall be designed so that:

- (a) Vehicles can enter and leave each parking space without passing over any other parking space or requiring the moving of any other vehicle, and
- (b) Vehicles can enter and leave the parking area without backing into or from a public **street** or way.

- 10.1114.33 Notwithstanding the previous provision, tandem parking spaces may be provided for required **off-street parking** spaces serving **dwelling units** in residential and mixed-use developments, subject to the following requirements:

- (a) Tandem spaces shall be assigned to the same **dwelling unit**.
- (b) Tandem parking shall not be used to provide guest parking.
- (c) Two parking spaces in tandem shall have a combined minimum dimension of 9 feet in width by 38 feet in length.

10.1114.40 Pedestrian Circulation

Except for **one-family** and **two-family dwellings**, all **off-street parking** areas shall incorporate the following provisions for pedestrian circulation:

- 10.1114.41 A minimum 5-foot wide pedestrian path shall be provided throughout the site, connecting **adjacent streets**, **accessways**, **sidewalks** and parking areas to the entrances of all **structures**.

- 10.1114.42 Pedestrian areas shall be clearly distinguished from vehicular and bicycle traffic areas through the use of paving materials, **landscaping** buffers, or other means.

- 10.1114.43 Continuous off-**street** vehicle routes shall be no more than 200 feet in length before interruption by pedestrian crosswalks over speed tables, T-intersections or other design elements to calm vehicle movement on site.

10.1115 Off-Street Parking Provisions in the Downtown Overlay District

10.1115.10 Purpose

- 10.1115.11 This Section 10.1115 establishes modified **off-street parking** standards for **lots** in the Downtown Overlay District in recognition of the availability of municipal on-**street** and **off-street parking** facilities, private shared parking facilities, and public transit, and the pedestrian-oriented pattern of **lots** and **uses**.
- 10.1115.12 Except as specifically modified by this Section 10.1115, **lots** in the Downtown Overlay District shall comply with all other provisions of Section 10.1110.

10.1115.20 Number of Required Off-Street Parking Spaces

- 10.1115.21 The following requirements shall apply in the Downtown Overlay District in lieu of the requirements in Section 10.1112.30:

| Use | Required Parking Spaces |
|--|---|
| Residential use (dwelling) Hotel or motel | Same as Section 10.1112.30 0.75 space per guest room, plus 1 space per 25 sf of conference or banquet facilities |
| Other nonresidential use | No requirement |

- 10.1115.22 The requirements in Section 10.1115.21 shall be applied to all **uses** on a **lot**, and not to individual **uses**.
- 10.1115.23 For any **lot**, the number of **off-street parking** spaces that would be required by applying the ratios in Section 10.1115.21 shall be reduced by 4 spaces. (Therefore, any **lot** that would be required to provide 4 or fewer **off-street parking** spaces shall not be required to provide any spaces.)
- 10.1115.24 The provisions of Section 10.1112.50, Maximum Number of Parking Facilities, shall not apply to **buildings** and **uses** within the Downtown Overlay District.

10.1116 Bicycle Parking

10.1116.10 Number of Bicycle Parking Spaces Required

10.1116.11 Off-street parking of bicycles shall be provided as follows, up to a maximum of 30 bicycle spaces:

| | |
|--|---|
| Multifamily dwellings | 1 bicycle space for each 5 dwelling units or portion thereof |
| Elementary, middle and high schools | 1 bicycle space for each 4 students |
| All other uses, except as exempted in Section 10.1116.14 | 1 bicycle space for each 10 automobile parking spaces or fraction thereof required by Section 10.1112.30 or Section 10.1115.21, as applicable |

10.1116.12 When the Planning Board approves the construction of fewer **off-street parking** spaces than would normally be required under Section 10.1112.30 or Section 10.1115.21 (for example, when a Reserve Parking Area is provided under Section 10.1112.40), or when Board of Adjustment grants a variance from the required number of **off-street parking** spaces, the required number of bicycle parking spaces shall be based on the number of such spaces that would be required without such reduction or variance.

10.1116.13 In addition to the number of bicycle parking spaces required under Section 10.1116.11 and 10.1116.12, any nonresidential use may substitute bicycle parking spaces for up to 5 percent of the required automobile parking spaces at the following ratios: 1 required automobile space may be replaced by 6 bicycle spaces or by 2 bicycle lockers.

10.1116.14 The following uses are exempt from providing bicycle parking spaces:

| Use No. | Use |
|------------------|---|
| 1.10 | Single-family dwelling |
| 1.20, 1.21, 1.22 | Accessory dwelling unit |
| 1.30 | Two-family dwelling |
| 2.10 | Assisted living facility |
| 2.20 | Residential care facility |
| 7.10 | Day care |
| 7.70 | Undertaking establishment |
| 11.10-11.60 | Motor vehicle related uses |
| 12.10-12.40 | Marine craft related uses |
| 13.10-13.40 | Wholesale trade, warehousing and distribution |
| 14.70 | Recycling facility or recycling plant |
| 14.80 | High hazard use |
| 17.10-17.20 | Agricultural uses |
| 19.10-19.40 | Accessory uses |

- 10.1116.15 Bicycle parking spaces shall be designed in accordance with standards set forth in the Site Plan Review Regulations.

Section 10.1120 Off-Street Loading

10.1121 General Requirements

- 10.1121.10 All new **structures**, additions to existing **structures**, and changes and intensification of **use** in existing **structures** shall be provided with off-street loading areas in accordance with this Section, except in Character Districts 4 W, 4 and 5 (CD4-W, CD4 and CD5) and the Downtown Overlay District.
- 10.1121.20 No loading areas shall be required in Character Districts 4-W, 4 and 5 (CD4-W, CD4 and CD5) and the Downtown Overlay District.

10.1122 Number of Loading Areas

- 10.1122.10 Off-street loading spaces shall be provided according to the following ratios:

| Use | Gross Floor Area (sf) | Required Spaces |
|-------------------------------|---------------------------------|-----------------|
| Industrial | Up to 10,000 sq. ft. | 0 |
| | 10,001 - 40,000 sq. ft. | 1 |
| | 40,001 - 100,000 sq. ft. | 2 |
| | 100,001 - 200,000 sq. ft. | 3 |
| | Each additional 200,000 sq. ft. | 1 |
| Office / Professional Service | Up to 10,000 sq. ft. | 0 |
| | 10,001 - 100,000 sq. ft. | 1 |
| | 100,001 - 350,000 sq. ft. | 2 |
| | Each additional 350,000 sq. ft. | 1 |
| Retail | Up to 10,000 sq. ft. | 0 |
| | 10,001 - 25,000 sq. ft. | 1 |
| | 25,001 - 60,000 sq. ft. | 2 |
| | 60,001 - 120,000 sq. ft. | 3 |
| | Each additional 100,000 sq. ft. | 1 |
| Other Non-Residential | Up to 10,000 sq. ft. | 0 |
| | 10,001 - 40,000 sq. ft. | 1 |
| | Each additional 60,000 sq. ft. | 1 |

- 10.1122.20 In case of mixed **uses**, the loading areas required shall be the sum of all requirements computed on the basis of the above table.

10.1123 Loading Area Dimensions

All required loading areas shall conform to the following dimensional standards:

| | |
|------------------------------------|---------|
| Minimum vertical clearance: | 14 feet |
| Minimum width of loading area: | 12 feet |
| Minimum length of loading area: | |
| First required loading area: | 20 feet |
| Additional required loading areas: | 45 feet |

10.1124 Location of Loading Areas

- 10.1124.10 Loading areas shall not be located between the front property line and any **building** or **structure** nor in a required **side yard** or **rear yard**.
- 10.1124.20 No off-street loading or maneuvering areas shall be nearer than 100 feet to any adjoining Residential or Mixed Residential Districts and shall be screened in accord with Section 10.1130 and the Planning Board’s Site Plan Regulations.
- 10.1124.30 No off-street loading areas shall be a part of an area used to satisfy the **off-street parking** requirements of this Ordinance.

Section 10.1130 Landscaping and Screening

10.1131 General

All **multifamily** residential and nonresidential **development** of land shall provide **landscaping** and screening as required by the Site Plan Review Regulations.

10.1132 Screening of Dumpsters

All dumpsters shall be screened as follows:

- 10.1132.10 Natural screening shall consist of evergreen shrubs/trees planted in a line to form a continuous screen and growing to a height of 6 feet within 3 years. The remaining portion of the screening area shall consist of large and small trees, grass, flower beds, or other vegetative groundcover planted to fully cover the ground surface of the area within 3 years.
- 10.1132.20 A 6-foot high fence or masonry wall may be substituted for natural screening if approved by the Planning Board. The wall or fence shall be placed on the exterior side of any **landscaping**.

Section 10.1140 Outdoor Lighting

10.1141 Purpose

The purpose of this section is to enhance public safety and welfare by providing for adequate and appropriate **outdoor lighting**, providing for lighting that will complement the character of the City, reduce **glare**, minimize **light trespass**, reduce the cost and waste of unnecessary energy consumption, and prevent the degradation of the night sky.

10.1142 General Requirement and Applicability

- 10.1142.10 All public and private new or replacement **outdoor lighting** installed in the City of Portsmouth shall be in conformance with the requirements established by this Ordinance.
- 10.1142.20 Any **luminaire** that does not conform to the standards of this Ordinance but was lawfully in place prior to the adoption of these standards shall be permitted to remain. However, any **luminaire** that replaces a **nonconforming luminaire**, or any **nonconforming luminaire** that is moved, must meet the standards of this Ordinance.
- 10.1142.30 The following types of lighting are exempt from the requirements of this section:
- 10.1142.31 All **temporary lighting** required for construction projects related to road construction and repair, installation of sewer and water facilities, and other public infrastructure.
- 10.1142.32 All temporary emergency lighting needed by the police or fire departments or other emergency services, as well as all vehicular **luminaires**.
- 10.1142.33 State or Federal regulated lighting such as **airports**, towers requiring lighting, highway signage and traffic signals, etc.
- 10.1142.34 Low wattage or low voltage temporary **decorative lighting** used for holidays, festivals and special events, provided they do not pose a safety or nuisance problem due to **light trespass** or **glare**.

10.1143 Total Outdoor Light Output Allowance

- 10.1143.10 Total outdoor light output for a parcel shall not exceed the **lumen** limits given in the following table. Values in this table are upper limits and not design goals; design goals should be the lowest levels that meet requirements of the task.

| Zoning Districts | Maximum Mean Lumens Per Net Acre |
|--|---|
| Airport District (AIR) | Exempt |
| All Business Districts, except within the Historic District All Industrial Districts Airport Industrial, Pease Industrial, Airport Business Commercial | 300,000 |
| All Residential Districts All Mixed Residential Districts All Conservation Districts Historic District | 55,000 |

- 10.1143.20 The total **lumens** shall be 100 percent of the **lumens** from outdoor light fixtures installed on grade, on poles, and on the top or sides of **buildings** or other **structures**.
- 10.1143.30 “Net acres” shall mean the total parcel area excluding the area of (a) proposed and existing **streets** within the parcel, and (b) sports playing fields exempted from the **lumens** per acre cap under Section 10.1143.50.
- 10.1143.40 **Outdoor lighting fixtures** meeting one of the following conditions shall not be counted in determining the total light output:
 - (a) **Full cut-off** fixtures installed under canopies, **building** overhangs, or roof eaves.
 - (b) **Light fixtures** shielded by the canopy, **building** overhang, or roof eaves in such a manner that no **lamp** or vertical element of a lens or diffuser is visible from off-site.
- 10.1143.50 Sports venue lighting is exempt from any **lumens** per acre standard for the playing field only.

10.1144 Luminaire Design and Height

- 10.1144.10 Any **luminaire** with a **lamp** or **lamps** rated at a total of more than 1,800 **lumens** (and any flood or spot **luminaires** of more than 900 **lumens**) shall be a **full-cutoff** fixture and shall not emit any **direct light** above a horizontal plane passing through the lowest part of the light-emitting **luminaire**.
- 10.1144.20 Any **luminaire**, regardless of **lumen** rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to prevent **light trespass** onto any residential property that adjoins or is directly across a **street**, highway or stream from the **lot** on which the

- luminaire** is located, and to prevent **glare** perceptible to **persons** on such residential property.
- 10.1144.30 **Building façades** may be illuminated with low intensity lighting as follows:
- 10.1144.21 The light source for the **building façade illumination** shall be concealed.
 - 10.1144.22 **Building** entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of **spotlighting** focused on the **building** entrances with the light source concealed (e.g., in landscaped areas).
 - 10.1144.23 Direct lighting of limited exterior **building** areas is permitted when necessary for security purposes.
- 10.1144.40 Increased lighting interrupts or changes the natural duration of night light and can prevent some trees from going into dormancy, thereby making them more susceptible to winter weather and can decrease their effectiveness in tolerating pollution.
- 10.1144.41 Wherever possible, placement of lighting should be done in such a way as to **direct light** away from trees.
 - 10.1144.42 When lighting will be directed at trees, high pressure sodium **lamps** and any incandescent **lamps** are not allowed.
 - 10.1144.43 When planting trees where supplemental lighting already exists, trees shall be selected that have low sensitivity to light.
- 10.1144.50 A flood or spot **luminaire** with a **lamp** or **lamps** rated at 900 **lumens** or less may be used without restriction to light distribution, provided that it is aimed, directed, or focused so as not to cause **direct light** from the **luminaire** to be directed toward any residential property that adjoins or is directly across a **street**, highway or stream from the **lot** on which the **luminaire** is located, or to create **glare** perceptible to **persons** operating motor vehicles on public ways.
- 10.1144.60 The maximum mounting height of a **luminaire** shall be 20 feet above grade except as follows:
- 10.1144.61 Flood or spot **luminaires** with a **lamp** or **lamps** rated at 900 **lumens** or less, and other **luminaires** with a **lamp** or **lamps** rated at a total of 1800 **lumens** or less, may be used without restriction to mounting height.
 - 10.1144.62 **Luminaires** used for public-roadway **illumination** may be installed at a maximum height of 25 feet and may be

positioned at that height up to the edge of any bordering property.

10.1144.63 **Luminaires** used primarily for **sign illumination** may be mounted at any height to a maximum of 25 feet, regardless of **lumen** rating.

10.1144.64 **Luminaires** used for athletic fields are exempt from the height limitations.

10.1145 Hours of Operation

10.1145.10 **Outdoor lighting** shall not be illuminated between 11:00 p.m. and 6:00 a.m. with the following exceptions:

10.1145.11 If the **use** is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal **illumination** shall be allowed during the activity and for not more than one hour after the activity ceases.

10.1145.12 Low level lighting sufficient for the security of **persons** or property on the lot may be in operation between 11:00 p.m. and 6:00 am, provided the average **illumination** on the ground or on any vertical surface is not greater than 0.5 **foot-candles**.

10.1146 Recreational Facilities

10.1146.10 Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

10.1146.11 All fixtures used for lighting recreational fields and facilities shall be **full-cutoff** fixtures.

10.1146.12 All lighting installations shall be designed to achieve no greater than the minimal **illuminance** levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).

10.1146.13 All events shall be scheduled so as to complete all activity before or as near to 11:00 pm as practical, but under no circumstances shall any **illumination** of the playing field, court, or track be permitted after 11:00 pm except to conclude a scheduled event that was in progress before 11:00 pm and circumstances prevented concluding before 11:00 pm.

10.1147 Outdoor Display Lots

- 10.1147.10 Any light source permitted by this Ordinance may be used for lighting of outdoor display lots as defined by this Ordinance, provided that both of the following conditions are met:
- 10.1147.11 All fixtures used for lighting the display lots shall be **full-cutoff** fixtures.
- 10.1147.12 All lighting installations shall be designed to achieve no greater than the minimal **illuminance** levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).

10.1148 Temporary Outdoor Lighting

- 10.1148.10 Any temporary **outdoor lighting** that conforms to the requirements of this Ordinance shall be allowed. **Nonconforming** temporary **outdoor lighting** may be permitted by the Board of Adjustment after considering:
- (a) the public and/or private benefits that will result from the **temporary lighting**;
 - (b) any annoyance or safety problems that may result from the use of the **temporary lighting**; and
 - (c) the duration of the temporary **nonconforming** lighting.
- 10.1148.20 The applicant shall submit a detailed description of the proposed temporary **nonconforming** lighting to the Board of Adjustment and shall comply with all procedures for special exceptions as stated in Article 2.

10.1149 Prohibitions

The following uses and types of lighting are prohibited:

- 10.1149.10 The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal.
- 10.1149.20 The operation of searchlights except by civil authorities for public safety.
- 10.1149.30 The nighttime use of white or white strobe lighting on communication towers unless written proof of FAA requirement is provided.

Article 12 Signs

| | |
|-----------------|-----------------------------|
| Section 10.1210 | Purpose and Intent |
| Section 10.1220 | General Sign Regulations |
| Section 10.1230 | Sign Districts |
| Section 10.1240 | Permitted Sign Types |
| Section 10.1250 | Sign Dimensional Standards |
| Section 10.1260 | Sign Illumination |
| Section 10.1270 | Additional Sign Regulations |
| Section 10.1280 | Nonconforming Signs |
| Section 10.1290 | Sign Definitions |

Section 10.1210 Purpose and Intent

- 10.1211 The purpose of this Article is to regulate the type, number, location, size and **illumination** of **signs** on private property in order to maintain and enhance the character of the city's commercial districts and residential neighborhoods and to protect the public from hazardous and distracting displays.
- 10.1212 This Article is intended to permit **signs** only as **accessory uses** to a permitted **use** on the same **lot** and not as **principal uses** on a **lot**. When a principal commercial **use** or activity is not open to the public or has been abandoned, all allowed accessory **signs** shall be removed regardless of their content.
- 10.1213 This Article is not intended to regulate the content of **signs** except as follows:
- 10.1213.10 When a **sign** is allowed because it is necessary to identify a **building** address or for safe access to or egress from the **lot**, only that relevant message may be presented.
- 10.1213.20 A **sign** that advertises a product or service not available on the **lot** (an "off-premise **sign**") is not permitted. However, when a **sign** is permitted as accessory to a commercial **use**, the **sign** may contain a noncommercial message instead of a commercial message.

Section 10.1220 General Sign Regulations

10.1221 Sign Permits

- 10.1221.10 No **sign** shall be erected without a **sign** permit issued by the **Code Official** except in accordance with the provisions of this Ordinance or a decision by the Board of Adjustment.
- 10.1221.20 No **sign** permit will be issued for any premises on which there is an outstanding violation of any part of this Ordinance.

- 10.1221.30 In the Historic District, a **sign** that violates any requirement of this Article, including the design standards set forth in Section 10.1274, shall require a Certificate of Appropriateness from the **Historic District Commission (HDC)** under Section 10.630, in addition to the **sign** permit issued by the **Code Official**.
- 10.1221.40 Any **sign** located within a public right of way, including a **projecting sign** that extends over the public right of way, requires City Council approval and license in accordance with Chapter 8 of the municipal code.

10.1222 Signs Not Requiring A Permit

The following **signs** are permitted without a **sign** permit and shall not be included in the calculation for aggregate signage on a **lot**:

- 10.1222.10 **Signs** required, or deemed necessary for the public welfare and safety, by a municipal, state or federal agency, such as traffic control devices.
- 10.1222.20 **Signs** with a **sign area** up to 4 square feet containing only content of a general directive or informational nature such as the following:
- (a) Identifying a **building** address or unit number;
 - (b) Directing or guiding to entrances, exits or parking areas;
 - (c) Identifying handicapped parking, no parking, or loading areas;
 - (d) Identifying or directing to a public service facility or accommodation;
 - (e) Identifying an official inspection station;
 - (f) Notices concerning restrictions on access to private property (e.g., no trespassing, no hunting, etc.).
- 12.1222.21 All such **signs** shall be located so as not to create a traffic safety hazard or to block line of sight from a motor vehicle.
- 12.1222.22 A **freestanding sign** under this provision shall comply with the height standards for freestanding signs in Section 10.1223.33.
- 12.1222.23 A **sign** pertaining to public parking in a private parking lot that has been authorized under a permit from the Department of Public Works is exempt regardless of **sign area**.
- 10.1222.30 One building identification sign per **lot**, composed of either (a) unpainted letters carved into, embedded in or embossed on the material of the **building** wall above the first **story** with a **sign area** up to 12 square feet; or (b) a metal plaque affixed to the **building** wall no more than 5 feet above ground level, with a **sign area** up to 4 square feet. Such signs are typically used to provide historical information about the **building** such as the name of the **building** or the date of its construction.

