Zoning Ordinance

City of Manchester, NH

In Board of Mayor and Aldermen
Passed to be enrolled February 7, 2001
Passed to be ordained February 7, 2001

CITY OF MANCHESTER
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
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ZONING ORDINANCE

FOR THE

CITY OF MANCHESTER, NEW HAMPSHIRE

Adopted February 7, 2001
Amended through July 6, 2010

AMENDMENTS SUBSEQUENT TO THE ZONING ORDINANCE ADOPTION DATE OF FEBRUARY 7, 2001:

March 20, 2001 - Article 8 - Section 8.05 Multi-family dwelling units for the elderly; subsection C
*(*adding *"and a floor area ratio of 1 (one)" to the first sentence)*

March 20, 2001 - Article 3 - Section 3.03 Definition of Terms - Floor Area Ratio
*(*adding *"The gross floor area calculation shall not include parking garages")*

November 7, 2001 - Article 6 - Section 6.07 Table of Dimensional Regulations
*(*changing *Maximum Height from "35" (feet) to "45" (feet) in R-SM)*

August 6, 2002 - Article 10 - Section 10.04 Table of Off-Street Parking Requirements, Subsection I.-Motor Vehicle Sales, Rental & Related Services
*(*changing *five "5" stacking spaces" to ten "10" stacking spaces)*

June 9, 2003 - Article 4 - Section 4.01B Establishment and Purpose of Districts
*(*adding new paragraph *"8. Arena Overlay District.")*

June 9, 2003 - Article 5 - Section 5.10 Table of Principal Uses *(*adding *"D.7" and "D.8")*

June 9, 2003 - Article 7 - Special District-Wide Regulations
*(*adding *Section 7.09 Arena Overlay District)*

June 9, 2003 - Article 10 - Section 10.07 Parking and loading area design standards
*(*adding new sub-section *10.07 (I); renumber "I" to "J")*

June 9, 2003 – Article 9 - Section 9.09 Signs Permitted in Non-Residential Districts
(adding new sub-section *9.09 (C)*

November 5, 2003 - Article 5 - Section 5.10 Table of Principal Uses
(adding *"P" under RDV on lines A.2, A.5 and A.6)*

November 5, 2003 - Article 8 - Section 8.04 Multi-family dwellings
(adding *"RDV" to 2nd line of table)*

November 5, 2003 - Article 10 - Section 10.04 Table of Off Street Parking Requirements
(adding *"RDV" to A. Residential, Multi-Family, Minimum Parking Spaces Required)*

February 3, 2004 - Article 5 - Section 5.10 Table of Principal Uses
(adding *"P" under "CBD" on line A.2)*

February 3, 2004 - Article 8 - Section 8.04 Multi-family dwellings
(amending *Minimum Additional Lot Area* in *"CBD" from 1,000 sq. ft. to 500 sq. ft. per unit)*

February 3, 2004 - Article 4 - Section 4.01 Establishment and Purpose of Districts *(A.5. change wording of last sentence)*

February 3, 2004 - Article 5 - Section 5.10 Table of Principal Uses
(adding *"P" under "IND" on line G.6)*

February 3, 2004 - Article 8 - Section 8.01 Single family attached (townhouse) dwellings
(adding *"CBD" to the 2nd line of table)*

April 6, 2004 – Article 6 – Section 6.07 Table of Dimensional Regulations
(changing *Maximum Height from "35" (feet) to "45" (feet) in R-3)*

AMENDMENTS SUBSEQUENT TO THE ZONING ORDINANCE ADOPTION DATE OF FEBRUARY 7, 2001 (*CONTINUED*):

July 20, 2004 – Article 5 – Section 5.10 Table of Principal Uses
(adding *#12 Tattoo Parlors; inserting "P" under CBD and B-2)*

July 20, 2004 – Article 8 – Section 8.06
(delete title "*Reserved"; replace with "Tattoo Parlors")*

July 20, 2004 – Table of Contents – Section 8.06
(delete title *"Reserved"; replace with "Tattoo Parlors")*

September 7, 2004 – Article 13 – Section 13.04
(incorporating new school impact fee schedule)

September 5, 2006 – Article 3 – Section 3.03
*(*revise definition of *Lot width)*

September 5, 2006 – Article 6 – Section 6.10
*(*adding *"both vacant and developed lots (which contain otherwise conforming uses and structures)* in the first sentence)

September 5, 2006 – Article 10 – Section 10.06 (C)
*(*adding *"unless waived by the Planning Board in conjunction with site plan or planned development review."* to the second sentence*)*

September 5, 2006 – Article 15 – Section 15.03
*(*delete *two (2) years)*; replace with *one (1) year)*

November 14, 2006 – Article 5 – Section 5.11 Table of Accessory Uses – K2
(adding *"or uninspected"* automobile or one boat.)

November 28, 2006 – Article 3 – Section 3.03 Definition of Terms
(adding *Groundwater* and *Groundwater Management Zone)*

November 28 ,2006 – Article 4 – Section 4.01B Overlay Districts
(adding "*the Manchester Landfill Groundwater Management Zone (ML-GMZ) Overlay District* and *Lake Massabesic Protection Overlay District – LMPOD)*

November 28, 2006 – Article 4.02 Official Zoning Maps
*(*adding *"the Manchester Landfill-Groundwater Management Zone (ML-GMZ) Overlay District* and *the Lake Massabesic Protection Overlay District)*

November 28, 2006 – Article 7 Special District Wide Regulations
(adding "*7.10 Manchester Landfill Groundwater Management Zone (ML-GMZ)* and *7.11 Lake Massabesic Protection Overlay District – LMPOD)*

November 28, 2006 – Article 14 – Section 14.02 Powers and Duties of the ZBA
(adding *14.02 (B)2)*

December 18, 2007 – Article 5 – Use Regulations, Table 5.10
(making the following changes in the column under B-1:
A2 – change "—" to "P"
D7 – change "—" to "P" and add 8.13 in the Supplementary column
D8 – change "—" to "P"
F2 – split row in 2; change to F2-1 and F2-2

AMENDMENTS SUBSEQUENT TO THE ZONING ORDINANCE ADOPTION DATE OF FEBRUARY 7, 2001 (*CONTINUED*):

F5 - change "CU" to "P"
H-1-1 – change "CU" to "P"
H-1-2 – change "CU" to "P"
H-3-2 – change "CU" to "P"
H-4-1 – change "—" to "P"
H-5-2 – change "CU" to "P"
J2 – change "—" to "P"
J5 – change "—" to "P"

December 18, 2007 – Article 5 – table 5.11 Accessory Uses
(making the following changes in the column under B-1:
L1 – change "—" to "P"
L4 – change "—" to "SE"

December 18, 2007 – Article 6 – Table 6.07
(changing *front setback from 10' to –; rear setback from 15' to 10'; floor area ratio from .5 to 2)*

December 18, 2007 – Article 8 – Supplementary Regulations – Subsection 8.01
(adding *B-1* in last row of table)

December 18, 2007 - Article 9 – Sign Regulations – Subsection 9.07
(deleting "F"; adding new subsection I)

December 18, 2007 – Article 10 – Off-Street Parking and Loading Requirements – Subsection 10.02A
(adding *Neighborhood Business District)*

December 18, 2007 – Article 10 - - Subsection 10.02C
(deleting subsection and inserting new text)

December 18, 2007 – Article 10 – Subsection 10.02D
(deleting "B-1)

December 18, 2007 – Article 10 – Subsection 10.03D
(deleting "B-1)

December 18, 2007 – Article 10 – Subsection 10.07
(adding new "J" and renumber the current "J" to "K")

December 18, 2007 – Article 10 – Subsection 10.09A
(adding: "Except in the B-1 District as described in Subsection 10.07J"….at the beginning of the first sentence)

April 21, 2009 – Article 3.03 – Definition of Terms
(deleting: "Commissioner")

April 21, 2009 – Article 4.02 – Official Zoning Maps Subsection (B)
(replace: "Planning Director" with "Director of Planning and Community Development"

April 21, 2009 – Article 5.05 – Administrative Classification – Subsections (A), (B), (C), (D)
(replace "Building Commissioner" with "Director of Planning and Community Development"

April 21, 2009 – Article 7.01 – Amoskeag Millyard Mixed Use (AMX) – Subsection D
(replace "Planning Director" and "Building Commissioner" with "Director of Planning and Community Development")

AMENDMENTS SUBSEQUENT TO THE ZONING ORDINANCE ADOPTION DATE OF FEBRUARY 7, 2001 (*CONTINUED*):

April 21, 2009 – Article 7.03 Floodplain (F) District – Subsections (C), (D)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 7.05 Historic Districts – Subsections (C), (D)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 7.07 Airport Approach Overlay District – Subsection (B)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 8.10 Excavation of Earth Materials – Subsections (H), (I)
(replace "Commissioner" with "Director of Planning and Community Development")

April 21, 2009 - Article 9.02 Permit Required for Signs.
(replace "Building Commissioner" with "Director of Planning and Community Development)

April 21, 2009 – Article 10.02 Applicability –Subsection (D)
(replace "Building Commissioner" with "Director of Planning and Community Development)

April 21, 2009 – Article 10.03 Number of parking spaces – Subsection (C)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 10.06 Dimensional Requirements – Subsection (C)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 10.07 Parking and loading area – Subsections (B), (E)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 10.08 Driveway location –Subsections (A), (C)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 10.09 Limited use of Yard Areas – Subsection (B)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 11.02 Determination of non-conformity – Subsection (A)
(replace "Building Commissioner" with "Director of Planning and Community Development)

April 21, 2009 –Article 11.03 Non-conforming lots – Subsection (A)
(replace "Building Commissioner" with "Director of Planning and Community Development)

April 21, 2009 – Article 11.05 Non-conforming structures – Subsection (C)
(replace "Building Commissioner" with "Director of Planning and Community Development)

April 21, 2009 – Article 13.03 Imposition of Public Capital Facilities Impact Fee – Subsection (A)
(replace "Building Commissioner" with "Director of Planning and Community Development)

April 21, 2009 – Article 14.02 Powers and Duties of the ZBA – Subsection (A)
(replace "Commissioner" with "Director of Planning and Community Development")

April 21, 2009 - Article 14.03 Application Procedure for the ZBA – Subsection (G)
(replace "Commissioner" with "Director of Planning and Community Development)

April 21, 2009 - Article 15.01 Powers and Duties of Building Commissioner – Subsections (A), (B), (C)
(replace Building Commissioner" with "Director of Planning and Community Development")

AMENDMENTS SUBSEQUENT TO THE ZONING ORDINANCE ADOPTION DATE OF FEBRUARY 7, 2001 (*CONTINUED*):

April 21, 2009 – Article 15.02 Permits Required – Subsections (A), (B), (C)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 15.04 Violations – Subsections (A), (B), (C), (D)
(replace "Building Commissioner" with "Director of Planning and Community Development")

April 21, 2009 – Article 13.03 Imposition of public capital facilities impact fee – Subsection (A)
(replace "Building Department" with "Planning and Community Development Department")

April 21, 2009 – Article 13.05 Payment of Fees
(replace "Building Department" with "Planning and Community Development Department")

April 21, 2009 – Article 14.03 Application Procedure for the Zoning Board of Adjustment – Subsections (C), (G)
(replace "Planning Department" with "Planning and Community Development Department")

April 21, 2009 - Article 16.03 Procedure for Consideration of a Proposed Amendment – Subsections (B), (C), (F), (G)
(replace "Planning Department" with "Planning and Community Development Department")

September 22, 2009 – Article 3.03 Definition of Terms
(deleting "Flood Boundary and Flood Map (Floodway) and Flood Hazard Area, Special)

September 22, 2009 – Article 7.03B Establishment of District
(deleting "and encompasses……of this Ordinance." And adding "The following regulations….incorporated by reference")

September 22, 2009 - Article 7.03 Floodplain (F) District
(adding new subsection B.1 Definitions)

September 22, 2009 – Article 7.03C General Requirement for the F District
(adding to first paragraph "proposed development in any special flood hazard area shall require a permit.")

September 22, 2009 – Article 7.03D Alteration or Relocation of Watercourses
(revising items 1, 2 an 3 and adding a new item #4)

September 22, 2009 – Article 7.03E Determination of 100-year Flood Levels in the F District
(revising item #1 and deleting item #3)

September 22, 2009 – Article 7.03F Design Standards in the F District
(revising the first sentence and item #4 and deleting item #6)

September 22, 2009 – Article 7.03G Appeals to the Zoning Board of Adjustment (ZBA) in the F District
(revising item #4)

July 6, 2010 – Article 4.01 A Base District (revising item #15)

July 6, 2010 – Article 5.10 Table of Principal Uses
(making the following changes in the column under RP)
D-1 – change "--" to CU
D-7 – change "--" to CU
E-3 – change "--" to Permitted
E-10 – change "CU" to Permitted
E-12 – change "CU" to Permitted

AMENDMENTS SUBSEQUENT TO THE ZONING ORDINANCE ADOPTION DATE OF FEBRUARY 7, 2001 (*CONTINUED*):

H-1.2 – change “CU” to Permitted
H-2.1 – change “CU” to Permitted
H-2.5 – change “CU” to Permitted
H-2.6 – add new category
J-7 – change “--” to CU

July 6, 2010 – Article 7, Section 7.01D Millyard Design Review Committee (revising the first paragraph)

AMENDMENTS TO THE ZONING MAP SUBSEQUENT TO THE ADOPTION DATE OF FEBRUARY 7, 2001:

November 7, 2001 – Extending the R-SM (Residential Multi-family) zoning district to include a portion of Lot 17 and the remaining portion of Lot 8 on either side of Countryside Boulevard west of Hackett Hill Road, in an area currently zoned R-S (single family).

December 4, 2001 – Extending the B-2 (General Business) zoning district southerly to include the remaining portions of two lots on Loring Street and two lots on Faltin Drive, in an area currently zoned IND (General Industrial).

October 1, 2002 – Changing the zoning district of property currently zoned R-SM (Residential Suburban Multi-family district) to B-2 (General Business District) on the west side of Brown Avenue at the intersection of Hazelton Avenue.

October 1, 2002 - Changing the zoning district of property currently zoned R-1B (Residential One Family District) to R-SM (Residential Suburban Multifamily District) on the east side of Brown Avenue at the intersection of Hazelton Avenue, extending to the Londonderry Town line.

April 15, 2003 – Extending the Central Business District zone (CBD) into an area currently zoned Redevelopment (RDV) in the area known as Singer Park generally bounded by the Merrimack River on the west, the end of South Commercial Street on the north, the B&M rail yard on the east and the Goffstown Branch of the B&M (also known as the Trestle Bridge) on the south.

June 9, 2003 – Adding a new Arena Overlay Zoning District to the Zoning Maps in the vicinity of the Verizon Wireless Arena.

June 9, 2003 – Extending the B-2 (General Business) zoning district to include land identified as Tax Map 756, Lot 12 and Tax Map 756, Lot 14 currently zoned B-2 (General Business), R-1B (Residential One Family) and R-SM (Residential Suburban Multi-family) in the area of South Willow Street and South Porter Street.

December 16, 2003 - Changing the zoning district of property currently zoned IND (General Industrial) to B-2 (General Business) by extending the B-2 zone district to the center line of Huse Road and Merrill Road, including parcels identified as TM 666, Lots 2B, 6, 6A, 7, 8, 9 and 9A.

February 3, 2004 – Extending the R-SM (Residential suburban multifamily) zoning district to include the full extent of a parcel of land on Old Wellington Road (TM 645, Lot 10) currently zoned R-1A.

April 6, 2004 – Extending the B-2 (General Business) zoning district to include a portion of TPK 3-5A, a portion of TPK 3-5B, a portion of TPK 3-6, TPK 3-6A, TPK 3-7, and TPK 3-8 currently zoned R-3 (Urban Multifamily).

October 19, 2004 – Changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multi-family) by extending the R-SM zone district on a portion of property identified as TM478, Lot 8, located on Candia Road.

February 1, 2005 – Extending the R-SM (Residential Suburban Multi-Family) zoning district to include property currently zoned R-S (Residential Suburban) located on Front Street and Hackett Hill Road and known as Tax Map 767, Lots 4 and 4B.

September 5, 2006 – Extending the R-SM (Residential Suburban Multi-Family) zoning district to include property currently zoned IND (Industrial) located on the south side of Holt Avenue between East Industrial Park Drive and Waverly Street and known as Tax Map 716, Lot 38.

September 5, 2006 - Revising the CV (Conservation) zoning district boundary along the Piscataquog River.

November 28, 2006 – Establishing the Manchester Landfill Groundwater Management Zone (ML-GMZ) Overlay District and the Lake Massabesic Protection Overlay District – LMPOD

AMENDMENTS TO THE ZONING MAP SUBSEQUENT TO THE ADOPTION DATE OF FEBRUARY 7, 2001 (CONTINUED):

July 10, 2007 – Extending the General Business District (B-2) into an area currently zoned Urban Multifamily District (R-3), address of 116 So. Main St. and abutting Walker St.

July 10, 2007 – Extending the Neighborhood Business District (B-1) into an area currently zoned Residential Two Family District (R-2) including two lots with addresses of 316 and 322 So. Main St. and abutting Goffe St.

October 2, 2007 – Extending the Neighborhood Business District (B-1) into an area currently zoned urban Multi-family District (R-3), with an address of 438 Dubuque Street and abutting Amory Street.

June 10, 2008 – Extending the General Industrial/Industrial Park District (IND) into an area currently zoned Residential One Family District (R-1B) located on Mack Ave. and Frontage Rd. to include two lots known as TM 840, Lot 9 and TM 840, Lot 22.

June 2, 2009 – Extending the General Business District (B-2) into an area currently zoned Residential Two Family District (R-2) including portions of two lots with addresses of 3 Master St. and 800 Second St.

June 2, 2009 – Extending the General Business District (B-2) into an area currently zoned General Industrial/Industrial Park District (IND) located on the south side of Gold St. and east of the former Lawrence Branch of the B&M Railroad and including two parcels of land known as TM 874, Lot 14 and TM 874, Lot 15.

June 2, 2009 – Extending the Urban Multi-family District (R-3) into an area currently zoned Residential One Family District (R-1B) to include a portion of TM 691, Lot 143-A that will be on the north side of the centerline of a proposed Gold Street Bypass, adjacent to Bradley Street and TM 691, Lot 143 (St. Augustine Cemetery).

July 6, 2010 – Rezoning an area currently zoned as Research Park District (RP) to Neighborhood Business District (B-1), generally located in the vicinity of Hackett Hill Road, Poore Road and the FE Everett Turnpike-Interstate 293, including a portion of TM766, Lot 15, a portion of TM766, Lot 14D and a portion of TM767, Lot 3A.

MANCHESTER ZONING ORDINANCE
MANCHESTER, NEW HAMPSHIRE
EFFECTIVE 02-07-01

ARTICLE 1. Title, Purpose, and Authority

1.01 Title
1.02 Purpose
1.03 Authority

ARTICLE 2. General Provisions

2.01 Jurisdiction
2.02 Effective Date
2.03 Applicability
2.04 Relationship to Existing Zoning Ordinance
2.05 Relationship to Other Land Use Regulations
2.06 Relationship to the Master Plan
2.07 Relationship to Private Covenants and Restrictions
2.08 Severability

ARTICLE 3. Definitions

3.01 Word Usage
3.02 Words and Phrases not Defined
3.03 Definitions of Terms ***(Rev. Mar. 20, 2001, Sept. 5, 2006, Nov. 28, 2006, Apr. 21, 2009, Sept. 22, 2009)***

ARTICLE 4. Establishment of Zoning Districts and Zoning Maps

4.01 Establishment and Purpose of Districts
A. Base Districts ***(Rev. Feb. 3, 2004, July 6, 2010)***
B. Overlay Districts ***(Rev. June 9, 2003, Nov. 28, 2006)***

4.02 Official Zoning Maps
A. Official Zoning Base District Map ***(Rev. Nov. 28, 2006)***
B. Official Zoning Overlay Maps ***(Rev. Apr. 21, 2009***
C. Amendments to the Zoning Maps
D. Interpretation of District Boundaries

ARTICLE 5. Use Regulations

5.01 Uses Permitted by Right
5.02 Uses Permitted by Special Exception
5.03 Uses Permitted by Conditional Use Permit

5.04 Uses Not Permitted
5.05 Administrative Classification of Uses Not Specified or Change in Use ***(Rev. Apr. 21, 2009)***
5.06 Supplementary Use Regulations
5.07 All Uses Subject to Overlay District Provisions
5.08 Multiple Structures or Uses on a Single Lot
5.09 Subdivision and Site Plan Approval
5.10 Table of Principal Uses ***(Rev. July 6, 2010)***
A. Residential ***(Rev. Nov. 5, 2003, Feb. 3, 2004)***
B. Agricultural
C. Commercial Construction and Excavation
D. Manufacturing ***(Rev. June 9, 2003)***
E. Transportation, Communication & Utilities
F. Retail Trade (except automotive and restaurant uses)
G. Restaurants, Eating and Drinking Places ***(Rev. Feb. 3, 2004)***
H. Services (Non-automotive)
1. Financial and Professional
2. Medical
3. Lodging and Meeting Facilities
4. Performing Arts, Entertainment and Amusement
5. Recreation and Sports Facilities
6. Personal, Business & Repair Services ***(Rev. July 20, 2004)***
I. Motor Vehicle Sales, Rental, and Related Services
J. Institutional (Non-Medical)
5.11 Table of Accessory Uses
A. Serving any Principal Use
B. Serving a Residential Principal Use
C. Serving a Non-residential Principal Use
5.12 Planned Development

ARTICLE 6. <u>Dimensional Regulations</u>

6.01 Minimum Lot Size
6.02 Minimum Lot Frontage
6.03 Minimum Yard Requirements
6.04 Maximum Lot Coverage
6.05 Maximum Number of Stories and Height of Buildings and Structures
6.06 Maximum Floor Area Ratio
6.07 Table of Dimensional Regulations ***(Rev. Nov. 7, 2001)***
6.08 Buffer Requirements
A. Landscaped Buffer Required at Certain District Boundaries
B. Limited Activity Buffer Required Adjacent to Residential Districts
6.09 Minimum Setback from Wetlands
6.10 Special Lot Sizes in the R-2 District ***(Rev. Sept. 5, 2006)***
6.11 Additional Dimensional Regulations for Certain Uses

ARTICLE 7. <u>Special District-Wide Regulations</u>

Special Regulations Applicable Within Base Districts

7.01 Amoskeag Millyard Mixed Use District (AMX) ***(Rev. Apr. 21, 2009, July 6, 2010)***
7.02 Research Park District (RP)

Special Regulations Applicable Within Overlay Districts

7.03 Establishment of the F District (B) ***(Rev. Sept. 22, 2009)***
7.03 General Requirements for the F District (C) ***(Sept. 22, 2009)***
7.03 Alteration or Relocation of Watercourses (D) ***(Sept. 22, 2009)***
7.03 Determination of 100-year Flood Levels in the F District ***(Sept. 22, 2009)***
7.03 Floodplain District (F) ***(Rev. Apr. 21, 2009, Sept. 22, 2009)***
7.03 Appeals to the Zoning Board of Adjustment (ZBA) in the F District ***(Sept. 22, 2009)***
7.04 Residential-Professional Office District (R-PO)
7.05 Historic Districts (AMH, ACH) ***(Rev. Apr. 21, 2009)***
7.06 Airport Navigational Hazard Overlay District
7.07 Airport Approach Overlay District ***(Rev. Apr. 21, 2009)***
7.08 Airport Noise Overlay District
7.09 Arena Overlay District ***(Rev. June 9, 2003)***
7.10 Manchester Landfill Groundwater Management Zone (ML-GMZ) ***(Rev. Nov. 28, 2006)***
7.11 Lake Massabesic Protection Overlay District ***(Rev. Nov. 28, 2006)***

ARTICLE 8. <u>Supplementary Regulations for Specific Uses</u>

Principal Uses

8.01 Single Family Attached (Townhouse) Dwellings ***(Rev. Feb. 3, 2004)***
8.02 Manufactured Housing Parks
8.03 Manufactured Housing Subdivisions
8.04 Multi-Family Dwellings ***(Rev. Nov. 5, 2003, Feb. 3, 2004)***
8.05 Multi-Family Dwellings for the Elderly ***(Rev. Mar. 20, 2001)***
8.06 Tattoo Parlors ***(Rev. July 20, 2004)***
8.07 Forestry Uses
8.08 Agricultural and Livestock
8.09 Commercial Kennel
8.10 Excavation of Earth Materials ***(Rev. Apr. 21, 2009)***
8.11 Building Contractor Yards
8.12 Performance Standards for High Hazard Uses
8.13 Performance Standards for Manufacturing and Industrial Uses
8.14 Warehousing and Distribution Facilities
8.15 Telecommunication Towers and Commercial Radio and TV Stations
8.16 Essential Public Services, Utilities, and Appurtenances
8.17 Automotive Service Stations, Drive-Through Uses, and Similar Establishments
8.18 Selected Health Care, Educational and Institutional Uses

8.19 Sexually Oriented Businesses

Accessory Uses

8.20 Home Occupations
A. Purpose
B. Home Occupations
8.21 Residential Accessory Dwelling Unit
8.22 Fences, Walls and Similar Barriers
8.23 Outside Storage of Vehicles, Equipment and Materials
8.24 Accessory Structures and Uses

ARTICLE 9. <u>Sign Regulations</u>

9.01 Purpose of Sign Regulations
9.02 Permit Required for Signs ***(Rev. Apr. 21, 2009)***
9.03 Signs Allowed and Exempted from Permit Requirements
9.04 Design, Construction and Maintenance of Signs
9.05 Master Sign Inventory
9.06 Sign Area and Height Computations
9.07 Signs Prohibited Under This Ordinance
9.08 Signs Permitted in Residential Districts
9.09 Signs Permitted in Non-Residential Districts
A. Number and Types of Signs Permitted
B. Signs Permitted in the Amoskeag Millyard Mixed Use District (AMX)
C. Sign Regulations in the Arena Overlay ***(Rev. June 9, 2003)***
D. Table of Sign Regulations (Dimensional)
9.10 Status of Non-Conforming Signs

ARTICLE 10. <u>Off-Street Parking and Loading Requirements</u>

10.01 Purpose and Intent
10.02 Applicability
A. Areas and Buildings Subject to Parking Requirements
B. On-Site Parking Required Except as Provided in this Article
C. Central Business District Exempt from Parking Requirements
D. Conditional Use Permits for Alternative Parking Arrangements ***(Rev. Apr. 21, 2009)***
E. Changes in Use or Expansion of Existing Buildings
10.03 Number of Parking Spaces Required ***(Rev. Aug. 6, 2002, Apr. 21, 2009))***
10.04 Table of Off-Street Parking Requirements ***(Rev. Nov. 5, 2003)***
10.05 Off-Street Loading Requirements
10.06 Dimensional Requirements ***(Rev. Sept. 5, 2006, Apr. 21, 2009)***
10.07 Parking and Loading Area Design Standards ***(Rev. June 9, 2003, Apr. 21, 2009)***
10.08 Driveway Location and Design Standards ***(Rev. Apr. 21, 2009)***
10.09 Limited Use of Yard Areas for Parking ***(Rev. Apr. 21, 2009)***

ARTICLE 11. <u>Non-Conforming Lots, Uses, and Structures</u>

11.01 Purpose, Intent and Applicability
11.02 Determination of Non-conformity ***(Rev. Apr. 21, 2009)***
11.03 Non-conforming Lots ***(Rev. Apr. 21, 2009)***
11.04 Non-conforming Uses
- A. Continuation of Use
- B. Expansion of Non-conforming Use Area of a Lot Not Permitted
- C. Limits on Expansion of Non-conforming Use Area Within a Lawfully Existing Structure
- D. Reversion to Less Conforming Use Not Permitted
- E. Expansion or changes in a Non-conforming Use Created by Amendment to Ordinance
- F. Expansion or changes in a Non-conforming Use Created by Variance
- G. Criteria for Change or Expansion of Non-conforming Use

11.05 Non-conforming Structures ***(Rev. Apr. 21, 2009)***
11.06 Abandonment and Termination of Non-conformity

ARTICLE 12. <u>Conditional Use Permits</u>

12.01 Planning Board to Administer
12.02 Application and Review Procedure
12.03 Burden of Persuasion
12.04 Standards of Review
12.05 Hearing and Decision
12.06 Stipulations of Approval
12.07 Appeals

ARTICLE 13. <u>Impact Fees</u>

13.01 Authority and Purpose
13.02 Findings
13.03 Imposition of Public Capital Facilities Impact Fee ***(Rev. Apr. 21, 2009)***
13.04 Computation of Impact Fee ***(Rev. Sept. 7, 2004)***
13.05 Payment of Fees ***(Rev. Apr. 21, 2009)***
13.06 Appeals
13.07 Administration of Funds Collected
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ARTICLE 1. TITLE, PURPOSE AND AUTHORITY

1.01 Title

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the City of Manchester, New Hampshire" referred to herein as "this Ordinance".

1.02 Purpose

This Ordinance is designed and adopted for the following purposes:

A. To protect and promote the public safety, convenience, comfort, aesthetics, prosperity, health, and general welfare of the inhabitants of the City of Manchester, New Hampshire;

B. To secure safety from fires, panic, explosion, noxious fumes, and other such hazards and dangers, and to control nuisance-producing uses of land;

C. To promote adequate light, air, privacy, and convenience of access to property;

E. To avoid undue concentration of population, to prevent the overcrowding of land, and to lessen congestion in the streets;

F. To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care, and other public requirements;

G. To assure the proper use of natural resources, to prevent pollution of air and water, to protect property from flooding and accelerated erosion, to protect historic and archeological resources, to protect wetlands, and to conserve natural beauty and open space;

H. To conserve property values by preventing the harmful encroachment of incompatible uses, and by providing for the elimination of those uses which adversely affect the neighborhood character, development, and value of property, and to insure that any proposed development is compatible in use, scale and building design within the neighborhood in which the development is proposed; and

I. To encourage the most appropriate use of land, and to allow for planned, orderly, and beneficial growth as envisioned by the Master Plan.

1.03 Authority

This Ordinance is adopted pursuant to the authority conferred by New Hampshire Revised Statutes Annotated, Title LXIV, Planning and Zoning, as most recently amended. Authority for this Ordinance includes the power to adopt innovative land use controls pursuant to RSA 674:16, II, Grant of Power, including but not limited to the specific methods of innovative land use controls contained in RSA 674:21, Innovative Land Use Controls.

ARTICLE 2. GENERAL PROVISIONS

2.01 Jurisdiction

This Ordinance shall be effective within the corporate boundaries of the City of Manchester, New Hampshire.

2.02 Effective Date

The Zoning Ordinance was originally adopted and became effective on January 18, 1927. This Ordinance, which represents a comprehensive amendment of the Zoning Ordinance, shall take effect on **February 7, 2001**.

2.03 Applicability

No person may use or occupy any land or buildings, or authorize or permit the use or occupancy of land or buildings under their control except in accordance with all of the applicable provisions of this Ordinance. For the purposes of this Section, the "use" or "occupancy" of a building or land relates to anything and everything that is done in, on, or to that building or land.

2.04 Relationship to Existing Zoning Ordinance

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Zoning Ordinance, they shall be considered as continuations thereof and not as new enactment, unless otherwise specifically provided.

2.05 Relationship to Other Ordinances and Regulations

Wherever the provisions of this Ordinance come in conflict with any other ordinance, statute, law, or duly promulgated rule or regulation, the most restrictive or the higher standards shall apply.

2.06 Relationship to the Master Plan

It is intended that this Ordinance implement the planning policies and goals as reflected in the Master Plan of the City of Manchester, New Hampshire.

2.07 Relationship to Private Covenants and Restrictions

The provisions of this Ordinance shall not be construed to impair, interfere with, abrogate, annul, or enforce (except in the case of a condition of approval pursuant to Article 15.01B, Enforcement of Conditions of Approval, of this Ordinance) the provisions of private restrictions placed on property by covenant, easement, deed, or agreement, provided that where this Ordinance imposes a greater restriction or a higher standard, the provisions of this Ordinance shall govern.

2.08 Severability

It is hereby declared to be the intention of this Ordinance that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

ARTICLE 3. DEFINITIONS

3.01 Word Usage.

For the purpose of this Ordinance, certain terms and words shall have the meaning given here. Words used in the present tense include the future; the singular number includes the plural, and the plural includes the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered," to be used or occupied; the words "building," "structure," "lot," "land" or "premise" shall be construed as though followed by the words "or any portion thereof;" and the word "shall" is always mandatory and not merely directory.

3.02 Words and phrases not defined.

Terms and words not defined herein but defined in the Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have their common meaning unless otherwise stated.

3.03 Definitions of terms. *(Rev. 9/22/09)*

Abandonment: The visible or otherwise apparent intention of an owner to discontinue the use of a building, other structure or premises, or the removal of the characteristic equipment or furnishings used in the performance of the use without its replacement by similar equipment or furnishings.

Airport*:* That area of land or water, whether constructed or not, which has been approved by the New Hampshire Commissioner of Transportation for the Manchester Airport as a site for the landing and taking off of aircraft, utilized or to be utilized by the public as a point of arrival or departure by air.

Airport Approach Zone: An overlay district of this Ordinance which represents the airspace of the Manchester Airport, as most recently defined in accordance with Federal Aviation Regulation Part 77, and representing an imaginary surface aligned with the center line of the runways and landing strips extended, that comprises the maximum elevations that structures, trees and objects may have without interfering with airfield use and operations.

Airport Hazard: Any structure, tree, smoke, steam, dust or other substance which obstructs the aerial approaches of a publicly owned airport or impairs the reasonable visibility in the vicinity thereof, electrical impulses and disturbances which interfere with radio aids or communications and lights which might result in glare in the vision of pilots of aircraft or be confused with airport lights.

Alteration: Any construction resulting in a change in the structural parts or height, number of stories, size, use or location of a building or other structure.

Amusement Center/Arcade: An establishment offering five or more amusement devices, including, but not limited to coin-operated electronic games, shooting gallery, table games and similar recreational diversions within an enclosed building.

Automotive Repair, Major: An establishment primarily engaged in the repair and maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and major engine part overhaul, which is conducted in a completely enclosed building.

Automotive Repair, Minor: An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair, lubrication, tune-ups and transmission work, which is conducted in a completely enclosed building.

Automotive Service Station: That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into fuel tanks of motor vehicles.

Awning: A shelter supported entirely from the exterior of a building.

Basement: Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

Bed & Breakfast Inn: A house, or portion thereof, where short-term guest lodging and meals are provided. The owner of the Inn shall be the operator of the Inn and shall live on the premises.

Board of Adjustment: The Zoning Board of Adjustment of the City of Manchester, New Hampshire.