- 10.1222.40 Miscellaneous **signs** mounted on a wall, window or door at a **building** entrance, provided that (a) there shall be only one group of such **signs** per entrance; (b) each group of such **signs** shall not exceed 4 square feet in area (measured as a single **sign** in accordance with Section 10.1252) and shall be placed within 3 feet of the entrance; (c) no individual **sign** in the sign group shall exceed one square foot in area; and (d) no letter, character, image or graphic shall be more than 2 inches in height. The intent of this provision is to allow for the provision of information that is not intended to be read from more than 3 feet from the **sign**, including but not limited to **restaurant** menus, credit card stickers, hours of operation, owner and contact information, etc.
- 10.1222.50 **Internal signs.**
- 10.1222.60 Illuminated **signs** more than 3 feet behind any window or opening through which they might be visible from private or public right of way.
- 10.1222.70 Flags that are either (a) attached to a building or to a pole projecting no more than 6 feet from a building or (b) mounted on a **flagpole**. These shall be limited in number and size as follows:
- 10.1222.71 Each **lot** may have up to 3 flags (free-standing or attached to a **building**) that are up to 12 sq. ft. in area (per **flag**) in Sign District 1, up to 24 sq. ft. in Sign Districts 2 and 3, and up to 60 sq. ft. in Sign Districts 4, 5 and 6.
- 10.1222.72 In addition to the above, each **dwelling unit** or condominium unit on a **lot** may have up to one **flag** not exceeding 6 sq. ft. in area attached to the **dwelling unit** or condominium unit.
- 10.1222.80 **Signs** on registered motor vehicles that are used in the ordinary conduct of a business, but not including **signs** on vehicles that are parked on, or in view of, a **street** when the vehicle is not actively being used in the conduct of business.
- 10.1222.90 Low wattage or low voltage temporary **decorative lighting** and displays used for holidays, festivals and special events, provided they do not pose a safety or nuisance problem due to **light trespass** or **glare**.

10.1223 Temporary Signs

- 10.1223.10 The following **temporary signs** are allowed without a **sign** permit and shall not be included in the calculation for aggregate signage on a **lot**:
- 10.1223.11 One **temporary sign** placed on a **lot** while the **lot** (or a **dwelling unit** or commercial unit on the **lot**) is being offered for sale or lease by a real estate agent or through advertising in a local newspaper of general circulation, and

for a period of 14 days following the date on which a contract of sale or lease has been executed.

10.1223.12 **Temporary signs** placed on a **lot** that is under active development, to be removed within 14 days after issuance of the first certificate of occupancy.

10.1223.13 **Temporary signs** placed on a **lot** for a period of 120 days prior to, and 14 days after, an election.

10.1223.14 **Temporary signs** with the following square footage or less:

| | |
|-------------------------|------------|
| Sign District 1 or 2 | 6 sq. ft. |
| Sign District 3 | 16 sq. ft. |
| Sign District 4, 5 or 6 | 32 sq. ft. |

10.1223.20 The following **temporary signs** are allowed with the issuance of a **sign** permit:

10.1223.21 One **temporary sign** placed on a **lot** for more than 90 days while the **lot** (or a **dwelling unit** or commercial unit on the **lot**) is being offered for sale or lease.

10.1223.22 **Temporary signs** placed on a **lot** that is under active development for more than 14 days after issuance of the first certificate of occupancy, but not to exceed 60 days after the issuance of said certificate.

10.1223.30 The following provisions apply to all **temporary signs** whether requiring a **sign** permit or allowed without a permit:

10.1223.31 The maximum **sign area** of a **temporary sign** allowed by this section shall be as follows:

| | |
|-------------------------|------------|
| Sign District 1 or 2 | 16 sq. ft. |
| Sign District 3 | 32 sq. ft. |
| Sign District 4, 5 or 6 | 64 sq. ft. |

10.1223.32 The maximum height of a **temporary freestanding sign** shall be as follows:

| | |
|-------------------------|--------|
| Sign District 1, 2 or 3 | 4 ft. |
| Sign District 4, 5 or 6 | 12 ft. |

10.1223.33 A **temporary freestanding sign** shall comply with the required **setback** for the applicable **sign** district as set forth in Section 10.1253.

10.1223.34 A property owner may not accept a fee for posting or maintaining a **temporary sign** allowed by this Section 10.1223, and any **sign** that is posted or maintained in violation of this provision is not authorized.

10.1223.40 Special Event Signs

In addition to other permanent and **temporary signs** allowed by this Article, one **sign** may be placed on a **lot** immediately preceding and during a special event on that **lot**, subject to the following conditions:

10.1223.41 A **sign** permit for the special event **sign** shall be obtained from the **Code Official**. Only one permit for a special event sign shall be issued for a lot in any 3-month period.

10.1223.42 A **lot** may have one special event **sign** for one consecutive 7-day period every 3 months, for a maximum of 4 special event **signs** per year. If a special event **sign** permit is not used in one quarter it shall not be carried over to the next quarter.

10.1223.43 The special event **sign** shall not be limited to size or location, but shall not be placed in such a manner as to create a traffic safety problem.

10.1223.44 The special event **sign** shall be removed at the end of the event.

10.1224 Signs Prohibited in All Districts

The following **signs** are prohibited in all **sign** districts:

10.1224.10 **Animated signs.**

10.1224.20 **Signs** that move or flash, or give the appearance of such motion (for example, by means of traveling lights). Beacons, rotating and flashing lights are prohibited except where such lighting devices are deemed necessary for the public safety and welfare by federal, state or municipal authorities.

10.1224.30 **Banners, pennants** or flags (except as permitted by Section 10.1222.70) which are **signs** under the definition of “**sign**” herein.

10.1224.40 Balloons or other inflated devices displayed more than one day per month.

10.1224.50 **Mobile signs.**

10.1224.60 **Signs** mounted, attached or painted on vehicles, trailers or boats, except as permitted by Section 10.1222.90.

- 10.1224.70 Any **sign** emitting sound.
- 10.1224.80 Any **sign** projected via **illumination** on the exterior of any **structure**, or on or above a surface such as a **driveway**, **sidewalk** or **street**, regardless of the technology used to project the **sign**. This prohibition shall not apply where the **structure** or surface on which the **sign** is projected is within the same **lot** as the **principal use** to which the **sign** is accessory.
- 10.1224.90 Any **sign** advertising a product or service not provided on the **lot** on which the **sign** is located (“off-premise sign”).

10.1225 Maintenance of Signs

- 10.1225.10 All **signs** and **sign structures** shall be properly maintained and kept in a neat and proper state of maintenance and appearance.
- 10.1225.20 Any **sign** of any type and located within any district which is found by the **Code Official** to be in a state of disrepair, illegible or dangerous, shall be repaired or removed.
- 10.1225.30 Upon failure to comply with an order to repair or remove a **sign** within thirty days, the **Code Official** is authorized to cause removal of the **sign** at the expense of the owner of the property on which the **sign** is located.

Section 10.1230 Sign Districts

- 10.1231 The City is hereby divided into sign districts for the purpose of establishing standards for the number, type, size, location and **illumination** of **signs**. These sign districts are **overlay districts**. A property shall be subject to the regulations of both the sign district and the underlying zoning district.

10.1232 Unless otherwise specified by ordinance, the sign districts shall correspond to underlying zoning districts as follows:

| Sign Districts | Underlying Zoning Districts |
|-----------------------|---|
| Sign District 1 | All Rural and Residential Districts Natural Resource Protection |
| Sign District 2 | Mixed Residential Office Mixed Residential Business Waterfront Business Character District 4-L1 Character District 4-L2 |
| Sign District 3 | Character District 4-W Character District 4 Character District 5 |
| Sign District 4 | Business Office Research |
| Sign District 5 | General Business Gateway Neighborhood Mixed Use Corridor Gateway Neighborhood Mixed Use Center |
| Sign District 6 | Industrial Waterfront Industrial Airport Districts |

10.1233 In order to address the characteristics of a specific area or its surroundings, an area may be changed to a different sign district than specified in Section 10.1232 following the same procedures as for a change in the underlying zoning district. (For example, a portion of the General Business district may be changed from Sign District 5 to Sign District 2 in order to protect an **adjacent** neighborhood from excessive light.)

10.1234 Any **sign** not specifically allowed in a sign district is not permitted.

Section 10.1240 Permitted Sign Types

10.1241 The types of **signs** permitted in each **sign** district shall be as set forth in the following table, except as otherwise provided herein.

Table of Permitted Sign Types

| | Sign District | | | | | |
|-------------------------------------|---------------|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| Freestanding sign | N | P | P | P | P | P |
| Wall sign | P | P | P | P | P | P |
| Projecting sign | P | P | P | P | P | P |
| Parapet sign | N | N | N | N | P | P |
| Roof sign | N | N | N | N | P | P |
| Awning sign | N | P | P | P | P | P |
| Marquee sign | N | P | P | P | P | P |
| Canopy sign | N | N | N | P | P | P |
| Changeable or animated signs | | | | | | |
| Animated sign | N | N | N | N | N | N |
| Changeable sign | N | P | P | P | P | P |

P = Permitted N = Prohibited

10.1242 Each side of a **building** facing a **street** may have one **parapet sign** (if permitted by Section 10.1241) or one **wall sign** above the **ground floor**.

10.1243 Only one **freestanding sign** shall be permitted per **lot**, except that a **lot** with more than one driveway may have one **freestanding sign** at the site's primary **driveway** and one smaller **freestanding sign** at each additional **driveway** complying with the area and height standards in Section 10.1251.30.

Section 10.1250 Sign Dimensional Standards

10.1251 Sign Area

10.1251.10 The maximum **aggregate sign area** shall be as follows:

| | Sign District | | | | | |
|--|---------------|-----|-----|-----|-----|-----|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| Per linear foot of building frontage per establishment | 0.5 | 1.0 | 2.0 | 1.5 | 1.5 | 2.0 |

10.1251.20 The maximum **sign area** for individual **signs** shall be as follows:

| | Sign District | | | | | |
|--------------------------|---------------|-----|-----|-----|-----|-----|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| Freestanding sign | n/a | 20 | 20 | 100 | 100 | 150 |
| Wall sign | 4 | 16 | 40 | 200 | 200 | 100 |
| Projecting sign | | | | | | |
| Ground floor use | 2 | 16 | 12 | 16 | 16 | 16 |
| Upper-floor use | n/a | 0 | 8 | 8 | 8 | 8 |
| Parapet sign | n/a | n/a | n/a | n/a | 100 | 150 |
| Roof sign | n/a | n/a | n/a | n/a | 200 | 100 |
| Awning sign | n/a | 16 | 20 | 20 | 20 | 20 |
| Marquee sign | n/a | 16 | 20 | 20 | 20 | 20 |
| Canopy sign | n/a | n/a | n/a | 20 | 20 | 20 |

All dimensions in square feet

n/a = not applicable (sign type not permitted)
n.r = no requirement

10.1251.30 When a **lot** has more than one **freestanding sign**, the **freestanding sign** at the site’s primary **driveway** shall comply with the maximum **sign area** specified in Section 10.1251.20 and the maximum **sign height** specified in Section 10.1253.10; and the **freestanding signs** at other driveways shall comply with the following standards:

| Sign District | On same street as primary driveway | | On different street from primary driveway | |
|---------------|------------------------------------|---------------------|---|---------------------|
| | Maximum Sign Area | Maximum Sign Height | Maximum Sign Area | Maximum Sign Height |
| 2 | 10 sq. ft. | 5 ft. | 10 sq. ft. | 5 ft. |
| 3 | 10 sq. ft. | 5 ft. | 20 sq. ft. | 5 ft. |
| 4 | 20 sq. ft. | 12 ft. | 40 sq. ft. | 12 ft. |
| 5 | 40 sq. ft. | 12 ft. | 75 sq. ft. | 15 ft. |
| 6 | 40 sq. ft. | 12 ft. | 75 sq. ft. | 15 ft. |

10.1251.40 A **sign** projected via **illumination** on the exterior of a **structure**, or on or above a surface such as a **driveway, sidewalk** or **street**, shall comply with the **sign area** requirements for a **wall sign**.

10.1252 Measurement of Sign Area

10.1252.10 **Sign area** shall be measured in one of the following ways, at the applicant’s discretion:

- (a) the area that can be enclosed by one polygon with no more than eight sides; or
- (b) the area that can be enclosed by a circle, oval, triangle or rectangle, or any two such shapes.

10.1252.20 The **sign area** of a **freestanding sign** shall include all structural supports whether or not they contribute through shape, color or otherwise to the **sign**'s message, except as follows:

10.1252.21 The base of a **monument sign**, up to one foot above the ground, shall not be included in the computation of **sign area** provided that such base is not illuminated in any way.



Height of base is less than one foot –
Not included in sign area



Height of base is one foot –
Not included in sign area



Height of base is greater than one foot –
Included in sign area

10.1252.22 The vertical supports of a **pole sign** shall not be included in the computation of **sign area**, provided that (1) the total width of all such supports is less than one-third of the width of the **sign**, and (2) the supports are not illuminated in any way.



Total width of supports is less than 1/3 of the width of the sign –
Not included in sign area



Total width of supports is greater than 1/3 of the width of the sign –
Included in sign area



Width of support is greater than 1/3 of the width of the sign –
Included in sign area



Width of support is approximately 1/3 of the width of the sign

- 10.1252.30 For a **sign** that is painted or engraved on, or otherwise applied directly to, a **building** or other **structure**, the **sign area** shall include any background of a different color, material or appearance from the remainder of the wall or **structure**, and shall include all related text, images and graphics.
- 10.1252.40 The **sign area** of a **canopy sign** shall include all text and symbols, whether or not illuminated, and all illuminated areas; but shall not include non-illuminated areas that are distinguished from the background only by color stripes.
- 10.1252.50 The **sign area** of a **projecting sign** shall not include the area of supporting brackets with no text, images or graphics.
- 10.1252.60 Where a **sign** has two faces that are parallel or where the interior angle formed by the faces is 45 degrees or less, only one display space shall be measured in computing total **sign area**.
- 10.1252.70 The **sign area** of a spherical, free-form, sculptural or otherwise non-planar **sign** shall be equal to 75 percent of the areas of the 4 vertical sides of the smallest rectangular box that will encompass the **sign**.
- 10.1252.80 **Decorative lighting** on a **building** or **structure**, including neon and other **accent lighting**, and any illuminated **building** panel, shall be considered a **wall sign** for the purposes of this section, and shall be counted as part of the aggregate **sign area** allowed.

10.1253 Sign Height and Setback

10.1253.10 The maximum and minimum heights and minimum **setbacks** for **signs** in each sign district shall be as set forth in the following table, except as otherwise provided herein.

Table of Sign Height and Setback Requirements

| | Sign District | | | | | |
|---|---------------|---|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| Projecting sign | | | | | | |
| Minimum clearance (ground to bottom of sign) | 7 | 7 | 7 | 7 | 7 | 7 |
| Freestanding sign | | | | | | |
| Minimum setback from lot line | n/a | 5 | 5 | 20 | 10 | 20 |
| Maximum height (ground to top of sign) | n/a | 7 | 12 | 20 | 20 | 20 |

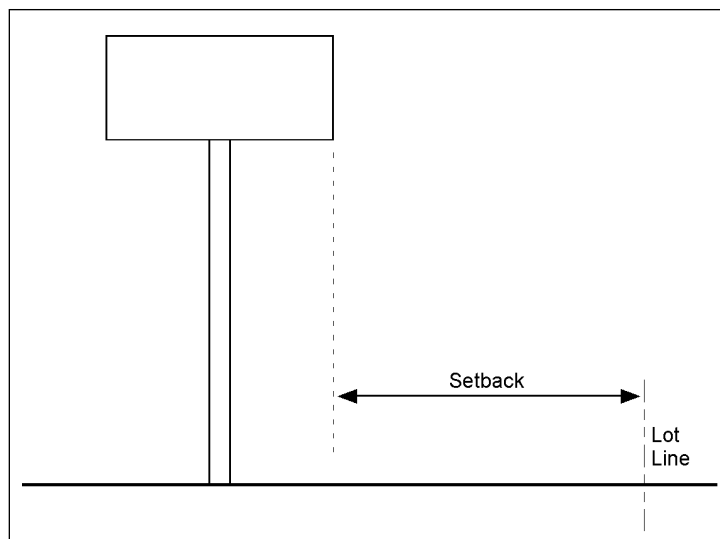
All dimensions in feet

n/a = not applicable

10.1253.20 Where a **driveway** intersects with a **street**, no **sign** shall be erected or maintained between the heights of 2.5 feet and 10 feet above the edge of pavement grades within the area bounded by (a) the side lines of the **driveway** and **street** and (b) lines joining points along said side lines 20 feet from the point of intersection.

10.1253.30 The height of a **freestanding sign** shall be measured with respect to the elevation of the centerline of the **adjacent** public right-of-way.

10.1253.40 The **setback** of a **sign** from a **lot line** shall be measured as the shortest horizontal distance from the **lot line** to the any part of the **sign**, whether or not such part of the **sign** is at ground level.



10.1253.50 A **projecting sign** shall project no closer than 1 foot to the edge of the vehicular travel way, if any.

Section 10.1260 Sign Illumination

10.1261 Types of Illumination

10.1261.10 **Signs** may only be illuminated as set forth in the following table, except as otherwise provided herein.

Table of Sign Illumination Requirements

| | Sign District | | | | | |
|------------------------------|---------------|-----|-----|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| External illumination | N | P | P | P | P | P |
| Halo lettering | N | P | P | P | P | P |
| Internal illumination | | | | | | |
| Freestanding sign | N | P | N | P | P | P |
| Wall sign | N | P | P | P | P | P |
| Projecting sign | N | N | N | N | N | N |
| Parapet sign | n/a | N | N | N | P | P |
| Roof sign | n/a | N | N | N | P | P |
| Awning sign | n/a | N | P | N | P | P |
| Marquee sign | n/a | N | P | N | P | N |
| Canopy sign | n/a | n/a | n/a | P | P | P |
| Direct illumination | N | N | P | P | P | P |

P = Permitted N = Prohibited n/a = not applicable (sign type not permitted)

10.1261.20 **Temporary signs** shall not be illuminated.

10.1261.30 **Signs** in the Historic District shall be illuminated only by **external illumination**, notwithstanding anything to the contrary in Section 10.1261.

10.1262 Hours of Illumination

Signs shall not be illuminated between 11:00 p.m. and 6:00 a.m., except that **signs** may be illuminated during the operation of a **use** or activity that is open to customers or the public, and for not more than one hour after the activity ceases.

10.1263 Illumination Standards

10.1263.10 A light source for **external illumination** of a **sign** shall be mounted and shielded so that said light source is not visible three feet above grade at the **lot line** and so that the lighting is confined to the area of the **sign**.

10.1263.20 A light source for **internal illumination** of a **sign** constructed of translucent materials and wholly illuminated from within shall not require shielding.

- 10.1263.30 A **sign** or its illuminator shall not by reason of its location, shape or color interfere with pedestrian or vehicular traffic or be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.
- 10.1263.40 **Illuminance** of the **sign** face shall not exceed the following standards:
- 10.1263.41 **External illumination:** 50 **foot-candles** as measured on the **sign** face.
- 10.1263.42 **Internal illumination:** 5,000 **nits** (candelas per square meter) during daylight hours, and 500 **nits** between dusk and dawn, as measured at the **sign**'s face.
- 10.1263.43 **Direct illumination:** 5,000 **nits** during daylight hours, and 500 **nits** between dusk and dawn, as measured at the **sign**'s face.
- 10.1263.50 Light sources shall utilize energy efficient fixtures to the greatest extent practicable. Light fixtures including bulbs or tubes used for **sign illumination** shall be selected and positioned to achieve the desired brightness of the **sign** with the minimum possible wattage, while ensuring compliance with all applicable requirements of this Ordinance.
- 10.1263.60 A **sign** using **direct illumination** shall consist only of letters, numbers and other common typographical characters, all of which shall be in no more than three colors against a dark background, and the total illuminated area shall not exceed 30 percent of the total area of the **sign**.

Section 10.1270 Additional Sign Regulations

10.1271 Signs on More Than One Façade of a Building

- 10.1271.10 A **use** in a **building** with more than one exterior wall facing a **street** may have **signs** on each such wall.
- 10.1271.20 An **establishment** with a public entrance on a side of the **building** not facing a **street** may have **signs** on that side as well as on the street-facing wall(s).
- 10.1271.30 Regardless of the location of **signs**, the maximum **sign area** per establishment shall be based only on the **building frontage** as defined in Section 10.1290.

10.1272 Roof Signs

- 10.1272.10 A **roof sign** shall be parallel to the main **façade** of the **building** on which it is mounted,

10.1272.20 A **roof sign** on a pitched, hip, gambrel or **mansard roof** shall not extend above the elevation midway between the level of the eaves and the highest point of the roof. A **roof sign** is not permitted on a **flat roof**.

10.1272.30 The maximum height of a **roof sign** shall not exceed the lesser of 36 inches or 25% of the vertical height of the roof.

10.1273 Marquee Signs

10.1273.10 All text, images and other graphics on a **marquee sign** shall be displayed on the outside vertical faces of the **marquee**, and shall be no more than 1.5 feet tall.

10.1273.20 The **sign area** of a **marquee sign** shall be included in the maximum **aggregate sign area** allowed for the **lot**.

10.1274 Relation of Sign to Building Façade in the Historic District

In the Historic District, a **wall sign** or **projecting sign** should align with some horizontal element on the **façade**. For example, the top of the **sign** may align with the top of the window, the bottom of the **sign** may align with the bottom of the window, the bottom of **sign** may align with the top of the lintel, etc.

10.1275 Interim Signs

An interim **sign** may be erected while awaiting arrival of a permanent **sign** for which a **sign** permit has been issued. -The interim **sign** shall conform to the same dimensional and other requirements as the approved permanent **sign** and shall be allowed only until the permanent **sign** is installed or for 60 days, whichever is the shorter period of time. A **sign** permit for an interim **sign** must be obtained from the **Code Official**.

Section 10.1280 Nonconforming Signs

10.1281 A **nonconforming sign** or **sign structure** shall be brought into conformity with this Ordinance if it is altered, reconstructed, replaced, or relocated. For the purpose of this provision, the alteration of a **sign** or **sign structure** includes any change in size, shape, materials or technology. A change in text or graphics is not an **alteration** or replacement for purposes of this subsection.