Buildable Land Area*:* The area of a lot excluding wetlands, land with slopes over twenty-five (25) percent, water bodies, regulatory floodways, and land restricted from development by easements, covenant or other legal restriction. *(Note: The lot size requirements of Article 6, Table of Dimensional Regulations, represent the minimum buildable land area required by this Ordinance within each of the zoning districts.)*

Building: Any structure used for, or intended for, supporting or sheltering any use or occupancy.

Building, Accessory: A detached building or structure which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as the principal building.

Building Code: The current code in effect, as adopted by the City of Manchester, Board of Mayor and Aldermen.

Building Height: The vertical distance above the average final grade measured to the average height of the highest roof surface. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

Building, Non-conforming: A building, the size, dimension or location of which was lawful prior to the adoption, or amendment to the zoning ordinance but that fails by reason of such adoption, or amendment to conform to the present requirements of the zoning district.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Canopy: A roofed structure constructed of fabric or other material supported by a building or by support extending directly to the ground directly under the canopy, placed so as to extend outward from the building providing a protective shield for doors, windows, and other openings.

Cellar: See Basement.

Child Care Facility: A facility providing either full-day or partial day child care services, whether or not such service is known as a day nursery, nursery school, child development center, day care center, or any other name, but excluding residential facilities for children, which serves, on a regular and recurring basis, three (3) or more unrelated children.

Child Care License: A license or permit issued under the authority of RSA 170-E and the rules adopted thereunder.

Commissioner: The Director of Planning and Community Development Department of the City of Manchester, New Hampshire, and the administrator of the Ordinance. ***(Rev. 4/21/09)***

Community Center: A building or structure, operated by a non-profit organization for a use devoted primarily to the advancement of educational, recreational, welfare, or civic pursuits and social activities, excluding facilities in which liquor is served.

Conditional Use: A land use which may be approved by the Planning Board in districts where such use is specifically authorized by this Ordinance, and where the Planning Board finds that such use can be developed in accordance with the provisions of Article 12, Conditional Use Permits.

Congregate Housing: Multifamily housing or other dwelling units serving individuals who require on-site services that support independent living, including, at a minimum, communal dining facilities. Congregate housing may be characterized by on-site personal care services, housekeeping and linen service, and the supervision of self-administered medication, but excluding 24-hour nursing care.

Convenience store: A retail establishment designed to meet the needs of the neighborhood by providing for the sale of prepackaged food and household products. A convenience store may offer self-service gasoline sales and/or may include a drive-through service from the same structure.

Curb Cut: A legally designated vehicular point of access from a street to a driveway.

Day-Night Sound Level (Ldn): A cumulative aircraft noise index which estimates the exposure to aircraft noise and relates the estimated exposure to an unexpected community response. The Day-Night Sound Level noise metric assesses a 10 dB penalty to all noise events occurring between 10:00 p.m. and 7:00 a.m. *(for application of Airport Noise Overlay regulations)*

Day-Night Sound Level Contour (or "Ldn Contour"): A line linking together a series of points of equal cumulative noise exposure based on the Ldn metric response, as defined by the most recent Part 150 Noise Compatibility Plan of the Manchester Airport. Such contours are developed based on aircraft flight patterns, number of daily aircraft operations by type of aircraft and time of day, noise characteristics of each aircraft, and typical runway usage patterns. *(for application of Airport Noise Overlay regulations)*

Density: The number of dwelling units per unit of buildable land area.

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 operations. *(For flood hazard management purposes.)*

Development, New: Any construction which results in (1) a net increase in the number of dwelling units on a parcel of land, including conversion of non-residential uses to residential uses; or (2) the construction of new non-residential floor area. *(For impact fee assessment purposes)*

Driveway: That portion of a lot designed and intended for access to an off-street parking or loading area, or to an accessory garage.

Drive-through facility: A structure, or portion of a structure, which is designed to permit customers to receive products or services directly from a motor vehicle.

Dwelling: A building or portion thereof used exclusively for residential occupancy, including single family, two family and multifamily dwellings, but not including hotels, lodging facilities, or rooming houses.

Dwelling Unit: One or more rooms containing private bath, cooking and kitchen facilities, and sleeping quarters for the use of one or more individuals living as a single housekeeping unit.

Dwelling, Single Family: A detached building used exclusively for occupancy by one (1) family.

Dwelling, Two-Family: A detached building used exclusively for occupancy by two (2) families living independently of one another.

Dwelling, Multifamily: A building or portion thereof containing three (3) or more dwelling units, whether in common ownership or owned as a condominium or cooperative.

Essential Public Services: The erection, construction, alteration, or maintenance by public utilities or governmental agencies of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings necessary for the furnishing of adequate service by such public utilities or governmental agencies for the public health or safety or general welfare.

Extended Stay Facility: A hotel-like establishment offering lodging accommodations to the general public, often available on a weekly or monthly basis, and providing in-room cooking facilities.

Family: A group of individuals, whether or not related, living together in a dwelling unit in a structured relationship constituting an organized housekeeping unit.

Feepayer: A person applying for the issuance of a building permit which would create new development. *(For impact fee assessment purposes)*

Fence: A constructed barrier of any material or combination of materials erected for the purpose of enclosing or separating all or a portion of a lot. That portion of a wall which is above grade on only one side shall not constitute a fence. *(Also see Screening)*

Flag: Any fabric containing distinctive colors, patterns, or symbols, and used as a symbol of a government or political subdivision thereof.

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency (FEMA) has delineated both the special hazard areas and the risk premium zones applicable to the City of Manchester.

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 sanitary facilities, structures and their contents.

Floor Area, Gross: The sum of the areas of the several floors of a building, including horizontal areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include unenclosed porches, or attics not used for human

occupancy, or any such floor space intended and designed for accessory heating and ventilation equipment.

Floor Area Ratio (FAR): The ratio of gross floor area on a lot to the total lot area. The gross floor area calculation shall not include parking garages. ***(Rev. 3/20/01)***

Frontage: The linear distance of any one property line of a lot, which abuts a legally accessible accepted public street, as classified by RSA 229:5. *(Also see Lot Line, Front)*

Grade: The lowest point of elevation of the existing surface of the ground within the area between a building and a line five (5) feet from the building.

Gross Leasable Area (GLA): The total floor area for which the tenant pays rent and that is designed for tenant occupancy, excluding public or common areas and malls, utility rooms, and stairwells.

Groundwater: Subsurface water that occurs beneath the water table in soils and geologic formations. **(*Rev. 11/28/06)***

Groundwater Management Zone: Designated by the State through the permit process as a component of the remediation of contaminated groundwater. The State shall issue permits or other similar controls for such zones that establish a time period and process for the remediation of the groundwater. ***(Rev. 11/28/06)***

Historic Structure: Any structure that: a) is listed individually in the National Register of Historic Places, such listing as maintained by the U. S. Department of Interior; b) has a preliminary determination by the Secretary of the Interior as meeting the requirements for individual listing in the National Register; c) is a contributing structure within a local historic district; or d) is a local historic landmark as designated by the Heritage Commission.

Home Occupation: A lawful accessory use of a dwelling unit for commercial or non-residential uses by a resident thereof which is subordinate to the use of the dwelling as a residence.

Hotel: An establishment which provides transient lodging accommodations to the general public, available on a daily basis, and which may also provide other services such as restaurants, meeting rooms, and recreational facilities, but does not provide in-room cooking facilities.

Impervious Surface: The surface within a lot which does not absorb rain which includes all buildings, roads, sidewalks, parking areas, and any area paved with bricks, concrete or asphalt.

Junk: Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, or disposed.

Ldn: See “Day-Night Sound Level Contour”.

Livestock: Generally accepted outdoor farm animals, such as, but not limited to, cows, goats, horses, sheep and barnyard fowl, and not including cats, dogs and other common house pets.

Lodging House (*also Boarding House or Rooming House*): A house, building or portion thereof containing one (1) or more rooms that lack cooking facilities and which do not constitute dwelling units, that are provided as living quarters for tenants, with or without the provision of meals, on a weekly or monthly basis.

Lot: A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Lot, Conforming: A lot which meets at least the minimum dimensional requirements for lot area, lot width and frontage specified by this Ordinance for the district in which it is located.

Lot, Corner: A lot abutting upon two or more streets at their intersection, where the interior angle of intersection of the street lot lines, or in case of a curved street the extended lot lines, are at an angle of less than 135 degrees.

Lot, Flag: A lot which does not meet the minimum frontage requirements of the district in which it is located, where the access to the bulk of the lot (the "flag") from a public street is by private right-of-way or driveway (the "mast") comprising a narrow corridor or panhandle.

Lot, Through: A lot, other than a corner lot, which has frontage on two or more streets.

Lot Coverage: That area within a lot which is covered by impervious surface, expressed as a percentage of the total lot area.

Lot Line: A line of record constituting a boundary that separates one lot from another or from a public or private street or any other public space.

Lot Line, Front: The lot line separating a lot from the public street right of way on which it has frontage. Where a lot has only one lot line on a public street, or where a street line faces the primary façade of a building, that line shall be considered the front lot line. In the case of an unimproved corner lot or through lot, the front lot line may be defined by the owner, so long as the designated front lot line has the minimum frontage for that district and the primary façade of the building faces thereon.

Lot Line, Rear: The lot line opposite the front lot line.

Lot Line, Side: Any lot line other than the front or rear lot line.

Lot Line, Street: A property line boundary between a lot and an adjoining street.

Lot, Non-conforming: A lot which was lawfully created, but which does not meet at least the minimum lot area, lot width, and/or frontage requirements specified by this Ordinance for the district in which it is located.

Lot of Record: A lot described by deed, survey, or subdivision plat and so recorded with the Hillsborough County Registry of Deeds.

Lot Width: The shortest horizontal distance between the side lot lines. ***(Rev. 9/5/06)***

Lounge *(also night club)*: A business, or segregated area of a restaurant, whose primary purpose is the serving of alcoholic beverages but which may also offer a limited food menu and entertainment.

Manufactured Housing *(also manufactured home)*: 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 heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing. For floodplain management purposes, the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 days.

Manufactured Housing Park: The subdivision of a tract of land into sites, lots or other leaseholds which provide for the long-term placement of manufactured housing, supported by private, centrally managed improvements, services and facilities for the residents therein.

Manufactured Housing Subdivision: A subdivision of land to create individually owned lots reserved exclusively for manufactured housing units.

Membership Club, Private: A building used to house a non-profit social, sports or fraternal association or organization, the operation of which may include the serving of meals or alcoholic beverages, for the exclusive use of the members and their guests

Modular Home: A factory-built home, other than a manufactured home, which meets all of the following requirements: 1) it is designed only for erection or installation on a site-built permanent foundation; 2) it is not designed to be moved once so erected and installed; and 3) it is designed and manufactured to comply with the City of Manchester Building Code in effect at the time of installation.

Motel: See Hotel.

Motor Vehicle, Commercial: Any registered motor vehicle or trailer having a gross vehicle weight (GVW) of ten thousand (10,000) pounds or more, but excluding recreational vehicles that are used only for personal leisure activity.

Nursing Home: A facility which provides basic domiciliary services (room, board and laundry) for two or more persons and 24-hour nursing care with medical supervision provided by licensed medical and nursing practitioners.

Open Space, Useable: That area of a lot exclusive of the portions encumbered by steep slopes (25% or more), delineated wetlands, water bodies or regulatory floodways and those portions occupied by buildings or impervious surfaces, except where such surfaces comprise recreational amenities.

Owner: Any person, group of persons, firm or firms, corporation or corporations, or other legal entity having title to, or sufficient proprietary interest in, the land sought to be subdivided or developed.

Parking Lot: An improved at-grade lot, designed for the parking of motor vehicles. A *residential* parking lot is reserved exclusively for the occupants or users of a lot or lots devoted to a residential use. A *commercial* parking lot provides reserved or unreserved parking for non-residential uses.

Parking Garage: A building or structure designed for the parking of motor vehicles. A *residential* parking structure is reserved exclusively for the occupants or users of a lot or lots devoted to a residential use. A *commercial* parking structure provides reserved or unreserved parking for non-residential uses.

Planned Development: Any development involving the construction or creation of two or more principal buildings on a single lot, developed as a whole in a single development operation, or in a series of planned development phases.

Primary Facade: The elevation of a building facing onto the front lot line that contains the primary entrance(s), being those customarily providing entry to a living room, main entry, lobby, waiting room or foyer.

Primary Floor: The floor of a building or structure which provides the main or principal entrance to the building or structure from the adjacent public street.

Primary Manufacturing: Basic manufacturing processes that involve the conversion of raw materials to a finished or semi-finished product, such as crushing, smelting, refining, distilling, forging, brewing, and similar processes.

Public Capital Facilities: Facilities and equipment owned, maintained or operated by the City of Manchester as defined in its Community Improvement Program and which are listed in the city of Manchester's adopted impact fee schedule. *(Associated with the administration of impact fees)*

Repair: Any construction which replaces materials but does not change the height, number of stories, size, use, or location of a structure.

Restaurant: An establishment where food is prepared, served and consumed primarily within the principal building.

Retail: Uses primarily engaged in sales to the ultimate consumer for direct consumption.

Screening: The method by which a view of one site from another adjacent site is shielded, concealed or hidden by techniques such as vegetative buffers, hedges, berms, walls, fences or other landscaping treatments approved under the procedures required by this Ordinance, or by the Site Plan and Subdivision Regulations as applicable.

Self-Service Storage Facility: A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares.

Setback: The minimum linear distance between a structure or use and the nearest lot line which is required by this Ordinance. (*See also definitions relating to Yard*)

Sexually Oriented Business: Any place of business at which any of the following activities is conducted:

A. Adult Bookstore or Adult Video Store - A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following: 1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROM's or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1; or 2. Instruments, devices or paraphernalia which re designed for use in connection with "sexual conduct" as defined by NH RSA 571-B:1, other than birth control devices. An adult bookstore or adult video store does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock and trade and does not devote more than 15% of the total floor area of the establishments to the sale of books and periodicals.

B. Adult Motion Picture Theater - An establishment with a capacity of five or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, for observation by patrons. For subsections C,D,E,F and G a "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any 56 consecutive day period.

C. Adult Motion Picture Arcade - Any place to which the public is permitted or invited wherein coin 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, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material

which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

D. Adult Drive-In Theater - An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

E. Adult Cabaret - A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "harmful or minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

F. Adult Motel - A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

G. Adult Theater - A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

H. Nude Model Studio - A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration of such display is characterized by an emphasis on activities which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

I. Sexual Encounter Center - A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration : (A) physical contact in the form of wrestling or tumbling between persons of the opposite sex;

or (B) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activities in (A) or (B) is characterized by an emphasis on activities which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

Sign: Any device that is sufficiently visible to persons not located on the lot where such a device is located, and designed to attract the attention of such persons or communicate information to them about products, accommodations, services, or activities on the lot where the device is located

Sign, Awning: A sign that is a part of, or attached to an awning, a canopy, or other fabric, plastic, or structural protective cover over a door, window, or outdoor service area.

Sign, Banner: A sign of lightweight fabric or similar material that is mounted to poles or the wall of a building. A flag, as defined in this Ordinance, is not a banner sign.

Sign, Building: Any sign that is attached or affixed to a building including wall signs, roof signs, projecting signs, awning signs, marquee signs, and window signs.

Sign, Building Marker: Any sign indicating the name of a building and/or the date and incidental information about the construction of the building, and which sign is made part of, or permanently integrated into, the materials from which the building is constructed.

Sign, Electronic Message Board: Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic process.

Sign, Flashing: A sign that contains an intermittent or sequential flashing light source. An animated or moving sign shall not be considered a flashing sign.

Sign, Freestanding: A self-supporting sign, the supports of which are permanently anchored in the ground and are independent from any building.

Sign, Marquee: Any sign attached to or in any manner made part of a permanent roof-like structure projecting beyond the wall of a building.

Sign, Pennant: Any lightweight plastic, fabric or similar material, whether or not containing a message of any kind, suspended from a rope, wire, or other material, usually in a series, designed to move in the wind.

Sign, Non-conforming: A lawfully established sign which does not conform with the sign regulations in Article 9 of this Ordinance.

Sign, Portable: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported.

Sign, Projecting: Any sign affixed to a building with the plane of the sign at an angle to the plane of the wall of the building.

Sign, Roof: Any sign erected and constructed wholly on and over the roof of a building and supported by the roof structure.

Sign, Temporary: A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period of time after the erection of the sign; or a sign that is intended to remain on the location where it is erected or placed for a reasonably short or definite period of time after the erection of the sign. If the sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as a temporary sign.

Sign, Wall: A sign attached to, or erected against the wall of a building with the face of the sign in a parallel plane to the plane of the building wall, and projecting no more than fourteen (14) inches from the building wall.

Sign, Window: Any sign that is placed inside or upon the window panes or glass, and that is visible from the exterior of the building or structure.

Sign Frontage: The length along the primary floor of the side or sides of a building facing a street, which is occupied by a separate and distinct principal use.

Special Exception: A use of a building or lot which may be approved by the Board of Adjustment in accordance with the provisions of Article 14, Appeals to the Zoning Board of Adjustment.

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.

Story, First: The lowermost story which is entirely above the grade plane, except that a basement shall be considered a story above grade where the finished surface of the floor above the basement is: a) more than six (6) feet above the grade plane; b) more than six (6) feet above the finished ground level for more than fifty (50) percent of the total building perimeter; or c) more than twelve (12) feet above the finished ground level at any point.

Story, Half: A story with at least two of its opposite sides situated under a sloping roof, the floor area of which does not exceed two-thirds of the floor area immediately below it.

Street: A way which is over thirty feet in right-of-way width which is dedicated or devoted to public use by legal mapping by the user, or by any other lawful procedure, and includes any avenue, boulevard, parkway, road, land, public square, highway and similar public ways which affords principal access to an abutting lot.

Structure: Any combination of materials for occupancy or use constructed, erected or installed which requires location on the ground or attachment to something having a location on the

ground such as a building, bridge, tower, framework, tank, tunnel, tent, stadium, platform, shelter, pier, wharf, bin, sign, fences and retaining walls over six (6) feet in height, or the like.

Substantial Improvement *(for Flood Hazard Area Management purposes)* Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) 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 an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

Use, Accessory: A use which exists on the same lot as the principal use of the property to which it is related, and which is customarily incidental and subordinate to the principal use.

Use, Non-conforming: A use which was lawful prior to the adoption or amendment to the zoning ordinance but which fails by reason of such adoption or amendment to conform to the present requirement of the zoning district.

Use, Principal: The main or primary purpose or purposes for which a structure or lot is designed, arranged or intended or for which they may be used, occupied or maintained under this Ordinance consistent with Article 5 of this Ordinance, Table of Principal Uses.

Wetlands: Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas.

Wetland Scientist: A person who, by reason of multi-disciplinary expertise in wetland science acquired by professional education and practical experience, is qualified to practice wetland science.

Wholesale: Uses providing primarily for the storage, transfer, or resale of goods, and principally not for direct consumption by the buyer.

Yard: The entire open space that lies between the principal building or buildings and the lot or street lines. The *minimum yard* as set forth in this Ordinance in Article 6, Table of Dimensional Regulations, is that portion of the yard which lies between the lot or street line and the minimum setback distance required under this Ordinance. Except as specified in this Ordinance, the

minimum yard area shall remain unoccupied and unobstructed from the ground upward by buildings, structures, or other impervious surface.

Yard, Front: The area of a lot extending for the full width of the lot between the front line of the building wall and the front lot line.

Yard, Rear: The area of a lot extending for the full width of the lot between the rear line of the building wall and the rear lot line.

Yard, Side: The area of a lot extending for the full length of a building between the building wall and the side lot line.

Variance: Specific relief from the terms of this Ordinance as granted by Board of Adjustment, upon appeal and as authorized Ordinance in Article 14, Appeals to the Zoning Board of Adjustment.

ARTICLE 4. ESTABLISHMENT OF ZONING DISTRICTS & ZONING MAPS

4.01 Establishment and Purpose of Districts

A. Base districts. All of the land in the City of Manchester is hereby divided into the following base districts, established for the purposes so stated, with the district boundaries as shown on the Official Zoning Base District Map:

1. Residential-Suburban District (RS)- Low Density. The purpose of this district is to maintain a low density rural and suburban environment at the periphery of the City, with appropriate lot size to support single family residential uses in areas generally located outside public sewer service areas. Non-residential uses are limited to those uses that are found to be compatible with low density residential living.

2. Residential One Family District (R-1A) - Medium Density. The purpose of this district is to create stable lower density neighborhoods of single family homes on larger lots served by public water and sewer, characterized by minimum lot sizes, lot widths, setback and yard requirements than are greater than those found in the higher density R-1B district.

3. Residential One Family District (R-1B) - High Density. The purpose of this district is to support higher density single family neighborhoods while maintaining livable densities on small urban lots. The lot size, frontage, and yard requirements of R-1B provide for the higher density single family housing development within the City on lots considered to be the minimum needed to support single family detached homes while maintaining acceptable neighborhood quality.

4. Residential Two Family District (R-2). The R-2 district forms a loose band around the densely developed inner city area, representing a transitional district between lower development densities of the single family districts and the maximum densities of the inner city. This district was established to maintain the integrity of existing moderate density neighborhoods that are nearly fully developed with a mix of single family and two family structures, but which are close to the Central Business District.

5. Residential Suburban Multifamily District (R-SM). The intent of the Residential Suburban Multi-Family District, is to create opportunities for new townhouse and multifamily development on tracts of adequate size to constitute a neighborhood unit which is reasonably related to the capacity of streets and the scale of other developments in adjoining areas. It is not the intent of this district to encourage in-fill development with townhouse or multi-family structures on small parcels or sites. An R-SM district shall be at least 10 acres in area. ***(Rev. 2/3/04)***

6. Urban Multifamily District (R-3). The intent of this zoning district is to maintain the inner city neighborhoods at a density which affords the opportunity to develop or redevelop multifamily housing at the maximum density considered appropriate to sustain

neighborhood quality in an urban setting. Its primary purpose is to define residential densities appropriate for the inner city neighborhoods, while preserving opportunities for some neighborhood-serving businesses to be integrated therein. Special provisions within the district permit, under certain conditions, the development of high density high-rise structures for the elderly.

7. Neighborhood Business District (B-1). The purpose of the Neighborhood Business Done is to provide limited areas for the location of small scale retail and service establishments intended to serve localized markets, including smaller retail, service and restaurant uses but excluding gas stations. This district is primarily intended to allow small scale retail, business and professional services and offices that provide convenience to neighborhood residents, and which are determined to be compatible in scale and type of use with adjacent to higher density residential neighborhoods. Uses that generate heavy vehicular traffic, or require large amounts of outside storage and parking, or which introduce excessive noise or lighting are generally considered incompatible with neighborhood-scale business uses.

8. General Business District (B-2). The purpose of the General Business District is to provide appropriate locations in the city for the development and operation of a mixture of commercial uses and personal and business services that have a community-wide or regional market and which require access from major city streets and proximity to arterial highways, including automotive-oriented uses, larger scale retail, and shopping centers. The variety, scale and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.

9. Central Business District (CBD). This district exists for the purpose of protecting and enhancing the economic vitality of the downtown area with maximum convenience to the public and inclusive of a wide variety of uses, developed at maximum densities, including high-rise office construction. The intent of the district is to sustain the CBD as an urban activity center which integrates a mix of uses and activities including governmental, financial, entertainment and cultural, service and retail uses of all sizes. Encouraged within the CBD are uses that stabilize the downtown by enhancing its architectural heritage, and which create a viable pedestrian environment supported by the availability of public transit and by centralized and satellite parking structures.

10. Redevelopment District (RDV) - Mixed Use. The intent of this district is to provide a transitional mixed use district that facilitates the redevelopment of areas lying between the Central Business District and the residential multifamily districts. The RDV District follows the axis of an abandoned rail corridor that once supported industrial uses, but which now represents an area of underutilized land and buildings. The provisions for this district reflect the need to provide flexible opportunities for redevelopment to a more productive mixture of commercial, industrial, and residential uses, subject to performance standards that will protect existing adjacent residential neighborhoods.

11. General Industrial/Industrial Park (IND). In order to provide a sound economic base for the community, this district is intended to set aside appropriate areas of the City for the production of goods, materials and knowledge. Manufacturing, warehousing, research and development, distribution and selected offices (those not primarily customer oriented) are encouraged in these areas. Retail and service businesses may be permitted only to the extent that they service the workforce of the Industrial Park.

12. Amoskeag Millyard Mixed Use District (AMX). It is the intent of this Ordinance to recognize the Millyard as a unique architectural asset of the City which warrants special consideration in promoting the retention and reuse of its existing buildings within a mixed use district. The Ordinance provisions for this district recognize that the future prosperity of the Millyard and the economic well-being of the downtown can require special reviews of planning and design issues such as pedestrian linkages to the downtown and the Merrimack River; maintaining a balanced diversity of uses; responsiveness to changing market demands; proper design control and planned integration of uses; and the promotion of additional resident and visitor enjoyment of the Millyard and the Merrimack River. *[Note: Two historic district overlays are found within the AMX district: see Amoskeag Millyard Historic District Overlay, and Amoskeag Corporation Housing Historic District Overlay]*

13. Civic-Institutional District (C-1). This district was established to encourage the consolidation of civic and other public and institutional uses into a single centralized area convenient to inner-city employees, shoppers, residents and visitors. Educational, cultural, museum and fine arts, and religious uses predominate, while a mix of multifamily dwellings and row housing are generally considered an appropriate complement to the district.

14. Civic-Hospital District (C-2). It is the intent of the Civic-Hospital district is to establish suitable areas for the orderly development of facilities providing health care to the public, including hospitals and supporting uses and services. Supporting uses and services are considered to be those which are reasonably associated with a hospital including: professional medical offices, laboratory facilities; extended care facilities providing long term medical or nursing care on a resident or outpatient basis; limited retail activities supplying the hospital and its patients with equipment, pharmaceuticals and other supplies; and other subordinate and accessory uses and services directly associated with hospital activities.

15. Research Park District (RP). The purpose of the Research Park District is to set aside and retain contiguous tracts of land capable of supporting large scale integrated development of professional offices, educational and research and development functions, in addition to commercial and light industrial uses associated with the production of goods, materials and knowledge. It is expected that parcels in the RP zone would be developed in a planned park or campus-like setting in well-designed high quality buildings which are compatible with their natural surroundings, incorporating sufficient buffers to insulate surrounding residential areas from adverse impacts. ***(Rev. 7/6/10)***

16. Conservation District (CV). It is the purpose of the Conservation District to set aside areas of the City for conservation and open space with limited development uses of those areas. The intent is to preserve key natural areas and allow open space for the enjoyment of the residents.

B. Overlay Districts. Certain lands within the City of Manchester are hereby included in the following overlay districts for the purposes so stated, as described below and as depicted on the Official Zoning Overlay District Maps. The overlay districts are superimposed upon the base districts and the provisions of each of the overlay district shall be in addition to the provisions of the base district. Land encumbered by restrictions of a base district and one or more overlay districts shall be used only if and to the extent that the proposed use is permitted both in the based district and in the applicable overlay district or districts. Wherever the regulations differ between the base and overlay districts, the regulations that impose the more restrictive provisions or the higher standard shall control. The following overlay districts are hereby established for the public purposes stated:

1. Floodplain (F) District - The Floodplain District is established for the following purposes:

a. To reduce the hazards of floods upon the public health, safety, and welfare;

b. To protect floodplain occupants from a flood that is or may be caused by their own land use;

c. To protect the public from the burden of extraordinary financial expenditures for flood control and relief; and

d. To protect the capacity of floodplain areas to absorb, transmit, and store runoff.

2. Residential-Professional Office District (R-PO) Overlay. The purpose of this overlay district is preserve concentrations of large, architecturally significant, older residential structures within a residential district by enhancing the economic viability of the buildings by allowing them to be converted and maintained as low-intensity professional that are compatible in scale, density and use with the surrounding and adjacent residential neighborhoods.

3. Amoskeag Millyard Historic District Overlay. In order to provide for the preservation of structures and areas of historic or architectural value in the Amoskeag Millyard, the Amoskeag Millyard Historic District Overlay is superimposed over the entirety of the "Amoskeag Millyard Mixed Use District" (AMX). The preservation of structures and areas of historic or architectural value in the Millyard is hereby declared to be a public purpose. The purpose of this overlay is not to prohibit demolition, new construction and alterations, but to insure that the unique character of the Amoskeag Millyard is preserved. Preventing the irretrievable loss of historic or architecturally significant buildings and their unique character is important to the economic well-being of the City, which will be strengthened by:

a. Preserving the Millyard's architectural and historic setting;
b. Conserving the property values in the district;
c. Promoting Manchester's unique character;
d. Strengthening the local economy; and
e. Promoting the use of the historic district for education, pleasure, and welfare of the citizens of Manchester and visitors to the City.

4. Amoskeag Corporation Housing Historic District Overlay. The Amoskeag Corporation Housing Historic Overlay District is hereby superimposed over the Amoskeag Millyard Mixed Use District (AMX). The purpose of this overlay district is to protect an area of unique character and architecture which can contribute significantly to the attractiveness and vitality of downtown Manchester. The creation of this overlay district recognizes that the character and nature of the area depends on the unity of design of a complex of buildings that represents a value greater than the sum of the individual contributions of each structure. The character and value of the area within the overlay is recognized as a fundamental component of the City's early development. The continuity of rich architectural expression, quality and integrity in closely related styles, materials, scale and detail of individual buildings is an integral component of long range development goals for the downtown. The opportunities that the area offers are include retention of the architectural and historic values characteristic in this complex, and the presence of valuable resources for present and future housing and office needs. Through coordinated landscaping, development of pedestrian ways, and improvements to private and public open spaces adjoining the buildings, a rich, attractive and vital urban environment can be created and preserved for future generations. This overlay is intended to regulate the exterior appearance of existing and proposed structures, and to restrict those activities that could alter the use and appearance of the exterior spaces adjoining these buildings, while encouraging the rehabilitation and improvement of this area.

5. Airport Navigational Hazard Overlay. Reasonable visibility and navigational control is essential to public safety in the vicinity of the Manchester Airport. The purpose of this overlay district is to preclude the establishment of uses, structures, or other activities that would obstruct or impair the aerial approach to airport by creating electrical impulses or disturbances which interfere with radio aids, communications and lights that may result in glare in the vision of pilots of aircraft or be confused with airport lights.

6. Airport Approach Overlay District. The purpose of this overlay district is to prevent the penetration of buildings, structures, trees or other intrusions into airspace reserved for use of aircraft landing and taking off at the Manchester Airport. The primary function of this overlay district is to provide a review and approval procedure which places supplemental controls on the height of structures or natural growth along an imaginary inclined surface. The approach overlay district boundaries are based on the ultimate future expansion and orientation of runways planned for the Manchester Airport.

7. Airport Noise Overlay District. The purpose of this overlay district is to avoid the establishment of land uses in the vicinity of the Manchester Airport that are incompatible with the noise levels generated by the take off and landing of aircraft, and to allow other uses to be established which may be compatible if soundproofing standards are integrated into new building construction. The establishment of the district is also intended to reducing future public costs to acquire property or otherwise mitigating the noise impacts of planned airport expansion. The primary intent of this overlay is to identify and preclude the establishment of incompatible uses, and to require soundproofing for compatible new development that may be affected by airport noise.

8. Arena Overlay District. This purpose of this overlay district is to develop an area that is compatible with and complementary to the Civic Center. This can be accomplished by creating an area that is pedestrian oriented; discouraging auto intensive uses; promoting a higher quality of design including signage; and ensuring compatible land uses. Land uses which are encouraged include; restaurants, retail shops, entertainment, hotels, personal services and housing. By following the overlay guidelines, the City will insure a maximum economic spin off from the Civic Center and provide an enriching urban experience for the City. ***(Rev. 6/9/03)***

9. Manchester Landfill Groundwater Management Zone (ML-GMZ). The purpose of this overlay district is to protect public health by restricting groundwater use. The groundwater quality is being monitored under a permit issued by New Hampshire Department of Environmental Services (NHDES). Pumping of groundwater from any well, trench or other structure for residential, irrigation, agricultural or industrial purpose is prohibited, unless it is for the specific purpose of pumping groundwater out of a sump to keep a cellar from flooding. The extent of the District shall be referenced by NHDES Permit as the Manchester Landfill Groundwater Management Zone. ***(Rev. 11/28/06)***

10. Lake Massabesic Protection Overlay District (LMPOD). The purpose of this overlay district is to protect the Lake Massabesic drinking water supply to the City of Manchester. ***(Rev. 11/28/06)***

4.02 Official Zoning Maps

A. Official Zoning Base District Map. The official zoning district map of the City of Manchester depicts the boundaries of all of the base districts, and shall be maintained by the Planning and Community Development Department. In addition to the base districts, the map includes the *Residential-Professional Office (R-PO) Overlay districts* and the *Historic Districts Overlay districts, the Arena Overlay District, the Manchester Landfill Groundwater Management Zone (ML-GMZ) Overlay District and the Lake Massabesic Protection Overlay District.* The *Airport Navigational Hazards Overlay* is not mapped because it includes the entire City. ***(Rev. 11/28/06)***

B. Other Official Zoning Overlay Maps. The official zoning overlay maps are a series of topical maps which shall be maintained at the office of the Director of Planning and Community Development of the City of Manchester, which include: ***(Rev. 4/21/09)***

1. The Flood Insurance Rate Map (FIRM) and the Flood Boundary and Floodway Map (FBFM), as published by the Federal Emergency Management Agency, Federal Insurance Administration, on February 18, 1981, display the boundaries of, and special limits within, the Floodplain (F) District which identify areas in which certain uses are either prohibited or subject to more stringent regulations requiring floodproofing.

2. The Airport Approach Overlay Map displays those portions of the City and surrounding towns which lie within the approach paths to and from the runways and fields of the Manchester Airport within which supplementary height controls on structures and natural growth are applicable to maintained unobstructed flight paths;

3. The Airport Noise Overlay Map displays noise contour intervals, and defines three sub-zones for the City of Manchester and surrounding affected towns in the vicinity of the Manchester Airport within which certain incompatible uses are either prohibited or are permitted subject to soundproofing;

C. Amendments to the Zoning Maps. Whenever amendments are adopted that change District boundaries, whether to a base or overlay district, the affected official zoning map(s) shall be revised to reflect such amendments, and the date of adoption of the amendment shall be noted on the map(s).