10.1282 **Nonconforming signs** must be maintained in good condition. Maintenance required by this Subsection shall include replacing or repairing of worn or damaged parts of a **sign** or **sign structure** in order to return it to its original state, and is not a change or modification prohibited by Subsection 10.1281.

10.1283 A **nonconforming sign** shall be removed, made conforming, or replaced with a conforming **sign** if 50 percent or more of the **nonconforming sign**

is blown down, destroyed, or for any reason or by any means taken down, altered, or removed.

- 10.1284 A **nonconforming sign** shall be removed if the use of the **nonconforming sign**, or the property on which it is located, has ceased, become vacant, or been unoccupied for a continuous period of 8 months or more. An intent to abandon is not required as the basis for removal under this section.

Section 10.1290 Sign Definitions

Aggregate sign area

See under **sign area**.

Animated sign

A **sign** that uses movement or a change of lighting to depict action or create a special effect or scene. See also **changeable sign**.

Awning

A cloth, plastic or other nonstructural covering that either is permanently attached to a **building** or can be raised or retracted to a position against the **building** when not in use.

Awning sign

A **sign** that is painted on or otherwise applied or attached to an **awning**. An **internally illuminated** awning shall be considered an **awning sign** whether or not it contains any text or graphics.

Banner sign or **banner**

A **sign** that consists of text or other graphic elements on a non-rigid material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere. See also **temporary sign**.

Building frontage

The maximum horizontal width of the **ground floor** of a **building** that approximately parallels and faces a public **street** or right of way.

- (a) Where an individual occupant's main entrance faces a **driveway** or **parking lot**, the width of the occupant's **ground floor** space facing the occupant's entrance shall be considered that occupant's separate and distinct **building frontage**.
- (b) Where two or more **uses** occupy the **ground floor** of a **building**, the portion of the **building frontage** occupied by each **use** will be that **use**'s separate and distinct **building frontage** for the purpose of calculating allowed **sign area**.
- (c) A **corner lot** or **through lot** shall be considered to have a separate and distinct **building frontage** on each **street**.
- (d) When a **building** is not parallel to the **street**, or has a front wall that is angled or curved, the **building frontage** shall include any portion of the front wall that is oriented at an angle of 30 degrees or less from the **front lot line**.

Canopy

A freestanding **structure** constructed of rigid materials, providing protective cover over an outside service area.

Canopy sign

A **sign** attached to, affixed to or otherwise mounted on a **canopy**.

Changeable sign

A **sign** or portion thereof with characters, letters or symbols that can be changed, whether electronically or manually without altering the face or surface of the **sign**. A **sign** on which the message changes more than once per day shall be regulated as an **animated sign**. A **sign** on which the only changes are mechanical or electronic indication of time or temperature is not considered a **changeable** or **animated sign**.

Direct illumination

Illumination of a **sign** by light emitted directly from a **lamp**, luminary or reflector, and not diffused through translucent materials or reflected or projected from an external source. Examples include, but are not limited to, **signs** using luminous gas-filled tubes (e.g., neon) or light-emitting diodes (LED). (See also **external illumination, externally illuminated sign, internal illumination, internally illuminated sign.**)

External illumination

Illumination of a **sign** by a source of light not contained within, or on the surface of, the **sign** itself. (See also **direct illumination, externally illuminated sign, internal illumination, internally illuminated sign.**)

Externally illuminated sign

A **sign** that is illuminated by a light source that is not contained within, or on the surface of, the **sign** itself

Flag

A piece of durable fabric or other flexible material containing distinctive colors, patterns, standards, words, or emblems which hangs loose from a staff or pole or is attached directly to a **building**.

Flagpole

A permanent, free-standing **structure** or a **structure** attached to a **building** and used for the sole purpose of displaying **flags**. A free-standing **flagpole** shall not exceed the maximum **building height** allowed in the zoning district in which it is located.

Freestanding sign

A **sign** that is permanently erected in a fixed location and supported by 1 or more columns, upright poles or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the **sign** is attached to any part of a **building, structure, or other sign**. Examples include, but are not limited to, **monument signs** and **pole signs**.

Halo lettering.

An **externally illuminated sign** in which light sources are placed out of direct view behind opaque **sign** elements (letters or graphics), creating a glow around the sign elements.

Halo Lettering

**Internal sign**

A **sign** that is not intended to be viewed from outside the property, and that is located so as not to be visible from any **street** or from any **adjacent lot**. Examples include, but are not limited to, **signs** in the interior areas of **shopping centers**, non-illuminated **signs** inside a **building** and more than 3 feet inside any window or door, and **signs** located completely within a **building** and not visible from outside the **building**.

Internal illumination

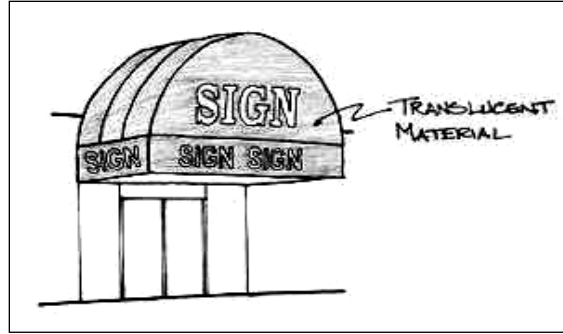
Illumination of a **sign** by light that is diffused through a translucent material from a source within the **sign**. (See also **direct illumination**, **external illumination**, **externally illuminated sign**, **internally illuminated sign**.)

Internally illuminated sign

A **sign** that is illuminated by light from a source within the **sign** through a translucent material. (See also **direct illumination**, **external illumination**, **externally illuminated sign**, **internal illumination**, **halo lettering**.)

Examples of **internally illuminated signs** include:

- (a) **Internally illuminated translucent sign**, which may have opaque surfaces with translucent letters or translucent surfaces with opaque letters. An opaque surface with translucent letters is preferred to a translucent surface with opaque lettering.
- (b) **Internally illuminated awning signs**.



(c) **Internally illuminated** channel letters.



Marquee

A **structure** other than a roof that is attached to, supported by and projecting from a **building**, and that provides shelter for pedestrians.

Marquee sign

A **wall sign** that is mounted on or attached to a **marquee**.

Mobile sign

A **sign** on a trailer or other wheeled apparatus, whether or not self-propelled, that is not permanently affixed to the ground. (See also: **temporary sign**.)

Monument sign

A **freestanding sign** constructed of a solid material and mounted on a solid base that is placed directly on the ground.

Nit

A unit of luminance, equal to one candela per square meter.

Parapet

An extension of a vertical **building** wall above the line of the structural roof.

Parapet sign

A **wall sign** attached to the face of a **parapet**.

Pennant sign or **pennant**

See **banner sign**.

Parapet sign

A **sign** attached to a **parapet wall**, with its face parallel to the plane of the **parapet wall** and extending no more than 18 inches from such wall.

Pole sign

A **freestanding sign** that is permanently supported in a fixed location by a **structure** of poles, uprights or braces from the ground and not supported by a **building** or base **structure**.

Projecting sign

A **sign** attached to and projecting from the wall of a **building** with the face of the **sign** at an interior angle of more than 45 degrees to the **building** wall to which it is attached.

Roof sign

A **sign** that is located:

- (a) above the level of the eaves on pitched or gambrel roofs;
- (b) above the roof deck of a **building** with a flat roof; or
- (c) above the top of the vertical wall of a **building** with a **mansard roof**.

Sign

Any symbol, design or device used to identify or advertise any place, business, product, activity, service, **person**, idea or statement. Any representation that is illuminated and consisting wholly or in part, of text, images or graphics shall be considered a **sign**. **Signs** need not include text, and may consist of stripes, spots, or other recognizable designs, shapes or colors. Displays comprising of merchandise, figurines, mannequins, decorations and other similar articles, arranged inside a **building** and visible outside of a window, shall not be considered a **sign**.

Sign area

The total surface area of a **sign** display, including all text, images and graphics, and any distinctive surface, board, frame or shape on or within which the text, images and graphics are displayed. For a double-sided **sign**, the area shall be calculated to be the total surface area of one side of the **sign**.

Aggregate sign area

The total **sign area** of all **signs** on a **lot** or **building**, as indicated by the context, excluding the area of **freestanding signs** allowed by Article 12.

Sign band

A painted stripe or otherwise distinct scheme which indicates the **establishment's** logo by use of certain colors or patterns.

Temporary sign

A **sign**, other than a **mobile sign**, that is not permanently affixed to a **building** or **structure** or permanently mounted in the ground. (See also **mobile sign**.)

Wall sign

A **sign** attached to, erected against or hanging from the wall of a **building**, with the face in a parallel plane to the plane of the **building** wall, and extending no more than 18 inches from such wall. A **wall sign** may also be inside of a **building** if it is illuminated and visible through the window from a private of public right of way.

Article 13 Performance Standards

- Section 10.1310 Applicability
- Section 10.1320 Drainage
- Section 10.1330 Noise and Vibration

Section 10.1310 Applicability

- 10.1311 All **uses** hereafter established in all districts, with the exception of the Municipal district, shall comply with the performance standards of this Article. Violations of these standards in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort or welfare is hereby declared to be a public nuisance and shall be unlawful.
- 10.1312 No **use** already established on the date this Article is adopted or amended shall be altered or modified so as to violate these performance standards.
- 10.1313 A **lawful nonconforming use** that complies with applicable performance standards shall continue to so comply. A **lawful nonconforming use** that does not comply with an applicable performance standard shall not be varied or changed in such a way as to increase the degree of such violation.

Section 10.1320 Drainage

No **person** shall perform any act or **use** of land in a manner which would cause substantial or avoidable erosion, create a nuisance, or alter existing patterns of natural water flow onto any **adjacent** property.

Section 10.1330 Noise and Vibration

10.1331 General

- 10.1331.10 Excessive noise at unreasonable hours shall be controlled so as not to be objectionable due to intermittence, beat frequency, shrillness, vibration, or volume.
- 10.1331.20 No inherent and recurrently generated vibration shall be allowed to create a nuisance or hazard that is perceptible, without the use of instruments, at the property line.

10.1332 Noise Limits

- 10.1332.10 The maximum permissible sound pressure level of any activity regulated by this Ordinance shall be established by the time period and type of zoning district listed below. Sound pressure levels shall be measured at all major **lot lines**, at a height of at least 4 feet above the ground surface, but not greater than 4 feet above the floor surface of the upper most level of the **building**.

10.1332.20 Sound from any source controlled by this Ordinance shall not exceed the following sound pressure levels at the **lot line** of the “sender” premises.

| Districts | 7 AM to 9 PM | 9 PM to 7 AM |
|---|-----------------|-----------------|
| Industrial and Waterfront Industrial Districts | 65 dBA* | 60 dBA |
| All Airport Districts, except civil aviation uses (Section 10.450, use A3) | 65 dBA* | 60 dBA |
| All Business and Office Research Districts | 60 dBA* | 50 dBA |
| All Mixed Residential Districts | 55 dBA | 45 dBA |
| All Residential Districts | 55 dBA | 45 dBA |
| All other Districts | 55 dBA | 45 dBA |

* 55 dBA on Saturday and Sunday.

10.1332.30 For civil aviation uses (Section 10.450, use A3) in the **Airport** districts only, the following standards shall replace those in 10.1332.20:

| | 6 AM to 11 PM | 11 PM to 6 AM |
|---|------------------|------------------|
| Civil aviation (Section 10.450, use A3) | 65 dBA* | 60 dBA |

* 55 dBA on Saturday and Sunday.

10.1332.40 Where the emitting and receiving premises are in different districts, the limits in 10.1332.20 governing the stricter district shall apply to any regulated noise entering that district.

10.1332.50 Construction activities pursuant to an active **building permit** shall be subject to the maximum permissible sound level specified for Industrial districts in place of any lower level specified in Section 10.1332.20. For construction activities on a **lot** in a Residential district or **adjacent** to a residential **use** this provision shall only apply between 7 AM and 6 PM on weekdays (i.e., in such locations the standards in Section 10.1332.20 shall govern on weekends and between 6 PM and 7 AM on weekdays).

10.1332.60 Noise shall be measured with a sound meter meeting the standards of the American National Standards Institute (ANSI S1.4-1983 *American Standard Specification for General Purpose Sound Level Meters*). The instrument shall be set to the A-weighted response scale and the meter to the slow response. Measurements shall be conducted in accordance with

ANSI S 12.31 and S 12.32 *American Standard Meter for the Physical Measurement of Sound.*

10.1333 Exemptions

The following **uses** and activities shall be exempt from the sound pressure level regulations:

1. Home maintenance activities (i.e., mowing lawns, cutting one's own firewood, etc.) between the hours of 7:00 AM and 9:00 PM;
2. Timber harvesting (felling trees and removing logs from the woods);
3. Noises created by construction and maintenance activities between 7:00 AM and 9:00 PM Monday through Friday in all Business, Industrial, and Airport districts (including all subdistricts).
4. Noises created by construction and maintenance activities between 7:00 AM and 9:00 PM in all other districts;
5. The noises of safety signals, warning devices and emergency pressure relief valves and any other public emergency activity;
6. Traffic noise on existing public **streets**, railways or river traffic;
7. Legal preexisting **uses** between the hours of 7:00 AM and 9:00 PM;
8. Occasional outdoor gatherings, **street** sales, public dances, shows, sporting events and entertainment events, provided that these are regulated pursuant to this Ordinance or by permit or by license by the City; and
9. Public events as authorized by the City Council, School Board, Police Commission, Fire Commission, Prescott Park Trustees and other such **Boards** who in the conduct of their activities represent the City.
10. Emergency power generating equipment that is used in situations where the usual power source is no longer available due to some unanticipated situation and whose unavailability is temporary (supplemental power sources are not considered to be an emergency power source).

10.1334 Enforcement

These noise regulations are enforceable by law enforcement officers and by the **Code Official** (who may measure noise levels, and who shall report documented violations to the police). For the purposes of enforcement, sound exceeding the above limits shall be deemed to constitute "Unreasonable Noise" under the City Noise Ordinance.

Article 14 Impact Fees

| | |
|-----------------|-----------------------------------|
| Section 10.1410 | Purpose |
| Section 10.1420 | General |
| Section 10.1430 | Amount of Impact Fee |
| Section 10.1440 | Accounting |
| Section 10.1450 | Assessment and Payment |
| Section 10.1460 | Refund |
| Section 10.1470 | Appeals |
| Section 10.1480 | Relationship to Other Regulations |

Section 10.1410 Purpose

The purpose of this Article is to authorize the assessment of **impact fees** as a condition of subdivision or site plan approval, in order to help meet the needs occasioned by a **development** for the construction or improvement of capital facilities owned or operated by the City.

Section 10.1420 General

The Planning Board may, as a condition of approval of any Site Plan or Subdivision, and when consistent with regulations adopted by the **Board**, require an applicant to pay an **impact fee** for the applicant's fair share of off-site improvements to public facilities affected by the **development**, in accordance with state law.

Section 10.1430 Amount of Impact Fee

The amount of any **impact fee** shall be calculated by the Planning Board to be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the **development**, and to the benefits accruing to the **development** from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructure, the need for which is not created by new **development**, shall not be paid for by **impact fees**.

Section 10.1440 Accounting

Any **impact fee** shall be held in a separate, non-lapsing account, shall be segregated from the City's general fund, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet. Such fees shall be paid out only upon order of the Planning Board or its designated agent.

Section 10.1450 Assessment and Payment

An **impact fee** imposed under this section shall be assessed prior to, or as a condition for, final subdivision or site plan approval, and shall be collected prior to the issuance of any **building permit**, or at such other time as specified by the Planning Board in its decision. In the interim between assessment and collection, the Planning Board may

require a developer to provide a bond, letter of credit or other suitable security so as to guarantee future payment of assessed **impact fee**.

Section 10.1460 Refund

Any portion of an **impact fee** which has not become encumbered, or otherwise legally bound to be spent for the purpose for which it was collected, shall be refunded, with accrued interest:

- (a) When the subdivision or site plan approval expires under the respective rules of the Planning Board, or under the terms of a decision, without having become vested under state law, and without any extension being granted by the Planning Board; or
- (b) When such approval is revoked in accordance with state law; or
- (c) Six years after its collection, or if any extension of approval is granted by the Planning Board, six years after such extension is granted.

Section 10.1470 Appeals

The assessment of any **impact fee** by the Planning Board under the authority of this section may be appealed to the superior court as provided by State law. Notwithstanding Section 10.230 of this Ordinance, the **Board** of Adjustment shall not have authority to hear appeals of, or grant variances from, such an assessment.

Section 10.1480 Relationship to Other Regulations

- 10.1481 The provisions of this Article 14 shall not be construed to limit the authority of the Planning Board to require the developer to pay an exaction for the cost of off-site improvements determined by the Planning Board to be necessary for the occupation of any portion of the **development**; or, as an alternative to paying such an exaction, to construct the necessary improvements subject to bonding and timing conditions as required by the Planning Board.
- 10.1482 The provisions of this Article 14 shall not be construed to limit the authority of the Planning Board to impose other conditions of approval.
- 10.1483 The provisions of this Article 14 shall not be construed to limit the authority of the Planning Board to disapprove a proposed **development** which is scattered and premature, or which would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations.
- 10.1484 The provisions of this Article 14 shall not be construed to affect types of fees governed by other statutes, City ordinances or regulations.

Article 15 Definitions

- Section 10.1510 Rules of Construction
- Section 10.1520 Terms With Specialized Applications
- Section 10.1530 Terms of General Applicability

Section 10.1510 Rules of Construction

- 10.1511 Unless otherwise expressly stated, the following words and terms shall have the meanings shown in this Article.
- 10.1512 When a term is defined both in this Article 15 and in another Article of this Ordinance, the definition in the other Article shall supersede the definition in Article 15. Examples include the definitions relating to Sexually-Oriented Businesses and Telecommunications Facilities in Article 5, and to the Floodplain District and Airport Approach Overlay District in Article 6.
- 10.1513 Where terms are not defined in this Ordinance and are defined in the **Building Code**, such terms shall have the meanings ascribed to them therein.
- 10.1514 Where terms are not defined in this Ordinance or in the **Building Code**, such terms shall have ordinarily accepted meanings such as the context implies.

Section 10.1520 Terms With Specialized Applications

- 10.1521 Terms that are used primarily in Section 10.620, Floodplain District, are defined in Section 10.622, including:

| | |
|--|--|
| Area of special flood hazard area | Flood proofing |
| Base flood | Floodway |
| Base flood elevation (BFE) | Highest adjacent grade |
| Basement | Historic structure |
| Building * | Lowest floor |
| Development | Manufactured home |
| Extended flood hazard area | Manufactured home park or subdivision |
| FEMA | Mean sea level |
| FIRM | New construction |
| Flood insurance rate map | Regulatory floodway |
| Flood insurance study | Recreational vehicle |
| Flood or flooding | Special flood hazard area |
| Floodplain | Start of construction |
| Flood-prone area | Structure * |
| | Substantial damage |
| | Substantial improvement * |
| | Violation |
| | Water surface elevation |

* These terms are defined differently for Section 10.622 than for other sections of this Ordinance.

10.1522 Terms that are used primarily in Section 10.920, Wireless Telecommunications Facilities, are defined in Section 10.922, including:

- Antenna**
- Co-location**
- Provider or carrier**
- Wireless telecommunications facility**
- Wireless telecommunications facility, camouflaged**
- Wireless telecommunications facility, concealed**
- Wireless telecommunications facility, free-standing**

10.1523 Terms that are used primarily in Section 10.930, Sexually-Oriented Businesses, are defined in Section 10.933, including:

- | | |
|----------------------------------|------------------------------------|
| Adult arcade | Permittee or Licensee |
| Adult bookstore | Semi-nude |
| or Adult video store | Sexual encounter center |
| Adult cabaret | Sexually oriented business |
| Adult theater | Specified anatomical areas |
| Establishment | Specified sexual activities |
| Nudity or state of nudity | Substantial enlargement |

10.1524 Terms that are used primarily in Article 12, Signs, are defined in Section 10.1290, including:

- | | |
|------------------------------------|--------------------------------|
| Animated sign | Marquee |
| Awning sign | Marquee sign |
| Banner sign or banner | Monument sign |
| Canopy sign | New business sign |
| Changeable sign | Pennant sign or pennant |
| Direct illumination | Pole sign |
| Directional sign | Projecting sign |
| Directory sign | Roof sign |
| External illumination | Sign |
| Externally illuminated sign | Sign area |
| Freestanding sign | Sign band |
| Halo sign | Special event sign |
| Hanging sign | Temporary mobile sign |
| Informational sign | Temporary sign |
| Internal illumination | Window sign |
| Internally illuminated sign | |

10.1525 Terms that are used primarily in Article 5A, Character Districts, are defined in Sections 10.5A43.10, 10.5A43.70, 10.5A45.10 and 10.5A60, including:

Section 10.5A43.10 – Façade Types

| | |
|-----------------------|-----------------|
| Forecourt | Stoop |
| Officefront | Dooryard |
| Porch | Terrace |
| Recessed entry | Gallery |
| Shopfront | Arcade |
| Step | |

Section 10.5A43.70 – Building Types

| | |
|----------------------------------|--|
| House | Cottage |
| Duplex | Paired House |
| Rowhouse | Gateway Townhouse |
| Apartment building | Mixed Use Building |
| Live/work building | Small Flex Space/Fabrication Building |
| Small commercial building | |
| Large commercial building | Community Building |

Section 10.5A46.10 – Community Spaces

| | |
|-------------------------|----------------------------------|
| Greenway | Square |
| Park | Recreation Field or Court |
| Pedestrian Alley | Common or Green |
| Playground | Community Garden |
| Plaza | Outdoor Dining Café |
| Pocket Park | Courtyard |

Section 10.5A60 – Definitions

| | |
|-------------------------|--------------------------------|
| Backbuilding | Front lot line buildout |
| Block | Liner building |
| Community space | Outbuilding |
| Entrance spacing | Path |
| Façade | Regulating Plan |
| Façade glazing | Streetscreen |

Section 10.1530 Terms of General Applicability

A

Accessory building or structure

A subordinate **building** located on the same **lot** with the principal **building**, occupied by or devoted to an **accessory use**. Where an **accessory building** is attached to the main **building** in a substantial manner, as by a wall or roof, such **accessory building** shall be considered part of the main **building**. For the purpose of this Ordinance, a **detached accessory dwelling unit** that is not created within an existing accessory building is not an **accessory building or structure**.

Accessory dwelling unit (ADU)

An attached or detached **dwelling unit** that is constructed on the same **lot** as a **single-family dwelling** and complies with the standards for **accessory dwelling units** set forth in this Ordinance.

Attached accessory dwelling unit (AADU)

An **accessory dwelling unit** that is constructed within or attached to a **single-family dwelling**. For the purpose of this definition, “attached” means:

- (a) located within the **dwelling** and separated from the **principal dwelling unit** either horizontally or vertically, or
- (b) sharing a common wall for at least 25 percent of the length of the side of the **single-family dwelling**.

“Attached” does not include connection to the **single-family dwelling** solely by an unenclosed **structure** (such as a breezeway) or by an enclosed but unconditioned space.

Detached accessory dwelling unit (DADU)

An **accessory dwelling unit** that is constructed within a detached **building** on a **lot** containing one **single-family dwelling**. A **detached accessory dwelling unit** may be connected to the **single-family dwelling** by an unenclosed **structure** (such as a breezeway) or by an unconditioned space.

Accessory use

A **use** that is incidental and subordinate to the **principal use** and located on the same **lot** with such **principal use or building**.

Accessway

A privately owned roadway, **sidewalk** or passageway, whether improved or unimproved, utilized as a principal or accessory means of ingress or egress in connection with any **use**. An **accessway** shall be classified in the same manner as the **use** it serves. If an **accessway** serves more than one **use**, the **accessway** shall be deemed to serve the more intensive **use** and shall be classified accordingly.

Active Use Area

The land area within 35 feet of a **dwelling unit**, or other **principal use**, on the sides closest to the highway where patios, children’s play areas, and outdoor activities are common.

Adjacent

Touching or sharing a common **lot line**, or separated from a **lot line** by a **street**, right-of-way, alley or easement.

Affordable

Housing with combined rental and utility costs or combined mortgage loan debt service, property taxes, and required insurance that do not exceed 30% of a household’s gross annual income.

Affordable unit

A **dwelling unit** that is restricted for sale, lease or rental to households within specific income ranges and available at prices **affordable** to households within such income ranges.

Age-restricted housing

A residential **development** consisting of independent **dwelling units** restricted to occupancy by **persons** at least 55 years old, which may contain limited social or recreational facilities or services for the residents but which do not include centralized dining and on-site medical services. (See also: **assisted living facility; congregate care facility; continuing care retirement community**.)

Airport

An airstrip/landing strip where aircraft can land and take off and which is usually equipped with hangers, facilities for refueling and repair, accommodations for passengers, freight, etc.

Alteration

Any change, addition or modification in construction, **use** or occupancy of an existing **structure**.

Amusement Park

A commercially operated enterprise that offers rides, games, and other forms of amusement. (See also: **water park, theme park**.)

Area median family income

The median family income for the Portsmouth-Rochester NH HUD Metro Fair Market Rent Area (HMFA) published by the U.S. Department of Housing and Urban Development, as updated yearly and adjusted for family size.

Assisted living facility

A **building** or group of **buildings** providing housing and supportive services and care for **persons** who require assistance with daily living activities but do not require the skilled nursing and medical care provided in a **nursing home** or other **residential care facility**. Such supportive services include the provision of meals, housekeeping, laundry, transportation, daily personal care, dispensing of medications and 24 hours per day staffing. An **assisted living facility** includes one or more community dining rooms in which meals are provided to all residents, and each individual **assisted living unit** may also have a kitchenette. Other than any accommodations provided for **use** by the facility's staff, only **assisted living units** are permitted as part of an **assisted living facility**. (See also: **age-restricted housing, congregate care facility, continuing care retirement community, residential care facility**.)

Assisted living center

An **assisted living facility** that provides resident rooms or residential units to six or more residents.

Assisted living home

An **assisted living facility** that provides resident rooms to five or fewer residents

Assisted living unit

A unit in an **assisted living facility** or **continuing care retirement community (CCRC)** that provides housing and support services for one or more **persons** who may require assistance with daily living activities but do not require 24-hour skilled nursing and medical care. Such supportive services may include the provision of meals, housekeeping, laundry, transportation, daily personal care, programmed social activities, dispensing of medications and around the clock staffing. (See also: **independent living unit**.)

Attic

The interior part of a **building** contained within a gable, gambrel, or hip-roof **mansard roof**, or within a **penthouse** on a flat roof.

Average existing grade

For all buildings located outside the **urban districts**, the **average existing grade** shall be the average ground levels adjoining the **building** at all exterior walls measured every five feet around the perimeter of the **building**. For all **buildings** located inside the **urban districts**, the **average existing grade** shall be the average existing ground level measured every five feet along the street-facing **façade** of all **lot lines** adjoining a public place. (See also: **building height**.)

Average finished grade

For all buildings located outside the **urban districts** the **average finished grade** shall be the average ground levels adjoining the **building** at all exterior walls measured every five feet around the perimeter of the **building**. For all **buildings** located inside the **urban districts**, the **average finished grade** shall be the average finished ground level measured every five feet along street-facing **façade** of all **lot lines** adjoining a **public place**. (See also: **building height**).

B

Bank

See **financial institution**.

Bar

See **drinking establishment**.

Base residential density

The number of **dwelling units** which could be constructed on a parcel by means of a conventional **development** plan, calculated as set forth in Section 10.723.

Bed and breakfast

The provision of short-term lodging and breakfast within an owner-occupied **dwelling**. The capacity of the dining facilities shall accommodate no more than 25 **persons**. (See also: **hotel, motel, inn**.)

Bed and Breakfast 1

A **bed and breakfast** with between 1 and 5 guest rooms.

Bed and Breakfast 2

A **bed and breakfast** with between 6 and 10 guest rooms.

Best management practice (BMP)

A practice or combination of practices that is determined to be the most technologically and economically feasible means of preventing or minimizing potential adverse impacts to natural and cultural resources. **BMPs** include structural and nonstructural controls and operation and maintenance procedures.

With respect to **wetlands** management, **BMPs** are practices to minimize disturbances and impact to the **wetland** resulting from activities that alter the natural character of the **wetland**.

Board

The Planning Board or the Zoning Board of Adjustment of the City of Portsmouth, New Hampshire. If not clear based on the context, the term shall refer to the Zoning Board of Adjustment.

Boarding house

A residential **structure**, other than a **bed and breakfast**, in which rooms are rented, leased or otherwise made available for compensation to more than two but not more than 10 individuals, and where such rooms do not contain separate cooking or bathroom facilities.

Building

Any **structure** having a roof supported by columns or walls and intended for the shelter, housing or enclosure of **persons**, animals or chattel. Each portion of a **building** separated either horizontally or vertically from other portions by a fire wall shall be considered as a separate **structure**. (See also: **structure**.)

Building block length

Measured along a **street**, public way, or public greenway, the **building block length** shall be the total length of a continuous **building** façade regardless of fire separation, common walls, or property lines. Individual **building** blocks shall be separated by **open space** or **community space** areas of at least 15 feet in width.

Building Code

The **International Building Code** and/or the **International Residential Code**, as applicable to the particular **structure** type.

International Building Code (IBC)

The **International Building Code**, published by the International Code Council, Inc., as adopted with amendments, additions and deletions as Chapter 12, Part I, of the Ordinances of the City of Portsmouth, and as amended from time to time by the City.

International Residential Code (IRC)

The **International Residential Code**, published by the International Code Council, Inc., as adopted with amendments, additions and deletions as Chapter 12, Part II, of the Ordinances of the City of Portsmouth, and as amended from time to time by the City.

Building coverage

The aggregate horizontal area or percentage (depending on context) of a **lot** or **development site** covered by all **buildings** and **structures** on the **lot**, excluding

- (a) gutters, **cornices** and eaves projecting not more than 30 inches from a vertical wall, and
- (b) **structures** less than 18 inches above ground level (such as decks and patios);
- (c) balconies, bay windows or awnings projecting not more than 2 feet from a vertical wall, not exceeding 4 feet in width, and cumulatively not exceeding 50% of the width of the **building** face;
- (d) fences; and
- (e) mechanical system (i.e. HVAC, power generator, etc.) that is less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet.

Building footprint

The total area of a **building** at or above 18 inches in elevation as measured from the outside walls at the **grade plane** of a detached **building**, or of two or more **buildings** separated only by fire walls, common walls or property lines.

Uncovered **community space** located immediately above a **building's story** below the **grade plane** shall not constitute **building footprint**, provided it is not more than 10 feet above the adjacent **street** grade.

Building height

The greatest vertical measurement between the lower and upper reference points as defined below. This measurement shall be the **building height** for the purposes of the Ordinance.

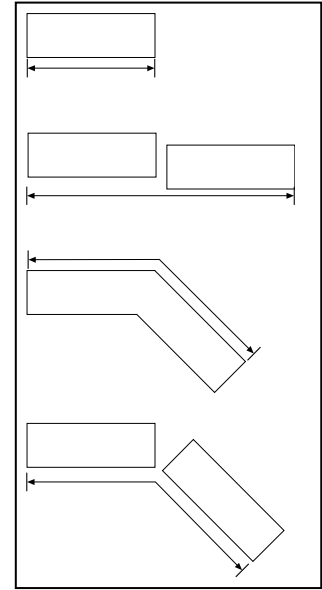
- (a) For buildings located outside the **urban districts**, the lower reference point shall be the **average existing grade** or **average finished grade**, whichever is lower, measured along the perimeter of the entire **building**. For **buildings** located inside the **urban districts** the lower perimeter of the reference point shall be established from the **average existing grade** or **average finished grade**, whichever is lower, along street-facing **façade** of all **lot** lines adjoining a **public place**. In the case of a **corner lot, through lot** or waterfront **lot** the provisions of Section 5A.21.21 shall apply. The vertical distance between the lower and upper reference points shall not exceed the maximum number of stories or **building height**.
- (b) The upper reference point shall be any of the following:
 - (1) For a flat or **flat-topped mansard roof**, the highest point of the roof surface;
 - (2) For a gambrel, hip, **hip-topped mansard roof**, or **penthouse**, the elevation midway between the level of the eaves, or floor in the case of a **penthouse**, and highest point of the roof. For this purpose, the "level of the eaves" shall mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves, but at no time shall this level be lower than the floor level of the uppermost **story** or **attic**
- (c) A **parapet wall**, fence, railing, decorative **cornice**, or similar **structure** that extends more than four feet above the roof surface shall be included in the determination of the **building height**, but shall not be included if it does not extend more than four feet above the roof surface. (See also: **average existing grade** and **average finished grade, parapet wall, mansard roof, penthouse** and **urban districts**)

(See also: **grade plane, parapet wall.**)

Building length

The longest horizontal dimension of a **building**, as measured in a single straight direction parallel to an elevation of the **building**, except as follows:

- (a) Where **buildings** on the same site are separated by a distance of less than 10 feet, the **building length** shall be the total of the **building lengths** of each individual **building**, including the distance between them.
- (b) Where the interior angle between two elevations of a **building**, or between the elevations of two **buildings** separated by less than 10 feet, is 135 degrees or more, the **building length** shall be the total of the **building lengths** measured individually.



Building permit

A permit issued by a **code official** indicating that a proposed construction, **alteration** or reconstruction of a **structure** complies with the **Building Code**, and that a proposed **use, building or structure** is accordance with the Zoning Ordinance; and authorizing an applicant to proceed with said **use, building or structure**.

Bypass lane

A circulation lane to permit vehicles to circulate around a **drive-through facility** without conflicting with access to transaction windows or devices.

C

Call center

A centralized **office** used for the purpose of receiving and transmitting a large volume of telephone calls, such as incoming product support or information inquiries from consumers, or outgoing calls for telemarketing or debt collection. A **call center** does not include use of a facility for less than 6 months in a two-year period for a political campaign.

Car wash

An **establishment** for washing and waxing private automobiles, **light trucks** and vans including auto detailing services.

Caretaker residence

A **dwelling unit** that is accessory to and on the same **lot** as a nonprofit **use**, and that is provided for and limited to occupancy by a **person** employed to provide maintenance and security 24 hours per day for the principal **use**.

Certified wetland scientist

A **person** qualified to perform **wetland** delineation and certified by the New Hampshire Board of Natural Scientist pursuant to State law.

Character Defining Architectural Features

Tangible aspects of a **building** and its setting, including the overall shape of the **building**, its materials, craftsmanship, decorative details, the character of its site, its history and related aspects its site and environment.

Clinic

A facility providing care and treatment for sick or injured human patients, not including a **medical office, hospital** or **substance abuse treatment facility**.

Outpatient clinic

A **clinic** providing care and treatment on an outpatient basis, including ambulatory care or similar medical services that generally require a stay of less than 24 hours, that does not include overnight care facilities.

Inpatient clinic

A **clinic** that may include overnight care facilities.

Club, fraternal or service organization

A **building** for gathering and entertainment by members of a non-profit membership organization, not to include rooms for overnight lodging or rooming.

Code official

Any employee of the City of Portsmouth authorized to administer or enforce the Zoning Ordinance, including but not limited to the Director of Planning and Sustainability, the Chief Building Inspector, and their designees.

Commercial fishing craft

Any marine craft used for commercial fishing.

Commercial vehicle

Any vehicle having a commercial license plate or used commercially.

Commercial passenger vessel

Any vessel carrying passengers for hire, such as a cruise ship, ferry, water taxi, excursion boat, party boat, charter boat or sport fishing boat (provided that the fish caught are not sold commercially); but not including a vessel used primarily for commercial carrying cargo, towing, dredging or salvage, or a vessel used for commercial fishing.

Congregate care facility

A residential **development** consisting of individual **dwelling units** with centralized amenities such as dining, housekeeping, transportation and organized social and recreational activities, and which may include limited medical services on site. (See also: **assisted living facility; continuing care retirement community; age-restricted housing**.)

Construction trailer

A **structure** used in conjunction with construction activities. Such **structure** shall include tractor trailers and similar **structures** which are used or are constructed in a manner as to permit daily occupancy and/or the storage of equipment and materials.

Contiguous

Adjoining or touching at a point or along a boundary.

Continuing care retirement community (CCRC)

A residential **development** that provides multiple elements of senior adult living including **independent living units**, **assisted living units** and skilled nursing care, enabling residents to live at a single location as their medical needs change over time. A **CCRC** includes common dining, recreation and health facilities and other common areas; provides services such as medical, programmed social activities; and may include limited accessory retail and personal services. A **CCRC** is intended for and solely occupied by **persons** 62 years of age or older and thereby qualifies as “housing for older **persons**” under state law. (See also: **assisted living facility**, **congregate care facility**, **age-restricted housing**.)

Contributing structure

A **structure** identified as a **contributing structure** in “An Architectural Survey of the Historic District of Portsmouth, NH”, dated June–September, 1982, prepared by the Portsmouth Advocates Inc., Woodard D. Openo, Survey Director.

Convenience goods

A retail **establishment** offering for sale prepackaged food products, household items and other goods and having a **gross floor area** of less than 2,500 square feet.

Convenience goods 1

A **convenience goods establishment** that does not sell food prepared on the premises for consumption off the premises.

Convenience goods 2

A **convenience goods establishment** that sells food prepared on the premises (excluding fried food) for consumption off the premises.

Cornice

A crowning projected molded horizontal top of a **building** or some part of a **building**. A trimmed eave on the gable end of a gable-roofed **building** creates a **cornice**, consisting of two raking or sloping **cornices** with connected horizontal **cornice**.

Coverage

See **building** and **open space coverage**.

D

Day care facility

A facility operated daily where care, protection, and supervision are provided for **persons** regardless of age but excluding any psychiatric care.

Family day care facility

A **day care facility**, as an **accessory use** in a single residence, for up to 6 **persons**.

Group day care facility

A **day care facility** for more than 6 **persons**.

dBA

The sound pressure level in decibels that is frequency weighted to the A-scale according to a frequency response established by the American National Standards Institute (ANSI S1.4-1971) and that approximates the frequency response of the human ear.

Demolition

Razing or destruction, entirely or in part, of any exterior surface of a **building** or **structure** (including a monument, statue or memorial), whether or not reconstruction is planned after **demolition**. **Demolition** shall also include the removal of any **building** or **structure** in whole or in part from its present location.

Developable area

The total area of a single **development** site, which may include one or more **lots**, excluding all open water bodies, **wetlands** subject to this Ordinance, **100-year floodplains**, slopes exceeding 15 percent, and areas subject to existing valid **open space** restrictions.

Development

Any man-made **alteration** of land, a **lot**, a **building** or other **structure** whether horizontal, vertical, surface or subsurface.

Depth of lot

See **lot depth**.

Drinking establishment

An **establishment**, other than a **restaurant**, serving alcoholic or non-alcoholic beverages for consumption on the premises. For purposes of this Ordinance, a **drinking establishment** may be a **principal use** or an **accessory use**, and a portion of the premises may be devoted to entertainment, which may include a dance floor, with either live or recorded music.

Bar or Tavern

A **drinking establishment** with an occupancy of less than 250 **persons**.

Nightclub

A **drinking establishment** with an occupancy of 250 or more **persons**.

Drive-through facility

A **building**, attached **structure** or portion thereof that provides products or services directly to a customer in a motor vehicle by means of a window or mechanical device.

Drive-through lane

A lane in which vehicles obtain service from transaction windows or devices at a **drive-through facility**.

Driveway

The area between the travelled portion of a **street** or road and a parking area used by motor vehicles for access to and from the parking area. A **driveway** does not include any **maneuvering aisle** or other circulation area within the interior of a parking area. Except for **parking lots** containing fewer than 7 **off-street parking** spaces, a **driveway** has no abutting parking spaces.

Dwelling

A **building** or portion thereof containing one or more **dwelling units**.

Single-family dwelling

A **building** consisting of a single **dwelling unit**.

Two-family dwelling

A **building** consisting of two **dwelling units**.

Multifamily dwelling

A **building** consisting of three or more **dwelling units**.

See also: **townhouse, manufactured housing**.

Dwelling, principal

A **single-family dwelling** on a **lot** on which an **accessory dwelling unit** is allowed.

Dwelling unit

A **building** or portion thereof providing complete independent living facilities for one or more **persons**, including permanent provisions for living, sleeping, eating, cooking and sanitation. This **use** shall not be deemed to include such transient occupancies as **hotels, motels**, rooming or **boarding houses**.

Dwelling unit, accessory

See **accessory dwelling unit**.

Dwelling unit, principal

A **dwelling unit** in a **single-family dwelling** that is not an **attached accessory dwelling unit**.

E

Electronics manufacturing

See under **Manufacturing**.

Establishment

A single physical location where business is conducted or where services or industrial operations are performed. A company may have one or many **establishments**, and a **building** may contain one or many **establishments**.

EV (Electric Vehicle)

An **EV** is a motor vehicle that derives some or all of its primary motive power from an electric motor that draws electricity from a battery and is charged from an external source.

EV fueling space A

A public or private parking space with adjacent above ground charging support equipment that uses customary residential electric service for charging **EVs**.

EV fueling space B

A public or private parking space with adjacent above ground charging support equipment that uses greater than customary residential electric service for charging **EVs**.

F

Family

An individual living alone, or any of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

- (a) Two or more individuals related by blood, marriage, civil union, adoption or guardianship;
- (b) Two or three individuals not related by blood, marriage, civil union, adoption or guardianship, along with one or more dependents related to any of them by blood, marriage, civil union, adoption or guardianship.

Family day care facility

See under **day care facility**.

Farm animal

Any animal other than a **household pet** as defined in this Ordinance.

Federal Manual

Corps of Engineers Wetland Delineation Manual, Wetlands Research Program Technical Report Y-87-1, U.S. Army Corps of Engineers.

Field Indicators

Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission (current edition).

Financial institution

An **establishment** where the principal business is the provision of financial, banking or lending services to consumers or clients including the receipt, disbursement or exchange of funds and currencies. May include all or one of the following **uses**:

Financial services office

An **office** associated with the operation of a **financial institution** that provides banking, lending, or investment services, but does not include teller services, **automated teller machines**, or similar high-volume customer functions.

Retail bank

An **office** associated with the operation of a **financial institution** that provides walk-in and/or drive-in teller services to customers primarily for depository banking and related services.