D. Interpretation of District Boundaries. The location of district boundaries shall be as shown on the zoning maps or as otherwise described in this Ordinance. Where any uncertainty exists with respect to the boundary of any district as shown on an official zoning base district or overlay map, the following rules of interpretation shall be applied:

1. Where a boundary is indicated as a highway, street, alley, railroad, watercourse or City boundary, it shall be construed to be the centerline thereof;

2. Where a boundary is indicated as approximately parallel to a highway, street, alley, railroad, watercourse, or City boundary, it shall be construed as parallel thereto at such distance from the centerline thereof as shown on the official zoning map(s);

3. If no dimension is given on the official zoning map(s), the location of any boundary shall be determined by the use of the scale shown on the official zoning map(s);

4. Where a district boundary lies within ten (10) feet or less of a lot line, the boundary shall be construed to be the lot line; and

5. All boundary questions not resolved by methods (1) through (4) above shall be interpreted and determined by the Board of Adjustment.

ARTICLE 5. USE REGULATIONS

5.01 Uses permitted by right.

A use denoted by the letter "P" within a zoning district, as set forth in Section 5.10**,** Table of Principal Uses, and Section 5.11, Table of Accessory Uses is a use permitted by right in a district, subject to all other applicable sections of this Ordinance and other local, state, and federal laws, rules and regulations.

5.02 Uses permitted by special exception.

A use denoted by the letters "SE" within a zoning district, as set forth in Section 5.10**,** Table of Principal Uses, and Section 5.11, Table of Accessory Uses, is a use which may be authorized by special exception in that district, subject to all other conditions of approval as specified in this Ordinance. The Board of Adjustment may grant special exceptions in accordance with the procedures and conditions set forth in Article 14 of this Ordinance, Appeals to the Board of Adjustment, subject to all other applicable sections of this Ordinance and other local, state, and federal laws, rules and regulations.

5.03 Uses permitted by conditional use permit.

A use denoted by the letters "CU" within a zoning district, as set forth in Section 5.10**,** Table of Principal Uses, and Section 5.11, Table of Accessory Uses is a use which may be authorized by a conditional use permit in that district, subject to all other conditions of approval for such as specified in this Ordinance. The Planning Board may grant a conditional use permit in accordance with the procedures and conditions set forth in Article 12 of this Ordinance, Conditional Use Permits, subject to all other applicable sections of this Ordinance and other local, state, and federal laws, rules and regulations.

5.04 Uses not permitted.

A use denoted by a dashed line (--) within a zoning district, as set forth in Section 5.10**,** Table of Principal Uses, and Section 5.11, Table of Accessory Uses is a use which is not permitted in that district.

5.05 Administrative classification of uses not specified or change in use.

A. Interpretation of the Director of Planning and Community Development Department. In the event that a proposed use is not identified within the Table of Use Regulations, or where a change in a use permitted by right to another use is proposed, the Director of Planning and Community Development Department is authorized to render a decision on the administrative classification of said use. ***(Rev. 4/21/09)***

B. Criteria for decision. In reaching a decision on the classification of a use, the Director of Planning and Community Development Department may consider such factors as the similarity of the proposed use to others included in the Table of Use Regulations with respect to

substantive changes in the function, utility, or the intensity of the use with respect to parking, loading, customer traffic or other impacts. The Director of Planning and Community Development Department may also consider the similarity of the proposed use to the hierarchy of non-residential uses as identified in the "North American Industry Classification System", and the relationship of the classification to the Table of Use Regulations. ***(Rev. 4/21/09)***

C. Administrative decision on classification. On the basis of these considerations, the Director of Planning and Community Development Department shall render a decision which indicates an administrative classification of the proposed use or change in use, and a determination that: ***(Rev. 4/21/09)***

1. the use is permitted by right; or

2. the use requires a special exception, conditional use permit, or other approval; or

3. the use is not permitted under the Ordinance.

D. Appeal of decision on classification. Appeals of any decision by the Director of Planning and Community Development Department shall require an appeal of an administrative decision to the Zoning Board of Adjustment, in accordance with the procedures set forth in Article 14, Appeals to the Board of Adjustment. ***(Rev. 4/21/09)***

E. Change from a non-conforming use. A change in use from a non-conforming use to another use not permitted shall require a special exception from the Board of Adjustment, subject to the review criteria established in Section 11.04, Non-conforming uses.

5.06 Supplementary use regulations.

Certain uses set forth in Sections 5.10, Table of Principal Uses and Section 5.11 Table of Accessory Uses are subject to specific conditions and standards contained in Article 8, Supplementary Regulations. Such regulations shall apply to all such uses, regardless of the zoning district in which the use is located, whether the use is permitted by right, special exception, or conditional use permit. Uses subject to supplementary regulations are subject to all other applicable sections of this Ordinance and other local, state, and federal laws, rules and regulations. The Table of Principal Uses and the Table of Accessory Uses identifies where the specific supplementary regulations within Article 8 may be found.

5.07 All uses subject to overlay district provisions

In addition to the use regulations which pertain to the base districts designated within the Table of Principal Uses (Section 5.10), certain regulations and procedures for base districts and overlay districts are set forth in Article 7. Overlay Districts. Uses which are authorized by the Table of Principal Uses may be further restricted or prohibited if they are also located within one or more overlay districts. Wherever there is a conflict between the provisions of an overlay district and

a base district, the provision which imposes the greater restriction or the higher standard shall control.

5.08 Multiple structures or uses on a single lot

No more than one principal structure shall occupy a single lot of record, unless approved by the Planning Board as a Planned Development and meeting the provisions of Section 5.12 Planned Development. Multiple principal uses may be established on a single lot to the extent that such uses are authorized within the Table of Principal Uses for the district in which the lot is located, and only if those uses are determined to be compatible and are contained within the same structure, or have been approved by the Planning Board.

5.09 Subdivision and site plan approval

The subdivision of land and certain residential and non-residential projects are subject to the approval of the Planning Board under the provisions of the Subdivision and Site Plan Regulations. The application for a conditional use permit from the Planning Board under this Ordinance may be undertaken simultaneously with the site plan or subdivision approval process, as applicable, under the provisions of Article 12 of this Ordinance, Conditional Use Permits.

5.10 Table of Principal Uses

A. In the base districts established under Article 4, Establishment of Zoning Districts and Zoning Map, of this Ordinance, no building, structure, or land shall be used or occupied except as set forth in the Table of Principal Uses, subject to all other provisions and standards of this Ordinance, and other local, state and federal laws, rules and regulations. The Table of Principal Uses is organized according to a functional economic classification of land uses.
B. A non-residential use not specified in the Table of Principal Uses shall be classified as a Conditional Use and such uses shall be subject to the provisions of Article 12 of this Ordinance.

5.11 Table of Accessory Uses

In the base districts established under Article 4, Establishment of Zoning Districts and Zoning Maps, of this Ordinance, no building, structure, or land use shall be occupied except as set forth in the Table of Accessory Uses, subject to all other provisions and standards of this Ordinance, and other local, state and federal laws, rules and regulations. The Table of Accessory Uses is organized according to the types of accessory uses typically found with residential development and with non-residential development.

5.12 Planned Development

A Planned Development shall be allowed if it meets the requirements of this section and is submitted and approved by the Planning Board per the Site Plan Review Regulations. The following requirements shall apply:

A. The principal, and any accessory, structures and uses of a planned development shall relate to the character and purpose of the planned development. Buildings shall be considered separate and unattached if connected by ancillary features such as, but not limited to, fences, breezeways, carports, enclosed corridors, porches, porch roofs, or similar minor connections.

B. A residential planned development shall not exceed the dwelling unit density of a standard subdivision which would be allowed under subdivision control.

C. A planned development, residential or non-residential, shall be appropriate to the surrounding neighborhood in terms of character, scale and density, and shall not detract from the surrounding neighborhood.

5.10 TABLE OF PRINCIPAL USES

	PRINCIPAL USES P- Permitted -- Not Permitted CU – Conditional Use by the Planning Board SE - Special Exception by the ZBA	RESIDENTIAL						BUSINESS			INDUSTRY/R&D		MIXED USE		CIVIC			SUPPLEMENTARY
		Suburban	One Family	One Family	Two Family	Suburban Multifamily	Urban Multifamily	Neighborhood	General	Central Business District	General Ind./Industrial Park	Research Park	Redevelopment	Amoskeag Millyard Mixed Use	Institutional	Hospital	Conservation	Supplementary Regulations Reference (refer to these sections of the Ordinance for specific standards applicable to the use)
Use No.	**Zoning District:**	**R-S**	**R-1A**	**R-1B**	**R-2**	**R-SM**	**R-3**	**B-1**	**B-2**	**CBD**	**IND**	**RP**	**RDV**	**AMX**	**C-1**	**C-2**	**CV**	Applicable to the use in any zoning district
A.	**RESIDENTIAL**																	
1	Single family detached dwelling	**P**	**P**	**P**	**P**	**P**	**P**	--	--	--	--	--	--	--	--	--	--	
2	Single family attached (townhouse) dwellings ***(Rev.11/5/03, 2/3/04)***	--	--	--	--	**P**	**P**	**P** *12/07*	--	**P** *2/04*	--	--	**P** *11/03*	--	**P**	--	--	8.01
3	Manufactured housing park or subdivision	--	**CU**	**CU**	**CU**	--	**CU**	--	--	--	--	--	--	--	--	--	--	8.02, 8.03
4	Open space residential development	**CU**	**CU**	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
5	Duplex or two-family dwellings ***(Rev. 11/5/03)***	--	--	--	**P**	**P**	**P**	**P**	--	--	--	--	**P** *11/03*	--	--	--	--	
6	Multifamily dwellings ***(Rev. 11/5/03)***	--	--	--	--	**P**	**P**	--	--	**CU**	--	--	**P** *11/03*	**CU**	**P**	--	--	8.04, 8.05, 8.06
7	Elderly housing and assisted living	--	--	--	--	**P**	**P**	--	--	**CU**	--	--	--	**CU**	--	--	--	
8	Dwellings in upper stories of building with commercial 1st floor	--	--	--	--	--	--	**P**	**P**	**P**	--	--	--	**CU**	**P**	--	--	
9	Boarding or rooming house	--	--	--	--	--	**CU**	--	--	--	--	--	--	--	--	--	--	
10	Congregate housing	--	--	--	--	**CU**	**P**	--	**CU**	**CU**	--	--	**CU**	**CU**	**P**	**P**	--	
B.	**AGRICULTURAL**																	
1	Agriculture as a gainful business except livestock	**P**	**SE**	--	--	--	--	--	--	--	**SE**	--	--	--	--	--	**P**	
2	Forestry, growth and harvesting of forest products	**P**	**SE**	--	--	--	--	--	--	--	**SE**	--	--	--	--	--	**P**	8.07
3	Agriculture and livestock, except pig farms or rendering of livestock	**P**	--	--	--	--	--	--	--	--	--	--	--	--	--	--	**P**	8.08
4	Stables and equestrian centers	**SE**	--	--	--	--	--	--	--	--	**SE**	--	--	--	--	--	**P**	
5	Commercial kennel	--	--	--	--	--	--	--	**CU**	--	**CU**	--	**CU**	--	--	--	--	8.09
6	Veterinary hospital	--	--	--	--	--	--	--	**P**	--	**P**	--	**P**	--	--	--	--	

	PRINCIPAL USES P- Permitted -- Not Permitted CU – Conditional Use by the Planning Board SE - Special Exception by the ZBA	RESIDENTIAL						BUSINESS			INDUSTRY/R&D		MIXED USE		CIVIC			SUPPLEMENTARY
		Suburban	One Family	One Family	Two Family	Suburban Multifamily	Urban Multifamily	Neighborhood	General	Central Business District	General Ind./Industrial Park	Research Park	Redevelopment	Amoskeag Millyard Mixed Use	Institutional	Hospital	Conservation	Supplementary Regulations Reference (refer to these sections of the Ordinance for specific standards applicable to the use)
Use No.	**Zoning District:**	**R-S**	**R-1A**	**R-1B**	**R-2**	**R-SM**	**R-3**	**B-1**	**B-2**	**CBD**	**IND**	**RP**	**RDV**	**AMX**	**C-1**	**C-2**	**CV**	Applicable to the use in any zoning district
C.	**COMMERCIAL CONSTRUCTION & EXCAVATION**																	
1	Excavation of Earth Materials	**CU**	--	--	--	--	--	--	--	--	**CU**	--	--	--	--	--	--	8.10
2	Building Contractor Yards	--	--	--	--	--	--	--	--	--	**P**	--	**P**	--	--	--	--	8.11
D.	**4. MANUFACTURING**																	
1	Primary manufacturing industries	--	--	--	--	--	--	--	--	--	**P**	**CU** ***7/10***	**P**	**P**	--	--	--	8.12, 8.13
2	Other manufacturing, fabrication, and assembly industries	--	--	--	--	--	--	--	--	--	**P**	**P**	**P**	**P**	--	--	--	8.12, 8.13
3	Materials research and testing laboratories	--	--	--	--	--	--	--	--	--	**P**	**P**	**P**	**P**	--	--	--	8.12, 8.13
4	Wholesale bakery or food processing plant	--	--	--	--	--	--	--	--	--	**P**	**CU**	**P**	**P**	--	--	--	8.12, 8.13
5	Printing and Publishing	--	--	--	--	--	--	--	**P**	**P**	**P**	**P**	**P**	**P**	--	--	--	8.12, 8.13
6	Research & Development	--	--	--	--	--	--	--	--	**P**	**P**	**P**	**P**	**P**	--	--	--	
7	Small scale assembly, fabrication and craftsmen businesses with no outside storage or machinery. ***(Rev. 6/9/03, 7/6/10)***	--	--	--	--	--	--	**P** *12/07*	--	--	**P**	**CU** ***7/10***	**P**	**P**	--	--	--	**7.09A, 8.13**
8	Artisans Lofts including living and working facilities in the same unit for craftsmen and artisans. ***(Rev. 6/9/03)***	--	--	--	--	--	--	**P** *12/07*	--	--	--	--	--	**P**	--	--	--	**7.09A**
E.	**TRANSPORTATION COMMUNICATION & UTILITIES**																	
1	Taxi, bus, railroad passenger terminal	--	--	--	--	--	--	--	**CU**	**P**	**P**	--	**P**	**P**	--	--	--	
2	Limousine or taxi service (garage)	--	--	--	--	--	--	**CU**	**P**	**P**	**P**	--	**P**	--	--	--	--	
3	Warehousing or wholesale storage and distribution facilities	--	--	--	--	--	--	--	**P**	--	**P**	**P** ***7/10***	**P**	**P**	--	--	--	8.14
4	Truck or rail terminal	--	--	--	--	--	--	--	--	--	**P**	--	**P**	--	--	--	--	

PRINCIPAL USES

P- Permitted
-- Not Permitted
CU – Conditional Use by the Planning Board
SE - Special Exception by the ZBA

		RESIDENTIAL						BUSINESS			INDUSTRY/R&D		MIXED USE		CIVIC			SUPPLEMENTARY
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5	Bulk fuel storage for distribution	--	--	--	--	--	--	--	--	--	**CU**	--	**CU**	--	--	--	--	
6	Airports, passenger terminals, air freight	--	--	--	--	--	--	--	--	--	**P**	--	--	--	--	--	--	
7	Telecommunications Towers (freestanding)	--	--	--	--	--	--	--	**P**	--	**P**	--	**P**	--	**SE**	--	--	8.15
8	Telecommunications Antennas (on Existing structures)	--	--	--	--	--	--	--	**P**	**P**	**P**	**P**	**P**	--	**P**	**P**	--	
9	Radio/TV stations, offices, studios	--	--	--	--	--	--	--	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	--	8.16
10	Telephone, telecommunication, & cable service operations and maintenance facilities	--	--	--	--	--	--	--	**P**	**P**	**P**	**P** ***7/10***	**P**	**CU**	--	--	--	
11	Solid waste and resource recovery facilities	--	--	--	--	--	--	--	--	--	**CU**	--	**CU**	--	--	--	--	Subject to BMA approval
12	Essential public services, utilities and appurtenances	**P**	**SE**	**SE**	**SE**	**SE**	**SE**	**P**	**P**	**P**	**P**	**P** ***7/10***	**P**	**P**	**SE**	**SE**	**SE**	
F.	**RETAIL TRADE (except automotive and restaurant uses)**																	
1	Building construction materials, nursery products, garden centers, manufactured housing, and similar retail uses with extensive outside storage of inventory	--	--	--	--	--	--	--	**P**	--	--	--	**CU**	--	--	--	--	
2-1	Furniture and major appliance stores greater than 8,000 square feet	--	--	--	--	--	--	--	**P**	**P**	--	--	**P**	**P**	--	--	--	
2-2	Furniture and major appliance stores up to 8,000 square feet	--	--	--	--	--	--	**P** *12/07*	**P**	**P**	--	--	**P**	**P**	--	--	--	
3	Convenience retail uses including grocery, delicatessen, drug store, and similar uses in establishments of UP TO 8,000 square feet	--	--	--	--	**SE**	**CU**	**P**	**P**	**P**	**CU**	--	**P**	**P**	--	**CU**	--	

PRINCIPAL USES P- Permitted -- Not Permitted CU - Conditional Use by the Planning Board SE - Special Exception by the ZBA		RESIDENTIAL						BUSINESS			INDUSTRIAL/R&D		MIXED USE		CIVIC			SUPPLEMENTARY
		Suburban	One Family	One Family	Two Family	Suburban Multifamily	Urban Multifamily	Neighborhood	General	Central Business District	General Ind./Industrial Park	Research Park	Redevelopment	Amoskeag Millyard Mixed Use	Institutional	Hospital	Conservation	Supplementary Regulations Reference (refer to these sections of the Ordinance for specific standards applicable to the use)
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4	Convenience retail uses including grocery, delicatessen, drug store, and similar uses in establishments GREATER THAN 8,000 square feet	--	--	--	--	--	**SE**	**CU**	**P**	**P**	**CU**	--	**CU**	**CU**	--	--	--	
5	Sales of general goods and merchandise within an establishment of UP TO 8,000 SQUARE FEET	--	--	--	--	--	--	**P** *12/07*	**P**	**P**	**CU**	--	**P**	**P**	--	**CU**	--	
6	Sales of other general goods and merchandise, within an establishment GREATER THAN 8,000 square feet	--	--	--	--	--	--	--	**P**	**P**	**SE**	--	**CU**	**CU**	--	--	--	
7	Limited retail, restaurant, hotel and service uses servicing an industrial or research park area in accordance with a City area master plan	--	--	--	--	--	--	--	--	--	**CU**	**CU**	**CU**	--	--	--	--	
G. RESTAURANTS, EATING AND DRINKING PLACES																		
ESTABLISHMENTS SERVING ALCOHOLIC BEVERAGES																		
1	Restaurant of UP TO 5,000 square feet	--	--	--	--	--	--	**CU**	**P**	**P**	**P**	--	**P**	**P**	**CU**	**SE**	--	
2	Restaurant of GREATER THAN 5,000 square feet	--	--	--	--	--	--	--	**P**	**P**	**CU**	--	**CU**	**P**	--	--	--	
3	Night clubs and other establishments	--	--	--	--	--	--	--	**P**	**P**	--	--	--	**P**	--	--	--	
ESTABLISHMENTS NOT SERVING ALCOHOLIC BEVERAGES																		
	WITHOUT DRIVE-THROUGH SERVICE																	
4	Establishment of UP TO 5,000 square feet	--	--	--	--	--	**CU**	**P**	**P**	**P**	**P**	--	**P**	**P**	**SE**	**SE**	--	
5	Establishment of GREATER THAN 5,000 square feet	--	--	--	--	--	--	--	**P**	**P**	**CU**	--	**CU**	**P**	--	--	--	
	WITH DRIVE-THROUGH SERVICE																	
6	All Establishments ***(Rev. 2/3/04)***	--	--	--	--	--	**SE**	**SE**	**P**	--	**P** *2/04*	--	**CU**	--	--	--	--	8.17

PRINCIPAL USES P- Permitted -- Not Permitted CU - Conditional Use by the Planning Board SE - Special Exception by the ZBA		RESIDENTIAL						BUSINESS			INDUSTRIAL/R &		MIXED USE		CIVIC			SUPPLEMENTARY
		Suburban	One Family	One Family	Two Family	Suburban Multifamily	Urban Multifamily	Neighborhood	General	Central Business District	General Ind./Industrial Park	Research Park	Redevelopment	Amoskeag Millyard Mixed Use	Institutional	Hospital	Conservation	Supplementary Regulations Reference (refer to these sections of the Ordinance for specific standards applicable to the use)
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H.	**SERVICES (NON- AUTOMOTIVE)**																	
H-1	**FINANCIAL AND PROFESSIONAL SERVICES**																	
1	Banking, financial, real estate, and insurance offices	--	--	--	--	--	--	**P** *12/07*	**P**	**P**	**CU**	**CU**	**P**	**P**	**CU**	--	--	
2	Other business and professional offices	--	--	--	--	--	--	**P** *12/07*	**P**	**P**	**CU**	**P** *7/10*	**P**	**P**	**CU**	--	--	
H-2	**MEDICAL SERVICES**																	
1	Offices of health care practitioners and outpatient health care	--	--	--	--	--	--	**P**	**P**	**P**	**P**	**CU** ***7/10***	**CU**	**P**	**CU**	**P**	--	
2	Hospitals	--	--	--	--	--	--	--	--	--	--	--	--	--	**CU**	**P**	--	8.18
3	Nursing homes, rehabilitation and convalescent centers providing 24-hour nursing care	**CU**	--	--	--	**CU**	**CU**	--	**CU**	--	--	--	**CU**	--	**P**	**P**	--	8.18
4	Medical and dental laboratories	--	--	--	--	--	--	--	**P**	**P**	**P**	**P**	**P**	**P**	--	**P**	--	
5	Medical research & development	--	--	--	--	--	--	--	--	--	**P**	**P** ***7/10***	**P**	**P**	--	**P**	--	
6	Physical and occupational rehabilitation centers	--	--	--	--	--	--	--	--	--	**P**	**P** ***7/10***	--	--	--	--	--	
H-3	**SERVICES-LODGING AND MEETING FACILITIES**																	
1	Hotels and motels, and Extended Stay facilities	--	--	--	--	--	--	--	**P**	**P**	**P**	--	**P**	**P**	--	--	--	
2	Bed & Breakfast	--	--	--	**SE**	--	**CU**	**P** *12/07*	--	**CU**	--	--	--	--	--	--	--	
3	Conference, trade or convention center	--	--	--	--	--	--	--	**P**	**P**	**P**	**CU**	**P**	**P**	--	--	--	
H-4	**SERVICES- PERFORMING ARTS, ENTERTAINMENT & AMUSEMENT**																	
1	Theaters, cinemas, concert halls	--	--	--	--	--	--	**P** *12/07*	**P**	**P**	--	--	**P**	**P**	--	--	--	
2	Amusement arcade, dance hall	--	--	--	--	--	--	--	**P**	**P**	--	--	--	**SE**	--	--	--	
3	Dance or music studios and schools	--	--	--	--	--	--	**P**	**P**	**P**	--	--	**CU**	**P**	--	--	--	

4	Bowling centers, billiard halls	--	--	--	--	--	--	--	**P**	**P**	--	--	**CU**	**P**	--	--	--	
5	Sexually oriented businesses	--	--	--	--	--	--	--	--	**P**	--	--	--	--	--	--	--	8.19

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6	Outdoor shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
7	Indoor shooting range	--	--	--	--	--	--	--	--	--	**P**	--	**P**	--	--	--	--	
8	Mini-golf	--	--	--	--	--	--	--	**P**	--	--	--	--	--	--	--	--	
H-5	**SERVICES- RECREATION AND SPORTS FACILITIES**																	
1	Competitive sports facility with spectator seating	--	--	--	--	--	--	--	**CU**	**P**	--	--	**CU**	**CU**	--	--	--	
2	Indoor health & fitness center, pool, gym or membership recreation center	--	--	--	--	--	**CU**	**P** *12/07*	**P**	**P**	**P**	**P**	**P**	**P**	--	**CU**	--	
3	Outdoor recreation facility, golf course, or membership sports club	**P**	**SE**	**SE**	**CU**	**CU**	**CU**	--	**CU**	--	--	--	--	--	--	--	--	
4	Campgrounds and youth camps	**SE**	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
H-6	**SERVICES - PERSONAL, BUSINESS & REPAIR**																	
1	Domestic laundry and cleaning services	--	--	--	--	--	**CU**	**P**	**P**	**P**	**CU**	--	**CU**	**P**	--	--	--	
2	Photographic studios	--	--	--	--	--	--	**P**	**P**	**P**	--	--	--	**P**	--	--	--	
3	Beauty & barber shops, tailors, shoe repair and shoeshine parlors	--	--	--	--	--	**CU**	**P**	**P**	**P**	**CU**	--	**CU**	**P**	--	--	--	
4	Watch, clock, jewelry, home furnishings and small appliance repair	--	--	--	--	--	**SE**	**P**	**P**	**P**	--	--	**SE**	**P**	--	--	--	
5	Photo labs, media and mailing services, copy centers, sign shops	--	--	--	--	--	--	**P**	**P**	**P**	**P**	**CU**	**P**	**P**	--	--	--	
6	Self-Service Storage Facility	--	--	--	--	--	--	--	**P**	--	**P**	--	**P**	**CU**	--	--	--	

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H-6	**SERVICES - PERSONAL, BUSINESS & REPAIR**																	
7	Funeral parlors and crematories	--	--	--	--	--	**SE**	**CU**	**P**	--	--	--	**P**	--	**SE**	--	--	
8	Industrial launderers, dyers, linen/uniform supply	--	--	--	--	--	--	--	--	**P**	**P**	--	**P**	**P**	--	--	--	
9	Large appliance repair, furniture repair or upholstery shop	--	--	--	--	--	--	**CU**	**P**	--	**CU**	--	**P**	**CU**	--	--	--	
10	Equipment rental and leasing	--	--	--	--	--	--	--	**P**	--	**CU**	--	**P**	--	--	--	--	
11	Business equipment repair and maintenance	--	--	--	--	--	--	**P**	**P**	**P**	--	--	**CU**	**P**	--	--	--	
12	Tattoo Parlors *(Rev. 7/20/04)*	--	--	--	--	--	--	--	**P**	**P**	--	--	--	--	--	--	--	8.06
I.	**MOTOR VEHICLE SALES, RENTAL AND RELATED SERVICES**																	
1	Sale or rental of motor vehicles including autos and small trucks, motorcycles and snowmobiles including incidental repair and sale of parts	--	--	--	--	--	--	--	**P**	**CU**	--	--	**P**	--	--	--	--	8.17
2	Sales or rental of boats, trailers and motor homes and incidental sales of related equipment and repair services	--	--	--	--	--	--	--	**P**	--	--	--	**P**	--	--	--	--	8.17
3	Large truck or heavy equipment sales, rental or repair	--	--	--	--	--	--	--	**CU**	--	**CU**	--	**P**	--	--	--	--	8.17 Also: Not permitted within the IND areas outside of the I-293/I-93 beltway.
4	Automotive repair	--	--	--	--	--	--	--	**P**	--	**CU**	--	**P**	--	--	--	--	8.17 Also: Not permitted within the IND areas outside of the I-293/I-93 beltway.
5	Automotive service station	--	--	--	--	--	--	**CU**	**P**	**CU**	**CU**	--	**P**	--	--	--	--	8.17 Also: Not permitted within the IND areas outside of the I-293/I-93 beltway.

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I.	**MOTOR VEHICLE SALES, RENTAL AND RELATED SERVICES**																	
6	Carwashes and car care centers including muffler shops, oil change, auto detailing and similar services	--	--	--	--	--	--	--	**P**	**SE**	**CU**	--	**P**	--	--	--	--	8.17 Also: Not permitted within the IND areas outside of the I-293/I-93 beltway.
7	Commercial parking garage	--	--	--	--	--	**CU**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	
8	Commercial surface parking lot	--	--	--	--	--	**CU**	**P**	**P**	**CU**	**P**	**P**	**P**	**P**	**P**	**P**	--	10.07H. Also: Not permitted within 1000' of the Civic Center site.
J.	**INSTITUTIONAL (NON- MEDICAL)**																	
1	Elementary or secondary school, including recreation facilities - PUBLIC	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	**P**	**P**	**P**	**P**	--	
2	Elementary or secondary school, including recreation facilities - PRIVATE	**CU**	**CU**	**CU**	**CU**	**CU**	**CU**	**P** *12/07*	--	--	--	--	**CU**	**P**	**P**	**CU**	--	
3	Public or private college or university, including dormitories	**CU**	--	--	--	--	--	--	**P**	**P**	**CU**	**CU**	**P**	**P**	**P**	**CU**	--	
4	Business and trade schools	--	--	--	--	--	--	--	**P**	**P**	**CU**	**CU**	**P**	**P**	**CU**	--	--	
5	Cultural facilities, such as museums and libraries	**CU**	--	--	--	--	--	**P** *12/07*	**P**	**P**	--	--	--	**P**	**P**	--	--	
6	Commercial child day care facilities	**SE**	**SE**	**SE**	**SE**	**SE**	**SE**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**CU**	**CU**	--	
7	Adult day care facilities	**CU**	**CU**	**CU**	**CU**	**CU**	**CU**	**P**	**P**	**P**	--	**CU** ***7/10***	**P**	**P**	**P**	**P**	--	
8	Membership fraternal and social organizations & clubs	--	--	--	--	--	--	--	**P**	**P**	--	--	--	--	--	--	--	

PRINCIPAL USES P- Permitted -- Not Permitted CU - Conditional Use by the Planning Board SE - Special Exception by the ZBA		RESIDENTIAL						BUSINESS			INDUSTRIAL/R&D		MIXED USE		CIVIC			SUPPLEMENTARY
		Suburban	One Family	One Family	Two Family	Suburban Multifamily	Urban Multifamily	Neighborhood	General	Central Business District	General Ind./Industrial Park	Research Park	Redevelopment	Amoskeag Millyard Mixed Use	Institutional	Hospital	Conservation	Supplementary Regulations Reference (refer to these sections of the Ordinance for specific standards applicable to the use)
Use No.	**Zoning District:**	**R-S**	**R-1A**	**R-1B**	**R-2**	**R-SM**	**R-3**	**B-1**	**B-2**	**CBD**	**IND**	**RP**	**RDV**	**AMX**	**C-1**	**C-2**	**CV**	Applicable to the use in any zoning district
J.	**INSTITUTIONAL (NON- MEDICAL)**																	
9	Churches	**P**	**CU**	**CU**	**CU**	**P**	**P**	**P**	**P**	**P**	--	--	--	--	**P**	**P**	--	
10	Monasteries and convents	**CU**	**CU**	**CU**	**CU**	**CU**	**CU**	**CU**	**CU**	**CU**	--	--	**CU**	--	**CU**	--	--	
11	Cemeteries	**P**	**CU**	**CU**	**CU**	**P**	**P**	**P**	**P**	--	--	--	--	--	--	--	--	
11	Ambulance and emergency services	--	--	--	--	--	--	--	**P**	**P**	**P**	--	**P**	**P**	--	**P**	--	
12	Correctional institutions	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
13	Municipal Facilities	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	

5.11 TABLE OF ACCESSORY USES

ACCESSORY USES P- Permitted -- Not Permitted CU - Conditional Use by the Planning Board SE - Special Exception by the ZBA		RESIDENTIAL						BUSINESS			INDUSTRIAL/R&D		MIXED USE		CIVIC			SUPPLEMENTARY
		Suburban	One Family	One Family	Two Family	Suburban Multifamily	Urban Multifamily	Neighborhood	General	Central Business District	General Ind./Industrial Park	Research Park	Redevelopment	Amoskeag Millyard Mixed Use	Institutional	Hospital	Conservation	Supplementary Regulations Reference (refer to these sections of the Ordinance for specific standards applicable to the use)
Use No.	**Zoning District:**	**R-S**	**R-1A**	**R-1B**	**R-2**	**R-SM**	**R-3**	**B-1**	**B-2**	**CBD**	**IND**	**RP**	**RDV**	**AMX**	**C-1**	**C-2**	**CV**	Applicable to the use in any zoning district
K.	**SERVING ANY PRINCIPAL USE**																	
1	Accessory buildings and appurtenant structures such as private garage, tool shed, greenhouse, swimming pool, satellite dish	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**CU**	**P**	**P**	**P**	**P**	--	* Subject to the provisions of Section 8.24.
2	Accessory storage of one trailer, one unregistered or uninspected automobile or one boat. **Rev. 11/14/06**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	--	--		--	--	--	--	--	
3	Off-street parking and loading	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	
4	Signs	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	
5	Wall, fence or other screening	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	
L.	**SERVING A RESIDENTIAL PRINCIPAL USE**																	
1	Accessory dwelling within a single family detached residence	**SE**	**SE**	**SE**	**P**	**P**	**P**	**P** *12/07*	--	--	--	--	--	--	--	--	--	8.21
2	Professional office in a single family detached dwelling	--	--	--	--	**SE**	**SE**	**P**	--	--	--	--	--	**P**	**SE**	--	--	
3	Home Occupation	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	**P**	**P**	**P**	**P**	--	8.20
4	Accessory retail or consumer use in a multifamily dwelling	--	--	--	--	--	**SE**	**SE** *12/07*	--	--	--	--	--	--	--	--	--	
5	Child care within a single family detached dwelling unit - LESS THAN 6 CHILDREN	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	--	**P**	**P**	**P**	**P**	--	
6	Child care within a dwelling unit other than 6 above	**SE**	**SE**	**SE**	**SE**	**SE**	**SE**	**SE**	**SE**	**SE**	**SE**	--	**SE**	**SE**	**SE**	**SE**	--	

ACCESSORY USES P- Permitted -- Not Permitted CU - Conditional Use by the Planning Board SE - Special Exception by the ZBA		RESIDENTIAL						BUSINESS			INDUSTRIAL/R&D		MIXED USE		CIVIC			SUPPLEMENTARY
		Suburban	One Family	One Family	Two Family	Suburban Multifamily	Urban Multifamily	Neighborhood	General	Central Business District	General Ind./Industrial Park	Research Park	Redevelopment	Amoskeag Millyard Mixed Use	Institutional	Hospital	Conservation	Supplementary Regulations Reference (refer to these sections of the Ordinance for specific standards applicable to the use)
Use No.	**Zoning District:**	**R-S**	**R-1A**	**R-1B**	**R-2**	**R-SM**	**R-3**	**B-1**	**B-2**	**CBD**	**IND**	**RP**	**RDV**	**AMX**	**C-1**	**C-2**	**CV**	Applicable to the use in any zoning district
L.	**SERVING A RESIDENTIAL PRINCIPAL USE**																	
7	Sale of farm, horticultural, or nursery products grown on site	**SE**	**SE**	**--**	**--**	**SE**	**SE**	**P**	**P**	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**--**	
8	Accessory garage or open parking	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**--**	
9	Residential parking garage or parking lot	**--**	**--**	**--**	**--**	**P**	**P**	**P**	**P**	**P**	**--**	**--**	**P**	**P**	**P**	**--**	**--**	
M.	**SERVING A NON-RESIDENTIAL PRINCIPAL USE**																	
1	Accessory repair and storage in retail or service establishment within a structure	**P**	**--**	**--**	**--**	**--**	**--**	**P**	**P**	**P**	**P**	**--**	**P**	**P**	**P**	**P**	**--**	
2	Accessory outside storage for industrial or commercial use	**P**	**--**	**--**	**--**	**--**	**--**	**SE**	**SE**	**--**	**P**	**--**	**P**	**--**	**--**	**SE**	**--**	
3	Accessory manufacturing use in business districts	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**P**	**P**	**P**	**--**	**--**	**--**	**--**	**--**	**--**	
4	Accessory offices and warehousing for manufacturing uses	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**P**	**P**	**P**	**P**	**--**	**--**	**--**	
5	Dwelling unit for resident caretaker or security personnel	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**P**	**P**	**P**	**CU**	**P**	**P**	**P**	**P**	**--**	
6	Helicopter landing pad	**--**	**--**	**--**	**--**	**--**	**--**	**--**	**CU**	**CU**	**P**	**P**	**CU**	**CU**	**--**	**P**	**--**	
7	Cafeterias, recreation and fitness facilities for employees	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**--**	
8	Child care facilities primarily serving employees	**--**	**--**	**--**	**--**	**--**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**--**	

ARTICLE 6. DIMENSIONAL REGULATIONS

6.01 Minimum Lot Size

Except as provided in Articles 8 and 11, Supplementary Regulations and Non-conforming Lots, Uses, and Structures, respectively, of this Ordinance, no buildings or structures shall be constructed, and no use shall be established, on a lot having less buildable land area than the minimum amount indicated in the Table of Dimensional Regulations (Section 6.07). Where the lot is not served by a municipal sewer system and an on-site subsurface disposal system is required, the lot size shall not be less than the area required by the New Hampshire Water Supply and Pollution Control Division or as specified in the Table of Dimensional Regulations (Section 6.07), whichever is the larger.

6.02 Minimum Lot Frontage

Except as provided in Articles 8 and 11, Supplementary Regulations and Non-conforming Lots, Uses, and Structures, respectively, of this Ordinance, no buildings or structures shall be constructed, and no use shall be established, on a lot having less frontage than the minimum dimension indicated in the Table of Dimensional Regulations (Section 6.07). Minimum lot frontage shall be a continuous, unbroken line along one (1) street. The minimum lot frontage dimension must be maintained within the lot as a minimum lot width to a depth of one hundred (100) feet from the front lot line. In the case of lots which have the entire frontage on the bulb of a cul-de-sac, the minimum frontage may be reduced to fifty (50) feet, provided that the required minimum frontage dimension for the applicable district is observed as the minimum lot width at the required front yard setback line.

6.03 Minimum Yard Requirements

Except as provided in Articles 8 and 11, Supplementary Regulations and Non-Conforming Lots, Uses, and Structures, respectively, of this Ordinance, no principal buildings or structures shall be constructed on any portion of a lot that lies within a minimum required front, rear, or side yard, the dimensions of which are indicated in the Table of Dimensional Regulations (Section 6.07). Projections into required yards, including balconies, bay windows, open terraces, steps, stoops, window sills, eaves, chimneys, and fire escapes are permitted such that the projection does not exceed two (2) feet.

A. Front Yard

The minimum front yard within a lot shall be determined by a line parallel to the front lot line at a distance from said lot line as specified in the Table of Dimensional Regulations (Section 6.07). Where a lot is a corner lot or otherwise has multiple street frontages, front yard dimensions shall be observed adjacent to all such frontages, and side yard dimensions shall be observed adjacent to all other lot lines.

B. Rear Yard

The minimum rear yard within a lot shall be determined by a line parallel to the rear lot line at a distance from said lot line as specified in the Table of Dimensional Regulations (Section 6.07).

C. Side Yard

The minimum side yard within a lot shall be determined by lines parallel to the side lot lines at a distance from said lot lines as specified in the Table of Dimensional Regulations (Section 6.07).

6.04 Maximum Lot Coverage

Except as provided in Article 11, Non-Conforming Lots, Uses, and Structures, of this Ordinance, no buildings, structures, or impervious surfaces shall be constructed on a lot such that the area of the lot covered by such buildings, structures, and impervious surfaces when calculated as a percentage of the total lot area, shall exceed the maximum percentage as specified in the Table of Dimensional Regulations (Section 6.07).

6.05 Maximum Number of Stories and Height of Buildings or Structures

Except as provided in Article 8, Supplementary Regulations, of this Ordinance, no buildings or structures shall be constructed in excess of the number of stories and the maximum height as specified in the Table of Dimensional Regulations (Section 6.07), nor shall any building or structure be constructed in violation of the provisions of Section 7.08, Airport Approach Overlay District, of this Ordinance. The height restrictions shall not apply to necessary appurtenant structures not designed for human occupancy including but not limited to spires, steeples, cupolas, domes, parapet walls, chimneys, smokestacks, flagpoles, or antennae, provided that no such appurtenant structure may exceed fifty (50) feet in height.

6.06 Maximum Floor Area Ratio

Except as provided in Article 11, Non-Conforming Lots, Uses, and Structures, of this Ordinance, no buildings or structures shall be constructed on a lot such that the ratio of the gross floor area of such buildings and structures to the total lot area shall exceed the maximum floor area ratio (FAR) as specified in the Table of Dimensional Regulations (Section 6.07).

6.07 Table of Dimensional Regulations

In the base Districts as established in Article 4, Establishment of Zoning Districts and Zoning Map, of this Ordinance, no building, structure, or impervious surface shall be constructed except in conformance with the standards set forth in the following Table of Dimensional Regulations (Section 6.06), subject to all other provisions and standards of this Ordinance, and other local, state, and federal laws, rules, and regulations.

TABLE OF DIMENSIONAL REGULATIONS

Base District	Principal Use of the Lot	Minimum Lot Size	Minimum Lot Frontage	Minimum Setback Requirements			Maximum Lot Coverage	Maximum Height		Max. Floor Area Ratio
				Front	Rear	Side		Height	Stories	
		(sq. ft.)	(feet)	(feet)	(feet)	(feet)	(%)	(feet)	(#)	
RS	Any permitted use	40,000	150	50	100	30	15	35	2.5	0.1
R-1A	1-Family detached DU	12,500	100	25	30	20	40	35	2.5	0.3
	Other structure or principal use	25,000	200	25	30	40	60	35	2.5	0.5
R-1B	1-Family detached DU	7,500	75	20	30	10	50	35	2.5	0.5
	Other structure or principal use	15,000	150	20	30	20	70	35	2.5	0.5
R-2	1 & 2 Family DU	6,500	75	15	20	10	60	35	2.5	0.5
	Other structure or principal use	10,000	100	15	20	20	75	35	2.5	0.5
R-3	Residential, first 3 units *(Rev. 4/6/04)*	5,000	50	10	20	10	75	45 *4/04*	3	0.75
	Non-residential use	10,000	100	10	20	10	75	40	3	0.75
R-SM	Residential, first 3 units *(Rev. 11/7/01)*	10,000	75	20	30	10	60	45 *11/01*	3	0.5
	Non-residential use	15,000	150	20	30	20	70	45	3	0.5
C-1	Any permitted use	10,000	100	15	20	20	75	35	2.5	0.5
C-2	Any permitted use	10,000	100	15	15	15	75	120	10	3.0
CBD	Any permitted use	---	---	---	---	---	---	---	---	5.0
B-1	Any permitted use	---	---	--- *Rev. 12/07*	10 *Rev. 12/07*	---	85	40	3	2.0 *Rev. 12/07*
B-2	Any permitted use	12,500	100	20	30	20	75	50	4	1.0
IND	Any permitted use	25,000	100	35	20	20	75	50	4	1.0
RDV	Any permitted use	10,000	100	---	---	---	85	50	4	2.0
AMX	Any permitted use	25,000	---	---	---	---	---	90	6	6.0
RP	Any permitted use	3 acres	300	100	50	50	75	50	4	0.5
CV	Any permitted use	---	---	---	---	---	---	---	---	---

6.08 Buffer Requirements

A. Landscaped Buffer Required at Certain District Boundaries

Where a B-2, IND, RDV, or RP District abuts a residential district, a landscaped buffer, consistent with site plan regulations, shall be established to provide a visual barrier for the adjacent residential district. A buffer of at least twenty-five (25) feet in width shall be established along each lot line of a parcel that abuts a residential district. The buffer may contain a mix of plantings, so long as the plantings create a dense visual barrier. The width of the landscaped buffer may be reduced to fifteen (15) feet with the inclusion within the buffer of a solid fence or wall of six (6) feet in height. All plantings shall be maintained in order to perpetuate the visual barrier.

B. Limited Activity Buffer Required Adjacent to Residential Districts

A limited activity buffer shall be required for parcels located in non-residential districts and abutting the boundary of a residential district. A limited activity buffer is also required for parcels used for non-residential purposes within residential districts. The buffer shall be established at such time as a new non-residential use is located on a parcel or that an existing non-residential use is expanded or undergoes substantial renovation. The limited activity buffer shall be fifty (50) feet in width as measured from the closest adjacent lot line of a lot used for residential purposes. The following activities, improvements, facilities, and accessory uses are prohibited within the limited activity buffer:

1. Ventilators or exhaust systems from commercial food preparation or processing facilities;

2. Exterior lighting fixtures at a height in excess of ten (10) feet;

3. Illuminated signs;

4. Truck docks, loading spaces or bays, or designated truck parking areas;

5. Exterior speaker systems;

6. Drive-through windows or vehicle stacking lanes for the same;

7. The repair, dismantling, or storage of equipment or machinery;

8. Dumpsters or waste storage facilities of any kind:

9. Commercial kennels; or

10. Heating, ventilation, or air conditioning equipment that is not enclosed within a building.

The Planning Board may grant a waiver(s) to this section in the course of the Site Plan review process provided that the applicant can demonstrate that the granting of such waiver(s) would be in the public interest, and that it would not be detrimental to the abutting residential properties.

6.09 Minimum Setbacks from Wetlands

A. Setback for Buildings, Structures and Parking Lots

A twenty-five (25) foot setback shall be maintained from proposed buildings, structures and parking lots, or enlargements thereof, to any wetland within the State Statutory jurisdiction of the NH Department of Environmental Services. Such setback shall not apply to wetlands, or portions thereof, which have been approved for filling by the NH Department of Environmental Services.

B. Setback Reductions and Variances

For projects under the Site Plan or Subdivision jurisdiction of the Planning Board, the Board may reduce such setback to promote the public interest. The Planning Board may attach such conditions as may be necessary to mitigate such reduction. In instances where a project is not under Planning Board jurisdiction, the Zoning Board may consider the granting of a variance to this setback, but shall first confer with the Conservation Commission.

C. Setback for On-site Subsurface Disposal Systems

No on-site subsurface disposal system or any part thereof shall be constructed or enlarged within one hundred twenty-five (125) feet of a wetland.

6.10 Special Lot sizes in the R-2 District

Within the R-2 District, both vacant and developed lots (which contain otherwise conforming uses and structures) created prior to May 19, 1987 of at least 5,000 square feet in area and a lot width of at least 50 feet shall be considered conforming and shall not be subject to consolidation provisions of this ordinance. In addition, a new lot may be created with at least 5,000 square feet and a lot width of at least 50 feet, provided that it is for a single-family house only and that the Planning Board grants a Conditional Use Permit following a finding that the proposed use, lot size, height, bulk, orientation and other specific characteristics of the proposed lot and building are consistent with, and appropriate to, the predominant character of the adjacent neighborhood. (***Rev. 9/5/06)***

6.11 Additional Dimensional Regulations for Certain Uses

Additional dimensional standards are contained in Article 8, Supplementary Regulations, of this Ordinance. These additional dimensional standards apply to certain specified uses wherein a use involves multiple principal structures on a single lot, or the characteristics of a use have the potential to impact adjacent properties in a negative manner. The dimensional standards

contained in Article 8 shall supersede the standards in this Article only for those uses so specified and under the circumstances so described in Article 8.

ARTICLE 7. SPECIAL DISTRICT-WIDE REGULATIONS

SPECIAL REGULATIONS APPLICABLE WITHIN BASE DISTRICTS

7.01 Amoskeag Millyard Mixed Use District (AMX)

A. Limitations on New Construction. One of the major public objectives of the establishment of the District is to maximize the retention and reuse of existing buildings. The uses permitted by right, conditional use permit, or by special exception within the AMX District in the Table of Uses of Article 5 are hereby limited to establishment within buildings which existed on or prior to October 18, 1994, except that new construction may be authorized for the following uses in accordance with the other provisions of this Article and this Ordinance:

1. Hotels, bed and breakfast and extended stay facilities that are developed in conjunction with a convention center
2. Taxi, bus or railroad passenger or transit terminals
3. Parking structures
4. Retail and restaurant uses of 5,000 square feet or more
5. Private competitive sports facilities
6. Theaters, cinemas and concert halls
7. Cultural and institutional uses

B. Parking Analysis. Parking in strict conformance with Article 10, Off Street Parking and Loading Requirements, shall not be required with the AMX District. A parking plan, however, shall be developed for each property and shall be submitted as part of the BUDP to the Planning Board. The parking plan shall use the off-street parking space requirements of Article 10, supplemented as necessary by other published research data on urban parking needs, as general guidance to determine the expected parking demand to be generated by the uses within the building. The expected demand on parking spaces may be modified based on the unique characteristics of the individual structure or use and the characteristics of mixed uses which operate at different hours of the day. The Plan shall identify how the expected parking demand can be met utilizing on-site surface parking, parking to be made available within the building, public parking available in on-street spaces or in parking garages or lots. The parking analysis may also consider the availability of public or private satellite parking structures and lots served by public transit or other regular shuttle services.

C. Review of BUDP. In evaluating a request for BUDP approval, the Planning Board shall take into consideration:

1. The compatibility of proposed uses both within the buildings and in relation to adjoining uses, taking into account the intent of this Ordinance to encourage a variety of uses within the area;

2. The parking analysis submitted as part of the BUDP;

3. The proposed design of the site and buildings and the compatibility with adjacent properties as reflected in the findings and recommendations of the Millyard Design Committee;

4. Consistency with land use plans for the District or portions thereof, management policies, and design standards which may, from time to time, be adopted by the City;

5. The need to consider market demands and creative approaches to mixed uses;

6. Other requirements of this section and the purposes of the District.

D. Millyard Design Review Committee. In order to provide for proper design review necessary to enhance the image and protect the interest in the Millyard, there is hereby established a Millyard Design Review Committee. The Committee shall be composed of: a representative of the Central Business Service District, two aldermanic representatives, and the following members appointed by the Mayor for a term of three years: two property owners in the district, a member of the Heritage Commission, and three members from the architectural or design field. ***(Rev. 4/21/09, 7/6/10)***

The Committee shall be empowered to review any of the following actions within the District:

1. Major exterior rehabilitation or restoration of existing buildings, excluding normal maintenance, repair or in-kind replacement of materials or components;

2. Changes to exterior signage. In order to reduce the need for repeated sign reviews, a building owner may submit an overall building signage plan with prototype signage types for review by the Committee;

3. Additions or new free standing structures.

The Committee shall report its findings and recommendations within 30 days to the Planning and Community Development Department Director or, in the case of a Conditional Use Permit, Building Use and Design Plan or Site Plan Review application, the Planning Board. Neither the Planning Board nor the Economic Development Director shall approve the proposed action, unless the Millyard Design Review Committee shall find that the proposed action:

1. Shall not cause unnecessary destruction or blight of important natural or man-made features of the landscape, nor the unnecessary obstruction of views of the Merrimack River;

2. Shall be reasonably harmonious with the terrain, open space and the design, materials and scale of existing buildings;

3. Shall provide for safe and convenient pedestrian circulation and support appropriate amenities therefore; and

4. Shall incorporate signs of a scale, design, and type that are consistent with the architectural and design guidelines of studies and reports commissioned by the City.

E. Historic District Requirements Also Applicable. In addition to the requirements of this section, the entirety of the District is also subject to certain historic district overlay requirements, provided for in Section 7.06 of this Article.

7.02 Research Park (RP) District

A. RP District Master Plan Required

Prior to the approval of any subdivisions or site plans pursuant to the Subdivision and Site Plan Regulations of the City of Manchester, and prior to the issuance of any permits, a RP District Master Plan shall be submitted to, and approved, by the Planning Board in accordance with the requirements and procedures set forth in this Section.

B. Procedure for Consideration of an RP District Master Plan by the Planning Board

1. Submittal to the Board. An applicant shall submit a proposed Master Plan to the Planning Board at least thirty (30) days in advance of a regular meeting of the Board. The proposed Master Plan shall be prepared in accordance with the provisions of this Section and accompanied by the requisite application fee, plans, and materials.

2. Notification. A notice of a public hearing on a proposed Master Plan shall be given to the applicant and to all abutters by certified mail not less than ten (10) days before the date of the hearing. Notice shall also be given to the Mayor and the Alderman of the Ward in which the application is located. A public notice shall be posted in two (2) separate and distinct public places, and placed in a newspaper of general circulation in the City of Manchester, not less than ten (10) days before the date of the hearing.

3. Public Hearing. At the public hearing, the Planning Board shall hear or receive oral or written testimony from the applicant and all abutters, and any non-abutters who can demonstrate that they are directly affected by the proposed Master Plan upon which the hearing is being held. The Planning Board may convene or reconvene the public hearing within the RP District in order to allow observations concerning the District and/or its surroundings to become part of the record of the hearing and decision by the Board.

4. Requests for Additional Information. The Planning Board, before taking final action on a proposed Master Plan, may request additional information from the applicant as the Board deems necessary in order to reach a decision on the proposed Master Plan.

5. Action on the Master Plan. The Planning Board shall vote to approve, disapprove, or approve with conditions, the proposed Master Plan upon which a hearing has been held. Action on the proposed Master Plan may be tabled by the Board from the date of the hearing to another meeting of the Board. A majority vote of a quorum of the Board members shall be necessary for a decision on a proposed Master Plan.

C. Submission Materials

The applicant shall submit the following plans and materials:

1. Five (5) copies of the proposed Master Plan prepared by a licensed engineer, licensed architect, landscape architect, or planner. The plans shall be prepared at a scale of one (1) inch equal to two hundred (200) feet, displaying the following information for the RP District and for an area of two hundred (200) feet immediately thereto:

a. Existing natural features including the topography at a ten (10) foot contour interval, surface water features, wetlands, and approximate extent of tree cover and cover type;

b. Existing man-made features including streets and roads, driveways and parking lots, buildings and structures including an indication of the use thereof, and utility lines and appurtenances;

c. Existing property lines and the limits of easements and rights-of-way;

d. Approximate locations of proposed streets and utility rights-of-way;

e. Approximate locations and limits of proposed land use categories; and

f. Approximate locations and limits of proposed areas to be retained for open space and recreation.

2. A narrative description of the proposed Master Plan including an indication of the phasing of the development of the same, and a statement addressing the infrastructure needed to support the development of the proposed Master Plan, the estimated traffic impact on the City's existing circulation system, and the economic impact of the proposed Master Plan including both fiscal impacts as well as employment benefits.

D. Standards for Review of a Proposed Master Plan by the Planning Board

In reviewing a proposed Master Plan, the Planning Board shall take into account the purposes of the RP District, and give consideration to the following impacts of the development of the RP District as proposed in the Master Plan:

1. The extent to which proposed open space and landscape buffers minimize impacts on existing adjacent Districts and land uses therein;

2. Impacts on the natural resources and environmental quality of the City;

3. Impacts on pedestrian and vehicular circulation within the City;

4. The extent to which the proposed development of the RP District will necessitate public expenditures for municipal facilities, infrastructure, and services; and

5. Economic impacts on the City, including fiscal impacts as well as employment benefits.

E. Amendments to an Approved Master Plan

Once an RP District Master Plan has been approved, the Planning Board shall consider and take action upon all subdivision and site plan applications that are consistent with said Master Plan. If an application is received that, in the opinion of the Board, is not consistent with the Master Plan, then the Board shall not consider such an application unless and until the application is revised to become consistent with the Master Plan, or the applicant submits an application to amend the Master Plan. An application to amend the Master Plan shall be subject to the same requirements and procedures as set forth in this Section for the RP District Master Plan.

F. Supplementary Regulations for Developments in the RP District

1. Parking lots, loading areas, outdoor storage, and security fencing shall not be located within fifty (50) feet of an adjacent street or within twenty-five (25) feet of all side and rear lot lines. Such facilities shall be screened from adjacent streets and properties by retention of existing natural vegetation or the installation of landscaping or a combination of both that will, in the opinion of the Planning Board, create the most effective screening.

2. Curb cuts for driveways, whether from the same or adjacent lots, shall be separated by a distance of no less than one thousand (1000) feet on arterial streets, five hundred (500) feet on collector streets, and two hundred (200) feet on local streets.

3. No high hazard uses shall be permitted in the RP District.

4. Exterior lighting of buildings or parking lots shall be of a low profile type and directed away from streets and property lines.

SPECIAL REGULATIONS APPLICABLE WITHIN OVERLAY DISTRICTS

7.03 Floodplain (F) District

A. Authority for the F District

The F District is adopted pursuant to Section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:21, Innovative Land Use Controls. The F District is considered to be an innovative land use control as environmental characteristics zoning. Within the F District, where so specified herein, the Planning Board is authorized to administer and grant conditional use permits in accordance with Article 12, Conditional Use Permits, of this Ordinance.

B. Establishment of the F District ***(Rev. 9/22/09)***

The F District is established in accordance with, and for the purposes so stated in Section 4.01, Establishment and Purpose of Districts, of this Ordinance. The following regulations in this ordinance pertaining to the F District shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Hillsborough, NH", dated September 25, 2009 as amended, together with the associated flood Insurance Rate Maps dated September 25, 2009 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

1. Definitions (for purposes of floodplain management).

Area of Special Flood Hazard: The land in the flood plain within the City of Manchester subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zones A or AE on the Flood Insurance Rate Map.

Base Flood: The flood having a one-percent possibility of being equaled or exceeded in any given year.

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

Building: See "Structure".

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 operations or storage of equipment or materials.

FEMA: The Federal Emergency Management Agency.

Flood Insurance Study (FIS): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters; or
b. the unusual and rapid accumulation or runoff of surface waters from any source.

Floodway: see “Regulatory Floodway”.

Functionally dependent use: A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

Mean sea level: The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Maps are referenced.

New Construction: For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and including any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

100 year flood: see “base flood”.

Recreational Vehicle:
a. built on a single chassis; and
b. 400 square feet or less when measured at the largest horizontal projections; and

c. designed to be self-propelled or permanently towable by a light duty truck and 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: see "Area of Special Flood Hazard"

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

Structure: 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.

Violation: The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

C. General Requirements for the F District ***(Rev. 4/21/09, 9/22/09)***

1. Within the F District, all proposed development in any special flood hazard area shall require a permit. The Planning and Community Development Department Director shall review all building permit applications for new construction or substantial improvements to determine whether proposed building

sites will be reasonably safe from flooding. If a proposed building site is in a Special Flood Hazard Area, all new construction and substantial improvements shall be:

a. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. constructed with materials resistant to flood damage;

c. constructed by methods and practices that minimize flood damages; and

d. constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Where new and replacement water and sewer systems (including on-site systems) are proposed in a Special Flood Hazard Area, the applicant shall provide the Planning and Community Development Department Director with assurances that new and replacement sanitary sewage 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.

3. For all new or substantially improved structures located in the Special Flood Hazard Area, the applicant shall furnish the following information to the Planning and Community Development Department Director, who shall maintain such information for public inspection and furnish it upon request:

a. the as-built elevation (in relation to the National Geodetic Vertical Datum [NGVD] of 1929) of the lowest floor (including basement), and include whether or not such structures contain a basement;

b. If the structure has been flood-proofed, the as-built elevation (in relation to NGVD) to which the structure was flood-proofed; and

c. any certification of flood-proofing.

4. The Planning and Community Development Department Director shall review proposed developments to assure 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.

D. Alteration or Relocation of Watercourses ***(Rev. 4/21/09, 9/22/09)***

1. 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 Planning and Community Development Department Director in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Planning and Community Development Director, including notice of all scheduled hearings before the Wetlands Bureau. The applicant shall submit to the Planning and Community Development Department Director certification, provided by a licensed professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

2. Any application for a building permit in a Regulatory Floodway shall require the granting of a conditional use permit pursuant to Article 12, Conditional Use Permits, of this Ordinance. Along watercourses with a designated Regulatory Floodway, no encroachments including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. In making this determination, the Planning Board may consult with the U.S. Army Corps of Engineers or such other experts as deemed necessary. The Planning Board may engage a licensed professional engineer, at the applicant's expense, to conduct such studies as may be necessary to assist the Board in making a determination.

3. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

4. The Planning and Community Development Director 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."

E. Determination of 100-year Flood Levels in the F District ***(Rev. 9/22/09)***

In Special Flood Hazard Areas, the Director of Planning and Community Development Department shall determine the one hundred (100) year flood elevation in the following order of precedence according to the data available:

1. In Zone AE refer to the elevation data provided in the Flood Insurance Study for the City of Manchester and accompanying FIRM and FBFM;

2. In unnumbered A Zones, the Director of Planning and Community Development Department shall obtain, review, and reasonably utilize any one hundred (100) year flood elevation data available from Federal, State, or other source including data submitted pursuant to development applications to the City of Manchester; and

F. Design Standards in the F District ***(Rev. 9/22/09)***

In Zones AE and A it shall be required that:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood level;

2. All new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood level; or together with attendant utility and sanitary facilities, shall:

a. Be flood-proofed so that below the one hundred (100) year flood elevation 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 licensed 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;

3. No manufactured homes be placed or substantially improved within Special Flood Hazard Areas;

4. Recreational vehicles placed on sites within Zones A or AE shall:

a. Be on the site for fewer than 180 consecutive days;

b. Be fully licensed and ready for highway use; or

c. Meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c)(6) of Section 60.3.

5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:

a. The enclosed area is unfinished or flood resistant, usable solely for parking of vehicles, building access or storage;

b. The area is not a basement;

c. Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and

G. Appeals to the Zoning Board of Adjustment (ZBA) in the F District ***(Rev. 9/22/09)***

1. Any appeal of a determination or decision made pursuant to this Section (other than a determination or decision related to a conditional use permit), shall be in accordance with Article 14, Appeals to the Zoning Board of Adjustment, of this Ordinance.

2. If a variance is requested, the applicant shall have the burden of presenting evidence sufficient to allow the ZBA to reach conclusions and make findings that the variance:

a. Will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

b. Will not result in increased flood levels during the base flood discharge, if the requested variance is in a regulatory floodway; and

c. Is the minimum necessary, considering the flood hazard, to afford relief.

These findings shall be in addition to those required of the ZBA pursuant to Article 14.

3. In granting a variance, the ZBA shall notify the applicant in writing that construction below the base flood level will result in the following:

a. Increased premium rates for flood insurance; and

b. Increased risk to life and property.

4. The City shall maintain a record of all variance actions, including the justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

7.04 Residential-Professional Office (R-PO) District

A. Establishment of the R-PO District

The R-PO District is established in accordance with, and for the purposes so stated in Section 4.01, Establishment and Purpose of Districts, of this Ordinance, and encompasses lands as indicated in Section 4.02, Official Zoning Maps, of this Ordinance. The R-PO overlays a base district and adds to the allowable uses in that base district.

B. Uses Allowed in the R-PO District

Within the R-PO District, uses, as identified in Section 5.08, Table of Use Regulations, Subsection H-1 and H-2(1) of this Ordinance are allowed in addition to the uses allowed in the base district. These uses shall be permitted only in existing residential structures constructed prior to January 5, 1965, and the gross floor area of these structures shall not be increased more than five (5%) over that which existed as of the date of adoption of this Ordinance.

7.05 Historic Districts

A. Authority for Historic Districts

The Historic Districts, including the Amoskeag Millyard Historic (AMH) District and the Amoskeag Corporation Housing Historic (ACH) District, are adopted pursuant to Section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:46, Authority Granted (for Historic Districts). Pursuant to RSA 674:44b, Powers (of Heritage Commissions), within the Historic Districts the Heritage Commission is authorized to assume the powers and duties granted to historic districts commissions in accordance with RSA 674:46a, Powers and Duties of the Historic District Commission.

B. Establishment of the Historic Districts

The Historic Districts are established in accordance with, and for the purposes so stated in Section 4.01, Establishment and Purpose of Districts, of this Ordinance, and encompass lands as indicated in Section 4.02, Official Zoning Maps, of this Ordinance.

C. Permit Requirements in Historic Districts ***(Rev. 4/21/09)***

1. Except as provided in Section 7.05 C.2, within the Amoskeag Corporation Housing Historic (ACH) District it shall be unlawful for to construct, alter, move, demolish, change the use, or modify the appearance or design of any building, structure, or place without applying for and receiving from the Director of Planning and Community Development Department a permit for such activity. Activities which require permits include, but are not limited to, changing the materials, color, finish, or architectural detail of exterior walls; replacement or modification of window or door openings; installation or removal of porches or fire escapes; roofing or chimney modification or replacement; the installation of antennae or other appurtenances on the building exterior; regrading; paving or repaving; installation or removal of fences, retaining walls, signing, or on-site lighting; or similar activities for which a building or zoning permit might not otherwise be required.

2. Except as provided in Section 7.05 C.2, within the Amoskeag Millyard Historic (AMH) District it shall be unlawful to demolish a building or structure or any external portion thereof, without applying for and receiving from the Director of Planning and Community Development Department a permit for such activity.

3. A permit is not required for ordinary maintenance or repair activities which do not involve changes in design, materials, or external appearance. Such activities include but are not limited to roof repair, incidental painting, repointing, groundskeeping, or other similar activities.

D. Review of Permit Applications by the Heritage Commission ***(Rev. 4/21/09)***

All permit applications required under Section 7.05 C shall be submitted by the Director of Planning and Community Development Department to the Heritage Commission for its consideration. A permit may be issued only following approval of an application by the Heritage Commission and the transmittal of a Certificate of Approval to the Director of Planning and Community Development Department. In the event of disapproval of a permit application by the Heritage Commission, a notice of disapproval shall be forwarded to the Director of Planning and Community Development Department.

E. Standards for Review of Permits by the Heritage Commission

1. In reviewing a permit application within the Amoskeag Corporation Housing Historic District, the Heritage Commission shall take into account the purposes of the District, and give consideration to the following:

a. The historical and/or architectural value of the building or structure and its setting;

b. The general compatibility of the proposed exterior modifications including design, scale, arrangement, textures, colors, and materials in relationship to the existing building or structure and its setting, and to the District;

c. The general size and scale of proposed new construction in relationship to the existing surroundings, including such factors as the building height and mass, orientation to adjacent streets, type of roof, fenestration, materials, colors, and architectural details; and

d. The design, scale, arrangement, textures, colors, and material of site features and improvements including yards, parking lots, driveways, walkways, signs, and landscaping as they affect the setting for a building or structure and the character of the District.

2. In reviewing a permit application in the Amoskeag Millyard Historic District (AMH), the Heritage Commission shall take into account the purposes of the District. The Commission shall consider selective demolition of portions of the buildings if such demolition does not disrupt the integrity of the overall structure. The Commission shall give consideration to the following as reasonable grounds for approving the demolition of an entire structure:

a. if the structure is structurally unsound or unsafe as determined by the Planning and Community Development Department Director;

b. if the structure is not a contributing element to the qualities that make the AMH District a unique resource; or

c. if there is no foreseeable or reasonable economic use for the structure and the loss of the structure would not adversely affect the overall continuity or eliminate landmark elements in the AMH District.

F. Certificate of Approval Period of Validity

If a permit, for which a Certificate of Approval has been issued, has not been exercised within one (1) year from the date of the decision, then the Certificate shall be deemed to have expired.

G. Uses Allowed in the ACH District

Within the ACH District, uses, as identified in Section 5.08, Table of Use Regulations, Subsections G-1, H-1(1), H-1(2), H-3(1), H-3(2), H-3(4), H-6(2) of this Ordinance are allowed in addition to the uses allowed in the base district. These uses shall be permitted only in existing structures constructed prior to the effective date of this amendment, and the gross floor area of these structures shall not be increased more than ten (10) percent over that which existed as of the date of adoption of this Ordinance.

7.06 Airport Navigational Hazard Overlay

A. Performance standard. Notwithstanding any other provisions of this Ordinance, no use may be made of the land within 100,000 feet of the Manchester Airport control tower in such manner as to create electrical interference with radio aids or communications between the airport and the aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots 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 the aircraft.

B. Marking of hazards. Any development approval granted within the City of Manchester, may if such action is deemed advisable to effectuate the purposes of this Ordinance and reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

7.07 Airport Approach Overlay District

A. Height limitations. No structure or tree shall be erected, altered or allowed to grow within the Airport Approach District to a height which would exceed the plane of the imaginary surface created by such district. The height limitations shall in no case be imposed to limit the height of a structure or tree to less than thirty (30) feet above the ground upon which it is located.

B. Determination of compliance and conditions. The Director of Planning and Community Development Department shall make such determination in consultation with the Director of the Manchester Airport as required. In the case of an application for a use which lies within the Airport Approach District *(See Map)* or which are believed to lie within such district, the Director of Planning and Community Development Department shall request of the Airport Director: (1) a determination of the maximum height of the imaginary surface plane of the Airport Approach District at the proposed location of the use, and (2) specific recommendation for additional navigational safety measures that should be required of the use to mitigate any special approach hazards created by such use. The Director of Planning and Community Development Department may attach such reasonable conditions as are necessary or prudent to protect navigation safety on the lands within the Airport Approach District. ***(Rev. 4/21/09)***

C. Permits. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Ordinance or than it is when the application for a permit is made.

D. Non-conforming uses. The height limitations required by this section 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 the effective date hereof, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in

the construction, alteration, or intended use of any structure and the construction or alteration, of which was begun prior to the effective date of this Ordinance, and diligently prosecuted and completed within two years thereof.

7.08 Airport Noise Overlay District

A. Objective and purpose**.** The increasing aircraft activity that is occurring at the Manchester Airport has created the need for a noise overlay district located within the 65 Ldn (Day-Night Sound Level) contour in accordance with the most recently adopted Part 150 Noise Compatibility Plan prepared by the Manchester Airport Authority. To avoid land use conflicts with uses which may be incompatible with noise levels generated at the Manchester Airport, the regulations of the Noise Overlay District provide for the exclusion of certain land uses, and for soundproofing to be required in the construction of other uses which may be compatible if mitigating action is taken to reduce noise interference with the use.