Automated teller machine (ATM)

An unattended electronic device that is activated by customers to conduct financial transactions. An **ATM** may be located on the outside of a **building**, or in an access-controlled entrance to a **building**, or within a principal **use** in a **building**, and may serve pedestrians or patrons in motor vehicles. An **ATM** servicing patrons in motor vehicles must meet the standards for **drive-through establishments** provided in this Ordinance. An **ATM** is permitted only as an **accessory use** to a related **principal use**, and is not permitted as a **principal use** or in a free-standing **structure** not attached to a **principal use**.

Fish market

Retail sales of (a) fresh or frozen fish, shellfish or lobster; or (b) baked, boiled or steamed fish, shellfish or lobster, or fish or seafood chowder, which may be prepared on the premises but shall not be consumed on the premises.

Fish preparation

The secondary preparation of fin fish by filleting, skinning and/or cutting. (See also: **fish processing**.)

Fish processing

The primary preparation of fin fish by gutting and/or heading in preparation for the secondary preparation of filleting, skinning and cutting. (See also: **fish preparation, food processing**.)

Fishing boat landing

Landing of **commercial fishing craft**.

Fishing boat landing 1

Landing of no more than two **commercial fishing craft** used by no more than two **persons** per boat, with no **fish preparation, fish processing**, or sales of fish or sea-related products.

Fishing boat landing 2

Landing of **commercial fishing craft**, without limitation on either the number of boats or the number of **persons** per boat, which may include **fish preparation** in an enclosed **building** by no more than five **persons**.

Flat roof

A roof with a slope of less than 1:4 for more than 50% of the roof area.

Floodlight or spotlight

Any **lighting fixture** or **lamp** that is that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a certain direction.

Floor area ratio (FAR)

The ratio of the **gross floor area** of all **buildings** on a **lot** to the **lot area**.

Food processing

The preparation or processing of food or beverage products, but not including consumption on the premises. Examples include bakeries, dairies, canneries, bottling plants and similar businesses. (See also: **fish processing**.)

Foot-candle

A measure of light falling on a given surface. One **foot-candle** is equal to the amount of light generated by one candle shining on a square foot surface one foot away. One **foot-candle** is one **lumen** per square foot.

Foreign trade zone

An area established wherein component parts for electric products, watches, automobiles, etc. may be imported initially duty free, such duty being postponed until the finished product enters the larger American market.

Frontage

The horizontal distance measured along a **lot line** dividing a **lot** from a **street**. Such measurement shall refer to a continuous line except where otherwise specified.

Full-cutoff

A **lighting fixture** with a shield such that all of its light output is aimed below horizontal to the ground. **Full-cutoff** fixtures cut off all upward transmission of light.

Furniture and home furnishing store

An **establishment** for **retail sales** of home or **office** furniture, carpets, mattresses, or similar items that require extensive floor area for the display of merchandise.

G

Garage

An area within a **principal building** or **outbuilding** that provides space for parking vehicles as an **accessory use**. Not synonymous with **parking structure**. (See also: **parking lot, parking structure, underground parking level**.)

Glare

Excessive brightness in the field of view that is sufficiently greater than the brightness to which the eyes are adapted, to cause annoyance or loss in visual performance and visibility, so as to jeopardize health, safety or welfare.

Grade plane

A reference plane representing the average of finished ground levels adjoining the **building** at all exterior walls. When the finished ground level slopes away from exterior walls, the reference plane shall be established by the lowest points within the area between the **building** and the **lot line** or, when the **lot line** is more than 6 feet from the **building**, between the **building** and a point 6 feet from the **building**. (See also **building height**.)

Gross floor area (GFA)

The sum of the areas of the several floors of a **building** or **buildings** as measured by the exterior faces of the walls, but excluding the areas of fire escapes, unroofed porches or terraces, and areas such as basements and **attics** exclusively devoted to **uses** accessory to the operation of the **building**. If the exterior walls are greater than 6 inches thick, then the **gross floor area** shall be adjusted to a maximum of a 6-inch thick wall.

Gross living area (GLA)

The total area of finished residential space in an **accessory dwelling unit**, including all conditioned living space, but excluding unconditioned space such as decks, porches, garages, or other such spaces that have not been converted into living space. **GLA** is calculated by measuring the interior perimeter of the **accessory dwelling unit**.

Ground floor or story

Any floor or **story** of a **building** in which the floor is less than six feet above or below the finished grade at any **street** entrance of the **building**. Under this definition a **building** may have more than one **ground floor** or **story**.

Group day care facility

See under **day care facility**.

H

Helipad

An area of land, water, or a **structure** designated for the occasional landing and takeoff of helicopters but not used solely for that purpose, and not including facilities for helicopter fuel, service, maintenance or overhaul, or sale of products.

Heliport

An area of land, water, or a **structure** used or intended to be used for the landing and takeoff of helicopters, together with appurtenant **buildings** and facilities.

High hazard use

Any **use** which is defined by the **Building Code** as H-1, H-2, H-3, H-4 or H-5.

High hazard use A

A **high hazard use** which presents a detonation hazard (Use Group H-1) or which presents a deflagration hazard or a hazard from accelerated burning (Use Group H-2).

High hazard use B

A **high hazard use** which contains materials that readily support combustion or present a physical hazard (Use Group H-3), or which contain materials that are a health hazard (Use Group H-4).

High hazard use C

A semiconductor fabrication facility or comparable **research and development** area in which hazardous process materials are used (Use Group H-5).

Highest observable tide line

A line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.

Historic preservation building or structure

A **building** or **structure** that has historic significance and is owned or maintained by a non-profit agency for the purposes of preservation.

Home occupation

An **office** or other **use** customarily conducted as an **accessory use** to a **dwelling**, complying with all the following standards:

- (a) Conducted entirely within a **dwelling** or an existing **accessory building**, and with no change to the character of the **dwelling** or **accessory building**;
- (b) Maximum floor area of 300 square feet;
- (c) No **outdoor storage** of materials or products;

- (d) Outdoor parking of no more than one vehicle related to the **home occupation**;
- (e) No deliveries by vehicles with more than two axles.

Home occupation 1

A **home occupation** with no nonresident employees; no **sign** related to the business; no more than 2 client, vendor or general public visitations at one time; and no deliveries other than by regular postal service and no more than one package delivery service truck (e.g., FedEx, UPS, etc.) per day.

Home occupation 2

A **home occupation** with not more than one nonresident employee and not more than 6 client, vendor or general public visitations at one time.

Hospice

See **residential care facility**.

Hospital

A facility licensed to provide care and treatment for sick or injured patients, primarily while they are acutely ill or chronically ill, containing facilities for diagnostic treatment and major surgery, and providing nursing care 24 hours a day. The term does not include **nursing home**, rest home, home for the aged, sanatorium, convalescent hospital or facility for treating alcohol or drug abuse, or beds set aside for any of these purposes in a **hospital**. The term includes a psychiatric **hospital** but does not include a psychiatric **hospital** for the care and treatment of the criminally insane. A **hospital** may include other **uses** customarily associated with the **principal use**, including **medical offices**, pharmacies, gift shops and cafeterias. (See also: **clinic, residential care facility**.)

Hotel

A **building** in which the primary **use** is transient lodging accommodations offered to the public on a daily rate for compensation and where ingress and egress to the sleeping rooms is made primarily through an inside lobby or **office**, supervised by a **person** in charge at all hours. Such facilities may include, where allowed, such **accessory uses** as **restaurants, bars, taverns, nightclubs**, function rooms, places of public assembly or recreational facilities, but shall not include casino gambling, keno or other forms of gambling. (See also: **motel**.)

Household pet

A small animal that is customarily kept on residential premises for company or pleasure. Examples include dogs, cats, rabbits, birds and fish.

Hydric soil

Soil that is saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers, as further defined in the **Federal Manual**.

Hydrophytic vegetation

Macrophytic plant life growing in water, in soil, or on a substrate that is at least periodically deficient in oxygen as a result of excess water content, as further defined in the **Federal Manual**.

I

IBC

The **International Building Code** (see **Building Code**).

Illuminance

The amount of light falling on a surface measured in **foot-candles**.

Illumination

The act of lighting a surface or area.

Impact fee

An **impact fee** as defined by state law, as may be amended from time to time.

Impervious surface

Any modified surface that cannot effectively absorb or infiltrate water. **Impervious surfaces** include, but are not limited to, roofs and paved areas such as **driveways**, parking areas and walkways. **Impervious surfaces** also include decks, patios and gravel or crushed stone surfaces unless such **structures** or surfaces have been designed to effectively absorb or infiltrate water.

Impound lot

A facility that provides temporary **outdoor storage** for vehicles that are to be claimed by titleholders or their agents.

Independent living unit

A **dwelling unit** in a **continuing care retirement community (CCRC)**, in which residents live independently while having access to all common facilities and services of the **CCRC**, but without the inclusive supportive services typically associated with Assisted Living or Skilled Nursing units. (See also: **assisted living unit, continuing care retirement community**.)

Industrial use

The **use** of a **building, structure or lot** for assembling, fabricating, finishing, manufacturing or packaging. **Industrial uses** are classified as **electronics manufacturing, general manufacturing, light industry, or research and development**.

Electronics manufacturing

Research and development, engineering and manufacturing of electronic products and components, including communications equipment, data systems equipment and precision instruments; pharmaceutical, medical and dental supplies and equipment; architectural and engineering supplies and equipment; and additive research. No such **use** shall be classified as **high hazard use A or high hazard use B**.

General manufacturing

A facility for **industrial use** that is not classified as **light industry, electronics manufacturing, or research and development**.

Light industry

A facility that (a) works predominantly with previously prepared, manufactured, or processed materials or parts; (b) may include assembly, fabrication, accessory **research and development, office uses**, most high technology production, packaging, or combinations of such **uses**; (c) does not result in significant noise, **glare**, odor, dust, smoke, or vibration which could be detectable beyond the **building**; and (d) does not include uses classified as H3 or H4 in the **Building Code**.

Research and development

Laboratories and related facilities for research, development and testing, excluding biological or chemical laboratories and **high hazard uses**. Prototype production facilities and related assembly of high technology equipment or components may be included, but shall not exceed 40 percent of the **gross floor area** of the **building**.

Inn

A **building** offering lodging for transient boarders with up to 15 sleeping rooms. An **inn** may have a **caretaker residence** but does not have to be occupied by the owner, and shall not serve food to the public. (See also: **bed and breakfast, hotel, motel**.)

IRC

The **International Residential Code** (see **Building Code**).

J

Junk

Scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used automobiles or airplane tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.

Junk yard

The **use** of any **lot**, whether inside or outside a **building**, for the storage, keeping or abandonment of **junk**.

K

Kennel

An **establishment** in which a primary **use** is housing dogs, cats, or other **household pets**, and/or grooming, breeding, boarding, training, or selling of animals.

L

Landside support facility

A facility on land for supporting the operation of a **commercial passenger vessel**, including vehicular parking for employees and customers, passenger ticketing and processing, administrative **office** space, baggage handling, shower and restroom facilities, docking, maintenance and utility extensions.

Large format retail sales

See **retail sales, large format**.

Lamp

The component of a **luminaire** that produces the actual light.

Landscaping

The improvement of a **lot**, parcel or tract of land with grass and shrubs and/or trees. **Landscaping** may include pedestrian walks, flower beds, ornamental objects such as fountains and statuary, and other similar natural objects.

Leg(h) [hourly equivalent sound level]

The equivalent, steady-state A-weighted sound level that in one hour contains the same acoustic energy as the time-varying sound level during the same period. This is the average noise over one hour adjusted for human hearing.

Loudest traffic hour sound level

The **Leg(h)** associated with the loudest highway traffic hour.

Lawful nonconforming

See **nonconforming**.

Light, Lighting

Accent lighting

Directional lighting to emphasize a particular object or to draw attention to a part of the field of view.

Decorative lighting

Any exterior lighting used for decorative effects, including, but not limited to architectural **illumination**, **flag** and monument lighting, holiday decoration, and **illumination** of **landscaping**.

Direct light

Light emitted directly from the **lamp**, off of the reflector or reflector diffuser, or through the refractor or diffuser lens of a **luminaire**.

Indirect light

Direct light that has been reflected or scattered off of other surfaces.

Light trespass

The shining of light produced by a **luminaire** beyond the boundaries of the property on which it is located.

Lighting fixture

The assembly that houses the **lamp** or **lamps**.

Outdoor lighting

The **illumination** of an outside area or object by any man-made device located outdoors that produces light by any means.

Temporary lighting

Lighting which will not be used for more than one thirty (30) day period with at least 180 days passing before being used again. **Temporary lighting** is intended for uses which by their nature are of limited duration including, but not limited to, holiday decoration, civic events, or construction projects.

Light truck

A truck of 10,000 pounds gross vehicle weight rating or less, including a pickup, van, truck-based station wagon or sport utility vehicle.

Live/work unit

A **dwelling unit** which includes a nonresidential **use** that is otherwise allowed in the zoning district in which the unit is located and that is operated by the resident of the **dwelling unit**, and which complies with the following standards:

- (a) The **live/work unit** shall not exceed 3,000 sq. ft. **gross floor area**.
- (b) The nonresidential area shall be between 25 percent and 50 percent of the **gross floor area** of the unit.
- (c) The nonresidential area shall be limited to the first or main floor only of the **live/work unit**.
- (d) No workers shall be employed or occupied in the nonresidential **use** other than residents of the **live/work unit**.
- (e) The **live/work unit** shall not include any high hazard use, and shall not include any storage use exceeding 10 percent of the space dedicated to nonresidential activities.

Living shoreline

Any shoreline management system using native vegetation, alone or in combination with offshore sills, to stabilize the shoreline without interrupting the natural water/land continuum to the detriment of natural shoreline ecosystems.

Lot

A single parcel of land in the same ownership throughout as shown or defined on a recorded instrument or defined by metes and bounds and having its principal **frontage** on a **street** or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a **building permit** for **building** on such land.

Corner lot

A **lot** having **frontage** on two intersecting **streets**, including their point of intersection.

Through lot

A **lot** having **frontage** on two more or less parallel **streets**. On a **through lot**, both **street** lines shall be deemed to be **front lot lines**.

Lot area

The total horizontal area included within the property lines.

Lot depth

The average horizontal distance between the **front lot line** and the **rear lot line** as measured along both side property lines.

Lot line

A property line bounding a **lot**.

Lot line, front

A boundary of **lot** that separates the **lot** from a **public place**. A **corner lot, through lot** or a waterfront **lot** shall have multiple **front lot lines**. In the case of a **corner lot, through lot** or a waterfront lot, the **principal front yard** shall be the line bordering a **public place** on which the **lot** has its address as defined by the City.

Lot line, rear

A boundary of a **lot** that is opposite and most distant from the **front lot line**. If the **rear lot line** is less than 10 feet in length, or if the **lot** forms a point at the rear, the **rear lot line** shall be deemed to be a line 10 feet in length within the **lot**, parallel to and at the maximum distance from the **front lot line**.

Lot line, side

Any boundary of a **lot** that is not a **front lot line** or a **rear lot line**.

Low impact development (LID)

A stormwater management approach that emphasizes conservation and use of natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions. **LID** is applied at the parcel and subdivision scale and **uses** design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source.

Lumen

A measure of light energy generated by a light source. One **foot candle** is one **lumen** per square foot. For the purposes of this Ordinance, the **lumen** output values shall be the initial **lumen** output rating of a **lamp**.

Luminaire

A complete lighting system including **lamp** or **lamps** and a **lighting fixture**.

Luminaire height

The vertical distance from the ground directly below the centerline of a **luminaire** to the lowest direct-light-emitting part of the **luminaire**.

M

Mansard roof

A **building** with either a **flat-** or **hip-topped mansard** roof as follows:

(a) **Flat-topped mansard**

Four sided **flat-top mansard** roof, characterized by one slope on each side of its sides, where the sloped roof may be punctured by dormer windows and higher roof surface is a flat roof.

(b) **Hip-topped mansard**

A roof characterized by two slopes on each side with the lower slope punctured by dormer windows. The upper slope of the roof may not be visible from street level when viewed from close to the building and the highest roof structure shall not be a flat roof as defined herein.

Maneuvering aisle

A travel lane located within the perimeter of a **parking lot** by which motor vehicles directly enter and leave parking spaces.

Manufactured housing

Any **structure**, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 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 systems contained therein. **Manufactured housing** does not include housing built in conformance with the United States Department of Housing and Urban Development minimum property standards or the **IBC**.

Manufactured housing park

A single **lot** containing more than one **manufactured housing** unit, with or without an internal road system or amenities.

Manufacturing, electronics

See under **Industrial use**.

Marina

A waterfront facility that provides docking, mooring, and/or wet or dry storage of pleasure boats for a fee, and that may also provide one or more of the following: (a) sales of marine supplies, parts and fuel; (b) boat service and repair; (c) boat sales, rental or charter; and (d) as an **accessory use**, sales of provisions for pleasure boats. A yacht club shall be considered a **marina**. Boat docks accessory to a **dwelling** shall not be considered a **marina**.

Marine dependent

Dependent on the ocean or the Piscataqua River for transport, resources, processing, production or cooling.

Marine-related retail

Retail sales of marine goods, groceries and ice.

Maximum occupancy

The **occupant load** of a building or portion thereof as determined in accordance with the **Building Code**.

Medical office

See **office, medical**.

Micro-unit

A **dwelling unit** with a **gross floor area** of 400 square feet or less in a **multifamily dwelling**.

Minimally Visible

Minimally visible from those portions of any public **way** immediately adjacent to and abutting the property, and not blocking any **Character Defining Architectural Features**.

Mixed-use development

A **development** project that includes a mix of (a) residential and non-residential **uses**, or (b) **office** and retail/service **uses**. The **uses** may be combined in one **building** (“vertical mixed use”) or may consist of multiple **buildings** with different **uses** on one **development** site (“horizontal mixed use”).

Motel

A **building** or group of detached or connected **buildings** intended or used primarily to provide sleeping accommodations to the public on a daily rate for compensation and having a parking space generally located **adjacent** to a sleeping room with each sleeping room discharging directly outdoors. Such facilities may include, where allowed, such **accessory uses** as **restaurants, bars, taverns, nightclubs**, function rooms, places of public assembly or recreational facilities, but shall not include casino gambling, keno or other forms of gambling. (See also: **hotel**.)

Motor vehicle accessory sales and service

The sales, installation, and repair of interior motor vehicle accessories such as audio, alarm and navigation systems.

Motor vehicle painting or body work

The repair or straightening of motor vehicle bodies or frames, or painting of motor vehicles or motor vehicle parts. Maintenance, service and engine repair may be performed as an ancillary function of the body work.

Motor vehicle repair

The repair, overhaul, removing, adjusting, replacing or assembling, disassembling, or installing new or used motor vehicle parts such as mufflers, brakes, or tires.

Motor vehicle service station

An **establishment** that sells fuel (including but not limited to gasoline, diesel, natural gas, electricity or hydrogen) to **EVs** and motor vehicles. A **motor vehicle service station** may include:

- **motor vehicle repair;**
- **convenience goods 1 or 2.**
- retail sale of propane and kerosene;
- retail sale of motor vehicle and **EV** maintenance products;
- **EV fueling spaces A and B;**
- the sale and exchange of **EV** batteries; and
- electric charging facilities for electric mobility devices.

A **motor vehicle service station** shall not include any of the following:

- **motor vehicle painting or body work;**
- motor vehicle sales, leasing or rental; and
- **outdoor storage** or display of vehicles, boats, automobile parts or other merchandise, except for:
 - (a) small sample displays of motor vehicle accessory items; or
 - (b) batteries or tires located **adjacent** to the **principal building** or on islands or designated areas that support fueling infrastructure.

Municipal trail

A full public right-of-way of indefinite duration subject to public trail use restrictions, and classified as a Class A or Class B trail by the City Council pursuant to RSA Chapter 231-A.

Museum

A non-profit permanent institution, open to the public, which acquires, conserves, researches, exhibits, and interprets objects having scientific, historical or artistic value. **Museums** may include exhibit and display areas, libraries and research areas, administrative **offices**, areas for constructing exhibits, and storage areas for museum materials, artifacts and objects. **Accessory uses** may include **retail sales**, food services for museum visitors or others, manufacturing for museum purposes, and events such as craft demonstrations, receptions, and periodic celebrations, provided that all such **accessory uses** are incidental and subordinate to the primary non-profit **museum** use.

N

Nightclub

See **drinking establishment**.

Noise barrier

A noise wall, an earth berm, or a noise wall in combination with an earth berm, that obstructs the path of sound from the sound source to the sound receiver.

Noise mitigation

Reduction of the noise that is transmitted from a noise source to a receiver as a result of distance, natural features, noise barriers, or other structures.

Noise sensitive land use

Residential use, institutional residence or **residential care facility, hospital, lodging establishment, places of assembly, library, school, and day care facility**.

Nonconforming lot, building, structure, or use

Lawful nonconforming lot

A single **lot** of record which does not conform to a dimensional requirement set forth in this Ordinance and applicable to the district in which it is located (such as minimum **lot area** or **frontage**), but which conformed to all requirements of the Zoning Ordinance in effect at the time the **lot** was created; or a single **lot** of record created by legislative or judicial decision which does not conform to a dimensional requirement.

Lawful nonconforming building or structure

A **building** or **structure** which does not conform to a dimensional requirement set forth in this Ordinance and applicable to the district in which it is located (such as maximum **building height** or **building coverage**, or minimum **yards** or **open space**), but was legally existing at the time that such requirement took effect.

Lawful nonconforming use

A **use** of land, **building, structure** or parts thereof, which does not conform to the **use** requirements of this Ordinance or its amendments but was legally existing prior to the adoption of this Ordinance, or at the time a district was changed by amendment thereafter.