B. Noise Compatibility Zones Established. Noise compatibility zones for the affected areas in the vicinity of the Manchester Airport are hereby established based on the Ldn contours for aircraft noise as defined by the most recently approved Federal Aviation Regulation Part 150 Noise Compatibility Program for the Manchester Airport. The following noise compatibility zones are hereby established:

1. The N-1 zone generally corresponds to the area between the 65 Ldn and the 70 Ldn contours.

2. The N-2 zone generally corresponds to the area within the 70 Ldn contour.

C. Noise Overlay Zone Boundaries. A generalized map of the approximate location of these zones is illustrated in the Noise Exposure Map. The boundaries of the Noise Overlay Zones are shown in the Part 150 Manchester Airport Noise Compatibility Program. Because of the averaging inherent in making Ldn calculations and the assumptions necessary in the forecasting procedure, the Ldn contour lines are not capable of being precisely defined in the field. Therefore, the boundaries between the noise overlay zones, while bearing a very close relationship to the Ldn contour lines, have been adjusted to facilitate understanding and agreement as to the location of the boundaries.

D. Uses Prohibited and Uses Subject to Soundproofing . Land uses prohibited in the noise overlay zones shall be as specified in the Table of Land Use Compatibility Standards. Soundproofing shall be required for certain land uses in each of the noise overlay zones as shown in the Table of Land Use Compatibility Standards. Where soundproofing is required, no building permits shall be issued until the applicant has demonstrated that the building design is capable of achieving the Noise Level Reduction required in the Table of Land Use Compatibility Standards.

E. Determination of Compliance. Compliance with soundproofing standards can be met by incorporating specific building design and construction standards, or through other design standards which achieve noise attenuation at the levels specified in the Table of Land Use

Compatibility Standards. The applicant may use design features other than those prescribed in Paragraph F of this section, provided that the final design is capable of achieving the Noise Reduction required in the Table of Land Use Compatibility Standards.

F. Soundproofing Design Standards

1. Noise Level Reduction (NLR) of **25 Decibels (dB)**

a. If wood frame construction is used, all exterior stud walls shall have interior and exterior surfaces of an approved material at least as massive as half-inch thick gypsum wallboard, and the intervening space shall contain fibrous thermal insulation at least three inches thick.

b. The design for a habitable room shall be such that any exterior door or window can be kept closed when the room is in use. Means of ventilation shall be available to afford a minimum of two complete air changes per hour.

c. Any air duct or connection to out-of-doors shall contain an exterior sound absorbing lining acoustically equivalent at least to fiberglass duct liner one inch thick and length greater than five times the diameter of the duct.

d. The ceiling below an attic space shall include gypsum board or plaster at least one-half inch thick; fibrous thermal insulation at least three inches thick shall be laid between the ceiling joists.

e. The forced air circulation system shall be provided that will give a minimum of two complete air changes per hour, of which at least one-fifth is fresh air.

f. A ceiling or exhaust duct shall be provided with a bend in the duct such that there is no direct line of sight through the duct from outside to inside. The bend shall be lined with the equivalent of fiberglass duct liner one inch thick.

g. There shall be no direct openings, such as mail slots, from the interior to the exterior of the building. All chimneys shall be provided with well-fitting dampers.

h. Exterior hinged doors shall be solid-core construction. Jalousie windows shall not be permitted. The total area of glass windows and of any exterior door to a sleeping space shall not exceed 20 percent of the floor area of a room.

i. Workmanship on doors and openable windows shall be such that the doors and windows are as close fitting as possible or weather stripping seals shall be incorporated on all edges to eliminate gaps. Air gaps and rattling shall be prevented.

j. Masonry walls, if used, shall be at least equivalent in weight to six-inch light-weight concrete blocks, at least one surface of which is painted or plastered.

k. The roof deck shall weigh at least seven pounds per square foot, containing a solid core at least one and one-half inches thick.

2. Noise Level Reduction (NLR) of **30 Decibels (dB)**

1. Window glass shall be set in an elastomer gasket. Double glazing shall be installed, with an air space of at least three inches between the two panes of glass. Windows of dome skylights shall be permitted as long as they have a sound transmission class (STC) of at least 30.

2. The top-floor ceiling construction shall consist of plaster or gypsum board at least 5/8-inch thick supported on resilient clips or channels. A non-hardening caulking compound shall be provided around the entire perimeter of the suspended ceiling.

3. The floor of the lowest room or area containing the uses of which those insulation requirements apply shall be a concrete slab, or shall be similarly sealed otherwise against exterior noise.

4. Masonry walls, if used, shall be at least equivalent in weight to eight-inch light-weight concrete blocks, at least one surface of which shall be painted or plastered.

5. The roof deck shall weigh at least twelve pounds per square foot. Wood roof sheathing shall be continuous and at least 3/4-inch thick.

TABLE OF LAND USE COMPATIBILITY AND SOUNDPROOFING STANDARDS			
PRINCIPAL USES		**Noise Overlay Zones**	
		N-1 65-70 Ldn	**N-2 70-75 Ldn**
A.	**RESIDENTIAL**		
	Dwellings except manufactured housing	25 (1)	30 (1)
	Manufactured housing	---	---
	Boarding or rooming house	25 (1)	30 (1)
B.	**AGRICULTURAL**		
	Agriculture and forestry except livestock	P	P
	Stables and equestrian centers	---	---
	Commercial kennel	---	---
	Veterinary hospital	---	---
C.	**CONSTRUCTION & EXCAVATION**		
	Excavation of Earth Materials	P	25
	Building Contractor Yards	P	25
D.	**MANUFACTURING**		
	Professional, scientific and controlling instrument; photographic and optical goods; watch and clock manufacturing	P	25
	All other manufacturing, fabrication, and assembly industries	P	P (2)
E.	**TRANSPORTATION COMMUNICATION & UTILITIES**		
	All wholesale trade, transportation, communications, and utilities related uses	P	P (2)
F.	**RETAIL TRADE (except automotive and restaurant uses)**		
	Building construction materials, hardware and farm equipment	P	P (2)
	All other retail uses	P	25
G.	**RESTAURANTS, EATING AND DRINKING PLACES**		
	All establishments	P	25
H.	**SERVICES (NON- AUTOMOTIVE)**		
H-1	**FINANCIAL AND PROFESSIONAL SERVICES**		
	Banking, financial, real estate, and insurance offices	P	25
	Other business and professional offices	P	25
H-2	**MEDICAL SERVICES**		
	Medical offices and related services	---	---
	Hospitals	---	---
	Nursing homes	---	---
H-3	**SERVICES-LODGING AND MEETING FACILITIES**		
	Hotels and motels	P (2)	P (3)
	Conference, trade or convention center	P (2)	P (3)
H-4	**SERVICES- PERFORMING ARTS, ENTERTAINMENT & AMUSEMENT**		
	Theaters, cinemas, concert halls	25	---
	Amusement arcade, dance hall	P	P
	Dance or music studios and schools	25	---
	Bowling centers, billiard halls	P	P

TABLE OF LAND USE COMPATIBILITY AND SOUNDPROOFING STANDARDS			
PRINCIPAL USES		**Noise Overlay Zones**	
		N-1 65-70 Ldn	**N-2 70-75 Ldn**
H-5	**SERVICES- RECREATION AND SPORTS FACILITIES**		
	Municipally owned indoor or outdoor community center, recreation or sports facility	P (4)	P (4)
	Privately owned competitive sports facility with spectator seating	P (4)	P (4)
	Privately owned indoor health & fitness center, pool, gym or membership recreation center	P	---
	Privately owned outdoor recreation facility, golf course, or membership sports club	P	25
	Campgrounds and youth camps	P	25
H-6	**SERVICES - PERSONAL, BUSINESS & REPAIR**		
	Personal services categories	P	25
	Business service categories	P	25
	Funeral parlors and crematories	P	P (2)
I.	**MOTOR VEHICLE SALES, RENTAL AND RELATED SERVICES**		
	Automotive sales	P	25
	Automotive repair, service & related uses	P	P (2)
	Gasoline service stations	P	25
	Automobile parking	P	P (2)
J.	**GOVERNMENT AND INSTITUTIONAL (NON-MEDICAL)**		
	Educational services	---	---
	Cultural facilities, such as museums and libraries	P	P
	Government services	P	25
	Child day care facilities	P	25
	Adult day care facilities	---	---
	Membership and social organizations & clubs	P	25
	Churches	25	---
	Monasteries and convents	25 (1)	30 (1)
	Cemeteries	P	P (2)

KEY:

- "P" means land use and related structures are compatible and permitted without soundproofing.
- "---" means land uses and related structures are not compatible and are prohibited
- "25" or "30" means land use and related structures are generally compatible; but measures to achieve noise level reduction of 25 or 30 dB must be incorporated into design and construction of structure.
- See also specifications under footnotes 1, 2, 3, 4 for additional requirements for the use where indicated by the table

This table is based on an interpretation of the Land Use Guidance Chart for the Manchester Airport contained within the FAR Part 150 Update Noise Compatibility Program (Draft) prepared by Greiner, Inc. September 1996. These standards have been interpreted from that source and applied to the land use classification system of this Ordinance.

Footnotes to Table of Land Use Compatibility Standards - Supplementary Requirements for Uses (where so noted in Table):

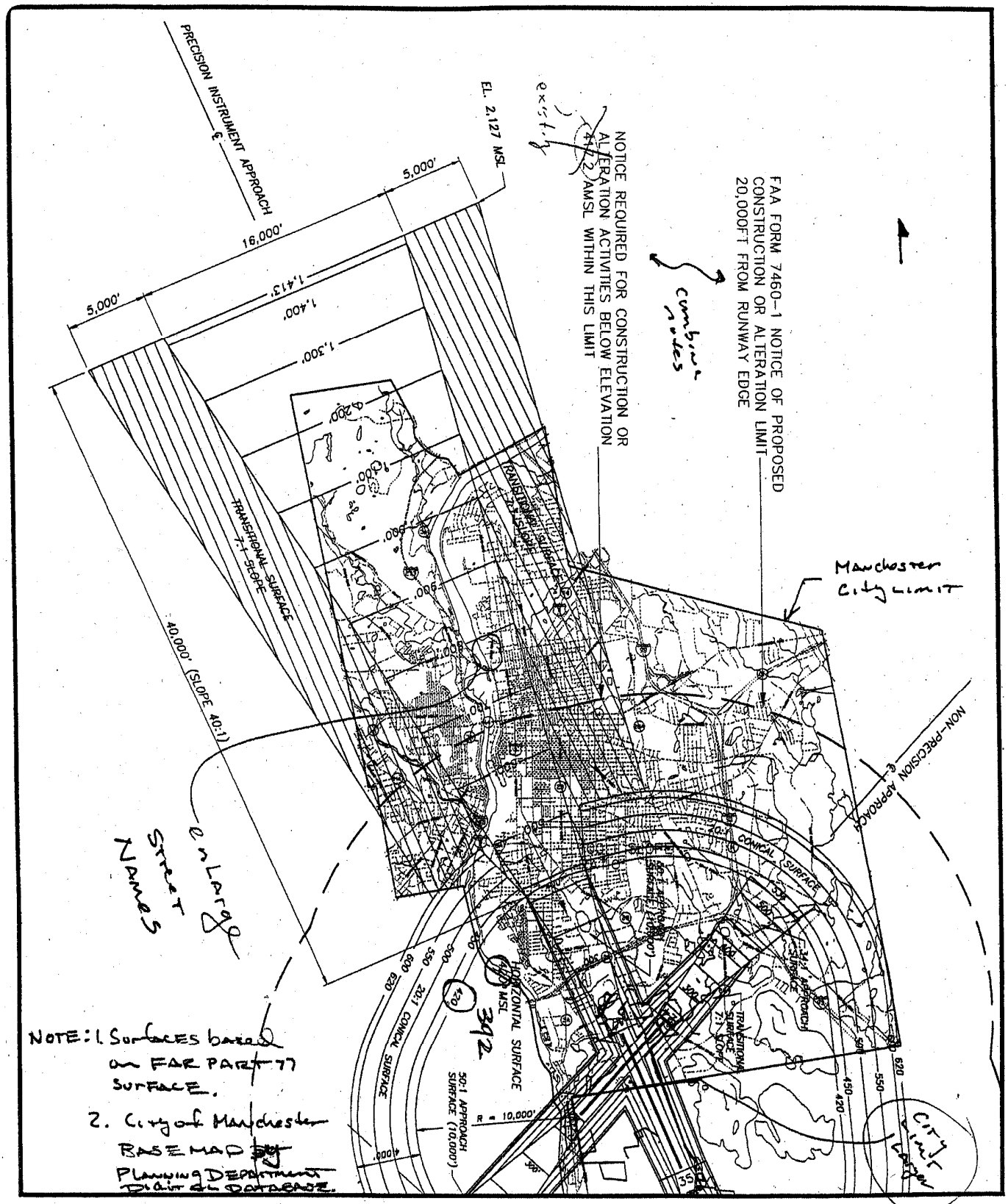
(1) All residences in the N-1 Zone are marginally noise compatible and shall be soundproofed to achieve a 25 dB reduction from outdoor noise levels (NLR). All residences in the N-2 Zone are marginally noise compatible and shall be soundproofed to achieve a 30 dB NLR. Soundproofing will not eliminate outdoor noise problems. However, building location and site planning, design, and use of berms and barriers can help mitigate outdoor noise exposure particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures which only protect interior spaces. Manufactured housing is not compatible within any of the three zones.

(2) Measures to achieve NLR of 25 shall be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

(3) Measures to achieve NLR of 30 shall be incorporated into the design and the construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.

(4) Land use (outdoor) is compatible provided special sound amplification system is installed.

OVERLAY DISTRICT REFERENCE MAPS



Edwards AND Kelcey
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Manchester, NH 03103
(603) 666-7181 fax-(603) 666-7185

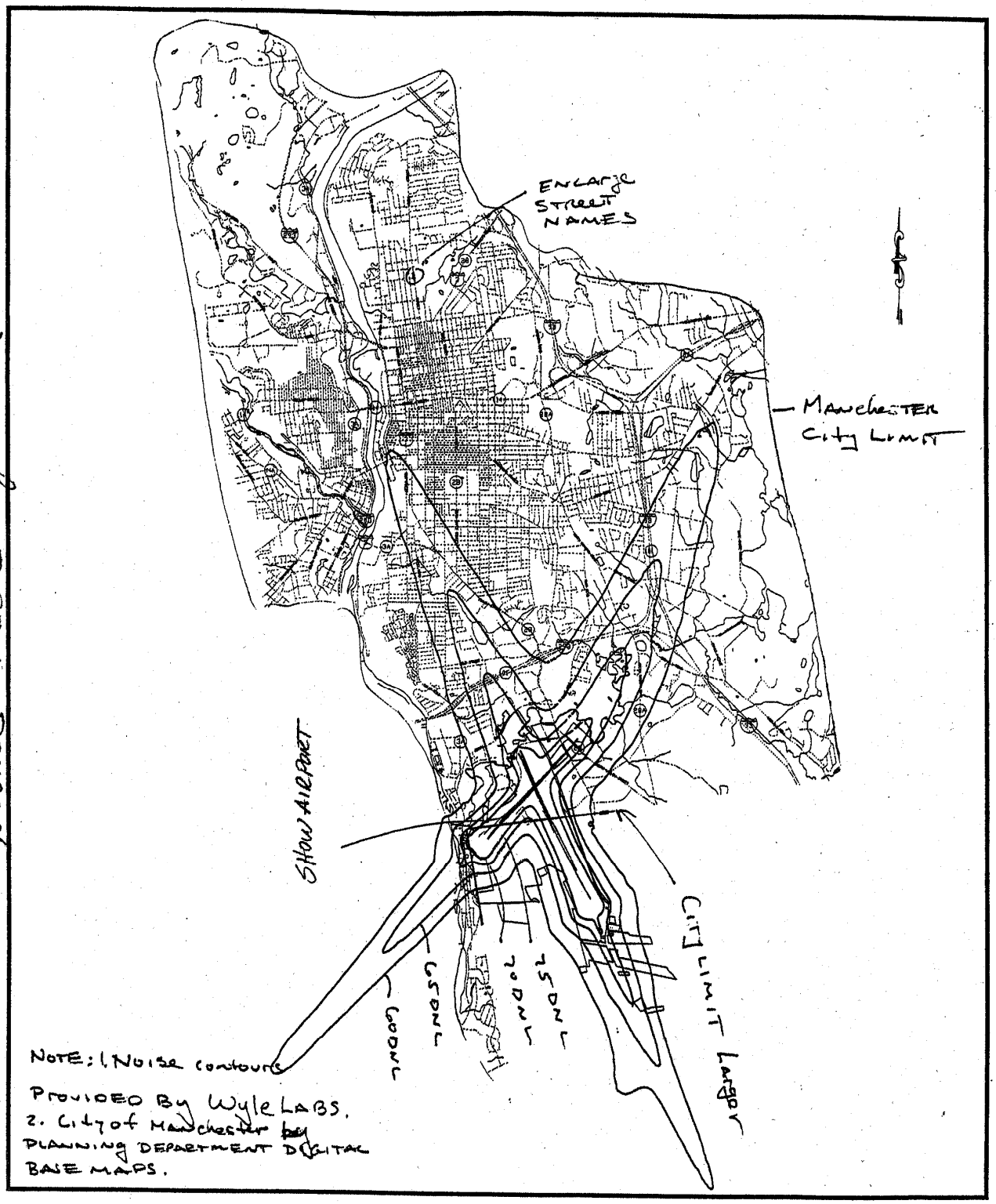
CITY OF MANCHESTER
DEPARTMENT OF AVIATION
MANCHESTER, NEW HAMPSHIRE

APPROACH ZONE PLAN

DATE:	NOVEMBER 20, 2000
SCALE:	1"=5,000'
FILE:	9818002
	SHEET 1 OF 3

APPROACH ZONE PLAN.dwg 11-20-00 12:00:28 pm EST

Separate for packet in Large scale to fit 11x17 @ City of Mtg



NOTE: 1. Noise contours provided by Wyle Labs.
2. City of Manchester Planning Department digital base maps.

Edwards AND Kelcey 1 Sundial Avenue, Suite 410 Manchester, NH 03103 (603) 666-7181 fax-(603) 666-7185	CITY OF MANCHESTER DEPARTMENT OF AVIATION MANCHESTER, NEW HAMPSHIRE	DATE: NOVEMBER 20, 2000
		SCALE: 1"=5,000'
	NOISE ~~CONTOUR~~ ~~PLAN~~ Exposure MAP	FILE: 9818002
		SHEET 3 OF 3

P:\9818002\DWG\ZONING CHANGES\NOV2000\NOISE CONTOUR PLAN.DWG 11-20-00 11:50:07 am EST

7.09 Arena Overlay District *(Rev. 6/9/03)*

A. Special Uses Allowed in the Arena District

Within the Arena Overlay District, the following uses shall be permitted as follows, not withstanding the allowed uses in the underlying zoning district in Section 5.08, Table of Use Regulations.

A.2	Single Family attached (townhouse) dwellings	CU
A.6	Multi-family dwellings	P
A.9	Boarding or Rooming House	CU
D.4	Wholesale bakery or food processing plant	CU
D.7	Small scale assembly, fabrication and craftsmen	P
D.8	Artisans Lofts	P
E.2	Limousine or taxi service (garage)	Not permitted
E.8	Telecommunications Antennas (on existing structures)	CU
E.10	Telephone, telecommunication & cable service Operations and maintenance facilities	CU
F.2	Furniture and major appliance stores	CU
F.4	Convenience retail uses	CU
H-2.4	Medical and dental laboratories	P
H-3.2	Bed & Breakfast	P
H-4.8	Mini-golf	CU
H-6.11	Business equipment repair and maintenance	Not permitted
I.5	Automotive service station	Not permitted
I.6	Car washes and car care centers including muffler Shops, oil change, auto detailing and similar services	Not permitted

B. Special Setback Requirements

Buildings shall be placed at the edge of the right-of-way where they abut a street. Setbacks may be provided to allow for outdoor restaurant seating, pedestrian plazas and similar areas, subject to approval by the Arena Overlay Design Review Committee but not including parking.

C. Special Sign Requirements

Signs shall be regulated in accordance with the provisions of Section 9.09.

D. Special Parking Requirements

Parking is limited in accordance with the provisions of Section 10.07.

E. Design Review

The Planning and Community Development Department shall be responsible for design review of projects within the overlay. The types of permits to be reviewed, the process and time period for action shall be the same as for the Millyard Design Review Committee under subsection 7.01 (D). The establishment of the design review district will enhance the character of the area and promote tourism and economic development in the City.

The Planning and Community Development Department shall develop and adopt design guidelines for the area. The design guidelines and the special design requirements shall include but not be limited to the following requirements which are intended to preserve and enhance the special character of the city by encouraging rehabilitation and new construction that is sensitive to the existing urban form.

Special Design Requirements:

1. Building facades along sidewalks shall include doors and windows in order to encourage pedestrian flows. No more than 20 feet of blank walls shall be allowed in these areas.
2. Primary entrance shall be fronting the street sidewalk.
3. Buildings should be a minimum of 20 feet in height.
4. Window system should not exceed 25 feet in width without being interrupted by another building material.
5. Vinyl siding products prohibited.
6. Pedestrian circulation throughout the district shall be improved as development or redevelopment occurs, in accordance with general design principles and objectives of safety, comfort, ease of movement, and convenience of access to properties.

7.10 Manchester Landfill Groundwater Management Zone (ML-GMZ)

A. Authority for the ML-GMZ Overlay ***(Rev. 11/28/06)***

The Manchester Landfill Groundwater Management Zone is adopted pursuant to section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:21, Innovative Land Use Controls. Monitoring wells and surface water sampling stations constitute remediation activities and ML-GMZ Overlay District is considered to be an innovative land use control as environmental characteristics zoning.

B. Establishment of the ML-GMZ Overlay ***(Rev. 11/28/06)***

The Manchester Landfill Groundwater Management Zone Overlay is established in accordance with, and for the purposes so stated in Section 4.01, Establishment and Purpose of Districts, of this Ordinance. It encompasses lands in NHDES Manchester Landfill Groundwater Management Zone Permit as indicated on the Overlay Map Manchester Landfill Groundwater Management Zone adopted pursuant to Section 4.02(A) Official Zoning Base District Map, of this Ordinance.

The Manchester Landfill Groundwater Management Zone Overlay Map displays those parcels affected by groundwater contamination by virtue of lying down gradient of the City landfill. Withdrawal of groundwater from this area is prohibited (see Article 4.01B.9) in the interest of public health, safety and general welfare. The area contains monitoring wells and surface water sampling stations that survey the remediation of degraded groundwater supplies. The extent of the area is referenced by NHDES Permit.

C. Uses Prohibited within the ML-GMZ Overlay ***(Rev. 11/28/06)***

Pumping of groundwater for any well, trench, sump or other structure for residential, irrigation, agricultural or industrial purpose is prohibited, unless it is for the specific purpose of pumping groundwater out of a sump to keep a cellar from flooding. ***(Rev. 11/28/06)***

7.11 Lake Massabesic Protection Overlay District (LMPOD) *(Rev. 11/28/06)*

A. Authority for the Lake Massabesic Protection Overlay District

The Lake Massabesic Protection Overlay District is adopted pursuant to Section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:21, Innovative Land use Controls.

B. Establishment of the Lake Massabesic Protection Overlay District

The Lake Massabesic Protection Overlay District includes the entire Lake Massabesic watershed located in Manchester. This area is called out to avoid impacts that may affect the drinking water supply over the long term, addressing such issues as stormwater contamination, imperviousness, steep slope disturbance and other land use activities that could potentially be a nonpoint source water quality issue or diminish surface water recharge. EPA Phase II Stormwater Regulation criteria applies to all development creating disturbance to land in the Lake Massabesic Protection Zone.

C. Prohibitions within the Lake Massabesic Protection Overlay District

1. Regardless of the underlying zone, the following land uses, as listed in Article 5.10 Table of Principal Uses and Table 5.11 Table of Accessory Uses are deemed incompatible with the intent of and prohibited in the Lake Massabesic Protection Overlay District:

Use No.	Use	Critical
E.1	Taxi, bus, rail terminal	X
I.1	Sales or rental of motor vehicles	X
I.2	Sales, rental, repair of boats, etc.	X

I.3	Sales, rental, repair of heavy equipment	X
I.4	Automotive repair	X
I.5	Automotive service station	X
I.6	Carwashes and car care centers	X
M.2	Accessory outside storage for industrial or commercial use	X
M.3	Accessory manufacturing use	X

2. In addition, the following restrictions and/or prohibitions of land uses apply within 50 feet of waterways or wetlands in the Lake Massabesic Protection Overlay District: No impervious surfaces (driveways, parking lots, roads, etc.). The exceptions from this restriction include residential lots of 12,500 square feet or less and commercial/industrial lots of less than one acre in the B-2 Zoning District.

D. Additional Restrictive Policies Pertaining to the Lake Massabesic Protection Overlay District

In addition to the restrictions listed in this LMPOD, the District is also subject to criteria and guidelines contained in the following documents on file in the City:

- City Stormwater Ordinance (and any subsequent revisions) – Highway Dept.
- City Stormwater Rules and Regulations (and any subsequent revisions) – Highway Dept.
- Subdivision and Site Plan Regulations (and any subsequent revisions) – Planning and Community Development Department.

ARTICLE 8. SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

PRINCIPAL USES

8.01 Single family attached (townhouse) dwellings

The construction of single family attached (townhouse) dwellings, including the construction of additional dwelling units in an existing development of single family attached dwellings and the conversion of an existing non-residential structure to single family attached dwellings, shall be subject to the following standards for minimum lot size and development density:

Zoning District	Minimum Lot Size for the first three (3) Units	Minimum Additional Lot Area for each Unit after the first three (3) Units
	(square feet)	(square feet)
RSM, C-1	10,000	3,500
R-3, CBD and B-1 *(Rev. 2/3/04; 12/07)*	5,000	1,500

8.02 Manufactured housing parks

A. Purpose. It is the purpose of these regulations to provide for reasonable opportunities for the siting of manufactured housing consistent with RSA 674:32, to provide suitable and affordable living environments in manufactured home parks, and to insure the compatibility of such parks with other forms of adjacent development.

B. Minimum standards for park development. The following define the minimum standards for the establishment of a manufactured housing park:

1. Land area. The minimum land area for the establishment of a manufactured housing park shall be twenty (20) acres, with access to the tract to an accepted city street. The expansion of an existing manufactured housing park having less than the minimum tract area required by this section, may be authorized by a Conditional Use Permit, provided that the development can conform with all other standards for park development in this Section.

2. Density. The maximum density of a manufactured housing park shall not exceed five (5) units per gross acre.

3. Minimum number of sites or spaces. The minimum number of spaces required to comprise a manufactured housing park shall be thirty (30) sites or spaces, which shall be completed and ready for occupancy before the first occupancy is permitted.

4. Height. The maximum height for all structures within a manufactured housing park shall be twenty-five (25) feet.

5. Buffers to surrounding property. A landscaped buffer not less than twenty-five (25) feet in width may be required by the Planning Board along streets and park boundaries. Such buffer may be used for drainage structures and utilities easements but shall not be used for any other purpose. The buffer area shall be landscaped so as to provide effective screening year round.

6. Recreation area and facilities. Not less than eight (8) percent of the gross land area of the park shall be developed for recreational purposes. No manufactured home site, required buffer strip, street right-of-way, storage area, utility site, or utility easement shall be counted as recreation area in meeting this requirement. Recreation areas and facilities shall be owned and maintained by the park owner, or by the community association or owners association as the context requires.

C. Minimum standards for development of lots or spaces within park. The minimum standards contained within Article 6, Dimensional Standards, as to minimum lot size, setbacks, yards, and height shall not be applied within a manufactured housing park. The following standards shall apply to the development of individual lots, sites or spaces for manufactured housing within a park:

1. Minimum area. The lot, space or site designated for the placement of a manufactured home site shall be a minimum of six thousand (6,000) square feet with a minimum width of at least sixty (60) feet. Sites at street intersections may be required by the Planning Board to have wider lots in order to provide adequate sight distance for safety at intersections.

2. Minimum setbacks. No manufactured home, carport or other structure shall be placed or erected closer to pavement line or internal roadway than fifteen (15) feet. No manufactured home shall be placed or erected closer than five (5) feet to any side or rear manufactured home site line, and not closer than fifty (50) feet to any park property line.

3. Maximum coverage. The total impervious coverage of a manufactured home site shall not exceed forty (40) percent of the area of the site.

4. HUD code compliance. Individual manufactured housing units shall comply with the construction and installation provisions of the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U. S. Department of Housing and Urban Development) code, as well as all applicable city codes and ordinances. No additions shall be permitted to manufactured homes that are not in compliance with the HUD code.

5. Foundation system. Each manufactured housing unit shall be placed on a properly engineered foundation system that meets the manufacturer's installation requirements and applicable city codes. A properly engineered foundation is one that provides adequate support of the home's vertical and horizontal loads and transfers these and other imposed forces, without failure, from the home to the undisturbed ground below the frost line.

6. Parking: The number of off-street parking spaces for each home shall be that which is required by Article 10, Off Street Parking and Loading Standards for manufactured housing units. The parking of recreational vehicles, boats and the likes shall not be permitted within individual manufactured home sites. Such vehicles shall be parked in a central storage area designed and designated for such purpose.

D. Accessory uses and buildings. The Planning Board may, approve such accessory uses and structures that are determined to be accessory and clearly subordinate to the manufactured housing park where such uses are to be located on the same lot or parcel as the manufactured home park, and are not of a nature likely to attract visitors in larger numbers than would normally be expected in a single family residential neighborhood. The following are considered to be accessory uses:

1. Park recreation facilities including community room or center, courts for games, playgrounds, docks, boat launching area and the like but excluding facilities for boat repairs;

2. Park offices, maintenance facilities and laundry facilities;

3. Day care for tenants of park;

4. Recreational vehicle and boat storage areas;

5. Other uses determined by the Planning Board that provide services or convenience to the residents of the park which are found to be compatible with a residential development.

No accessory building housing such facilities shall be located closer than one hundred (100) feet to any public street and shall be accessible only from the private streets within the park.

E. Internal private streets and circulation. All streets within a manufactured home park shall be private owned and maintained, and adequately drained. Access shall be designed for safe and convenient movement of traffic into and out of the park. The minimum pavement width for the private streets within a park shall be:

1. Internal collector street: twenty-six (26) feet;

2. Divided roadway: twenty (20) feet for each direction of travel, with a landscaped median not less than six (6) feet in width;

3. Internal minor streets: twenty-two (22) feet for two way traffic, or twenty (20) feet for one way traffic.

F. Utilities. The minimum standards for the installation of utilities within a manufactured housing park shall be:

1. Lighting. Street lighting shall be installed which may be overhead or low level; the source of light shall not be visible beyond park boundaries and all light shall be reflected onto the internal private streets or pedestrian ways.

2. Water and sewer. Each manufactured home site shall be connected to public water and sewer systems, or to state-approved central community water supply and sewage disposal systems. No individual water supply or sewage disposal system shall be permitted in a manufactured home park.

3. Underground placement. All utilities distribution and collection systems, including those for water, sewer, electricity, telephone, and gas shall be underground.

G. Limitation on signs. The following standards shall govern and limit the placement of all signs within a manufactured housing park:

1. One (1) ground sign, which may have two faces, at each entrance of the manufactured home park, to identify the park. Such sign shall contain only the name of the park and address and shall not exceed eighteen (18) square feet in area per face.

2. One (1) wall sign per park accessory facility not to exceed twelve (12) square feet.

3. No sign shall be erected within twenty (20) feet of any adjacent property nor shall it be illuminated.

8.03 Manufactured housing subdivisions

In order to provide reasonable opportunities for the placement of manufactured housing, in compliance with RSA 674:32, within parks and subdivisions dedicated exclusively to the placement of such homes, this section provides supplementary standards applicable to subdivision to create lots reserved exclusively for the placement of manufactured homes to be owned individually by their occupants. Where authorized by Article 5, Table of Principal Uses, manufactured housing subdivisions may be established, provided that such developments comply with all of the requirements normally pertaining to single family housing subdivisions in the same zoning district, and subject to the following additional requirements:

A. Minimum tract area. The minimum tract area for a manufactured housing subdivision shall be twenty (20) acres.

B. HUD code compliance. Individual manufactured housing units shall comply with the construction and installation of manufactured housing units shall comply with the provisions of the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U. S. Department of Housing and Urban Development) code, as well as all applicable city codes and ordinances. No additions shall be permitted to manufactured homes that are not in compliance with the HUD code.

C. Foundation system. Each manufactured housing unit shall be placed on a properly engineered foundation system that meets the manufacturer's installation requirements and applicable city codes. A properly engineered foundation is one that provides adequate support of the home's vertical and horizontal loads and transfers these and other imposed forces, without failure, from the home to the undisturbed ground below the frost line.

D. Restrictive covenants. Restrictive deed covenants acceptable to the Planning Board shall be attached to the deeds of each lot in such a subdivision, the effect of which shall be to limit their use to the placement of manufactured housing units meeting the standards of this section. This requirement is intended to create a subdivision development of consistent structural types and compatible development limited to manufactured homes.

8.04 Multifamily dwellings ***(Rev. 11/5/03, 2/3/04)***

The construction of multifamily dwellings, including the construction of additional dwelling units in an existing multifamily development and the conversion of an existing non-residential structure to multifamily dwellings, shall be subject to the following standards for minimum lot size and development density:

Zoning District	Minimum Lot Size for the first three (3) Units	Minimum Additional Lot Area for each Unit after the first three (3) Units
	(square feet)	(square feet)
RSM, C-1	10,000	3,500
R-3, B-1, RDV *(Rev. 11/5/03)*	5,000	1,500
CBD *(Rev. 2/3/04)*	3,000	500
AMX	*	1,000

* Pursuant to Article 6, Dimensional Regulations, of this Ordinance, the AMX District has a minimum lot size of 25,000 square feet, so that up to twenty- five (25) units can be accommodated on this minimum lot.

8.05 Multifamily dwelling units for the elderly

The construction of multifamily dwelling units for the elderly, including the construction of additional dwelling units in an existing development of multifamily dwelling units for the elderly, shall be subject to the following standards:

A. Minimum area of dwelling unit. Each dwelling unit shall contain a minimum of five hundred (500) square feet of gross floor area, said floor area to be exclusive of common hallways and facilities;

B. Minimum lot area. The following are the minimum standards for lot size and development density:

Zoning District	Minimum Lot Size for the first three (3) Units	Minimum Additional Lot Area for each Unit after the first three (3) Units
	(square feet)	(square feet)
RSM, C-1	10,000	3,500
R-3, RDV	5,000	1,500
CBD	1,500	500
AMX	*	500

* Pursuant to Article 6, Dimensional Regulations, of this Ordinance, the AMX District has a minimum lot size of 25,000 square feet, so that up to fifty (50) units can be accommodated on this minimum lot.