Not Visible

Not visible from those portions of any public **way** immediately adjacent to and abutting the property.

Nursing home

See **residential care facility**.

O

Occupant load

The total number of **persons** that may occupy a **building** or portion thereof (including outdoor decks) at any one time, calculated in accordance with the **Building Code**.

Office

A place of business where professional or clerical duties are performed.

General office

An **office** for the carrying on, conducting or managing of a business or for the practice of a profession, except for a **medical office** as defined in this Article.

Medical office

An **office** of a physician, dentist, psychologist, optometrist or other licensed health care provider, which does not include any hospital or ambulatory surgical care facilities.

Off-street parking

Parking that is totally located off the public right-of-way.

Open space

Land area vertically open to the sky, free of all **structures**, parking area/lots, **driveways** and other **uses** which preclude attractive **landscaping** in such area. **Open space** shall be predominantly pervious, may be landscaped with lawn, trees, shrubs or other planting, and may include walks and terraces. For the purposes of this definition, water areas are considered to constitute **open space**.

Open space coverage

The aggregate horizontal area or percentage (depending on context) of a **lot** or **development site** covered by **open space**.

Outdoor activity areas

Residential yards, gardens, patios, pools, etc.; private and public play areas.

Outdoor recreation use

An area designed and intended to be used for active outdoor recreation, including but not limited to athletic fields, golf courses, tennis courts and swimming pools; but not including activities involving the use of motorized equipment or firearms, and not including **amusement parks**, **theme parks**, **water parks** or similar **establishments**.

Outdoor lighting

See under **lighting**.

Outdoor storage

Storage of materials on a **lot** without benefit of a **structure** with four walls and a roof to protect said material from the elements. This definition shall not be deemed to include the outside storage of **junk** (regulated separately) or as a **temporary structure**.

Overlay district

A zoning district that is superimposed over portions of one or more underlying zoning districts in order to apply additional or modified standards addressing a special purpose, such as historic preservation or **floodplain** protection.

P

Parapet wall

That part of an exterior wall extending entirely above the roof surface.

Parking lot

A ground-level open area within a **lot** for parking vehicles as a **principal use** or **accessory use**. (See also: **garage, parking structure, underground parking level**.)

Parking structure

A **structure** containing multiple stories of parking as a **principal use** or **accessory use**. (See also: **garage, parking lot, underground parking level**.)

Penthouse

A habitable space within the uppermost portion of a **building** above the **cornice** which is set back at least 20 feet from all edges of the roof adjoining a **public place** and at least 15 feet from all other edges. The total floor area of the **penthouse** shall not exceed 50% of the area of the **story** below and the height of the **penthouse** shall not exceed 10 feet above the story below the flat roof or 14 feet for a gable, hip or **hip-topped mansard** roof surface. Except for elevator or stairwell access allowed under Section 10.517, no other roof appurtenance shall exceed the maximum allowed height of a **penthouse**. For internal courtyards at least 40 feet from a **street** or vehicular right-of-way or easement, the **penthouse** shall be setback at least 8 feet from the edge of the roof of the **story** below. (See also: **building height**)

Performance facility

A **building** or an area that is designed, intended or used primarily for musical, dance, dramatic or other performances.

Indoor performance facility

A **performance facility** located entirely within a **building** or **structure**, such as a theater (excluding a commercial cinema) or auditorium.

Outdoor performance facility

A **performance facility** not located entirely within a **building** or **structure**.

Permanently moored vessel (PMV)

A vessel that has been removed from navigation and is not inspected by the Coast Guard. A **PMV** is either “substantially a land structure” or cannot be moved except on a deliberate basis where extensive effort and equipment would be required. **PMVs** include both vessels that would have received a Coast Guard certificate of inspection had they stayed in navigation, and vessels whose utilities and services (e.g., water, sewage, electrical, etc.) are tied directly to facilities on land.

Person

An individual, proprietorship, partnership, corporation, association, or other legal entity.

Personal services

Establishments providing frequent or recurrent services related to personal needs, and including accessory **retail sales** of products related to the services offered. Examples include beauty and barber shops, nail salons, tanning salons, clothing rental, tailors, dry cleaning pick-up shops, garment and shoe repair shops, and similar businesses.

Place of assembly

A building used in whole or in part for the gathering together of **persons** for such purposes as deliberation, entertainment, amusement, or religious services, or for awaiting transportation. A **place of worship** is a **place of assembly**.

Place of worship

A church, synagogue, temple, mosque or other facility that is used primarily for conducting formal religious services on a regular basis.

Planned unit development (PUD)

A coordinated **development** of a large parcel that allows more flexibility than a conventional subdivision in the siting of **buildings, open space, streets** and infrastructure.

Open space planned unit development (OS-PUD)

A **PUD** in which residential **dwelling units** are clustered so as to preserve natural features and create usable **open space**.

Residential density incentive planned unit development (RDI-PUD)

A **PUD** in which the allowable residential **development** intensity is increased based on the provision of **dwelling units** that will be restricted for sale or rental at below-market prices.

Portico

A small porch composed of a roof supported by columns, often found in front of a doorway.

Principal building

The primary **building** on a **lot** which contains one or more **principle uses**.

Principal use

The primary **use** on a **lot**, which may have **accessory uses**.

Public Place

A streetway, park, pedestrian alleyway or **community space** that provides public access.

Q

Quarry, Sand Pit, Gravel Pit, Top Soil Stripping

A **lot** or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a **lot** preparatory to the construction of a **building**, for which application for a **building permit** has been made to the **Code Official**.

R

Rail transport

The transportation by rail of goods or passengers, including such infrastructure and facilities as tracks, sidings, signals, shops and yards for maintenance and storage of rail machinery, loading platforms, and passenger and freight terminals.

Rail trail

A multi-purpose public path (paved or natural) created within an abandoned rail corridor right-of-way.

Rail with trail

A shared-use path that is located on or directly next to an active railroad corridor.

Recreational vehicle

A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for **use** as a permanent **dwelling** but as temporary living quarters for recreational, camping, travel or seasonal use.

Recycling facility

A **building** or **yard** area in which used material is separated and processed prior to shipment to others who will **use** those materials to manufacture products. A **junk yard** is not deemed to be a **recycling facility**. A **recycling facility** shall not be a **high hazard use B**.

Recycling plant

A facility that is not a **junk yard** and in which recoverable resources such as newspapers, magazines, books, other paper products, glass, aluminum, metal cans, plastic, and other similar products are recycled, reprocessed and treated to return such products to a condition in which these may be used for production. A **recycling plant** shall not be a **high hazard use B**.

Reference line

For a fresh water body, the natural mean high water level as defined by state law; for coastal waters, the **highest observable tide line**; and for a river or stream, the ordinary high water mark as defined by State law.

Research and development

See under **Industrial use**.

Residential care facility

A facility providing room and board together with continuing medical or nursing supervision, or medical care or treatment, but not including a facility that is primarily for the provision of alcohol, drug abuse or mental health services. Examples include nursing home, rest home, convalescent home, rehabilitation hospital, and **hospice**. (See also: **assisted living facility, continuing care retirement community, hospital**.)

Restaurant

An **establishment** in which food is prepared on the premises and served to customers. (See also: **bar, nightclub** and **tavern**)

Fast food restaurant

A **restaurant** where food or beverage is sold for consumption on-site or off-premises within a short period of time, orders are made at either a walk-up window or counter, payment is made prior to consumption, and packaging of food is done in disposable containers, or is otherwise not a “full service restaurant.” A **fast food restaurant** may provide, as secondary activities, delivery service or related **retail sales** items.

Full-service restaurant

A **restaurant** where prepared food is sold for consumption on the premises, customers are provided an individual menu, and a **restaurant** employee serves customers at the same table or counter where the items are consumed. A **full-service restaurant** may also provide, as secondary activities, delivery service, take out service (except drive-up customer service) or related **retail sales** items.

Take-out restaurant

A **restaurant** that offers prepared food for consumption entirely off the premises, with no **drive-through facility**.

Retail sales

The sale or rental of goods or merchandise directly to the consumer, including services incidental to the sale of such goods or merchandise, but excluding sale or rental of motor vehicles, recreational vehicles, marine craft and **manufactured housing**.

Large format retail sales

A **retail sales building**, other than a **shopping center**, that is larger than 50,000 square feet **gross floor area**.

Roof appurtenance

A device or **structure** not designed for human occupancy, attached to the exterior of the roof of a **building**, such as a stair or elevator tower, cooling tower, mechanical equipment housing, storage tank, antenna or similar equipment.

Roof-mounted solar energy system

A solar energy system that converts solar energy directly into electricity, the primary components of which are solar panels, mounting devices, inverters, and wiring that is attached to the roof of a **building** or **structure**.

S

School, Post-Secondary

A facility or **establishment** providing full-time or part-time education or training beyond the high school level or whose students are usually age 18 or older. Examples include colleges, community colleges, business schools and trade schools.

School, Primary or Secondary

A school approved by the New Hampshire State Board of Education in which the subjects taught are those prescribed by the state board for the grades kindergarten through 12 of the public schools, including any schools recognized by the state board as an elementary, middle, junior high or high school.

Self-service storage facility

A **building** or group of **buildings** in a fenced compound with controlled access and which contains varying sizes of individual, compartmentalized stalls or lockers that are used for the storage of customer's personal property, goods or wares.

Setback

The required distance between a **structure** or **use** and a specified reference point such as a **use**, **lot line**, zoning district boundary, wetland or water body. (See also: **yard**.)

Shopping center

An integrated group of commercial **establishments** that is planned, developed, owned and managed as a unit. **Uses** in a **shopping center** may be in one or more **buildings** and on one or more **lots**, provided that all **buildings** and **lots** are developed with a unified approach to access and circulation, parking, truck loading, vehicular entrances and exits, drainage, utilities, and management of landscaped and buffer areas.

Sidewalk

A pedestrian way paved with concrete, bricks, pavers or other material, which is parallel and **adjacent** or close to the **front lot line**, and which is either within the public right-of-way or within an easement for public access.

Sign

See Section 10.1290 for all **sign**-related definitions.

Skilled nursing care unit

A nursing bed or individual room in a **continuing care retirement community (CCRC)** or **residential care facility** which provides board, shelter and 24-hour skilled nursing and medical care to a single chronic or convalescent patient.

Sloped roof

A roof with a slope of 1:4 or more for at least 50% of the roof area.

Social service campus

A facility owned by a not-for-profit entity, containing one or more **uses** in a planned campus, designed to support or promote the welfare of the community and the health and well-being of individuals within the community.

Social service campus, residential

A **social service campus** which includes **dwelling units** or other overnight living facilities.

Stacking lane

An area of **stacking spaces** and driving lane(s) provided for vehicles waiting for drive-through service, which is physically delineated and distinct from other traffic and pedestrian circulation on the site.

Stacking space

An area within a **stacking lane** for vehicles waiting to initiate and/or complete a drive-through transaction.

Street

A thoroughfare or roadway which is either

- (a) formally accepted by the City, or
- (b) shown on a subdivision plan approved by the Planning Board and constructed to City subdivision specifications or for which surety has been posted to guarantee construction of all improvements required by the Planning Board.

Storage trailer

Any operable or inoperable vehicle, truck or tractor trailer (with or without the cab) located on a **lot** for more than 30 days in a calendar year.

Story

That portion of a **building** included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost **story**, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. For the purpose of determining the number of **stories** in a **building**, a **story above grade plane** shall count as a full **story**. An **attic, half story or penthouse** shall not be counted as a **story**, but a **short story** shall be counted as a **story**. (See also: **building height, grade plane, half story, short story, and story above grade plane**)

Half Story

A **story** immediately below a roof in which the floor area with a ceiling height of 7 feet or more is not greater than 50 percent of the total floor area of the **story** below.

Short story

Either (1) a top **story** that is below the **cornice** line of a sloped roof and is at least 20% shorter in height than the **story** below; or (2) a **story** within a **flat-topped mansard roof** with a pitch no greater than 30:12.

Story Above Grade Plane

Any **story** having its finished floor surface entirely above **grade plane**, or in which the finished surface of the floor next above is more than 6 feet above **grade plane**, or more than 12 feet above the finished ground level at any point.

Story height

The floor to floor distance between finished floors.

Structure (including **roof structure**)

Any production or piece of work, artificially built up or composed of parts and joined together in some definite manner. **Structures** include, but are not limited to, **buildings**, fences over 4 feet in height, **signs**, and swimming pools. (See also: **temporary structure**.)

Structure height

See **building height**.

Substance abuse treatment facility

A facility that represents or advertises itself as an alcohol abuse or drug abuse treatment program and that provides treatment, care or rehabilitation for individuals who show the effects of drug abuse or alcohol abuse.

Superinsulated

Designed and constructed to achieve a noise level reduction of more than 20 **dBA Leq(h)** between outdoor and indoor noise levels.

Sustainability

The characteristics defined for **sustainable development**.

Sustainable

Having the characteristics of **sustainable development**.

Sustainable development

Development that conserves land, protects natural and historic resources, combines multiple land **uses** at various scales (site, neighborhood, and city), and promotes equitable sharing of the benefits and burdens of **development**.

Sustainable development includes the following characteristics:

- (1) Efficient use of land, energy, water, and materials;
- (2) Reuse of existing sites, **structures**, and infrastructure, including remediation where necessary;
- (3) Protection and restoration of environmentally sensitive lands, natural resources, wetlands and water resources, and cultural and historic landscapes;
- (4) Promotion of pedestrian-friendly districts and neighborhoods;
- (5) Provision of housing to meet the needs of people of all abilities, income levels, and household types;
- (6) Maintenance and expansion of the quantity, quality and accessibility of **open spaces** and recreational opportunities;
- (7) Support for transportation options that maximize mobility, reduce congestion, conserve fuel and improve air quality; and
- (8) Maximizing energy efficiency and renewable energy opportunities, and minimizing greenhouse gas emissions and consumption of fossil fuels.

T

Tavern

See **drinking establishment**.

Temporary structure

A **structure** which by type and materials of its construction is erected for not more than 180 days, but not including (a) a **construction trailer** or (b) a **structure** erected in conjunction with a licensed circus or carnival or a nonprofit fundraising activity. (See also: **construction trailer**.)

Theme park

An **amusement park** whose attractions are organized around one or more themes.

Townhouse

A **dwelling unit** in a group of three or more attached units, foundation to roof, **open space** on at least two sides, separated by a fire-rated wall.

Truck fueling facility

A facility primarily used for the fueling of trucks which may include such **accessory uses** as service, repair, a convenience store and/or public bathrooms.

Truck, light

See **light truck**.

Truck stop

A facility for fueling and repair of trucks and which contains one or more of the following: brokerage of loads, **convenience goods**, **restaurant**, public bathrooms with showers and laundry facilities, the overnight parking of trucks, storage of cabs or trailers and sleeping facilities.

Truck terminal

Land and **buildings** used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land **uses** at other locations. The terminal facility may include storage areas for trucks and **buildings** or areas for the repair of trucks associated with the terminal.

U

Underground parking level

A **story** used for **off-street parking** that is below the **grade plane**.

Upland

Land that is not a **wetland**.

Urban District

For the purpose of grade definitions and **building height** determinations, the **urban districts** are defined as the Character and Civic Districts.

Use

Any purpose for which a **lot**, **building** or other **structure** or a tract of land may be designated, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on or intended to be carried on in a **building** or other **structure** or on a tract of land.

use, nonconforming

See **nonconforming use**.

V

Vegetated buffer strip

An area retained in its natural state or replanted along the banks of watercourses, water bodies or wetlands, for the purpose of preventing erosion, trapping the sediment in overland runoff, and allowing for periodic flooding without damage to **structures**. (see also: **wetland buffer**)

Vehicular use area

An **accessway**, **driveway**, **maneuvering aisle**, or **off-street parking** or loading area.

Vernal pool

A surface water or **wetland**, excluding areas resulting from man-made activities such as gravel pit operations, logging equipment rutting, sedimentation ponds, or detention ponds but including areas intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by these pools and which:

- (a) Cycle annually from flooded to dry conditions, although their hydroperiod, size, and shape might vary from year to year; and
- (b) Typically have the following characteristics:
 - (1) Formed in a shallow depression or basin;
 - (2) Have no permanently flowing outlet;
 - (3) Hold water for at least 2 continuous months following spring ice-out;
 - (4) Lack a viable fish population; and
 - (5) Support one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.

Vessel, permanently moored

See **permanently moored vessel**.

Veterinary care facility

An **establishment** for the diagnosis and treatment of animals, which may include **animal boarding** or animal crematory as **accessory uses**.

W

Water Park

An **amusement park** whose attractions include slides, fountains, pools and other recreational settings involving water.

Way

The entire width between the wider of either the rights of way or boundary lines of any public highway, **street**, avenue, road, alley, park or parkway.

Wetland

An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetlands include, but are not limited to, swamps, marshes, bogs, **vernal pools** and similar areas. The following are specifically included in the definition of **wetland**:

Created wetland

An area that has been transformed from **upland** to **wetland** where the **upland** was not created by human activity such as by filling or water diversion.

Inland wetland

A **wetland** that is not subject to periodic inundation by tidal waters.

Tidal wetland

A **wetland** whose vegetation, hydrology or soils are influenced by periodic inundation of tidal waters.

Wetland buffer

An **upland** area, **adjacent** to a **wetland** or water body, which is subject to special regulations and reviews in order to protect the **adjacent wetland** or water body. (see also: **vegetated buffer strip**)

Wetland hydrology

Permanent or periodic inundation, or soil saturation to within 6 inches of the soil surface for at least 7 consecutive days during the growing season and as further defined in the **Federal Manual**.

Wholesale use

A facility that sells goods and materials to customers who are other business entities or that sells by mail. Unless specifically allowed in the Table of Use regulations, **wholesale uses** do not include **retail sales** or direct sales to consumers.

Workforce housing

A **dwelling**, or group of **dwellings** developed as a single project, containing **workforce housing units**, provided that a housing **development** that excludes minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this Ordinance. All **workforce housing units** shall include a restrictive covenant that ensures affordability as specified in RSA 674:58,IV, for the maximum allowable term but no less than 30 years.

Workforce housing unit

A housing unit which qualifies as “**workforce housing**” under RSA 674:58, IV, including:

- (a) housing which is intended for sale and which is **affordable** to a household with an income of no more than 100 percent of the median income for a **4-person** household for the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area (HMFA) as published annually by the United States Department of Housing and Urban Development (HUD), or
- (b) rental housing which is **affordable** to a household with an income of no more than 60 percent of the median income for a **3-person** household for the Portsmouth-Rochester HMFA as published annually by HUD.

To qualify as a **workforce housing unit** under this Ordinance, the unit must be subject to enforceable restrictions as to price and occupancy, such as a recorded land lease or deed restriction, as determined by the Planning Board, in order to ensure its long-term availability and affordability. A **workforce housing unit** is a specific type of **affordable unit** as defined in this Ordinance. (See also: **affordable unit**.)

X

Xeriscape

Landscape design that incorporates drought-tolerant native plants to conserve water.

Y

Yard

An **open space** from the ground upward and open to the sky on the same **lot** with a **building** or **structure**. (See also: **setback**)

Yard, front

A **yard** extending across the full width of a **lot** between the **street** right of way line and nearest point of any **building**. **Front yard** dimensions are to be measured from the **street** where a plan of the **street** is on file with the Rockingham County Registry of Deeds or in City records, or in the absence of such plan, from a line 25 feet from and parallel to the center line of the traveled way.

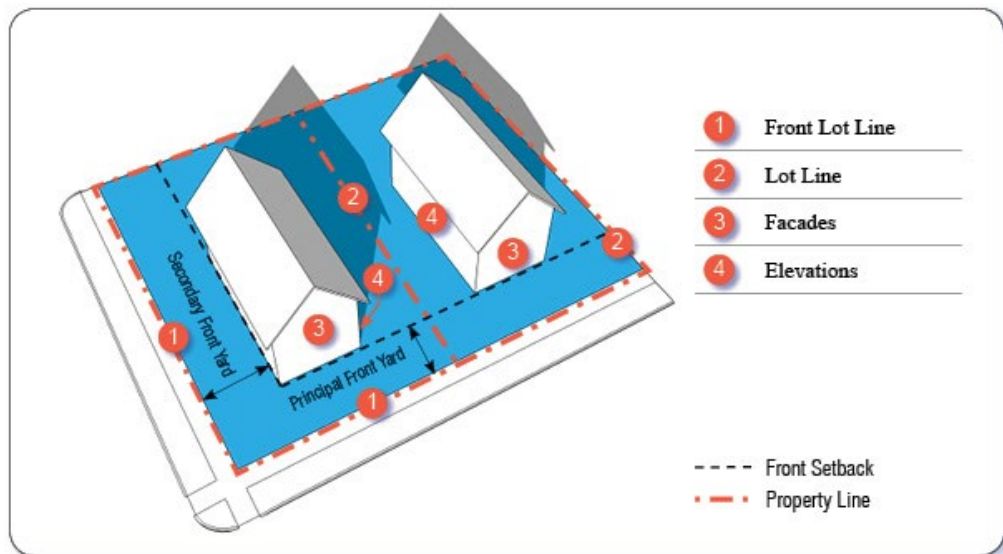
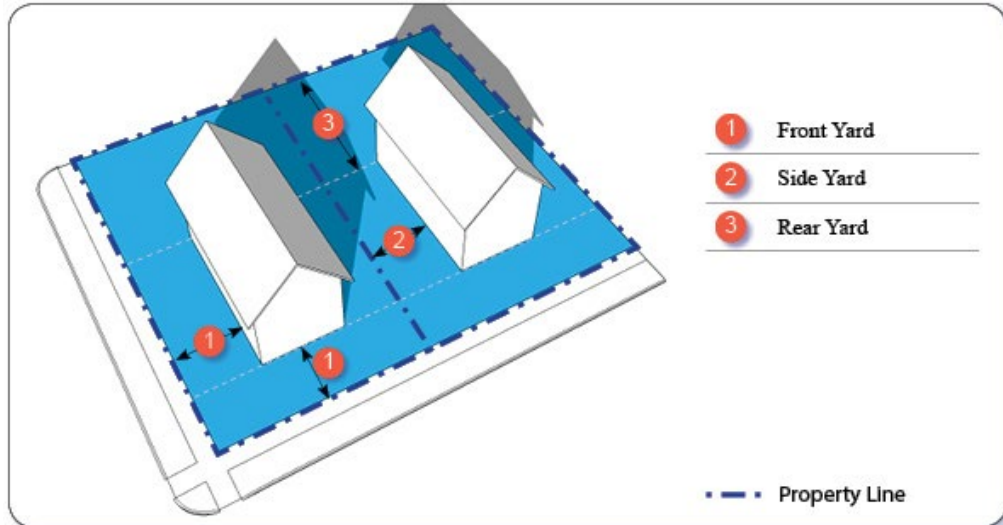
Principal front yard

On a **lot** with more than one **front yard**, the **front yard** designated to bear the address. On a **lot** with one **front yard**, that **front yard** may be referred to as the **principal front yard**.

Secondary front yard

On a **lot** with more than one **front yard**, the **front yard** that is not the **principal front yard**.

Yard Designations



Yard, rear

A **yard** extending the full width of the **lot** along the **rear lot line** and extending in depth from the nearest point on the **rear lot line** to the nearest point of the **principal building** or **buildings**.

Yard, side

A **yard** extending from a **front yard** to the **rear yard** and from the nearest point of a **side lot line** to the nearest point of the **principal building** or **buildings**.

Yard sale

The temporary sale of second hand goods held on a residential property and limited to 3 days in any 6-month period per residential **building**. Such sales are not considered to be commercial in character.

Z

ZONING ORDINANCE AND MAP AMENDMENTS

ZONING ORDINANCE AMENDMENTS

April 5, 2010
Ordinance # 04-2010

- Section 10.1115.42 – Optional Payment In Lieu of Providing Required Off-Street Parking Spaces
- Changed “\$5,000.00” to \$2,000.00”
-

September 20, 2010
Ordinance # 07-2010

- Section 10.1010 – Wetlands Protection
- In Sections 10.1016.10, 10.1016.20, 10.1016.30 and 10.1016.50, changed “use” to “use, activity and alteration” (or “use, activity or alteration” where appropriate), including plural forms
 - In Section 10.1016.10 – Permitted Uses, inserted new item (6) for emergency power generator
 - In Section 10.1017.30 – Application Review Procedure, subsection 10.1017.33, changed “The Planning Board” to “The Planning Board or the Planning Director”
 - In Section 10.1018.10 – Stormwater Management, deleted reference to *Innovative Stormwater Treatment Technologies Best Management Practices Manual* and insert reference to *New Hampshire Stormwater Manual*
 - In Section 10.1018.21, deleted the words “greater than 5,000 square feet” and replaced the words “As required by the Comprehensive Shoreland Protection Act, as amended” with “ 0’ – 25’ ” under “Vegetated Buffer Strip” and “ 25’ – 50’ ” under “Limited Cut Area”
-

October 18, 2010
Ordinance # 09-2010

- Article 4 – Zoning Districts and Use Regulations
- In Section 10.440 – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, changed “N” to “P” for use #1.43 in the GA/MH district
- Article 5 – Dimensional and Intensity Standards
- Insert new Section 10.522 – Multifamily Dwellings
 - In Section 10.533 – Special Yard Requirements on Lafayette Road, inserted reference to Section 10.521
 - In Section 10.570 – Accessory Buildings, Structures and Uses, replaced subsection 10.572 with new subsections 10.572, 10.573 and 10.576
- Article 15 - Definitions
- Inserted new definition of “building length”
-

December 6, 2010
Ordinance # 11-2010

- Article 5 – Dimensional and Intensity Standards
- Revised Section 10.517 – Roof Appurtenances and Other Rooftop Features
-

March 7, 2011
Ordinance # 03-2011

Article 7 – Flexible Development

- In Section 10.730 – Gateway Planned Development, revised subsection 10.735 – Sustainability Standards
-

May 21, 2012
Ordinance # 8-2012

Article 5 – Zoning Districts and Use Regulations

- In Section 10.440 – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, changed “S” to “CU” for Use #19.40 – Drive-through facility, as accessory use to a permitted use, in the GB, GW, B and OR districts

Article 8 – Supplemental Use Standards

- In Section 10.836 – Accessory Drive-Through Uses, revised subsections 10.836.20 and 10.836.30
-

May 21, 2012
Ordinance # 9-2012

Article 15 – Definitions

- In Section 10.1530 – Terms of General Applicability, revised the definition of “Museum”
-

August 6, 2012
Ordinance # 10-2012

Article 11 – Site Development Standards,

Section 10.1115 – Off-Street Parking Provisions in the Downtown Overlay District

- Deleted former paragraph 10.1115.12 and renumbered paragraph 10.1115.13 as 10.1115.12
 - Revised subsection 10.1115.20 – Number of Required Off-Street Parking Spaces, paragraph 10.1115.21
 - Deleted subsections 10.1115.30 – Optional Payment in Lieu of Providing Required Off-Street Parking Spaces, 10.1115.40 – Amount of Payment in Lieu, and 10.1115.50 – Procedure and Administration, and 10.1115.60 – Application of Provisions
-

January 7, 2013
Ordinance # 01-2013

Article 6 – Overlay Districts

Section 10.630 – Historic District

- Revised Section 10.633.20 – Exemptions from Certificate of Approval

Article 15 – Definitions

- In Section 10.1530 – Terms of General Applicability, inserted a definition for “contributing structure”
-

January 22, 2013
Ordinance # 02-2013

Article 5 – Dimensional and Intensity Standards

- In Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, inserted new Section 10.535.12 – Central Business A and B – Maximum Elevation Above Street
-

April 15, 2013
Ordinance # 04-2013

Article 12 – Signs

- In Section 10.1230 – Sign Districts, moved the Business district from Sign District 3 to Sign District 4
 - Revised Section 10.1242 – parapet signs and wall signs
 - Revised Section 10.1251.10 – maximum aggregate sign area
 - Revised Section 10.1251.20 – sign area for projecting signs in Sign District 3
 - Revised Section 10.1271.10 – signs on building facing more than one street
 - In Section 10.1290 – Sign Definitions, revised definition of “aggregate sign area”
-

April 15, 2013
Ordinance # 05-2013

Article 5 – Dimensional and Intensity Standards

- In Section 10.515.10 – Building Coverage and Yards, inserted new paragraph (c) re: mechanical systems
- Inserted new Section 10.516.40 – Projections Into Required Yards

Article 15 – Definitions

- In Section 10.1530 – Terms of General Applicability, inserted a definition for “portico”
-

April 15, 2013
Ordinance # 06-2013

Article 6 – Overlay Districts, Section 10.630 – Historic District

- Revised Section 10.635.20 – Work Sessions
-

September 16, 2013
Ordinance # 07-2013

Article 5 – Dimensional and Intensity Standards

- Revised Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts (maximum structure height in the CBA and CBB districts)
- Inserted new Section 10.535.13 – Increased Building Height by Conditional Use Permit

Article 15 – Definitions, Section 10.1530 – Terms of General Applicability

- Inserted definitions for “story,” “half story” and “story above grade plane”
-

December 16, 2013
Ordinance # 13-2013

Article 6 – Overlay Districts, Section 10.630 – Historic District

- Inserted new Section 10.633.30 – Administrative Approval

Zoning Ordinance and Map Amendments

- Amended Section 10.634.10 – Application Submission, to require electronic (PDF) submissions
 - Amended Section 10.634.20 – Application Contents, regarding scaled plans and massing models
 - Inserted new Section 10.635.35 regarding Consent Agendas
-

April 7, 2014
Ordinance # 01-2014

Article 5 – Dimensional and Intensity Standards

- Amended Section 10.535.13 – Increased Building Height by Conditional Use Permit
-

April 21, 2014
Ordinance # 02-2014

Article 5A – Character Districts

- Added entire new Article 5A including Regulating Plan maps
-

April 21, 2014
Ordinance # 03-2014

Articles 4, 6, 12 and 15 – Miscellaneous Amendments to Conform to Article 5A

- Amended Section 10.410 – Establishment and Purpose of Districts by adding references to the Character Districts.
 - Inserted new Section 10.421.30 regarding maps incorporated in the Zoning Map by reference, including Character District Regulating Plan and Special Requirements Maps, Flood Insurance Rate Maps, and the “FAR Part 77 Imaginary Surfaces Plan.”
 - Amended Section 10.641.10 by adding a reference to the Character Districts.
 - Amended Sections 10.643.20 and 10.643.30 regarding off-street parking facilities on certain streets in the Downtown Overlay District.
 - Amended Section 10.1230 by adding references to the Character Districts in Sign Districts 2 and 3.
-

August 18, 2014
Ordinance # 05-2014

Article 15 – Definitions

- Added definition of “building footprint”
-

November 17, 2014
Ordinance # 08-2014

Article 4 – Zoning Districts and Use Regulations

- Amended Section 10.440, use #1.30 Townhouses and #1.41 Multifamily Dwellings with 3 or 4 units to require a Special Exception within the GRA and GRB districts
-

January 5, 2015
Ordinance # 01-2015

Article 4 – Zoning Districts and Use Regulations

- Amended Section 10.440, use #15.20 – helipads and heliports

Article 15 – Definitions

- Added definitions of “helipad” and “heliport”
-

January 5, 2015
Ordinance # 02-2015

Article 11 – Site Development Standards

- Inserted new Section 10.1115.24 to exempt properties in the Downtown Overlay District from the required maximum number of parking spaces
-

July 20, 2015
Ordinance # 03-2015

Article 7 – Flexible Development

Section 10.730 – Gateway Planned Development

- Revised Section 10.734.20, front yard requirements
- Revised Section 10.734.33, maximum building height
- Revised Section 10.738.30, Modification of Standards

Article 15 – Definitions

- Added definitions of “affordable,” “workforce housing” and “workforce housing unit”
-

August 17, 2015
Ordinance # 06-2015

Article 5A – Character Districts

- Replace entire Article
 - Articles 4, 6, 12 and 15 – Miscellaneous Amendments to Conform to Article 5A
-

December 21, 2015
Ordinance # 09-2015

Article 15 – Definitions

- Amended the definitions of “hotel” and “motel” to exclude gambling
-

January 25, 2016
Ordinance # 01-2016

Article 4 – Zoning Districts and Use Regulations

- Amended Section 10.440, use #1.70 – Manufactured housing park by adding a reference to supplemental regulations in Section 10.814

Article 5 – Dimensional and Intensity Standards

- Revised Section 10.531 – Table of Dimensional Standards – GA/MH by adding a reference to dimensional standards for manufactured housing parks in Section 10.814

Article 8 – Supplemental Use Standards

- Added Section 10.814 – Manufactured Housing Park Dimensional Standards
-

January 25, 2016
Ordinance # 02-2016

Article 10 – Environmental Protection Standards

- Amended Section 10.1016 Permitted Uses by adding uses on an approved Wetland Protection Plan
- Amended Section 10.1017 Conditional Uses by adding Section 10.1017.80 – Wetland Protection Plan

Article 15 – Definitions

- Amended the definition of “impervious surface”
-

April 25, 2016
Ordinance # 04-2016

Article 4 – Zoning Districts and Use Regulations

- Added Section 10.470 – Uses Permitted in the Transportation Corridor District
-

July 11, 2016
Ordinance # 05-2016

Article 5A – Character Districts

- Replaced entire Article

Articles 2, 4, 5, 6, 8, 11, 12 and 15

- Miscellaneous amendments to conform to revised Article 5A
-

January 9, 2017
Ordinance # 01-2017

Article 2 – Administration and Enforcement

- Section 10.236 – Extended the term of variances and special exceptions to two years

Article 3 – Nonconforming Lots, Buildings, Structures and Uses

- Section 10.320 – Amended provisions regarding nonconforming buildings and structures

Article 11 – Site Development Standards

- Sections 10.1113.31 and 10.1113.41 – Added the Gateway district to the tables of setback requirements for parking areas

Article 15 – Definitions

- Section 10.1530 – Amended the definition of “structure”

January 9, 2017
Ordinance # 02-2017

Article 5 – Dimensional and Intensity Standards

- Section 10.515.10 – Revised provisions related to measurement of yards
- Section 10.516.30 – Updated the district references for corner lot vision obstruction
- Section 10.516.40 – Revised the provisions regarding projections into required yards

Article 15 – Definitions

- Section 10.1530 – Amended the definition of “building coverage”
-

January 9, 2017
Ordinance # 03-2017

Article 5 – Dimensional and Intensity Standards

- Section 10.521 – Reduced the maximum building height for buildings with flat roofs from 35 feet to 30 feet in the Residential districts, and from 40 feet to 30 feet in the Mixed Residential districts
 - Section 10.1530 – Added definitions for “flat roof” and “sloped roof”
-

January 9, 2017
Ordinance # 04-2017

Article 4 – Zoning Districts and Use Regulations

- Section 10.440 – Added accessory dwelling units and garden cottages as uses allowed by conditional use permit from the Planning Board

Article 8 – Supplemental Use Standards

- Added Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages

Article 15 – Definitions

- Added definitions for “accessory dwelling unit”, “attached accessory dwelling unit”, “detached accessory dwelling unit”, and “garden cottage”
-

January 9, 2017
Ordinance # 05-2017

Article 5A – Character Districts

- Deleted Section 10.5A45 – Architectural Design Guidelines

Article 6 – Overlay Districts

- Added Section 10.632.30 referencing the design guidelines adopted by the Historic District Commission
 - Amended Section 10.635.70(3) to reference the HDC’s design guidelines
 - Amended Section 10.633.20 to revise and expand the list of activities that are exempt from HDC review and approval, and to clarify that such activities require administrative review and approval
-

January 9, 2017
Ordinance # 06-2017

Article 10 – Environmental Protection Standards

- Added Section 10.1013.40(e), to include a portion of the Piscataqua River shoreline as a jurisdictional area

- Amended Section 10.1016.10(4)(a) to clarify the allowance for expansion of single or two-family dwellings
 - Added Section 10.1017.50(6) to require restoration of a vegetated buffer strip to the extent feasible
-

January 9, 2017
Ordinance # 07-2017

Article 12 – Signs

- Added Section 10.1263.60 regarding the type and manner of illumination of signs using direct illumination
 - Amended definition of “changeable sign” in Section 10.1290
-

June 19, 2017
Ordinance 16-2017

Article 5A – Character-Based Zoning

- Added Section 10.5A46.23 to allowing for excess community space to be credited to another development in the same Incentive Overlay District
-

June 19, 2017
Ordinance 17-2017

Article 6 – Overlay Districts

- Amended Section 10.633.20 to add an exemption for kiosks, signs, and other site elements related to public parking in private parking lots authorized by a permit from the Department of Public Works

Article 12 – Signs

- Amended Section 10.1222.20 to exempt directional or information signs pertaining to public parking in a private lot authorized by a permit from the Department of Public Works
 - Amended definition “Information Sign” in Section 10.1290
-

December 4, 2017
Ordinance 25-2017

Article 8 – Supplemental Use Standards

- Amend Section 10.814 and 10.815 by deleting the separate off-street parking requirements for accessory dwelling units and garden cottages.
- Amend Sections 10.814.80 and 10.815.60 to allow the Planning Board to require additional off-street parking spaces when granting a conditional use permit.

Article 11 – Site Development Standards

- Insert new section 10.1111.10 and renumber the existing sections 10.1111.10 and 10.1111.20 accordingly.
- Replace Section 10.1112 – Number of Required Parking Spaces.
- Amend the table in subsection 10.1115.21 of the Off-Street Parking Provisions for the Downtown Overlay District to reduce parking space requirements for residential uses and add a requirement for conference or banquet facilities that are part of a hotel or motel.
- Insert a new Section 10.1116 – Bicycle Parking

Article 15 – Definitions

- Amend Section 10.1530 – Terms of General Applicability by deleting “single-family” from the definition of townhouse and adding new definitions for driveway, maneuvering aisle, and maximum occupancy.

December 4, 2017
Ordinance 26-2017

Article 4 – Zoning Districts and Use Regulations

- Delete Gateway (GW) under Business Districts from Section 10.410 Establishment and Purpose of Districts and add new Districts as follows: Gateway Neighborhood Mixed Use Corridor (G1) and Gateway Neighborhood Mixed Use Center (G2).
- Remove Gateway (GW) and add G1 and G2 to Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts.

Article 5 – Dimensional and Intensity Standards

- Amend Table 10.531 Table of Dimensional Standards to remove references to Gateway District.
- Remove reference to Section 10.730 in Section 10.533.

Article 5A – Character-Based Zoning

- Add the following new building types to Figure 10.5A43.60: Cottage, Paired House, Gateway Townhouse, Mixed Use Building, Small Flex Space/Fabrication Building, and Community Building
- Add the following Façade Types to Figure 10.5A43.10: Dooryard, Terrace, Gallery, and Arcade
- Add the following Community Space Types to Figure 10.5A45.10: Recreation Field or Court, Common or Green, Community Garden, Outdoor Dining Café, and Courtyard
- Amend the Definitions in Section 10.5A60 to revise the definitions of block, community space, and front building setback, and add new definitions for building setback, development site, development site area, and public realm.

Article 5B – Gateway Neighborhood Mixed Use Districts

- Add new Article and amend Zoning Map.

Article 7 – Flexible Development

- Delete Section 10.730 Gateway Planned Development.

Article 15 – Definitions

- Amend the definitions for building coverage and coverage and add new definition for open space coverage.

August 20, 2018
Ordinance # 03-2018

Article 4 – Zoning Districts and Use Regulations

- Change use 3.512 (indoor performance facility with occupancy less than 500 to be allowed by Special Exception in the Business District and Character District 4-West End
- Add new accessory use #19.50 Outdoor dining or drinking area to be permitted (P) in CD5, CD4, GB, G1, and G2 and allowed by conditional use permit (CUP) in CD4-L2, B, and CD4-W

Article 5A – Character-Based Zoning

- Insert new section 10.5A42.40 North Mill Pond Public View Corridors to be located at Dover Street
- Amend Table 10.5A46.10 – Incentives to Development Standards regarding minimum ground story height, minimum off-street parking, ground story parking, and maximum building footprint for properties in the CD4-W district within 200’ of the North Mill Pond.

- Amend Section 10.5A46.20 – Requirements to Receive Incentives to the Development Standards to clarify 10.5A46.21 public greenway requirements for lots within 100 feet of the North Mill Pond or Piscataqua River.

Article 15 – Definitions

- Amend definition of building block length to include public greenway.
-

August 20, 2018
Ordinance # 04-2018

Article 5A – Character-Based Zoning

- Amend Table 10.5A46.10 – Incentives to Development Standards regarding maximum building block length and maximum building footprint in the CD4-L1 and CD4-L2 Districts.
 - Amend section 10.5A42.40 North Mill Pond Public View Corridors to include Cabot Street, Cornwall Street, and Langdon Street.
-

August 20, 2018
Ordinance # 05-2018

Article 5A – Character-Based Zoning

- Amend Figure 10.5A41.10A Development Standards to add new building and façade types originally added for the Gateway Districts to the Character Districts
 - Amend the definitions of Façade Types in Figure 10.5A43.10
 - Amend the definitions of Building Types in Figure 10.5A43.60
 - Amend the definitions of Community Spaces in Figure 10.5A45.10
-

October 15, 2018 (effective date January 1, 2019)
Ordinance #09-2018

Article 6 – Overlay Districts

- Insert a new Section 10.613.60 for Highway Noise Overlay District
- Insert a new Section 10.670 for Highway Noise Overlay District
- Ordinance to be in effect as of January 1, 2019

Article 15 – Definitions

- Amend terms of general applicability to insert new definitions related to the Highway Noise Overlay District.
- Ordinance to be in effect as of January 1, 2019

February 4, 2019
Ordinance #01-2019

Article 11 – Site Development Standards, Section 10.1110 – Off Street Parking

- Delete existing Section 10.1112.52 and insert a new Section 10.1112.14 regarding requirements for granting of a conditional use permit
 - Amend Section 10.1112.21 to remove reference to shopping center
 - Amend Section 10.1112.323 to remove reference to Site Plan Review process
 - Amend Section 10.1115.21 to apply same residential requirements to Downtown Overlay District as listed in Section 10.1112.30
-

February 4, 2019
Ordinance #02-2019

Article 2 – Administration and Enforcement

- Insert a new Section 10.240 for Conditional Use Permits
-

February 4, 2019
Ordinance #03-2019

Article 12 – Signs

- Amendments to Sections 10.1210, 10.1222, 10.1224, 10.1225 regarding content neutrality
 - Insert new Section 10.1223 regarding Temporary Signs
 - Add Gateway Neighborhood Mixed Use Districts to Sign Districts Section 10.1232
 - Amendments to Section 10.1242 to clarify parapet and walk sign requirements for buildings facing multiple streets
 - Amend Section 10.1243 to remove reference to shopping center
 - Amend Section 10.1251.30 to add dimensional requirements for multiple freestanding signs on a lot
 - Insert new Section 10.1251.40 regarding illuminated projection signs
 - Amend Section 10.1271 to clarify requirements regarding signs on more than one façade of a building
 - Amend Section 10.1290 Sign Definitions to incorporate changes made for content neutrality
-

March 4, 2019
Ordinance #05-2019

Article 8 – Supplemental Use Standards

- Delete existing Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages and insert in their place new Sections 10.814 and 10.815 with revisions to clarify and adjust zoning compliance requirements for lots, design standards, Planning Board findings, and owner-occupancy.