C. Increased height and density by conditional use permit. A conditional use permit may be issued pursuant to Article 12, Conditional Use Permits, of this Ordinance, to allow an increase in the maximum building height to one hundred (100) feet and in the development density to eighty (80) dwelling units per acre and a floor area ratio of 1 (one) for multifamily dwelling units for the elderly in R-3 Districts, subject to the following: ***(Rev. 3/20/01)***

1. The location is within the R-3 District and within an area between the Merrimack River and Union Street, from Webster Street southerly to Auburn Street, or an area between the Merrimack River and a line two hundred (200) feet westerly of and parallel to Main Street, from the centerline of Black Brook to a line five hundred (500) feet southerly of and parallel to Granite Street, or an area from Bridge Street to Black Brook on the west side of the Merrimack River and extending five hundred (500) feet parallel to the river;

2. The minimum lot size shall be twenty thousand (20,000) square feet; and

3. All yard requirements shall be twice the dimensions specified in Section 6.07, Table of Dimensional Regulations, of this Ordinance.

8.06 Tattoo Parlors *(Rev. 7/20/04)*

A. Location Restrictions. Tattoo parlors shall be subject to all regulations, requirements and restrictions for the zone in which the tattoo parlor is permitted and shall be subject to the following distance requirements:

1. No tattoo parlor shall be permitted within 800 feet of another tattoo parlor, and no other tattoo parlor shall be permitted within a building, premise, structure or any other facility that contains another tattoo parlor.

2. No tattoo parlor shall be permitted within 500 feet from the exterior wall of a residential structure existing in a Residential zoning district (designated "R-"); or

3. "Civic" zoning district boundary line (designated "C-").

B. Measure of Distance. The distancing requirements above shall be measured in a straight line, without regard to intervening structures, from the property line of any site above (unless otherwise specified) to the closest exterior wall of the tattoo parlor.

8.07 Forestry uses

Forestry uses may include growth and harvesting of forest products, tree nursery, tree farm, orchards, and similar uses, provided that only products grown on the premises are sold.

8.08 Agriculture and livestock

A minimum of one acre shall be required to maintain one animal defined as livestock. For each additional such animal, an additional one quarter acre shall be required.

8.09 Commercial kennel

The minimum lot size shall be 45,000 square feet, the kennel area shall be completely screened with a suitable wall or fence, and shall be subject to the provisions of Section 6.08 A and B.

8.10 Excavation of earth materials

A. Authority. These regulations governing the excavation of earth materials are adopted in accordance with the provisions of RSA 155-E, Local Regulation Excavations. Pursuant to RSA 155-E, the Planning Board is designated as "regulator" and is authorized to administer and grant conditional use permits in accordance with Article 12, Conditional Use Permits, of this Ordinance.

B. Purposes. These regulations are adopted for the following purposes:

1. To provide reasonable opportunities for the excavation of earth materials;

2. To minimize safety hazards which can be created by open excavations;

3. To ensure that the public health and welfare will be safeguarded;

4. To protect the City's natural resources and environmental quality; and

5. To maintain the aesthetic features of the City.

C. Excavation permit requirements. All excavations require the issuance of a conditional use permit from the Planning Board except those excavations that are specifically exempted from permit requirements pursuant to RSA 155-E. Any permit granted by the Planning Board pursuant to this Section shall be valid for a period not to exceed three (3) years, and shall not be assignable or transferable without the approval of the Planning Board.

D. Prohibited excavations. No permit shall be granted where the Planning Board finds that the excavation:

1. Would be unduly hazardous and/or injurious to the public welfare due to such factors as noise, traffic, dust, fumes, or danger from operations;

2. Would substantially damage a known aquifer so identified by the United States Geological Survey;

3. Cannot comply with the reclamation provisions of this Section and of RSA 155-E;

4. Cannot receive other necessary state or federal permits; or

5. Is otherwise prohibited by RSA 155-E.

E. Application for a conditional use permit for an excavation. An application for a conditional use permit for an excavation shall be filed with the Planning Board pursuant to Section 12.02, Application and Review Procedure, of this Ordinance. When the scope of an existing permitted excavation is proposed to be altered so as to affect the size or location of the excavation, the rate of removal of earth, or the plan for restoration, an application shall be submitted for amendment of the existing excavation permit. An application for amendment shall be subject to the same requirements and approval procedures as provided herein for a new excavation permit. In addition to the requirements of Article 12, Conditional Use Permits, of this Ordinance, all applications shall include the following:

1. An Excavation Plan, prepared by a Licensed Civil Engineer, including the following information:

a. Existing and proposed topography at a contour interval of two (2) feet;

b. Existing wetlands and surface waters, and any aquifers that have been identified by the United States Geological Survey;

c. Existing vegetation, and an indication of that which is to be permanently retained for screening purposes;

d. The location and limits of existing and proposed excavation including the maximum depth and slope during operation;

e. The location, width, and material of access roads;

f. The location, size, type, and use of any structures or areas of impervious surfacing, and the location of any utilities, septic systems, or wells within one hundred fifty (150) feet of the perimeter of the excavation;

g. Proposed landscaping and/or fencing intended for screening purposes;

h. A log, soils data, and location plan of borings or test pits the depth of which shall be to the average annual water table, to ledge, or to a minimum of six (6) feet below the maximum depth of excavation;

i. A statement of the volume of material proposed to be removed, the duration of the project, and proposed phasing of the same;

j. A description of sedimentation and erosion control measures;

k. A description of the hauling operations, including the routes to be utilized, the type and weight of motor vehicles to be utilized, and the frequency and schedule of the operation of said vehicles;

l. Copies of federal and/or state permits received for the proposed activity in accordance with Section 404 of the Clean Water Act, and RSA 482-A; and

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

2. A Reclamation Plan, prepared by a Licensed Engineer, including the following information:

a. The proposed finished grades of the reclamation area;

b. Proposed final surface drainage features and improvements;

c. The location, number, type, and size of plant materials, and the areas to be seeded together with the seeding mixture specifications and application rates, and mulching materials; and

d. A description of sedimentation and erosion control measures.

3. The Planning Board may request any other information that it deems necessary to make an informed decision on the application. The applicant shall bear any and all expenses for providing such information.

4. The Planning Board, in acting on an application for a conditional use permit for an excavation, may attach conditions to its approval including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, and modifications to the hauling operations and schedule for the same.

F. Operational standards for excavations. All excavations, including those not requiring a permit, shall comply with the following minimum operational standards:

1. All property corners shall be staked and every property line shall be clearly marked at one hundred (100) foot intervals to prevent encroachment of the excavation operations on abutting property;

2. All loam and topsoil to be stripped from the excavation site shall be stockpiled on the property to be replaced during reclamation;

3. No excavation shall be conducted within fifty (50) feet of a property line or one hundred fifty (150) feet of an existing dwelling, and existing vegetation shall be maintained within these setbacks;

4. No excavation shall exceed five (5) acres at any one time;

5. Where temporary slopes will exceed a 1:1 grade, a fence or barricade shall be erected to warn of danger and to limit access to the site;

6. No equipment or vehicles shall be operated prior to 7:00 AM or after 7:00 p.m. Monday through Saturday, or at any time on Sunday or holidays;

7. All vehicles transporting excavated material shall utilize dust covers and/or sideboards to prevent any spillage and dust;

8. Spilled material shall be cleaned from all streets on hauling routes at the end of each day;

9. No excavation shall be conducted within one hundred (100) feet of a surface water body or watercourse, or a wetland;

10. No excavation shall exceed a depth of four (4) feet above the annual average water table; and

11. No fuels, lubricants, or other toxic or polluting chemicals shall be stored on site except in compliance with all applicable state statutes and regulations.

G. Reclamation standards for excavations. All excavations, including those not requiring a permit, shall comply with the following minimum reclamation standards:

1. Reclamation must be initiated prior to the excavation of more than five (5) acres of the site at any one time and shall be accomplished within the period of validity of the permit;

2. All debris shall be removed and all stumps shall be chipped or removed from the site, and disposed in accordance with applicable statutes and regulations. All rocks are to be removed, buried, or used for landscaping in accordance with the restoration plans.

3. No slope shall be left at a grade steeper than three (3) feet horizontally for each one (1) foot of vertical change unless it can be demonstrated by the applicant that a steeper slope can be adequately vegetated and stabilized. In no event shall any slope be left at a slope steeper than two (2) feet horizontally for each one (1) foot of vertical change.

4. Ground levels and grades shall be established as shown on the approved reclamation plan as soon as practical during site excavation but not later than one (1) year after excavation has been completed;

5. Stockpiled loam and topsoil shall be spread over the completed excavation area to a minimum depth of four (4) inches to allow for the establishment of vegetation.

6. The site shall be limed, fertilized, and seeded with a grass or grass-legume mixture; and

7. Trees and shrubs shall be planted and mulched in accordance with the approved reclamation plan.

H. Fees and performance guarantee.

1. Permit and Inspection Fees. The Planning Board may charge a Permit Application Fee for each application, and an Inspection Fee to cover the costs of inspections deemed necessary to verify compliance with a permit. The Planning Board shall promulgate and adopt a fee schedule after a duly noticed public hearing.

2. Performance Guarantee. A permit shall not become effective until the applicant furnishes the City with a performance guarantee in a form satisfactory to the City Attorney, and in an amount based on the cost of restoration as estimated by the City Engineer. The guarantee shall have a term of one (1) year in excess of the period of validity of the permit, and shall remain in effect for the full term unless exercised by the City or released in writing by the Director of Planning and Community Development Department. ***(Rev. 4/21/09)***

I. Inspections and enforcement.

1. Inspections. The Director of Planning and Community Development Department shall have the right to enter upon the property for a period beginning with the date of the granting of the permit and ending one (1) year after the expiration of the permit to inspect the excavation and reclamation operations and to ensure compliance with the terms and conditions of the permit. The Director of Planning and Community Development may suspend operations found to be in violation of a permit pending a hearing by the Planning Board concerning any violation. ***(Rev. 4/21/09)***

2. Compliance hearing. Upon recommendation of the Director of Planning and Community Development Department, or the receipt of a valid complaint which in the opinion of the Planning Board warrants investigation and a hearing, the Planning Board may order a public hearing to review the conditions of, or the extent of compliance with a permit. After a hearing, an excavation permit may be modified or revoked by the Planning Board if the Board finds that the operation is being carried on in violation of any of the terms and conditions of the permit. The modification or revocation of a permit shall not relieve the applicant from any of obligations under the permit. ***(Rev. 4/21/09)***

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

K. Abandoned Excavations. Pursuant to RSA 155-E, the Planning Board may initiate proceedings to secure the reclamation of an abandoned excavation.

8.11 Building contractor yards

Open or outside storage of new or used materials, building equipment, including bulk materials such as coal, lumber, ore, inoperative automobiles, or other vehicles held for discard, or reprocessing, including the dismantling and reprocessing thereof is allowed, provided it shall be completely enclosed by means of a solid fence or wall not less than eight feet in height with the

exception of vehicle entrances and exits not to exceed 16 feet in width, and further subject to the conditions imposed by section **8.14** of this Article.

8.12 Performance standards for high hazard uses.

No high hazard use (as defined by the Building Code) may be permitted within the City, except where the land use board(s) having jurisdiction to review the proposed development containing such use under this Ordinance, shall determine in each instance that all of the following are true:

A. Lot coverage. The impervious coverage of the lot shall not exceed 50 per cent.

B. Separation from residential districts. The use shall not be located within 300 feet of any residential district boundary.

C. Site and access characteristics. The proposed location shall be such as to offer a reasonable protection to the immediate area against possible detrimental effects of such use, taking into consideration the physical relationship to surrounding properties and access to the site including any nearby residential streets that must be traversed in bringing material to the site.

D. Technical and scientific advance. It shall be convincingly demonstrated to the land use board(s) of jurisdiction, by competent technical or scientific experts, that such high hazard use can and shall make such use of advanced technical equipment and processes as shall no longer justify prohibition of such use based on hazard.

E. Not in conflict with other laws. The use or operation shall not be in conflict with any other law or ordinance of any governmental agency having pertinent jurisdiction, nor in conflict with other provisions of this Ordinance.

8.13 Performance standards for manufacturing and industrial uses.

All resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke, vapor, electromagnetic transmission, or radio-active emission, shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance or hazard to the public's health or safety, and further provided, that no noise, vibration, or other disturbance be perceptible without the use of instruments at the boundary of the zoning district in which the use is located.

8.14 Warehousing and distribution facilities

Within a business (B-1, B-2) zoning district, and within the AMX district, all goods must be stored within a completely enclosed structure. Warehousing and distribution facilities in other districts are not subject to this limitation.

8.15 Telecommunications towers and commercial radio and TV stations

No portion of a radio or television transmission tower shall be located less than a distance equal to the height of the tower from the boundary line of a residential zoning district.

8.16 Essential public services, utilities and appurtenances

These uses shall be subject to the screening and buffer strip requirements of Article 6.08**.**

8.17 Automotive service stations, drive-through uses, and similar establishments

Automotive service stations, car washes, drive-thru restaurants, open car lots, and similar drive-thru or open air uses, shall conform with the following requirements; in addition to the other applicable provisions of this Ordinance:

A. Lot Area. The minimum lot area shall be 15,000 square feet, with a minimum street frontage of not less than 100 feet.

B. Driveways. The maximum width of driveways shall be 36 feet, the minimum width shall be 10, and no driveway shall be closer than 20 feet to any corner lot line, 10 feet from any side lot line and further subject to the provisions relating to the distance between driveways within a lot in Article 10.08B.

C. Illumination. All illumination on outdoor buildings or areas shall be effectively shielded or arranged so as to direct the light away from the street and away from adjoining premises used for residential purposes.

8.18 Selected health care, educational and institutional uses

A. Noise, Odors, Glare and Traffic impacts on residences. All noise, odors, glare, traffic or any objectionable features usually associated with the conduct of the use shall be effectively screened, controlled, or otherwise so confined within the premises so as not to create any conditions which could be considered hazardous, or disturbing to the health, safety, or welfare of the population within affected residential neighborhoods.

B. Special setback distances to boundaries and dwellings. Each principal structure on the premises, or any portion of the premises used for outdoor recreation, parking of automobiles, or similar uses in support of the principal uses thereon shall be located not less than fifty (50) feet from any dwelling, nor less than fifty (50) feet from the boundaries of the premises on which the use is located, whichever is greater.

8.19 Sexually Oriented Businesses

A. Purpose and Intent. It is the intent of this section to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the City of Manchester; and, it is the intent to promote the health, safety and general welfare of the citizens of the City of Manchester, and it is the intent of this section that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually oriented businesses; and, the provisions of this section have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor effect of this article

to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

B. Location Restrictions on Sexually Oriented Businesses. Sexually Oriented Businesses, as defined in Article 3 shall be subject to all regulations, requirements, and restrictions for the zone in which the sexually oriented business are permitted and shall be subject to the following distancing requirements:

1. No sexually oriented business shall be permitted within 600 feet of another sexually oriented business which is either existing at the time of the effective date of this ordinance or one for which a building permit has been applied for, and no sexually oriented business shall be permitted within a building, premise, structure or other facility that contains another sexually oriented business;

2. No sexually oriented business shall be permitted within 500 feet of any:

   a. Residential or Civic zoning district boundary line;

   b. Church, public or private school, kindergarten, or recreational facility where minors may congregate such as, but not limited to, the YMCA, YWCA and the Boys and Girls Club;

   c. City boundary line;

3. No sexually oriented business shall be permitted within 250 feet of:

   a. City Hall and the City Library;

   b. any public park

C. Measure of Distance. The distancing requirements above shall be measured in a straight line, without regard to intervening structures, from the property line of any site above (unless otherwise specified) to the closest exterior wall of the sexually oriented business.

ACCESSORY USES

8.20 Home Occupations

A. Purpose. The purpose of establishing conditions and limitations on home occupations is to recognize the increasing role of electronics and telecommunications in enabling individuals to work from their homes, and the growing use of computer and related equipment in the home which may have both personal and business applications. These regulations recognize that certain types of home-based businesses may be carried on without an adverse impact on the

residential property or the neighborhood, but that limitations are necessary to preclude uses of a scale or type which may be incompatible in a residential context.

B. Home Occupation. The purpose of establishing conditions for home occupations is to provide for small scale business uses of the home which are subordinate to the principal use of the property as a residence, and that are virtually indistinguishable in appearance and level of traffic generation from other residences in a neighborhood. No home occupation shall be permitted which would be incompatible with traditional residential uses in the surrounding neighborhood. To be considered compatible with a residential neighborhood, a home occupation must meet all of the following conditions:

1. No goods, stock in trade, or other commodities may be visible from outside the building;

2. There are no on-premise retail sales of goods or merchandise from inventory held on the premises, with the exception of sales made via mail order or via telecommunication;

3. The home occupation shall not employ persons who are not residents on the premises;

4. The use shall not create objectionable traffic, noise, fumes, odor, dust, vibration, heat, glare, or electrical interference;

5. Uses related to teaching and instruction to pupils shall be limited to those which accommodate not more than four pupils at one time, or in the case of music instructions involving the use of musical instruments, not more than one pupil at a time.

6. The use shall be confined to a space within a dwelling unit, and not more than 25% of the habitable floor area of the dwelling unit may be utilized by the occupation;

7. There shall be no external evidence of the occupation which differentiates the residence in appearance from other residential properties similarly situated;

8. Off-street parking shall be provided as specified in Article 10;

9. The use is not one of the following, which are expressly prohibited as home occupations:

a. Barber and beauty shops;

b. Real estate or insurance offices;

c. Commercial kennels or stables and similar uses;

d. Uses involving the parking or storage of tractor trailers, or the parking or storage of trucks with a gross vehicle weight (GVW) greater than 10,000 lbs.;

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

8.21 Residential accessory dwelling unit

Residential accessory dwelling units are intended to provide opportunities for families to provide affordable housing alternatives for elder relatives in small independent living units located within existing single family detached dwellings, and to maintain the appearance and character of such dwellings. Therefore, residential accessory dwelling units shall be subject to the following conditions and limitations to occupancy:

A. One per home. Not more than one accessory dwelling unit shall be permitted, and only within a single family, owner-occupied detached residence or its attached garage, except those portions required to provide adequate off-street parking for the use;

B. Related occupant age 62+. Occupancy of the accessory unit shall be limited to no more than two (2) persons, at least one of whom shall be age 62 or older and related to the owner(s)-occupants of the property;

C. One bedroom maximum. Only one (1) bedroom shall be permitted within the accessory dwelling unit, and the apartment shall not exceed 600 square feet in gross floor area;

D. Parking. Sufficient off-street parking in compliance with this Ordinance shall be maintained;

E. Adequate wastewater disposal. 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.

F. Design and construction. At least one (1) connecting door for persons to pass between the primary residence and the accessory dwelling unit shall be provided. No new entrance or exit to the accessory dwelling unit shall be constructed on the street side of the primary residence. Exterior design and construction shall be consistent with that of the primary residence.

8.22 Fences, Walls and Similar Barriers

In addition to any other applicable provisions in this Ordinance, fences, walls and similar barriers shall conform to the following requirements:

A. Permits. No fence, wall or similar barrier shall be installed without first securing a permit;

B. Height. Fences, walls or similar barriers in residential districts shall be limited in height to four (4) feet when located in the front yard, six (6) feet when located in the required side yard, and (8) feet when located in the rear yard, except as provided below. Fences in all other districts shall be limited to eight (8) feet, subject to the provisions below;

C. Fences on Walls. Any fence erected upon a wall that is above grade on one side only shall be limited to four (4) feet in height, as measured from the top of the wall.

D. Retaining Walls. Retaining walls over four (4) feet in height shall not be located closer than ten feet from the property lines.

E. Visual Clearance on Corner Lots. A fence, wall, hedge or similar barrier may be maintained on a corner lot provided it does not obscure the vision of drivers and create a potential safety hazard. No such obstruction shall be permitted within the triangular area formed by the intersection of curb lines and a straight line joining said curb lines at points thirty (30) feet from the point of intersection of said curb lines. In the absence of curbs, the lines shall be where such curbs would be located.

8.23 Outside Storage of Vehicles, Equipment and Materials

Outside storage of vehicles, equipment and materials necessary to the operation and conduct of a permitted principal industrial or commercial use shall be screened by means of a solid fence or wall not less than eight (8) feet in height. Vehicle entrances and exits shall be gated with materials that effectively maintain screening requirements. Said uses are further subject to the provisions of Section 6.08 A and B.

8.24 Accessory Structures and Uses

A. Residential Accessory Structures and Uses. In residential districts, detached accessory structures and uses, other than parking, shall conform to the following:

1. Accessory structures and uses shall not be located in the front yard.

2. Accessory structures and uses located in the side yard shall not exceed six hundred (600) square feet in area and fifteen (15) feet in height measured to the highest point of the roof structure. Accessory structures and uses located in the side yard shall conform to the setback requirements for principal structures.

3. Accessory structures and uses located in the rear yard shall not occupy more than twenty-five (25) percent of the rear yard area, and shall not exceed (20) feet in height measured to the highest point of the roof structure. Accessory structures and uses located in the rear yard shall not be located closer than four (4) feet from any principal structure, side lot line or rear lot line.

B. Non-Residential Accessory Structures and Uses. In non-residential districts, detached accessory structures and uses, other than parking, shall conform to the setback and height requirements for principal structures. Accessory structures and uses are limited in size to twenty-five (25) percent of the area occupied by the associated principal use.

ARTICLE 9. SIGN REGULATIONS

9.01 Purposes of Sign Regulations

The purposes of these sign regulations are to:

A. Encourage the effective use of signs as a means of communication in the City of Manchester;

B. Maintain and enhance the aesthetic environment of the City while retaining the City's ability to attract and encourage economic development and growth;

C. Improve pedestrian and traffic safety;

D. Minimize possible adverse effects of signs on nearby public and private property; and

E. Enable fair and consistent enforcement of these sign regulations.

9.02 Permit Required for Signs

Except as otherwise provided in this Article, no sign may be erected, placed, replaced, moved, enlarged, illuminated, or substantially altered in the City of Manchester without a permit in accordance with the provisions of this Ordinance. No permit shall be issued until a Master Sign Inventory is filed with the City of Manchester for the parcel on which a permit is being sought. A permit application and fee shall be submitted to the Director of Planning and Community Development Department and shall include a set of plans at an appropriate scale showing the location, size, method of illumination, and materials proposed for said sign. The Director of Planning and Community Development Department shall review the permit application and act to approve or deny it within thirty (30) days after the filing of the application. If required for development of the parcel, approval pursuant to the Site Plan Review Regulations must be received from the Planning Board prior to issuance of a permit. ***(Rev. 4/21/09)***

9.03 Signs Allowed and Exempted from Permit Requirements

The following signs are exempt from the permit requirements of Section 9.02 of this Article, but are subject to the standards contained herein. Any failure to comply with these standards and any other provisions of this Article shall be considered a violation of this Ordinance:

A. Signs not exceeding two (2) square feet in area that are customarily associated with residential use and that are not of a commercial nature, including the following:

1. Nameplate signs giving property identification names or numbers or names of occupants;

2. Signs on mailboxes or newspaper tubes; and

3. Signs posted on private property relating to private parking or warning the public against trespassing or danger from animals;

B. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs;

C. Official signs of a non-commercial nature erected by public utilities;

D. Flags of any governmental organization when not displayed in connection with a commercial promotion or as an advertising device. No flag shall be flown from a pole that is more than fifty (50) feet in height;

E. Incidental signs directing and guiding traffic on private property which do not exceed four (4) square feet each and that bear no advertising matter;

F. One sign per lot containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Such signs shall not be illuminated and shall not exceed four (4) square feet in area in residential districts or thirty-two (32) square feet in area in non-residential districts, and shall be removed immediately after sale, lease, or rental;

G. Construction site identification signs. Such signs shall not be illuminated, and may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain information related to sale or leasing of the premises. Not more than one (1) such sign may be erected per site, and it may not exceed thirty-two (32) square feet in area. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within thirty (30) days after the issuance of the Certificate of Occupancy;

H. Signs erected in connection with elections or political campaigns pursuant to RSA 664:14-21. No such sign may exceed the sign area permitted for other signs within the zoning district in which it is located;

I. Signs indicating that a special event such as a grand opening, fair, carnival, circus, festival, or similar event is to take place on the lot where the sign is located. Such signs may be erected not sooner than two (2) weeks before the event and must be removed not later than three (3) days after the event;

J. Banners, building marker signs, and historic marker signs that do not exceed four (4) square feet in area;

K. Signs that are located on, or are an integral part of, a property that has been placed on or determined eligible for the National Register of Historic Places, provided that such signs are recognized as contributing to the National Register status of the property; and

L. Signs that are temporary in nature and not covered in the foregoing categories, provided that such signs meet the following restrictions:

1. Not more than one (1) such sign may be located on any lot;.

2. No such sign may exceed four (4) square feet in surface area; and

3. Such a sign may not be displayed for longer than seven (7) consecutive days nor more than fourteen (14) days out of any one (1) year period.

9.04 Design, Construction, and Maintenance of Signs

All signs shall be designed, constructed, and maintained in accordance with this Ordinance, the Building Code, and the Electrical Code. Except for portable signs, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure.

9.05 Master Sign Inventory

No permit shall be issued for an individual sign requiring a permit unless and until a sign inventory is submitted for the site on which the proposed sign will be erected. Where the sign inventory demonstrates that the total existing sign area on a lot, or the total existing sign area for an individual principal use on a lot, exceeds the sign area standards contained in this Ordinance, no new signs shall be erected unless in compliance with this Ordinance. Legal non-conforming signs may be replaced with signs that are equal to, or less than, the square footage contained in the sign to be replaced.

The Master Sign Inventory shall contain the following:

A. Where freestanding signs are proposed, an accurate plan of the lot, to scale, showing the location of buildings, parking areas, driveways, and landscaped areas;

B. An accurate representation by photograph or plan of the location of all existing signs. Inventory information shall include sign type, size, height above ground, materials and method of illumination;

C. An accurate representation of the sign location, type, size, height above ground, materials and method of illumination and attachment for all proposed signs.

9.06 Sign Area and Height Computations

A. Computation of Area of Individual Signs

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

symbols. The area of one side of a double faced sign shall be regarded as the total area of the sign provided that such sign faces are parallel to each other, part of the same sign structure, and not more than forty-two (42) inches apart.

B. Computation of Height of a Freestanding Sign

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (a) the existing grades of the lot before construction, or (b) the newly established grade of the lot after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

9.07 Signs Prohibited Under This Ordinance

All permanent signs not expressly permitted under Sections 9.08 and 9.09 of this Ordinance, or signs not expressly exempt from permit requirements under Section 9.03 of this Ordinance, are prohibited in the City of Manchester. Such signs include the following:

A. Beacons, or any light with one or more beams directed into the atmosphere or one or more points not on the same lot as the light source;

B. Pennants, inflated signs, and tethered balloons;

C. On corner lots, signs which obscure the vision of drivers and create a potential safety hazard. No sign shall be permitted within the triangular area formed by the intersection of curb lines and a straight line joining said curb lines at points thirty (30) feet from the point of intersection of said curb lines. In the absence of curbs, the lines shall be where such curbs would be located.

D. Signs, other than signs erected by or on behalf of a governmental body, that are located in, or on a public right-of-way or on public lands;

E. Electronic message board signs or flashing signs that have changing print or displays with less than a 5-second duration and/or by reason of its location, shape or color would interfere with the view or effectiveness of any official traffic control device.

F. Projecting signs that are lower than ten (10) feet above grade, larger than eight (8) feet in height, and project more than six (6) feet from the building; (***Rev. 12/07)***

G. Signs attached to a tree, utility pole, fence, or rock; and

H. Signs, other than traffic control signs, that use the words “stop”, “yield”, “caution”, and “danger”, or that contain red, amber, and green lights that may resemble traffic control lights.

I. Signs on the building blocking windows. (***Rev. 12/07)***

9.08 Signs Permitted in Residential Districts

A. The following signs are permitted in Residential Districts which include the Suburban (R-S), One-Family (R-1A and R-1B), Two-Family (R-2), Suburban Multi-family (RSM), and Urban Multi-family (R-3) Districts:

1. One (1) sign of up to twenty (20) square feet in area for each conforming, principal, non-residential use. The sign may be a freestanding sign or a building sign provided that there is no more than one (1) freestanding sign per lot;

2. For the purpose of identifying a residential subdivision, multi-family development, or manufactured housing park of eight (8) units or more, one (1) freestanding sign of up to twenty (20) square feet in area may be placed at an entrance to such residential development;

3. Signs in accordance with Section 9.03, Signs Allowed and Exempted from Permit Requirements, of this Ordinance.

B. No sign in residential districts may be illuminated from within, but may be illuminated by a shielded external light source. For non-residential uses, signs may be illuminated during the hours that the use is open or in operation; otherwise no sign may be illuminated between the hours of 11:00 P.M. and 6:00 A.M.

C. No freestanding sign shall exceed eight (8) feet in height, nor shall any freestanding sign be placed any closer to the front lot line than one-half (1/2) of the depth of the required front yard as specified in Section 6.07, Table of Dimensional Regulations, of this Ordinance.

9.09 Signs Permitted in Non-Residential Districts

A. The following signs are permitted in non-residential districts which include the Neighborhood Business (B-1), General Business (B-2), Central Business (CBD), Industrial Park (IND), Research Park (RP), Redevelopment (RDV), Institutional (C-1), and Hospital (C-2) Districts:

1. One (1) freestanding sign per lot in accordance with the area and height limits as specified in Section 9.09D, Table of Sign Regulations for Non-residential Districts, of this Ordinance. Where there are multiple principal uses located on the same lot, any freestanding sign may be a directory sign on which each principal use may be identified by a sign panel such that the total area of all sign panels does not exceed the maximum area for a freestanding sign as specified in Section 9.09B of this Ordinance. No freestanding sign shall be placed any closer to the front lot line than five (5) feet or placed such that the sign interferes with sight distances from any driveway providing access to the lot from the adjacent street. A second freestanding sign, of up to one-half (1/2) of the area of the first freestanding sign, may be allowed on a lot which is four (4) times larger than the minimum lot size or has the minimum lot frontage on two (2) streets, said minimum lot dimensions as specified in Section 6.07, of this Ordinance. No freestanding sign shall be located within one hundred fifty (150) feet of another freestanding sign on the same lot or on an adjacent lot;

2. For each sign frontage, a maximum of three (3) building signs of any type provided that the total of all sign areas does not exceed the maximum area specified in Section 9.09D of this Ordinance;

3. For uses located on upper or lower floors with no sign frontage, window signs are permitted as are four (4) square feet of building signs at the ground floor entry door providing access to said use;

4. Portable signs not exceeding twenty (20) square feet in area shall be allowed providing only one portable sign shall be placed on a lot at a given time, and no lot shall have portable signs placed upon it for more than a total of sixty (60) days per calendar year. No portable sign shall be placed without a permit. A new permit shall be required and a new application fee charged for each different sign and for each thirty (30) day period for the same sign. Each portable sign application shall specify the date of placement and the date of removal. No portable sign shall be placed within a public right-of-way; and

B. The following signs are permitted in the Amoskeag Millyard Mixed Use (AMX):

1. One (1) freestanding sign per lot in accordance with Section A1 above. In addition, for mills with two street frontages and a length in excess of 300 feet, a second freestanding sign is permitted in accordance with the same dimensional and other requirements.

2. Signs shall only be permitted which advertise goods, services or products manufactured or offered for sale on the premises or otherwise related to the use of the premises.

3. For wall of a building, a maximum of ten (10) building signs of any type, provided that the total of all sign areas is not greater than: (a) an area equal to 10% of the area of the walls on which they are displayed, or (b) the maximum area specified in Section 9.09C of this Ordinance;

4. Signs shall not cover windows existing at the date of this ordinance.

C. Sign Regulations in the Arena Overlay: ***(Rev. 6/9/03)***

1. Signs shall only be permitted which advertise goods, services or products manufactured or offered for sale on the premises or otherwise related to the use of the premises.
2. Signs shall not cover windows.
3. Signs inside of windows and visible from the street shall be included in the area and number calculations of signs for the buildings.
4. Roof signs shall be limited to neon or individually lit channel letters and shall be limited to a maximum of 100 square feet.

D. Table of Sign Regulations for Non-residential Districts

District	Building Signs Maximum Sign Area (Sq. Ft.)	Freestanding Signs Maximum Sign Area (Sq. Ft.)	Freestanding Signs Maximum Height (Ft.)
B-1	Not to exceed 5% of the wall of the building not to exceed 80 square feet	40	12
B-2	Not to exceed 10% of the wall of the building not to exceed 500 square feet	200	40
CBD	Not to exceed 10% of the wall of the building not to exceed 500 square feet	NA	NA
IND	Not to exceed 10% of the wall of the building not to exceed 500 square feet	100	12
RP	Not to exceed 5% of the wall of the building not to exceed 100 square feet	40	12
RDV	Not to exceed 10% of the wall of the building not to exceed 500 square feet	100	12
AMX	Not to exceed 10% of the wall of the building not to exceed 500 square feet	100	20
C-1	Not to exceed 5% of the wall of the building not to exceed 80 square feet	40	12
C-2	Not to exceed 5% of the wall of the building not to exceed 80 square feet	40	12

9.10 Status of Non-Conforming Signs

Non-conforming signs shall be subject to the following regulations:

A. No non-conforming sign shall be altered in any way in structure or material, or relocated to a position, which makes the sign less in compliance with the requirements of this Ordinance than it was before the alteration or relocation;

B. Should a non-conforming sign be destroyed by any means to an extent of more than seventy-five (75%) percent of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

ARTICLE 10. OFF-STREET PARKING AND LOADING REQUIREMENTS

10.01 Purpose and intent

The primary purpose of this Article is to provide adequate vehicular access to land uses in the city. This Article, in combination with other provisions of this Ordinance, is also intended to encourage the use of public transportation, planned parking structures, and flexible parking arrangements to provide access to the Central Business District and the Amoskeag Millyard District, and to discourage the reliance on surface parking lots to serve uses in these areas.

10.02 Applicability

A. Areas and buildings subject to parking requirements. In any district, except the Central Business District and the Neighborhood Business District (B-1), if any structure is constructed or enlarged or if any use of land is established or changed, off-street parking spaces provided by garage spaces or by open-air spaces shall be provided for the entire use in accordance with the parking requirements established by this Article. Existing or new accessory parking or loading spaces necessary to meet the requirements of this Article in connection with any existing use shall hereafter be maintained; except that they may be relocated but not reduced in number. (***Rev. 12/07)***

B. On-site parking required except as provided in this Article. The parking spaces required for the uses listed in The Table of Parking Requirements shall be on the same lot as the use they are intended to serve, except where a conditional use permit for alternative parking arrangements is issued by the Planning Board under the provisions of this Article.