Article 15 – Definitions

- Revise definitions for accessory building or structure, attached accessory dwelling unit, detached accessory dwelling unit, and principal building.
 - Add new definitions for principal dwelling and principal dwelling unit.
-

December 2, 2019
Ordinance #19-2019

Article 10 – Environmental Protection Standards

- Amendments to Section 10.1010 – Wetlands Protection including requirements for fencing clarifying the characterization of impacts to the wetland and buffer, adding information related to the compensatory removal of impervious surface and the requirements for a wetland buffer enhancement plan, providing guidance on living shorelines for tidal areas and use of porous pavement in the wetland buffer, and delineating wetland buffer areas.
-

December 16, 2019
Ordinance #20-2019

Article 6 – Overlay Districts

- Add new “extended flood hazard area” and requirements and standards for this area.
- Update definitions and other sections to be consistent with requirements of National Flood Insurance Program.
- Add requirement for new construction in the special flood hazard to be built 2-feet above the BFE.
- Amend definition of “substantial improvement” to lower the value of improvements from 50% of market value to 40% of market value.

Article 15 – Definitions

- Amend list of definitions to conform with Article 6.
-

January 11, 2021
Ordinance #1-2021

Article 6 – Overlay Districts

- Update study and map references to January 29, 2021.
 - Change definition of new construction to comply with National Flood Insurance Program requirements.
 - Add reasonableness qualifier to construction standards requirements.
-

October 24, 2022
Ordinance #06-2022

Amendments to Article 5A – Character-Based Zoning

- Amended Section 10.5A21B to change the building height standards map.
- Amended Section 10.5A2120 to clarify apportioning the building height standards.
- Amended Section 10.5A43.32 to modify roof appurtenances.

Amendments to Article 15 – Terms of General Applicability

- Amended Section 10.1530 to modify the definition on building height, lot line, mansard roof, penthouse, and short story.
- Amended Section 10.1530 to add new definitions for average existing and finished grade planes, public place, and Urban Districts.

May 1, 2023
Ordinance #04-2023

Amendments to Article 4 – Zoning Districts and Use Regulations

- Amended Section 10.430 to add Administrative Approval.
- Amended Section 10.440 to add Accessory Dwelling Unit Categories and remove Garden Cottage.

Amendments to Article 8 – Supplemental Use Standards

- Amended Section 10.814 to revise section on accessory dwelling units.
- Amended Section 10.815 to delete section on garden cottages.

Amendments to Article 11 – Site Development Standards

- Amended Section 10.1113.20 to include language referencing accessory dwelling units.
- Amended Section 10.1116.14 to delete garden cottage reference

Amendments to Article 15 – Terms of General Applicability

- Amended Section 10.1530 to modify the definition on building height, lot line, mansard roof, penthouse, and short story.
- Amended Section 10.1530 to add new definitions for average existing and finished grade planes, public place, and Urban Districts.
- Amend Section 10.1530 to delete definition for garden cottage.

August 7, 2023
Ordinance #07-2023

Amendments to Article 5A – Character-Based Zoning

- Amended Section 10.5A43.30 subsection 10.5A43.33 to revise section on incentives for building and story heights.
- Amended Section 10.5A.43.40 subsections 10.5A43.41-44 to revise section on incentives for maximum building footprint.
- Amended Section 10.5A45 subsection Figures 10.5A45.10 Community Spaces to add four new community space types.
- Amended Section 10.5A46.20 subsections 10.5A46.21-22 to revise the requirements to receive incentives.

Amendments to Article 15 – Terms of General Applicability

- Amended Section 10.1530 to modify the definition of building footprint.
-

May 6, 2024
Ordinance #04-2024

Amendments to Article 4 – Zoning Districts and Use Regulations

- Amended Section 10.0440, Table of Uses, Section 11.20, 11.21, 19.60 and 19.70.

Amendments to Article 8 – Supplemental Use Standards

- Amended Section 10.810 and Section 10.843.

Amendments to Article 11 – Site Development Standards

- Amended Section 10.11112.20 and Section 10.1112.32 to add language about electric vehicle parking requirements.

Amendments to Article 15 – Terms of General Applicability

- Amended Section 10.1530 to add definitions for EV, EV fueling space A and B and modify definition for motor vehicle service station.

June 17, 2024
Ordinance #05-2024

Amendments to Article 4 – Zoning Districts and Use Regulations

- Amended Section 10.0440, Table of Uses, Section 19.22.

Amendments to Article 15 – Terms of General Applicability

- Amended Section 10.1530 to revise the definitions of home occupation 1 and home occupation 2.

July 15, 2024
Ordinance #06-2024

Amendments to Article 6 – Overlay Districts

- Amended Section 10.633.20, Exemptions from Certificate of Approval subsection (7) and added subsection (28).
- Amended Section 10.633.30 Administrative Approvals, Section 10.634.20 Application Contents, adding Section 10.634.24, amended Section 10.636.32(1) – Public Hearings and Section 10.636.12 – Notice of Disapproval.

Amendments to Article 15 – Terms of General Applicability

- Amended Section 10.1530 to revise the definition of Code Official and add definitions for Character Defining Architectural Features, Minimally Visible, Not Visible, Roof-mounted solar energy system, and Way.

August 19, 2024
Ordinance #08-2024

Amendments to Article 5A – Character-Based Zoning

- Amended Section 10.5A43.33, Building and Story Heights to revise section on incentives for lots over one acre in size.

November 18, 2024
Ordinance #11– 2024

Amendments to Article 6 – Overlay Districts

- Added Section 10.680 Gateway Neighborhood Overlay District

March 17, 2025
Ordinance #03- 2025

Amendments to Article 5, Measurement Rules

- Delete Section 10.515.14
- Amend Section 10.515.13 to change 6 feet in height to 8 feet in height for fences.

Amendments to Article 8, Supplemental Use Standards

- Added Section 10.811.60 and 10.811.61 relating to Accessory Uses to Permitted Residential Uses

ZONING MAP AMENDMENTS

June 21, 2010
Ordinance # 06-2010

Map 201, Lots 3, 4, 5, 6, 7 and 8 (1–6 Sagamore Grove) rezoned from Waterfront Business to Single Residence B

October 18, 2010
Ordinance # 08-2010

Map 285, Lot 12 (2700 Lafayette Road) rezoned from Municipal to Gateway

June 6, 2011
Ordinance # 8-2011

Portion of Map 116, Lot 44 rezoned from Municipal to Mixed Residence Office

November 13, 2012
Ordinance # 17-2012

Map 105, Lot 19 (143 Daniel Street) rezoned from Municipal to Central Business B and Downtown Overlay District

April 21, 2014
Ordinance # 02-2014

New Zoning Map adopted for Character Districts, comprising the following maps:

- Map 10.5A21A – Regulating Plan
 - Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas
 - Map 10.5A21C – Special Requirements: Shopfront, Officefront, Step Frontage, and Frontage Buildout and Special Use Requirement Areas
-

July 20, 2015
Ordinance # 03-2015

Rezoned the following lots from Industrial, Office Research and Municipal to Gateway:

- Assessors Map 163, Lots 33, 34 and 37
- Assessors Map 165, Lots 1, 2 and 14
- Assessors Map 172, Lots 1 and 2
- Assessors Map 173, Lots 2 and 10

August 17, 2015
Ordinance # 06-2015

New Zoning Map adopted for Character Districts, comprising the following maps:

- Map 10.5A21A – Character Districts and Civic Districts
- Map 10.5A21B – Building Height Standards
- Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout & Uses

December 21, 2015
Ordinance # 08-2015

Portion of Map 201, Lot 1 rezoned from Waterfront Business to Single Residence B

April 25, 2016
Ordinance # 04-2016

Amend the Zoning Map by rezoning the following lots or parts thereof to the Transportation Corridor District:

- Assessors Map 165 Lot 14
- Assessors Map 234 Lot 2A
- Part of Assessors Map 164 Lot 4 (100-foot wide corridor, measured from the southeasterly property line)
- Assessors Map 125 Lot 20
- Assessors Map 124 Lot 13
- Assessors Map 119 Lot 3
- Part of Assessors Map 119 Lot 5 (50-foot wide corridor, measured from the southwesterly property line)

July 11, 2016
Ordinance # 05-2016

New Zoning Map adopted for Character Districts, comprising the following maps:

- Map 10.5A21A – Character Districts and Civic Districts
- Map 10.5A21B – Building Height Standards
- Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout & Uses

Rezoned the following lots from Character District 4-L1, Mixed Residence Business, Business and Central Business B to General Residence C:

- Assessors Map 126, Lots 27, 28, 31 and 32
- Assessors Map 138, Lots 34, 48, 48-1, 48-2, 49, 50, 51, 52, 53, 55, 56, 57, 58 and 59
- Assessors Map 139, Lots 2, 3, 4, 5 and 6
- Assessors Map 144, Lot 40
- Assessors Map 145, Lots 14, 19, 20, 21, 29 and 30
- Assessors Map 146, Lots 19, 20, 21, 22 and 23
- Assessors Map 147, Lots 22, 23, 24, 25, 26, 27, 28, 29, 30 and 30A

- Assessors Map 156, Lots 24 and 35
- Assessors Map 157, Lots 10, 11, 12,13 and 14

December 4, 2017
Ordinance # 26-2017

Rezoned the following lots from Gateway to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 163 Lot 33
- Assessors Map 163 Lot 34
- Assessors Map 163 Lot 37
- Assessors Map 165 Lot 2
- Assessors Map 172 Lot 1
- Assessors Map 172 Lot 2
- Assessors Map 173 Lot 2
- Assessors Map 173 Lot 10
- Assessors Map 229 Lot 8
- Assessors Map 229 Lot 9
- Assessors Map 229 Lot 8B
- Assessors Map 243 Lot 1
- Assessors Map 243 Lot 2
- Assessors Map 243 Lot 5
- Assessors Map 243 Lot 6
- Assessors Map 243 Lot 67
- Assessors Map 243 Lot 67-1
- Assessors Map 244 Lot 3
- Assessors Map 244 Lot 5
- Assessors Map 244 Lot 6
- Assessors Map 244 Lot 8
- Assessors Map 245 Lot 1
- Assessors Map 245 Lot 2
- Assessors Map 245 Lot 3
- Assessors Map 245 Lot 4
- Assessors Map 267 Lot 0
- Assessors Map 267 Lot 2
- Assessors Map 267 Lot 28
- Assessors Map 268 Lot 98
- Assessors Map 272 Lot 2
- Assessors Map 272 Lot 3
- Assessors Map 272 Lot 4
- Assessors Map 272 Lot 6
- Assessors Map 272 Lot 7
- Assessors Map 272 Lot 9-4
- Assessors Map 272 Lot 9-5
- Assessors Map 272 Lot 9-6
- Assessors Map 272 Lot 10
- Assessors Map 273 Lot 0
- Assessors Map 273 Lot 1
- Assessors Map 273 Lot 2-1
- Assessors Map 273 Lot 2-2
- Assessors Map 273 Lot 2-4
- Assessors Map 273 Lot 2-50
- Assessors Map 273 Lot 3
- Assessors Map 273 Lot 6
- Assessors Map 285 Lot 2
- Assessors Map 285 Lot 12
- Assessors Map 285 Lot 13
- Assessors Map 285 Lot 15
- Assessors Map 285 Lot 16-1
- Assessors Map 285 Lot 16-2
- Assessors Map 285 Lot 15A
- Assessors Map 286 Lot 0
- Assessors Map 286 Lot 2
- Assessors Map 286 Lot 17
- Assessors Map 286 Lot 18
- Assessors Map 286 Lot 19
- Assessors Map 286 Lot 20
- Assessors Map 286 Lot 21
- Assessors Map 286 Lot 22
- Assessors Map 286 Lot 23
- Assessors Map 286 Lot 26-1
- Assessors Map 286 Lot 26-3
- Assessors Map 286 Lot 22A
- Assessors Map 291 Lot 1
- Assessors Map 291 Lot 4
- Assessors Map 291 Lot 5
- Assessors Map 291 Lot 6
- Assessors Map 291 Lot 8
- Assessors Map 291 Lot 9
- Assessors Map 297 Lot 0
- Assessors Map 297 Lot 1
- Assessors Map 297 Lot 2
- Assessors Map 297 Lot 3
- Assessors Map 297 Lot 4-1
- Assessors Map 297 Lot 4-2
- Assessors Map 297 Lot 5
- Assessors Map 297 Lot 6
- Assessors Map 297 Lot 8
- Assessors Map 297 Lot 9
- Assessors Map 297 Lot 10
- Assessors Map 298 Lot 7
- Portions of Assessors Map 297 Lot 11, Map 297 Lot 5A, Map 298 Lot 1, Map 298 Lot 2, Map 298 Lot 3, Map 298 Lot 4, Map 298 Lot 5, Map 298 Lot 6, Map 215 Lot 9, Map 239 Lot 8, Map 272 Lot 1, Map 272 Lot 9, Map 273 Lot 5, Map 244 Lot 1, Map 244 Lot 2

Rezoned the following lots from Gateway to Gateway Neighborhood Mixed Use Center (G2):

- Assessors Map 251 Lot 124
- Assessors Map 251 Lot 125
- Assessors Map 252 Lot 2
- Assessors Map 252 Lot 3
- Assessors Map 252 Lot 4
- Assessors Map 252 Lot 5
- Assessors Map 252 Lot 7
- Assessors Map 252 Lot 8
- Assessors Map 253 Lot 1
- Assessors Map 253 Lot 2
- Assessors Map 253 Lot 3
- Assessors Map 253 Lot 4
- Assessors Map 253 Lot 5
- Assessors Map 253 Lot 5-1
- Assessors Map 253 Lot 9
- Assessors Map 253 Lot 11
- Assessors Map 253 Lot 12
- Assessors Map 253 Lot 13
- Assessors Map 253 Lot 14
- Assessors Map 253 Lot 2A

Rezoned the following lots from General Business to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 215 Lot 5
- Assessors Map 215 Lot 7
- Assessors Map 215 Lot 10
- Assessors Map 215 Lot 11
- Assessors Map 215 Lot 12
- Assessors Map 215 Lot 13
- Assessors Map 215 Lot 14
- Assessors Map 216 Lot 3
- Assessors Map 238 Lot 2
- Assessors Map 238 Lot 3
- Assessors Map 238 Lot 10-2
- Assessors Map 238 Lot 15
- Assessors Map 238 Lot 16
- Assessors Map 238 Lot 17
- Assessors Map 238 Lot 20
- Assessors Map 239 Lot 2
- Assessors Map 239 Lot 3
- Assessors Map 239 Lot 7-1
- Assessors Map 239 Lot 7-2
- Assessors Map 239 Lot 7-3
- Assessors Map 239 Lot 9
- Assessors Map 239 Lot 10
- Assessors Map 239 Lot 11
- Assessors Map 239 Lot 13
- Assessors Map 239 Lot 13-1
- Assessors Map 239 Lot 13-2
- Assessors Map 239 Lot 15
- Assessors Map 239 Lot 16
- Assessors Map 239 Lot 18
- Assessors Map 267 Lot 1
- Assessors Map 267 Lot 3
- Assessors Map 272 Lot 8
- Assessors Map 285 Lot 14
- Assessors Map 286 Lot 1
- Portions of Assessors Map 217 Lot 1, Map 217 Lot 2A

Rezoned the following lots from General Business to Gateway Neighborhood Mixed Use Center (G2):

- Assessors Map 218 Lot 22
- Assessors Map 218 Lot 24
- Assessors Map 218 Lot 25
- Assessors Map 218 Lot 28
- Assessors Map 218 Lot 29
- Assessors Map 218 Lot 30
- Assessors Map 218 Lot 32
- Assessors Map 218 Lot 33
- Assessors Map 218 Lot 34
- Assessors Map 218 Lot 38
- Assessors Map 218 Lot 39

Rezoned the following lots from Single Residence B to Gateway Neighborhood Mixed Use Center (G2):

- Assessors Map 210 Lot 2
- Assessors Map 210 Lot 3
- Assessors Map 210 Lot 4
- Assessors Map 210 Lot 5

Rezoned the following lots from Garden Apartment / Mobile Home to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 239 Lot 12

Rezoned the following lots from Single Residence A to Gateway Neighborhood Mixed Use Corridor (G1):

- A portion of Assessors Map 239 Lot 8

August 20, 2018
Ordinance # 03-2018

Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21A) to change Assessors Map 157 Lots 1 and 2 from Office Research (OR) to Character District 4 West End (CD4-W) and a portion of Assessors Map 164 Lot 4 from OR and Transportation Corridor (TC) to CD4-W

Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21B) to extend the West End Overlay District and add new Building Height Standards for Assessors Map 157 Lots 1 and 2 and a portion of Assessors Map 164 Lot 4

August 20, 2018
Ordinance # 04-2018

Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21A) to change a portion of Assessor Map 164 Lot 4 from Office Research (OR) and Transportation Corridor (TC) to CD4-L1

Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21B) to extend the West End Overlay District and add new Building Height Standards for a portion of Assessors Map 164 Lot 4

October 15, 2018 (effective date January 1, 2019)
Ordinance #09-2018

Amend the Zoning Map to add a new High Noise Overlay District including the following lots or parts thereof:

- Lots within 500 feet of the centerline of I-95 or NH 16 except land subject to the Pease Development Authority's land use regulations
-

February 19, 2019
Ordinance #04-2019

Rezoned Map 213, Lot 1 (290 Gosling Rd) from Waterfront Industrial (WI) to Office Research (OR).

May 20, 2019
Ordinance #06-2019

Rezoned Map 126, Lot 12 (15 Middle St) from CIVIC District to Character District 4 (CD4) and from no height standard to 2-3 stories (40').

October 24, 2022
Ordinance #06-2022

Amendments to Article 5A – Character-Based Zoning

- Amended Section 10.5A21B to change the building height standards map.
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August 7, 2023
Ordinance #07-2023

Amendments to Article 5A – Character-Based Zoning

- Amended Section 10.5A21B to change the building height standards map.
-

April 15, 2024
Ordinance #03 - 2024

Rezoned the following lots from Office Research (OR) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 267 Lot 4
- Assessors Map 267 Lot 5
- Assessors Map 267 Lot 6
- Assessors Map 267 Lot 7
- Assessors Map 267 Lot 8
- Assessors Map 252 Lot 1
- Assessors Map 252 Lot 1-7
- Assessors Map 234 Lot 3
- Assessors Map 234 Lot 7-7
- Assessors Map 234 Lot 2

Rezoned the following lots from Garden Apartment/Mobile Home Park (GA/MH) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 291 Lot 1-1
- Assessors Map 285 Lot 1

Rezoned the following lots from General Business (GB) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 234 Lot 7-6
- Assessors Map 234 Lot 5
- Assessors Map 234 Lot 6
- Assessors Map 234 Lot 51
- Assessors Map 174 Lot 12
- Assessors Map 174 Lot 13
- Assessors Map 175 Lot 11
- Assessors Map 175 Lot 4
- Assessors Map 175 Lot 5
- Assessors Map 236 Lot 35
- Assessors Map 236 Lot 34
- Assessors Map 236 Lot 33 (portion of)
- Assessors Map 236 Lot 36
- Assessors Map 236 Lot 39
- Assessors Map 237 Lot 56 (portion of)
- Assessors Map 237 Lot 57

Rezoned the following lots from Single Residence B (SRB) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 243 Lot 66
- Assessors Map 229 Lot 6
- Assessors Map 229 Lot 6A
- Assessors Map 268 Lot 97

Rezoned the following lots from Mixed Residential Business (MRB) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 217 Lot 1 (portion of)
- Assessors Map 217 Lot 2A (portion of)

Rezoned the following lot from General Residence A (GRA) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 174 Lot 14

Rezoned the following lots from Industrial (I) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 273 Lot 5

Rezoned the following lots from Industrial (I) and General Residence A (GRA) to Gateway Neighborhood Mixed Use Corridor (G1):

- Assessors Map 173 Lot 9

Rezoned the following lots from Single Residence B (SRB) to Gateway Neighborhood Mixed Use Center (G2):

- Assessors Map 246 Lot 1

Rezoned the following lots from Office Research (OR) and Gateway Neighborhood Mixed Use Corridor (G1) to Garden Apartment/Mobile Home Park (GA/MH):

- Assessors Map 215 Lot 9

November 18, 2024
Ordinance #11 – 2024

Amend the Zoning Map to add a new Gateway Neighborhood Overlay District including the following lots or parts thereof:

March 17, 2025
Ordinance #04 – 2025

Amend the Zoning Map to remove Assessors Map 152 Lot 2-1 from the Historic District Overlay.