C. Central Business District exempt from parking requirements. All development and changes in use in the CDBG and the B-1 districts shall be exempt from the requirements for providing off-street parking and loading of this Article. Additional parking limitations apply as indicated in Section 10.07. (***Rev. 12/07)***

D. Conditional use permits for alternative parking arrangements. The Planning Board is authorized to issue conditional use permits to reduce or alter the number of off-street parking spaces otherwise required by this Article. Such conditional use permits may be issued by the Planning Board for the following flexible parking arrangements and as the Planning Board may otherwise determine that parking to meet the normal requirements would not be used.:

> *1. Amoskeag Millyard District*. Parking in strict conformance with the Table of Parking Requirements shall not be required within the Amoskeag Millyard District. A parking plan, however, shall be required for each development or redevelopment application subject to the review of the Planning Board within the district. The parking plan shall use the Table of Parking Requirements as general guidance for determining expected parking demand from the use(s) within, accompanied by other parking studies as needed. The parking studies may consider how actual parking demand may differ from expected demand based on the unique characteristics of the individual structure or use, and the characteristics of mixed uses which operate at different hours of the day. The plan shall identify how parking demands can be met utilizing any combination of on-site parking,

available on-street parking or parking garages or lots. All approved plans shall be filed with the Director of Planning and Community Development Department. (***Rev. 4/09)***

2. Credit for availability of public parking in certain districts. Within the RDV, C-1 and C-2 districts, where public parking is available within five hundred (500) feet of the principal entrance to the use served, the Planning Board may issue a conditional use permit to reduce the number of off-street parking spaces otherwise required by this Article. Prior to approving such conditional use permit, the Planning Board must find that the public parking available to the proposed use, in combination with other uses placing demands on such facilities, is sufficient in volume, convenience, safety and availability to satisfy the anticipated parking demands of said use. (***Rev. 12/07)***

3. Off-site parking. Within the RDV, C-1 and C-2 districts, the Planning Board may issue a conditional use permit for off-site parking arrangements which are located within five hundred (500) feet of the principal entrance to the use served, where it finds that: (***Rev. 12/07)***

a. The off-site parking is located within the same zoning district as the use served, and the use cannot practically supply all of its parking on site; and

b. The off site parking spaces are contiguous to one another, and specifically dedicated to the principal use(s), and demarcated on the ground to identify the principal use(s) it serves; and

c. Adequate provisions have been made to assure safe pedestrian access between the off-site parking location and the proposed use; and

d. Wherever required parking spaces are provided off site, such spaces shall be in the same possession, either by deed or long-term lease, as the property occupied by the use, structure or lot to which the parking spaces are accessory. In such case the owner of said lot shall be bound by a notarized letter of record in the Office of the Director of Planning and Community Development Department requiring the owner, his heirs and assigns to maintain the required number of parking facilities for the duration of the use served.

4. Other. Within all districts, the Planning Board determines that the parking to meet the normal requirements would not be used.

E. Changes in use or expansion of existing buildings.

1. No reduction in number of parking spaces. In the case of a change in use which does not cause the enlargement of a structure, and where such new use

does not require any more parking and loading spaces than the former use, the number of parking and loading spaces provided shall not be reduced.

2. *Loading spaces required for all uses*. In any district, loading spaces shall be provided in a number at least in accordance with the Schedule of Loading Space Requirements for any enlargement, extension, or increase in density.

F. Business Parking in Residential Districts. Parking for a business is not permitted in a residentially zoned district, either on a separate lot or on the same lot as the business use, unless the business use is specifically permitted in Article 5 within that residential zone.

10.03 Number of parking spaces required

A. Use and availability of parking spaces. Required parking spaces shall, at all times, be available for the parking of vehicles of residents, customers, patrons, or employees of the principal use(s) that the spaces are intended to serve. Required spaces shall not be used for storage of vehicles, recreational equipment or vehicles, goods, or materials, or for the sale, repair, or servicing of any vehicles, except for temporary construction activities on the site.

B. Computation of number of spaces required. Where more than one principal use and/or more than one structure are located on the same lot, the parking requirements shall be computed for each use and/or structure, and the number of spaces provided shall not be less than the sum of the number of spaces so calculated, except where a conditional use permit has been granted by the planning board for an alternative parking arrangement. Off-street parking spaces shall be provided in accordance with the Table of Parking Requirements. In computing total parking requirements for a land use, fractional numbers shall be summed. Where the sum of the parking space computations results in a fractional number, fractions of one-half (1/2) or more shall be counted as one (1).

10.04 TABLE OF OFF-STREET PARKING REQUIREMENTS

PRINCIPAL USES	UNIT OF MEASUREMENT	MINIMUM PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
A. RESIDENTIAL		
Single-Family	Dwelling unit	Two (2) [One & one half (1 ½) in the R-3]
Manufactured Housing Unit	Dwelling unit	Two (2)
Duplex or two-family	Dwelling unit	Two (2) [One & one half (1 ½) in the R-3]
Multi-Family	Dwelling unit	Two (2) [One & one half (1 ½) in the R-3 and RDV) (*Rev. 11/5/03)*
Housing for the Elderly, Congregate Housing, Assisted Living, Supported Residential Care	Dwelling unit	One (1) per dwelling unit for independent living and congregate units; one half (0.5) per resident for others
Boarding or Rooming House	Guest rooms	One (1)
B. AGRICULTURAL		
Farming and Agricultural Operations	Gross floor area devoted to sales	One (1) per 400 sq. ft.
Stables and Equestrian Facilities	Stalls plus Seating capacity	One half (0.5) per stall plus One (1) per 4 seats
Commercial Kennel	Gross floor area	One(1) per 500 square feet
Veterinary Hospital	Gross floor area	One(1) per 500 square feet
C. CONSTRUCTION AND EXCAVATION		
Excavation and Processing of Earth Materials	Employees parking at site	One(1) per employee
Contractor's Yard	Company vehicles Gross floor area	One(1) per company vehicle plus One(1) per 1,000 square feet
D. MANUFACTURING		
Manufacturing, fabrication, and assembly industries	Gross floor area	One(1) per 1,000 square feet
Materials research and testing laboratory	Gross floor area	One(1) per 1,000 square feet
Wholesale bakery or food processing	Gross floor area	One(1) per 1,000 square feet
Printing and publishing	Gross floor area	One(1) per 1,000 square feet
E. TRANSPORTATION, COMMUNICATIONS & UTILITIES		
Limousine or taxi service (garage)	Employees	One (1) per employee
Truck or rail freight terminal	Gross floor area	One (1) per 1000 sq. ft.
Warehousing and storage of non-Flammable, non-explosive goods	Gross floor area	One (1) per 1000 sq. ft.
Bulk storage of fuel for distribution	Gross floor area of buildings	One (1) per 1000 sq. ft.
Radio or TV stations, offices, studios	Gross floor area	One (1) per 400 square feet
Telephone, telecommunications, & cable service operations and maintenance facilities	Gross floor area excluding maintenance/storage garage	One (1) per 250 sq. ft.
Solid waste and resource recovery facilities	Employees plus storage yard area	One (1) per employee + one (1) per 5,000 sq. ft. of storage area

PRINCIPAL USES	UNIT OF MEASUREMENT	MINIMUM PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
F. RETAIL TRADE		
Building construction materials, nursery products, garden centers, commercial greenhouses and similar uses	Gross floor area and outside area devoted to display or storage of goods for sale	One (1) per 600 sq. ft., + one (1) per 3,000 sq. ft. of outside merchandise display area
Furniture, home furnishings, appliance stores and other bulky goods	Gross floor area	One(1) per 1,000 sq. ft.
Convenience and general retail up to 25,000 sq. ft.	Gross floor area	One(1) per 250 sq. ft.
Retail uses over 25,000 square feet, including shopping centers:		
25,000 to under 400,000 sq. ft.	Gross leaseable area	Four (4) per 1,000 sq. ft. GLA
400,000 to under 600,000 sq. ft.	Gross leaseable area	Four and a half (4.5) per 1,000 sq. ft. GLA
600,000 sq. ft. or more	Gross leaseable area	Five (5) per 1,000 sq. ft. GLA
G. RESTAURANTS, EATING AND DRINKING PLACES, NIGHT CLUBS		
Within a fully enclosed structure, with no outdoor or drive-thru service	Seating capacity	One (1) per 3 seats
With open-air or drive-thru window service	Seating capacity outside service windows	One (1) per 3 seats + Ten (10) stacking spaces
H. SERVICES (non-automotive)		
H-1 FINANCIAL AND PROFESSIONAL		
Banks with drive-thru teller stations	Gross floor area Drive-up lanes	One (1) per 400 sq. ft. plus Five(5) stacking spaces per lane
Other banking, financial, real estate, or professional offices	Gross area by floor	One (1) per 400 sq. ft. of floor area
H-2 MEDICAL SERVICES		
Offices of health care practitioners and outpatient health and dental care	Gross floor area	One (1) per 200 sq. ft.
Hospitals	Licensed beds plus gross floor area of medical offices	Two(2) per bed, plus one (1) per 200 sq. ft. of on-site medical office space
Nursing homes, rehabilitation and convalescent centers providing 24-hour care	Licensed beds	One half (0.5) per licensed bed
Medical and dental laboratories and research and development facilities	Gross floor area	One (1) per 500 sq. ft.
H-3 LODGING AND MEETING FACILITIES		
Hotels, motels, extended stay facilities and Conference centers	Guest rooms Employees, Seating capacity of meeting rooms and restaurants	One and one quarter (1.25) per room + One quarter (0.25) per employee + One (1) per 4 seating capacity
H-4 PERFORMING ARTS, ENTERTAINMENT & AMUSEMENT		
Theaters, cinemas, concert halls	Seating capacity	One (1) per 4 seats
Amusement arcade	Gross floor area	One (1) per 200 sq. ft.
Dance or music studios and schools	Gross floor area	One (1) per 200 sq. ft.
Bowling centers	Lanes Seating capacity of eating and drinking areas	Three(3) per lane + One (1) per 3 seats of eating and drinking areas
Billiard halls	Gross floor area	One (1) per 200 sq. ft.

PRINCIPAL USES	UNIT OF MEASUREMENT	MINIMUM PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
H-5 RECREATION AND SPORTS FACILITIES		
Any recreation or sports facility, with respect to spectator seating	Seating capacity	One (1) per 4 seats
Community center, gymnasium, or recreation facility	Gross floor area	One (1) per 200 sq. ft.
Indoor health & fitness center, pool, gym or membership recreation	Gross floor area	One (1) per 200 sq. ft.
Outdoor recreation facilities:		
Golf Course	Golf green	Six (6) per green
Miniature Golf	Miniature golf hole	Two (2) per hole
Fish & Game Club	Membership	One (1) per club member
Tennis Court	Court	Three (3) per court
Swimming Pool	Surface water area of pool	One (1) per one hundred (100) sq. ft.
H-6 PERSONAL, BUSINESS & REPAIR SERVICES		
Child care facilities	Gross floor area	One (1) per 200 sq. ft.
General personal services & repairs	Gross floor area	One (1) per 300 sq. ft.
Funeral parlors and crematories	Parlors or chapels	Eight (8)/per parlor
Industrial launderers	Gross floor area	One (1) per 1,000 sq. ft.
Large appliance, furniture repair	Gross floor area	One(1) per 1,000 sq. ft.
Equipment rental and leasing	Gross floor area	One(1) per 1,000 sq. ft.
I. MOTOR VEHICLE SALES, RENTAL AND RELATED SERVICES		
Motor vehicle sales and rental, sales or rental of boats, trailers and motor homes; large truck or heavy equipment sales or repair	Gross floor area, outdoor display area, number of repair bays	One (1) per 400 sq. ft. gross floor area+ one (1) per 3,000 sq. ft. outdoor display + two (2) per repair bay
Automotive repair and towing	Repair bay	Four (4) per bay
Gasoline Sales	Gross floor area plus Fuel pump nozzles	One (1) per 50 s. f. + stacking space of One and a half (1.5) per fuel nozzle
Self-service car washes and car care centers	Bay or stall	Two (2) + two (2) stacking spaces per bay
Car wash and car care with automatic or drive-thru services *(Rev. 8/6/02)*	Bay or stall	Two (2) + ten (10) stacking spaces per bay
J. GOVERNMENT AND INSTITUTIONAL (non-medical)		
Elementary & junior high	Classrooms & public assembly areas	Two (2) per classroom plus one (1) per 4 seating capacity of public assembly areas
High school	School capacity & public assembly areas	Seven (7) per classroom plus one (1) per 4 seating capacity of public assembly areas
Business or trade school, college, university	Gross floor area and dormitory beds	One (1) per 150 sq. ft. + one half (0.5) per dormitory bed
Cultural facilities, including libraries and museums	Gross floor area	One (1) per 300 sq. ft.
Social service offices	Gross floor area	One (1) per 200 sq. ft.
Day Care Facility	Gross floor area	One (1) per 200 sq. ft.

PRINCIPAL USES	UNIT OF MEASUREMENT	MINIMUM PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
Membership fraternal and social organizations, clubs, lodges	Seating capacity	One(1) per 4 seating capacity
Churches	Seating capacity	One (1) per 4 seating capacity
Monasteries and convents	Gross floor area	One (1) per 1,000 sq. ft.
Cemeteries	Gross floor area of office plus seating area of chapels	One (1) per 300 sq. ft. office plus one (1) per seating capacity of chapels

(Rev. 8/6/02)

ACCESSORY USES	UNIT OF MEASUREMENT	MINIMUM PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
RESIDENTIAL		
Accessory dwelling unit	Dwelling unit	One (1) per unit
Home office or home occupation	Not applicable	Satisfied by minimum for dwelling
Child Daycare With up to 6 Children With more than 6 Children	 Facility Licensed capacity	 One(1) One(1) per six (6) children
Sale of farm, horticultural or nursery products grown on site	Gross area devoted to sales	One (1) per 400 sq. ft.
NON-RESIDENTIAL		
Dwelling unit for resident caretaker or security personnel	Dwelling unit	One (1) per unit
Cafeterias, child care services, recreational and fitness facilities primarily for employees	See standards for principal use	NA
Retail and service uses accessory to hospital	See standards for principal use	NA

C. Parking requirements for uses not listed. The parking requirements for uses that do not fall within one of the categories in the Table of Off Street Parking Requirements shall be as for the closest similar use, as determined by the Director of Planning and Community Development Department. (***Rev. 4/21/09)***

D. Handicapped accessible parking spaces. The number of handicapped accessible spaces for passenger cars shall be provided in accordance with the following standards:

Total Spaces In Parking Area	Required minimum number of accessible spaces
5 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total.
1001 and over	20 plus 1 for each 100 over 1000

10.05 Off-street loading requirements

1. Number required by floor area. Off-street loading spaces shall be provided in accordance with the following schedule of Off-Street Loading Requirements.

2. Schedule of off-street loading requirements. Where required, the number of loading spaces required shall be determined by the gross floor area of the use or building in square feet, according to the following ranges:

	Gross Floor Area and Spaces Required					Over 150,000 For Each 150,000 Or Fraction Thereof
Principal Land Use	Under 5,000	5,001 -20,000	20,001 -60,000	60,001 -100,000	100,001 -150,000	
Manufacturing	0	1	2	3	4	1
Freight Terminals	1	1	2	3	4	1
Warehousing	1	1	2	3	4	1
Retail Uses	0	1	1	2	3	1
Services except Office	0	0	1	2	3	1
Office Uses	0	0	1	2	2	1
Institutional Uses	0	0	1	1	2	1
Residential Building 10 + units	0	1	1	2	3	1

10.06 Dimensional Requirements

A. Standard parking space and aisle dimensions. With the exception of the dimensional requirements pertaining to handicapped accessible parking, the parking space and aisle dimensions for parking areas containing five (5) or more parking spaces shall conform to the minimum dimensions included in the Table 10-1 Minimum Dimensional Requirements for Parking Areas. As illustrated in Figure 10-1 Typical Parking Space Layout, the dimensional requirements vary in accordance with the angle of the proposed parking spaces.

B. Parking spaces and aisles for the handicapped. Each passenger car space shall be a minimum 96 inches wide by a minimum 240 inches long with a 60 inch access aisle adjacent. A van accessible space shall be a minimum 96 inches wide by 240 inches long with a 96 inch accessible aisle. One in every eight accessible spaces, but not less than one, shall be designated "van accessible". Every accessible space shall have a 60 inch minimum access aisle adjacent to it. Two spaces may be serviced by one access aisle. All accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parking in the space.

C. Loading spaces. The loading spaces required for the uses listed in the Schedule of Off-Street Loading Requirements shall in all cases be on the same lot as the use they are intended to serve. Each loading space shall be a minimum of 12 feet in width and 50 feet in length, not including space for maneuvering, unless waived by the Planning Board in conjunction with site plan or planned development review. Required loading areas shall not be used to satisfy parking space requirements. Maneuvering space for loading bays may, however, be located in parking aisles subject to approval of the Director of Planning and Community Development Department. (***Rev. 9/506, 4/21/09)***

10.07 Parking and loading area design standards

A. Applicability of standards. All parking or loading areas containing five or more spaces including automotive service and drive-thru establishments shall be either contained within buildings or other structures, or be subject to the provisions of this section as well as to all applicable construction specifications of the City of Manchester.

B. Plan required for loading spaces and areas with five or more parking spaces. Plans showing their layout of such spaces shall be submitted to the Director of Planning and Community Development Department for approval. For areas of less than five parking spaces, the dimensions of each space shall not be less than the Table of Minimum Dimensional Requirements as to stall width, length and area. ***(Rev. 4/21/09)***

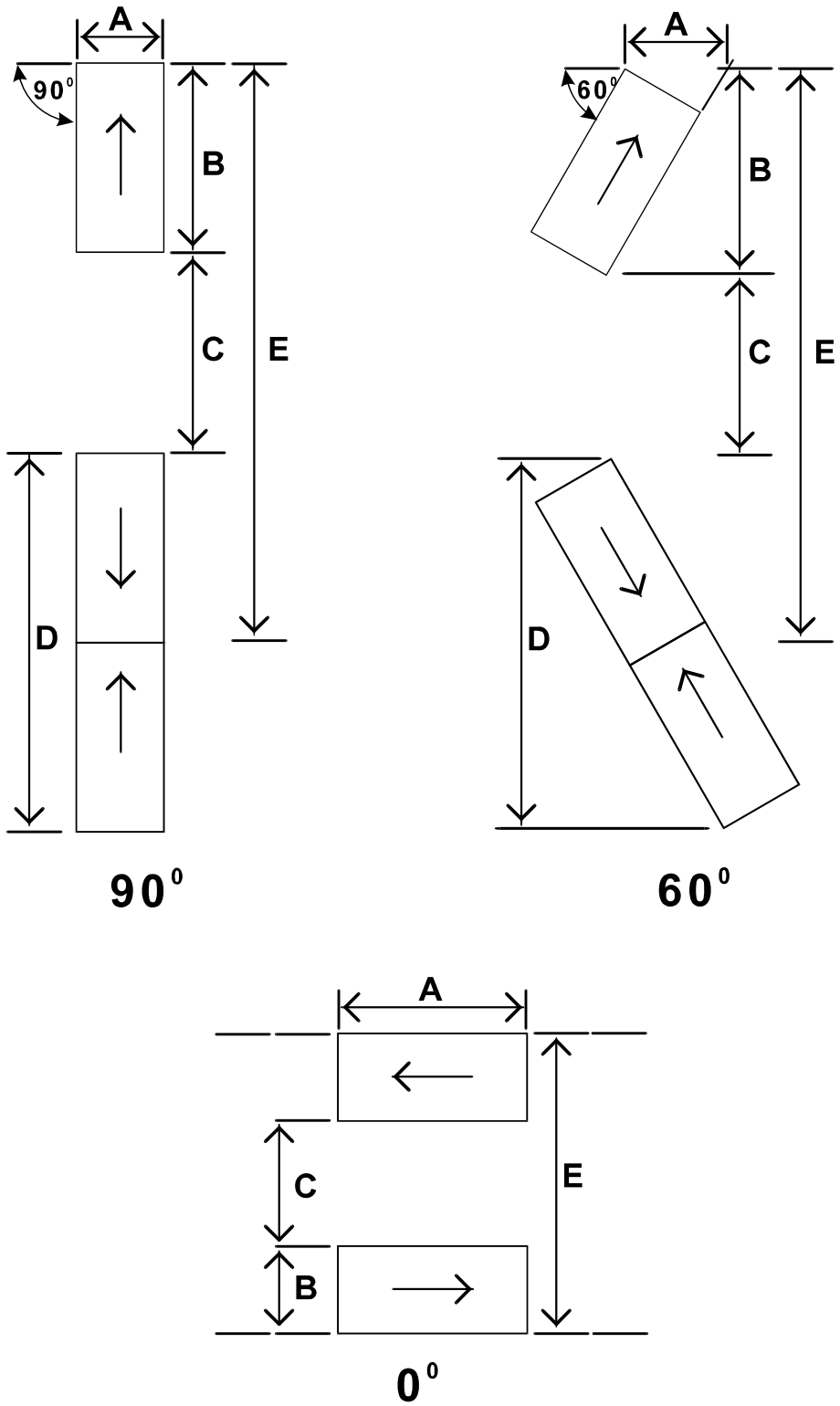
C. Stacking space for drive-thru uses. Stacking spaces for drive-through businesses shall be located on the same lot as the principal use, and shall not interfere with other required parking spaces or access aisles to said parking spaces. The required number of stacking spaces required for individual uses is provided in the Table of Off-Street Parking Requirements.

Table 10-1
Minimum Dimensional Requirements for Parking Areas

Angle of Parking Spaces (Degrees)	"A" (Feet)	"B" (Feet)	One-Way Traffic "C" (Feet)	Two-Way Traffic "C" (Feet)	"D" (Feet)	One-Way Traffic "E" (Feet)	Two-Way Traffic "E" (Feet)
0	22.5	8	12	20	-	28	36
20	24.9	14.3	12	20	20.6	40.6	48.6
25	20.1	15.5	12	20	23.3	43	51
30	17	16.6	12	20	25.9	45.2	53.2
35	14.8	17.6	12	20	28.2	47.1	55.1
40	13.2	18.4	12	20	30.3	48.8	56.8
45	12	19.1	12	20	32.2	50.2	58.2
50	11.1	19.6	12	20	33.8	51.3	59.3
55	10.4	20	12	20	35.2	62.1	60.1
60	9.8	20.3	12.5	20	36.3	53	60.5
65	9.4	20.4	15	20	37.1	55.7	60.7
70	9	20.3	18	20	37.7	58.6	60.6
75	8.8	20.1	21	21	37.9	61.1	61.1
80	8.6	19.7	22	22	37.9	61.4	61.4
85	8.5	19.2	22	22	37.6	60.3	60.3
90	8.5	18.5	22	22	37	59	59

Standard parking space size shall be 8.5' by 18.5'

Figure 10-1
Typical Parking Space Layout
and Location of Dimensional Requirements



D. Safety of design. Except in connection with one and two family dwellings, parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit the parking area without backing onto a public street, and without inhibiting pedestrian safety. Parking spaces which are not 90 degrees to the drive angle shall not be permitted if maneuverability out of the parking space cannot be accomplished in the direction of travel.

E. Surface and drainage. Every parking or loading area and access driveways thereto shall be surfaced with a durable and dustless material which shall meet the approval of the Director of Planning and Community Development Department and shall be graded and drained so as to dispose of all surface water accumulation. ***(Rev. 4/21/09)***

F. Demarcation. Parking spaces, stacking lanes, entry and exit drives, direction of traffic flow, and pedestrian ways shall be appropriately demarcated.

G. Internal landscaping of parking area. Except for parking in connection with one and two-family dwellings, all parking areas shall have a landscaped perimeter of at least ten (10) feet in width. Parking areas of twenty-five (25) spaces or more shall have landscaped areas within the perimeter of the parking area in the minimum amount of five (5) percent of the area occupied by the required parking spaces and associated access aisles.

H. Parking Limitations in the CBD. No new surface parking shall be allowed within the CBD District within one hundred (100) feet of the Elm Street right-of-way.

I. Parking Limitations in the Arena Overlay. Such limitations may be waived as a Conditional Use permit by the Planning Board if developed as part of a redevelopment plan approved by the City. ***(Rev. 6/9/03)***

1. Surface parking shall not be allowed in the front yard of any building. Except in cases where section 10.07(H) applies, parking within the side yard may be permitted by a Conditional Use by the Planning Board where such parking does not disrupt pedestrian traffic flows or create long blank sections between buildings. In such cases, the parking areas shall be separated from pedestrian sidewalks by a wrought iron fence and landscaping.
2. No new surface parking shall be allowed within 200 feet of Elm Street.
3. Parking decks located at street level shall have no less than seventy-five percent (75%) of the lineal street frontage devoted to office or non-parking commercial uses at a minimum depth of twenty (20) feet along the following streets: Elm Street, Old Granite Street, Lake Avenue, Willow Street, Central Street, West Depot Street and Franklin Street.
4. The exterior façade of parking structures shall be covered with architectural cladding that utilizes materials, colors and a pattern of openings consistent with nearby significant building facades.

J. Parking limitations in the B-1 District. For newly constructed buildings in the B-1 district, there shall be no parking in the front yard of the building. ***Rev. 12/07***

K. External protection and screening of surrounding property and structures.

1. All parking or loading areas within 10 feet of any structure or property line shall have a curb or substantial bumper of masonry, steel or heavy timber not less than 4 feet from those structures or lot lines for property protection.

2. Any fixture used to illuminate any parking or loading area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.

3. No loading space or bay in a non-residential district shall be located within fifty (50) feet of a residential district boundary or within fifty (50) feet of the lot line of an abutting residential use within a residential district. All bays shall be located at the side or rear of the building they are intended to serve. No loading space or bay in any district shall be located within ten (10) feet of any property line.

4. Parking and loading areas shall be effectively screened on each side which adjoins or faces the side or rear lot line of a residential district boundary, or any abutting residential use within a residential district.

10.08 Driveway location and design standards

A. Distance of driveway to intersecting street. Any portion of any entrance or exit driveway shall not be closer than 20 feet to the street lot line of an intersecting street. In cases in which in the opinion of the Director of Planning and Community Development Department a traffic hazard may be created, the location and number of such driveways or entrances and exits may be modified by the Director of Planning and Community Development Department in the interest of public safety. ***(Rev. 4/21/09)***

B. Distance between driveways within a lot. The closest points of any two driveways leading from the same street to a single lot shall not be within 30 feet of each other at their intersections with the street lot line. On corner lots, the closest points of driveways providing access to intersecting streets shall be no closer than 50' as measured along the property line and no closer than 36' as measured diagonally between their closest points at their intersection with the property line.

C. Width of driveway entrance. Except as provided for in the special standards applicable to specific uses under Article 8, Supplementary Use Regulations, the width of any entrance or exit driveway shall not exceed 24 feet at its intersection with the street lot line, except that wider driveways not exceeding 36 feet in width may be authorized by the Director of Planning and Community Development Department. ***(Rev. 4/21/09)***

D. Modification of driveway standards. The Planning Board may modify any of the provisions of this section as they pertain to driveways when such driveways are part of a project which requires Site Plan approval or Planned Development approval.

10.09 Limited use of yard areas for parking.

A. Non-residential districts. Except in the B-1 District as described in Subsection 10.07J, parking spaces may be located within the minimum front yard setback in the Civic, Business, and Industrial districts. However, no pavement, except for site access, is permitted closer than ten (10) feet from any street lot line in these districts. Parking spaces shall not be located within four feet of any side or rear lot line or building. (***Rev. 12/07)***

B. Use of yard area for required parking spaces in residential districts. In all residential districts, parking spaces shall not be located within four (4) feet of any property line or building, nor be located in front or side yard areas in residential districts, except under the following conditions:

1. Side yard. The location of required parking spaces may be within a driveway located in the side yard, provided that not more than two (2) spaces are located within the required minimum side yard setback, and that the spaces do not lie within the minimum front yard setback ;

2. Front yard. The location of required parking spaces may be within a driveway located in the front yard, provided that not more than one space is located within the required minimum front yard setback;

3. Rear yard. The location of the required parking spaces may be within a driveway located in the rear yard, where the principal vehicular access is provided by an alley. In such case, no minimum setback distance from the rear lot line to the off-street parking space shall be required, if in the judgment of the Director of Planning and Community Development Department no public safety hazard will be created. ***(Rev. 4/21/09)***

4. Three or more family dwellings. In the case of multi-family residential projects subject to Planned Development or Site Plan Review of the Planning Board, parking may be provided in a driveway within the front yard of a lot, but not closer than 30 feet to the front or lot line, provided the Planning Board finds that the parking in such cases is reasonably necessary to the project; is well integrated with the building and circulation system; and is adequately landscaped.

C. Uses subject to approval by Planning Board. Where a project requires Site Plan or Planned Development approval, the use of yard areas for parking may be modified by the Planning Board, and the mutual written agreement of abutting lot owners, such as but not limited to crossover easements. A driveway that can be considered a private road, such as but not limited to a condominium road, is included in these provisions.

ARTICLE 11. NON-CONFORMING LOTS, USES AND STRUCTURES

11.01 Purpose, intent and applicability.

A. Reduction of non-conformity. The purpose of this Article is to encourage the discontinuance of non-conforming uses, and to provide for the transition of non-conforming uses to conforming or more conforming uses.

B. Types of non-conformity. The intent of this article is to regulate changes in lawfully existing uses, structures and lots which do not conform with the present regulations of the zoning ordinance. This Article establishes provisions for three classes of non-conformities. A single property may exhibit one or more type of non-conformity, including:

1. Lots: the size, dimensions, or frontage of a lot;

2. Uses: the land use(s) occurring on the lot or within the buildings thereon; and

3. Structures: the location and extent of buildings and structures built upon the lot, with respect to density limitations, dimensional and lot coverage standards.

C. Change in ownership or management. Nothing herein contained shall be construed as prohibiting change in tenancy, ownership, or management of a non-conforming lot, use, or structure, provided such change is otherwise lawful.

D. Applicability within protected shoreland. Non-conforming lots of record and non-conforming structures within protected shoreland as defined within RSA 483-B, shall also be governed by the provisions of RSA 483-B:10 and 11. In the event of a conflict between applicable regulations, the more restrictive conditions shall apply.

11.02 Determination of non-conformity.

A. Evidence of non-conformity. In reviewing an application for a building permit, or other application for land use change or structural alteration involving a non-conforming use, building or lot, the Director of Planning and Community Development Department shall make a determination as to the existence of a non-conformity. In so doing, the Director of Planning and Community Development Department may require the property owner, or his agent, to produce acceptable evidence attesting to said legal non-conforming status. Such evidence shall include, but is not restricted to, such documents as rent receipts, affidavits, documentation of utility services, or other information as may be necessary to document a particular case. ***(Rev. 4/21/09)***

B. Non-conforming use status limited to permanent lawful uses. The casual, temporary, or illegal use of land or structures, or land or structures in combination, shall not be sufficient to establish the existence of a non-conforming use or to create rights in the continuance of such use.

C. Non-conformity created through public taking. Where the dimensional non-conformity of a structure is created by government acquisition of property, such structure shall not be regarded as a non-conforming use, and may be continued, structurally altered, reconstructed, repaired or enlarged so long as it remains an otherwise lawful use; provided, that any structural change, repair, addition, alteration or reconstruction, shall not increase, extend, enlarge or affect the dimensions which are deficient.

D. Status of uses authorized by special exception or conditional use permit. Any use in lawful existence at the time of passage or amendment of this Zoning Ordinance which would thereafter require a Special Exception shall without further action be deemed a conforming use. Any enlargement or replacement of such use, within a building, or on land, shall require a Special Exception or a Conditional Use Permit as though it were a new use.

11.03 Non-conforming lots.

A. Evidence of non-conforming lot. A non-conforming lot shall be deemed to exist where the Director of Planning and Community Development Department determines, based on information submitted by the property owner or by the public record, that all of the following conditions are true: ***(Rev. 4/21/09)***

1. The lot was created prior to the effective date of this ordinance, or prior to the relevant amendments affecting the conformity of the lot, and no further division has occurred since that date;

2. The lot has not previously been reviewed under this Article;

3. The lot met the minimum size, frontage and area standards which were in effect when the lot was created;

4. The lot does not conform with present size, frontage, or other dimensional standards of the zoning district, and the present owner does not own adjoining property that may be consolidated to the extent necessary to make the lot conforming with present standards, or is prevented by law from doing so.

B. Date lot was created. The date of creation of a lot shall be established by the most recent change in configuration, such as by reduction, consolidation, division, or other official action, if such was required.

C. Actions by land use boards may not create non-conformity. Non-conforming lots shall not be created through the granting of a variance, special exception, or conditional use, except to the extent authorized within this Article.

D. Use of a non-conforming lot. A non-conforming lot may be developed for the purposes of the zoning district under the following conditions.

1. Lots of substandard size. When a non-conforming lot can be used in conformity with all applicable regulations except for minimum lot size, then the lot may be developed for a permitted use, provided that the development can comply with all other applicable standards of this ordinance. However, no use which would necessitate a lot size greater than the established minimum lot area for a particular zone is permissible on a non-conforming lot.

2. Conditions for development of non-conforming lot. In any residential district, a one family detached dwelling may be constructed on any non-conforming lot; and in any other district, any permitted use may be developed on a non-conforming lot, provided that:

a. The lot has at least 20 feet of frontage on an accepted City street; and

b. All yard, setback, parking and other requirements of this ordinance can be met; and

c. Such lot at the effective date of this ordinance or applicable amendment was held under separate ownership from the adjoining lots or has been made non-conforming since that time through public action such as a taking by eminent domain; and,

d. In cases in which development is proposed on a non-conforming lot where abutting other lot or lots in the same ownership, these lots shall be consolidated as necessary to eliminate the non-conformity to the maximum extent possible, and proof of that consolidation shall be filed with the application for a development permit. After that time the consolidated lot, if still non-conforming, shall continue to have the same rights of use as other non-conforming lots as provided in this Article.

11.04 Non-conforming uses.

A. Continuation of use. Where a non-conforming use, or where non-conforming characteristics of a use exist, such as signs, off street parking and loading, lighting, landscaping, or similar features, such non-conforming uses and characteristics of use may continue except as provided in this Article.

B. Expansion of the area of a non-conforming use on a lot. No expansion of a non-conforming use which would require additional lot area, devoted to such use, shall be permitted.

C. Limits on expansion of non-conforming use within lawfully existing structure. A non-conforming use may be expanded to those parts of a building which were clearly designed or arranged for such use prior to the effective date of this ordinance, or prior to amendment to the zoning ordinance, text or map, which made the use non-conforming.

D. Reversion to less conforming use not permitted. No building or lot in which a non-conforming use has been changed in whole or in part to a more conforming use shall again be devoted to a less conforming use.

E. Expansion or changes in a non-conforming use created by amendment to this Ordinance. A Special Exception may be issued for the limited expansion of a non-conforming use or a change from one non-conforming use to another, where the non-conforming use resulted from an amendment to this Ordinance. No such non-conforming use of a building, structure or lot shall hereafter be expanded or changed to another non-conforming use, unless it has been approved by the Board of Adjustment, subject to the standards of Article 11.04 (G) and to the conditions attached to such exception by the Board of Adjustment.

F. Expansion or changes in a non-conforming use created by variance. Where an applicant requests a change in use with respect to a non-conforming use that was created as a result of the granting of a variance, and not by reason of adoption or amendment to the ordinance, such application shall be processed by the Board of Adjustment as a variance.

G. Criteria for change or expansion of non-conforming use. A change or expansion of a non-conforming use may be issued by the Board of Adjustment upon a finding that the proposed use: (1) will not have an adverse impact on the surrounding neighborhood, and (2) that the change in use is more conforming with the intent and purpose of the ordinance. In making these determinations, the Board of Adjustment must find that all of the following conditions are satisfied:

1. The proposed change would not result in an increase in noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;

2. The numbers and kinds of vehicular trips to the site will be comparable to, or lower than, those associated with the existing use;

3. The use will not place increased demand on the amount and nature of outside storage or loading requirements, and there will be no net loss in the number of existing off-street parking spaces serving the existing use(s);

4. The visual appearance of the site and structure, including landscaping and screening will either remain unchanged or will be improved;

5. The proposed hours of operation for the use will result in an equal or lesser impact on the neighborhood;

6. The non-conforming characteristics of the use including residential density, signs, loading, lighting, and landscaping, will be brought into greater conformance with the requirements of the ordinance;

7. The area of the lot devoted to the non-conforming use will not be increased**;**

8. The change in use will be equal to or more compatible with the character of the neighborhood, will contribute to neighborhood socioeconomic needs, or will otherwise be in the public interest; and,

9. The maximum expansion of a non-conforming use over its lifetime shall not exceed twenty-five (25) percent of the area of the existing building, measured from the time the use first became non-conforming by reason of an amendment to this Ordinance.

11.05 Non-conforming structures.

A. Structural alterations. Structural alterations of a building or structure which do not conform to the provisions of this ordinance may be made only if the building is being altered to conform to the requirements of the zoning district in which it is located, or to the extent authorized by a Special Exception issued under the provisions of this Article.

B. Repair and maintenance. Normal repairs, renovations and maintenance may be made to any non-conforming building or structure, except as provided for in Article 11.06.

C. Restoration of damaged non-conforming buildings. Should a non-conforming building, structure or portion thereof be destroyed in whole or in part, to an extent that the estimated cost of restoration exceeds two thirds (2/3) of its replacement cost immediately prior to such damage, it shall not be replaced or restored except in conformity with this Ordinance. This provision shall not apply, however, when the Director of Planning and Community Development Department finds that replacement or restoration will be implemented subject to all of the following limitations and conditions: ***(Rev. 4/21/09)***

1. Residential structures.

a. Within a residential district, any non-conforming single family residence or residential accessory structure thereto such as a garage, shed, deck or porch may be replaced in its entirety provided that it is replaced in the same location, and for the same purpose, with no expansion in the size of the structure whatsoever;

b. Any owner-occupant of a residence which has been damaged by fire or other disaster may place a manufactured home on the lot of such residence and reside therein while the residence is being rebuilt for a maximum of twelve (12) months from the placement of such structure or the issuance of a certificate of occupancy, whichever occurs first, subject to state and City requirements for water supply and sewerage disposal. A manufactured home which is placed on a lot under this provision shall not attain the status of a vested non-conforming use; [RSA 674:32, II.]

c. Within a residential district, any legally maintained, non-conforming, two or more family residential building may be replaced in its entirety

provided that it is replaced in the same location, and for the same purpose, with no expansion in the size of the structure.

2. Non-residential structures

a. The restoration of a building which is non-conforming as to minimum lot area, yard or setback requirements, and;

b. The replacement structure and the uses therein do not create new non-conformities.

3. All structures above shall meet the following

a. The destruction or damage was the result of a disaster which resulted from circumstances beyond the control of the owner;

b. Reconstruction, restoration or replacement of the structure shall be accomplished within the same footprint area and shall not exceed the height dimensions of the original structure; and,

c. Reconstruction or replacement shall be initiated within a period of one year of the date of destruction, and completed within two years; and

d. If the reconstruction or repair is not begun within the one year period, the building or structure shall not be reconstructed or repaired, except in conformity with the requirements of this Ordinance, and the non-conformity shall be deemed to be terminated.

D. Non-conforming signs. Provisions governing non-conforming signs are contained within Article 9. Signs, Section 9.10.

11.06 Abandonment and termination of non-conformity.

A. Termination due to abandonment. The abandonment of a non-conforming use as defined in this section shall result in the termination of the non-conforming status of that use. The property shall thereafter conform to the regulations of the district.

B. Evidence of abandonment. The term abandonment as used herein shall mean the discontinuance of a non-conforming use or the occupancy of a non-conforming structure for a specified period of time. The normal, seasonal cessation of a use, or a temporary discontinuance for purposes of maintenance, rebuilding after damage or destruction or maintenance or improvements permitted under this Article shall not be included in calculating the period of discontinuance. Any one of the following shall constitute evidence of the abandonment of a non-conforming use:

1. In the case of a structure and land in combination, the visible or apparent intention of an owner to discontinue the use of a building, structure or premises, or the removal of characteristic equipment or furnishings without replacement by similar equipment or furnishings within a period of twelve (12) consecutive months; or

2. In the case of land only, discontinuance of the occupancy of the non-conforming use of the land for 90 consecutive days, or for a total of six months during any one year period; or

3. In the case of a non-conforming structure which is damaged by means beyond the control of the owner, failure to commence restoration within one year and to conclude restoration within two years of the date the damage occurred.

C. Termination due to destruction. Except as provided in Article 11.05, the destruction of a non-conforming structure, building or use shall result in the termination of its non-conforming status.

ARTICLE 12. CONDITIONAL USE PERMITS

12.01 Planning Board to Administer

Wherever a conditional use is authorized by this ordinance, the authority to administer or grant conditional use permits shall be vested in the Planning Board. The duration of a conditional use permit shall be defined by the provisions of Article 15, Section 15.03 Expiration of Permits and Approvals.

12.02. Application and Review Procedure

An application for a conditional use shall be initiated by filing with the Planning Board for an application for a conditional use permit. The following procedures shall apply to the processing of such application:

A. Procedure if Subdivision or Site Plan Approval Also Required. Where other required development approvals for a conditional use include subdivision or site plan approval by the Planning Board, the application and review procedure for a conditional use permit shall be made concurrently and in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development.

B. Procedure if Subdivision or Site Plan Approval Not Required. Where no subdivision or site plan approval would otherwise be required for the conditional use, the application and procedural requirements of the Site Plan Regulations shall be applied to the application and processing of conditional use permits with respect to content of applications, requirements for public notice, hearings and timing of decisions by the Planning Board.

12.03 Burden of Persuasion

The applicant shall bear the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the development, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the ordinance.

12.04 Standards of Review

In reviewing an application for a conditional use permit, the Planning Board shall consider the following information in its deliberations, as applicable to the case:

A. Specific authorization for the conditional use in Article 5, Sections 5.10 and 5.11 Table of Principal Uses and Table of Accessory Uses;

B. Compliance of the development plan with the specific standards for such use contained in the zoning ordinance;

C. The results of any special investigative or scientific studies prepared in association with the proposed development;

D. Special reports or analysis of the project or its impacts, prepared by the City or consultants;

E. The findings, goals and objectives of the City Master Plan;

F. The relationship of the development to the timing, location and cost of public improvements scheduled in the Capital Improvements Program; and

G. Testimony and evidence introduced at the public hearing on the application.

12.05 Hearing and Decision

Following a public hearing on the proposed use, the Planning Board shall issue a conditional use permit, if it finds, based on the information and testimony submitted with respect to the application, that:

A. The use is specifically authorized by Article 5, Section 5.10 or 5.11, Table of Principal Uses or Table of Accessory Uses as a conditional use;

B. If completed, the development in its proposed location will comply with all requirements of this Article, and with specific conditions or standards established in this ordinance for the particular use;

C. The use will not materially endanger the public health or safety;

D. The use will not substantially de-value abutting property;

E. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;

F. The use will not have a substantial adverse impact on highway or pedestrian safety;

G. The use will not have a substantial adverse impact on the natural and environmental resources of the City; and

H. Adequate public utilities and community facilities are available to the property to ensure that the proposed use will not necessitate excessive public expenditures in providing public services.

12.06 Stipulations of Approval

In granting a Conditional Use permit, the Planning Board may attach reasonable conditions to its approval, including but not limited to the phasing of a development, where such conditions are shown to be necessary to further the objectives of this ordinance and the master plan, or which would otherwise allow the general conditions of this Article to be satisfied. Representations made at a public hearing, or in material submitted to the Planning Board by an applicant, to obtain a Conditional Use permit shall be deemed conditions for the issuance of the permit. All conditions of approval shall be stated in writing in the issuance of a permit. The Planning Board may require that such conditions be annotated on a site plan or subdivision plat, or otherwise recorded at the Hillsborough County Registry of Deeds.

12.07 Appeals

Any persons aggrieved by a Planning Board decision on a Conditional Use permit may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use permit cannot be appealed to the Zoning Board of Adjustment. (RSA 676:5, III)

ARTICLE 13. IMPACT FEES

Section 13.01 Authority and purpose.

These provisions are established pursuant to New Hampshire RSV 674:21,V. The provisions of the Article are intended to: assist in the implementation of the City of Manchester Master Plan; provide for the planning for and provision of public capital facilities necessitated by the growth of the City of Manchester; and assess an equitable share of the growth-related cost of new and expanded public capital facilities to new development, in proportion to the facility demands created by that development. Facilities which are eligible for inclusion under this Ordinance are specifically enumerated under NH RSA 674:21, V and are more specifically limited to those facilities identified in the Impact Fee Schedule adopted by the Board of Mayor and Aldermen.

13.02 Findings.

A. Master Plan. The Manchester Planning Board adopted a Master Plan on November 10, 1993.

B. Capital Improvements Program. The City of Manchester through the Board of Mayor and Aldermen has prepared, and regularly updated, a Capital Improvements Program as part of the Community Improvement Program process.

C. Adequate public facilities needed to serve growth. The Master Plan and the Capital Improvements Program demonstrate that new growth will necessitate increased public expenditures to provide adequate public facilities.

D. Promote public health, safety and welfare. The City of Manchester is responsible for and committed to the provision of public facilities and services, at standards which support and protect the public health, safety and welfare.

E. Cost of growth. The costs of providing public capital facilities capacity to serve new growth will be disproportionately borne by existing taxpayers in the absence of impact fee assessments.

F. Method of apportioning capital costs to new development. The calculation methodology for impact fees, as established in a report by the Planning Board entitled "Impact Fee Analysis: City of Manchester," represents a fair and rational method of allocating capital facility costs to new development. Based on this methodology, impact fees will not exceed the costs of:

1. Providing additional public capital facilities necessitated by the new developments paying impact fees; or

2. Compensating the City of Manchester for expenditures made for existing public facilities which were constructed in anticipation of new growth and development.

G. Reasonable benefit provided. Impact fees will enable the City of Manchester to provide adequate public facilities to serve new growth, and provide a mechanism for the City to secure reasonable benefit from new development, in proportion to the demand for such facilities.

13.03 Imposition of public capital facilities impact fee.

A. Assessment of fee by Director of Planning and Community Development Department. Any person or firm who wishes to construct a single family dwelling or a multiple family dwelling within the City of Manchester, is hereby required to pay a public capital facilities impact fee in the manner and amount set forth in Section 13.05 of this Ordinance. The City of Manchester Planning and Community Development Department shall determine the amount of the public capital facilities impact fee and the fee shall be paid prior to the issuance of a Certificate of Occupancy. ***(Rev. 4/21/09)***

B. Geographic applicability of fees. The fees shall be applied City-wide unless otherwise specified in the Impact Fee Schedule for specific neighborhood improvements. In such cases, the Schedule shall describe the specific areas and a map shall be attached to the Schedule.

13.04 Computation of impact fee. ***(Rev. 9/7/04)***

The amount of the public facilities impact fee shall be listed in an Impact Fee Schedule adopted by the Board of Mayor and Aldermen and prepared in accordance with a report by the Planning Board entitled "Methodology."

IMPACT FEE PER DWELLING UNIT

Impact Fee Schedule – School (Rev. 9/04)	
Type of Unit	Impact Fee Assessment
Single Family Detached	$2,733
Single Family Attached (Townhouse)	$633
Duplex/2 Unit Structure	$1,789
Multifamily 3-4 Unit Structure	$1,537
Multifamily 5+ Unit Structure	$1,169
Manufactured Housing	$1,663

Impact Fee Schedule – Fire	
Type of Unit	Impact Fee Assessment
Single Family Detached	$190
Single Family Attached (Townhouse)	$188
Duplex/2 Unit Structure	$190
Multifamily 3-4 Unit Structure	$196
Multifamily 5+ Unit Structure	$146
Manufactured Housing	$176

Note: The Fire Impact Fee Schedule is applicable only to Fire Service Areas A & B. Area A is bounded by Candia Road, South Mammoth Road, the Auburn Town line and the Londonderry Town line. Area B is bounded by the Hooksett Town Line, the Goffstown Town Line, Dunbarton Road and the Merrimack River.

13.05 Payment of fees.

No Certificate of Occupancy for a single family dwelling or multiple family dwelling shall be issued until the impact fee has been collected by the City of Manchester Planning and Community Development Department. ***(Rev. 4/21/09)***

13.06 Appeals.

Any aggrieved party may appeal the provisions of this Article to the Zoning Board of Adjustment as established in Article 14 of this Ordinance. Where the appeal is on the amount of the fee to be paid, the party shall first have exhausted its options available through the Planning Board under Section 13.09 (2). In such cases, the party shall prepare and submit to the Zoning Board of Adjustment an independent fee calculation study for the new development activity which is proposed and shall provide a copy of the action of the Planning Board. All costs incurred by the City for the review of such study shall be paid by the party.

13.07 Administration of funds collected.

A. Individual facility accounts required. All fees collected shall be promptly transferred for deposit in individual Public Capital Facilities Impact Fee Accounts for each of the facilities for which fees are assessed, and shall be used solely for the purposes specified in this Article. Impact Fee accounts shall be special revenue fund accounts and under no circumstances shall such revenues accrue to the General Fund.

B. Custody of fee accounts and release of funds. The City Finance Director shall have custody of all fee accounts, and shall pay out the same only upon authorization by the Board of Mayor and Aldermen.

C. Record keeping. The City Finance Director shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which fees have been paid under this Ordinance for a period of at least six (6) years.

D. Annual report. At the end of each fiscal year, the City Finance Director shall make a report to the Board of Mayor and Aldermen, giving a particular account of all public capital facilities impact fee transactions during the year.

E. Use of funds. Funds withdrawn from the Public Capital Facilities Impact Fee Accounts shall be used solely for the purpose of acquiring, constructing, expanding or equipping those public capital facilities identified in the Impact Fee Schedule.

F. Application to debt service. In the event that bonds or similar debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this Article, impact fees may be used to pay debt service on such bonds or similar debt instruments.

13.08 Exemptions and waivers.

A. Exemptions. The following uses are exempt from selected fees:

1. Those dwelling units within residential developments in which occupancy will be legally and permanently restricted to persons age 62 and over in accordance with federal law are exempt from school impact fees.

2. In order to recognize the lack of impact on schools and to promote economic development and the creation of jobs, commercial and industrial developments are exempt from the school and fire impact fees.

B. Waivers. The Planning Board may grant a full or partial waiver of an impact fee only in the following instances:

1. Land and/or public capital facility improvements may be offered by a feepayer as total or partial credit toward the impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board and must meet the needs of the specific public facilities for which the fees are adopted.

2. Improvements which would normally be required by the Planning Board under subdivision or site plan regulations shall not be considered eligible under this section.

13.09 Refund of fees paid.

The owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where: (1) The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the final payment of the fee; or (2) The City has failed, within the period of six (6) years from the date of the final payment of such fee, to appropriate the non-impact fee share of related capital improvement costs.

13.10 Other public improvements.

Payment of a public capital facilities impact fee does not restrict the City or the Planning Board in requiring other payments, including such payments relating to the cost of extensions of water and sewer mains or the construction of roads or streets or other infrastructure and facilities as may be required by the subdivision or site plan review regulations.

13.11 Premature and scattered development.

Nothing in this Ordinance shall be construed so as to limit the authority of the Manchester Planning Board to provide against development which is scattered or premature, requires an

excessive expenditure of public funds, or otherwise violates the City of Manchester Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

13.12 Periodic review.

The Impact Fee Schedule shall be reviewed annually by the Planning Board, using the "Methodology" report. Such review may result in recommendations for adjustment to one or more of the fees based on the most recent data, as may be available from the Bureau of the Census, local property assessment records, market data reflecting interest and discount rates, or current construction cost information for public capital facilities, etc. The Planning Board shall furnish its recommendations to the Board of Mayor and Aldermen, who shall have the authority to change the Impact Fee Schedule.

13.13 Effect on prior agreements for payment of impact fees

The provisions of this Article shall supersede any impact fees which are unpaid as of the effective date of this Ordinance.

ARTICLE 14. APPEALS TO THE ZONING BOARD OF ADJUSTMENT

14.01 Zoning Board of Adjustment (ZBA)

A. Appointment and Terms

Pursuant to RSA 673, Local Land Use Boards, a ZBA shall be established, consisting of five (5) members and up to five (5) alternate members, all appointed by the Mayor subject to confirmation by the Board of Mayor and Aldermen for three (3) year terms. Alternate members may fulfill the duties and responsibilities of a regular member when a regular member is disqualified from consideration of a particular application.

B. Organization and Rules of Procedure

On an annual basis, the ZBA shall elect a chairman and other officers from among its membership. The ZBA shall adopt, and from time to time amend, rules of procedure for the conduct of business. The rules of procedure shall establish a regular meeting schedule for the consideration of appeals.

14.02 Powers and Duties of the ZBA

A. Interpretation of the Ordinance:

The ZBA shall:

1. Hear and decide appeals where it has been alleged that there is an error in any order, requirement, decision, or determination by the Director of Planning and Community Development Department in the administration of this Ordinance. The ZBA may affirm or reverse such order, requirement, decision, or determination, in whole or in part, or may modify the same; ***(Rev. 4/21/09)***

2. Hear and render determinations on any questions relative to the meaning of the text of this Ordinance; and

3. Hear and render determinations on any questions relative to the exact location of any district boundary shown on the zoning map.

B. Authorization of Variances:

1. Upon appeal, the ZBA may authorize a variance from the terms of this Ordinance for a particular use, a parcel of land, an existing building, or a proposed building only when it determines that all of the following five (5) requirements have been satisfied:

a. A denial of the variance would result in unnecessary hardship to the plaintiff;

b. No diminution in value of surrounding property would occur;

c. The proposed use would not be contrary to the spirit of the Ordinance;

d. Granting the variance would benefit the public interest; and

e. Granting the variance would do substantial justice.

2. The applicant bears the burden of presenting evidence sufficient to allow the ZBA to reach conclusions and make findings to support the authorization of a variance.

3. In authorizing a variance, the ZBA may impose such conditions and stipulations as it deems necessary and proper in order to fulfill the purposes and intents of this Ordinance.

4. If the use or construction so authorized by a variance has not commenced within a one (1) year period from the date of the decision, then the variance shall be deemed to have expired and the authorization granted by the ZBA, shall be considered null and void.

5. If after commencement of construction, the property is abandoned for a period of two (2) years, then the variance shall be deemed to have expired and cannot be re-established without a new application process and affirmative decision of the ZBA.

6. Any proposed non-residential variance request located within the Lake Massabesic Protection Overlay District shall be forwarded to the Manchester Water Works for comment prior to the hearing on the variance. **(*Rev. 11/28/06)***

C. Granting of Special Exceptions:

1. The ZBA shall hear and decide requests for Special Exceptions that are specifically authorized in Article 5, Use Regulations, or otherwise in this Ordinance.

2. The ZBA shall grant a request for a Special Exception only where it confirms in writing each of the following findings:

a. The use requested is specifically authorized in the Ordinance;

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety;

c. The requested use will not overload the public utility systems (e.g. sewer and water);

d. The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services;

e. Any requirements and standards for the use as set forth in Article 8, Supplementary Regulations and Standards for Specific Uses, of this Ordinance are fulfilled;

f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the character of the adjacent neighborhood;

g. The proposed location is appropriate for the requested use; and

h. The requested use is consistent with the spirit and intent of this Ordinance and the Master Plan.

3. The applicant bears the burden of presenting evidence sufficient to allow the ZBA to make findings required to support the granting of a Special Exception.

4. In granting a Special Exception, the ZBA may attach conditions as it deems necessary to assure compliance with the purposes of this Ordinance. Such conditions may include but are not limited to the following:

a. Increasing the lot size or yard dimensions;

b. Limiting the lot coverage or building height;

c. Specifying the location and the number of vehicular curb-cuts to the property;

d. Requiring additional on-site parking or loading spaces;

e. Requiring additional landscaping and screening;

f. Limiting the number of occupants of a building, and the methods and times of operation of a use;

g. Restricting the number, size, and illumination of signs;

h. Modifying the exterior appearance of a building; and

i. Providing for specific locations or layout of facilities on the property.

5. If the use or construction so authorized by the granting of a Special Exception has not commenced within a one (1) year period from the date of the decision, then the Special Exception shall be deemed to have expired and the ZBA's decision rendered null and void.

6. If, after commencement, a Special Exception is abandoned or discontinued for a period of two (2) years, then the Special Exception shall be deemed to have expired and cannot

be re-established without a new application process and the affirmative decision of the ZBA.

14.03 Application Procedure for the ZBA

A. Application Fees

A non-refundable fee shall be submitted together with an application to cover the costs of the advertising, notification, and processing of the application as well as any special investigative studies deemed necessary by the ZBA.

B. Submission Materials

An application to the ZBA shall include a completed application form, plans, and supplemental information as may be required for the specific type of appeal. The application shall be filed at least fourteen (14) days before a regularly scheduled meeting of the ZBA.

C. Notification

A notice of a public hearing on an application shall be given to the applicant and to all abutters by certified mail not less than five (5) days before the date of the hearing. Notice shall also be given to each member of the ZBA, the Mayor, the Alderman of the Ward in which the application is located, and the Planning and Community Development Department. A public notice shall be posted in two (2) separate and distinct public places, and placed in a newspaper of general circulation in the City of Manchester, not less than five (5) days before the date of the hearing. ***(Rev. 4/21/09)***

D. Public Hearing

At the public hearing, the ZBA shall hear or receive oral or written testimony from the applicant and all abutters, and any non-abutter who can demonstrate they are directly affected. Representations made at the public hearing or material submitted to the ZBA shall be deemed to be conditions of any subsequent decision of the ZBA. The ZBA may convene or reconvene the public hearing at the site of the proposed use in order to permit observations concerning the site to become part of the record of the hearing and decision.

E. Referral to Planning Board

Prior to taking final action on an application, the ZBA may request review and recommendation from the Planning Board or Planning Staff. The Planning Board or Planning Staff shall respond to the ZBA within thirty (30) days of a referral. Any recommendation received from the Planning Board or Planning Staff shall be disclosed at meeting of the ZBA, and shall become a part of the record of the application. In its review, the Planning Board or Planning Staff shall consider the proposed use as it relates to the neighborhood and the City, and its conformance to the spirit and intent of the Master Plan and this Ordinance.

F. Action on the Application

The ZBA shall approve, deny, or approve with conditions, each application upon which a hearing has been held. Action on an application may be tabled from the public hearing to another meeting of the ZBA. A concurring vote of three members of the ZBA shall be necessary for a decision on an application. Only members who were present at the hearing may vote on the application.

G. Issuance of a Decision

Within seventy-two (72) hours after a vote on an application, a written record of the decision shall be available for public inspection at the office of the ZBA. The record of decision shall state whether the application was approved or denied, include any conditions if approved, and state the reasons for a denial. A copy of the record of decision shall be sent to the applicant by first class mail, and copies shall be made available to the Planning and Community Development Department, and the Chairman of the Board of Assessors. ***(Rev. 4/21/09)***

H. Rehearing

Within twenty (20) days after a decision of the ZBA, any party to the action or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the decision, and must specify such grounds in the motion for rehearing. The ZBA may grant a rehearing if, in the opinion of the ZBA, there is good reason, based on the motion.

I. Subsequent Applications

Once an application has been denied by the ZBA, the same application may be considered as a new application by the ZBA if, and only if, the ZBA finds that the new application is materially different in nature and degree from the prior application. The applicant bears the burden of providing evidence sufficient to allow the ZBA to find that a material change in circumstance has occurred, so that the application should be considered as a new application.

J. Appeal to Superior Court

No appeal from any decision of the ZBA may be taken to the Superior Court unless the appellant has first made application for a rehearing as provided above.

ARTICLE 15 - ADMINISTRATION AND ENFORCEMENT

15.01 Powers and Duties of Director of Planning and Community Development Department. *(Rev. 4/21/09)*

A. Interpretation and Enforcement of Ordinance. The Director of Planning and Community Development Department shall have the authority to administer and enforce the provisions of this Ordinance. The Director of Planning and Community Development Department shall have the responsibility to interpret this Ordinance for the purpose of determining compliance of existing or proposed buildings, structures, and other development applications with the provisions thereof. [See also Article 5, Section 5.05, Administrative classification of uses not specified or change in use, describing the authority of the Director of Planning and Community Development Department to make an administrative decision of a land use or land use change that is not specifically listed in the Table of Uses.]

B. Enforcement of Conditions of Approval. Where a Conditional Use permit has been issued by the Planning Board, or where a Special Exception or Variance has been issued by the Board of Adjustment, it shall be the duty of the Director of Planning and Community Development Department to enforce the specific conditions of approval attached to such decisions by the land use board(s).

C. Establishment of Application Requirements. The Director of Planning and Community Development Department is empowered to require that an applicant for a building permit, submit application forms accompanied by any supporting documentation that is deemed reasonably necessary to make findings of compliance with the provisions of this Ordinance. An application for a building permit shall also include plans and detailed drawings to demonstrate proposed construction activities and drawings required for Building Code compliance.

15.02 Permits Required.

A. Building Permit. It shall be unlawful to erect, construct, reconstruct, convert or alter a structure, change the use, or increase the intensity of use, of a building, structure or lot without applying for and receiving from the Director of Planning and Community Development Department the required permit. ***(Rev. 4/21/09)***

B. Approvals required prior to building permit. No building permit shall be issued until all other required approvals are secured by the applicant. Such approvals may include, but shall not be limited to Special Exception, Variance, Conditional Use permit, Site Plan approval, or Subdivision approval. Verification of such approvals and all conditions shall be made by the Director of Planning and Community Development Department prior to issuance of a building permit. ***(Rev. 4/21/09)***

C. Certificate of Occupancy. It shall be unlawful to use or occupy any structure or lot for which a permit is required without the owner applying for and receiving, from the Director of Planning and Community Development Department, a certificate of occupancy. ***(Rev. 4/21/09)***

D. Permit and Certificate fees. Fees shall be as established by schedules adopted by the Board of Mayor and Aldermen.

15.03 Expiration of permits and approvals.

A. Building Permits. A building permit shall be valid for a period of twelve (12) months from the date of issuance. A building permit shall become invalid if:

1. The construction for which a building permit has been issued has not commenced within one (1) year of the date of issuance of the permit; or

2. The authorized construction or development, once begun, is suspended or abandoned for a continuous period of six (6) months; or

3. A certificate of occupancy has not been obtained, or the authorized use has not been established, within two (2) years of the date of issuance of the building permit.

B. Special Exceptions, Variances, and Conditional Use permits. Conditional use permits issued by the Planning Board, or Special Exceptions and Variances issued by the Board of Adjustment shall automatically expire one (1) year after the date of approval if: (***Rev. 9/5/06)***

1. The conditions of approval attached by either board have not been met; or

2. Any related state or local permit or approval has not been secured; or

3. The action or use authorized has not commenced.

15.04 Violations.

A. Notice of violation and order. The Director of Planning and Community Development Department shall serve a notice of "VIOLATION and ORDER" to any person responsible for the erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any building or other structure or use of any lot in violation of the provisions of this Ordinance; or in violation of any approved plan, drawing, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Ordinance; and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a time to be specified by the Director of Planning and Community Development Department. ***(Rev. 4/21/09)***

B. Owner under notice to secure site from hazards. Any owner who has been served with a notice of “VIOLATION and ORDER” shall not leave any structure or lot in such a condition as to be a hazard or menace to the public health, safety or general welfare. The Director of Planning and Community Development Department shall have the authority to direct the owner to secure the premises, to avoid hazard to the public, and the discretion to specify the means by which the premises are to be secured. ***(Rev. 4/21/09)***

C. Prosecution of violation. If a notice of "VIOLATION and ORDER" is not complied with promptly, the Director of Planning and Community Development Department shall immediately take the necessary action to cause a summons to be issued to answer a complaint in the Manchester District Court. In appropriate cases, the City Solicitor will be requested to bring an action in equity in the Hillsborough County Superior Court to enjoin the violation. ***(Rev. 4/21/09)***

D. Penalty for violation. Any person who shall violate a provision of this Ordinance or shall fail to comply with any of the requirements thereof or who shall use, erect, construct, alter, or repair a building or structure in violation of an approved plan or directive of the Director of Planning and Community Development Department, or of a permit or certificate issued under the provisions of this Ordinance, shall be guilty of a violation and shall be subject to a fine not exceeding five hundred (500) dollars for each offense. Each day that such violation continues after a notice of "VIOLATION and ORDER" has been issued, constitutes a separate and distinct offense. Further such violations are subject separately to **Chapter 38** of The Code of Ordinances of the City of Manchester, NH (the issuance of citations and their penalties). ***(Rev. 4/21/09)***

E. Remedy. The imposition of the penalty above prescribed shall not preclude the City Solicitor from instituting additional proceedings at law to prevent any unlawful action, use or condition or to restrain, correct or abate such violation.

ARTICLE 16. AMENDMENTS

16.01 Initiation of a Proposal to Amend the Ordinance

A. Power to Amend

The Board of Mayor and Aldermen may, from time to time, amend, supplement, or repeal the provisions of this Ordinance. Amendments may be initiated by the Board of Mayor and Aldermen, the Planning Board, City Administration, or one or more owners of property of the City of Manchester may initiate amendments

16.02 Requirements for Initiation of an Amendment

A. Proposed Amendments to the Zoning Map

A proposal to amend this Ordinance in a manner which affects a zoning district boundary, or which would create a new base or overlay district, or which would result in all or part of a zoning district being reclassified, shall be accompanied by maps, data, and narrative information describing the location, nature, and purpose of the proposed amendment, as follows:

1. A description of the area for which the amendment is proposed;

2. A statement of the purpose and intent of the proposed amendment;

3. A property tax map showing existing zoning districts and the changes and modifications as proposed in the amendment;

4. An evaluation of the impact of the proposed amendment within the affected district(s) and on existing adjacent neighborhoods;

5. A statement of the impact of the proposed amendment on the City's economy, environment, municipal services, and municipal facilities;

6. The names, addresses, tax map number and lot number of all abutting property owners and all properties on the opposite side of the City street; and

7. A non-refundable fee shall be submitted to cover the costs of notification of the public hearing.

B. Proposed Amendments to the Text of this Ordinance

A proposal to amend the text of this Ordinance, which has no effect on district boundaries or classifications, shall be accompanied by narrative information describing the nature and purpose of the proposed amendment, as follows:

1. A description of the provisions and regulations proposed to be inserted and/or deleted in the text of this Ordinance;

2. A statement of the purpose and intent of the proposed amendment;

3. A statement of the impact of the proposed amendment on the City's economy, environment, municipal services, municipal facilities, and neighborhoods; and

4. Where the proposed amendment introduces a new use into a district in which such use is not currently authorized, the submission shall include a property tax map showing the existing zoning districts that will be affected by the amendment.

C. Amendments Initiated by Property Owners

1. In addition to other requirements of this Section, where an amendment is proposed by a property owner(s), the names, addresses, and telephone numbers of those making the request, including their agents and representatives shall be provided, and

2. A non-refundable fee shall be submitted to cover the costs of notification of the public hearing.

16.03 Procedure for Consideration of a Proposed Amendment

A. Decision to Consider an Amendment

Whenever a proposal for an amendment is initiated by any source other than the Board of Mayor and Aldermen, a decision must first be made by the Board of Mayor and Aldermen whether to give formal consideration to such an amendment. The Board of Mayor and Aldermen, in their sole discretion, may summarily deny consideration of any such proposed amendment.

B. Preparation of a Draft Ordinance

The Planning and Community Development Department Department, in consultation with the City Attorney, shall prepare a draft of an appropriate ordinance for any proposed amendment that the Board of Mayor and Aldermen agree to formally consider. ***(Rev. 4/21/09)***

C. Setting of a Hearing Date

Upon receipt of a draft ordinance from the Planning and Community Development Department, the Board of Mayor and Aldermen shall set a date for a public hearing, consistent with the notification requirements of RSA 675:7. ***(Rev. 4/21/09)***

D. Referral of the Amendment for Reports

At the same time, the Board of Mayor and Aldermen may refer the proposed amendment to the Planning Board for a report before or at the public hearing. The Board of Mayor and Aldermen may also refer the proposed amendment to any other City Department, City Board or Commission for a report before or at the public hearing. The Board of Mayor and Aldermen may recess the public hearing, to a specified date, in order to provide sufficient time for review and comment from any City Department, Board or Commission.

E. Action on the Proposed Amendment

After holding a public hearing and receiving all reports, the Board of Mayor and Aldermen shall adopt or reject the amendment by a majority vote, except that a favorable vote of two-thirds (2/3) of the members present shall be required in the event that a protest petition has been filed against the proposed amendment in accordance with RSA 675:5.

F. Publication of the Amended Ordinance

Upon receipt of a copy of an amendment to the text of the Ordinance, as adopted by the Board of Mayor and Alderman and certified by the City Clerk, the Planning and Community Development Department shall cause the text of this Ordinance to be duly revised to reflect the amendment in all subsequent publications of this Ordinance. ***(Rev. 4/21/09)***

G. Revision of the Zoning Map

Upon receipt of a copy of an amendment to the Zoning Map, as adopted by the Board of Mayor and Alderman and certified by the City Clerk, the Planning and Community Development Department shall cause the Zoning Map to be duly revised to reflect the amendment including a notation of the date that the amendment became effective. A copy of the superseded Zoning Map shall be retained for the purpose of verification of any non-conformities created by the amendment. ***(Rev. 4/21/09)***