

CHAPTER 42

ZONING

SECTION ANALYSIS

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42.1 Purpose and Authority.

Pursuant to the authority conferred by Chapter 674:16 of the New Hampshire Revised Statutes Annotated, the zoning regulations and districts as herein set forth are in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fires, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks; assure proper use of natural resources; and other public requirements. They are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality. The regulations do not apply to existing structures nor to the existing use of any buildings, but shall apply to any alteration of a building for use for a purpose or in a manner substantially different from the use to which it was put before alteration.

42.2 Zoning Districts and Zoning Map.

(a) Zoning Districts. The City of Rochester is hereby divided in the following zoning districts:

- A- Agricultural Zone
- R-1 - Residence 1 Zone
- R-2 - Residence 2 Zone
- B-1 - Business 1 Zone
- B-2 - Business 2 Zone
- GRD - Grant Ridge Development Zone
- I-1 - Industry 1 Zone
- I-2 - Industry 2 Zone
- I-3 - Industry 3 Zone
- I-4 - Industry 4 Zone
- I-4A - Industry 4A Zone
- H - Hospital Zone
- AA - Airport Approach Zone
- W - Wetland Conservation Zone
- F - Regulatory Floodway Zone
- AP - Aquifer Protection Zone
- SD - Special Downtown District

(b) Zoning Map. The zoning districts in this ordinance are bounded as shown on the map entitled "Zoning Map of the City of Rochester, New Hampshire, dated March 4, 1986" which accompanies this ordinance and is on file in the Offices of the Director of Planning and Development and the Director of Code Enforcement.

The map and all explanatory matter thereon, is hereby adopted and made a part of this ordinance.

(1) Amendment Relating to Area Northeasterly of Route 202A and Bordering on the Sampson Road. [4][6]

That the following described area be reclassified from an "A - Agricultural Zone" classification to a "R-1 - Residence-1 Zone" classification:

[See Footnote Beginning at the intersection of the northerly sideline of Route 202A with the[6] below]center line of the Richer Brook; thence running in a general northerly and northeasterly direction along the center line of Ricker Brook to its intersection with the southerly boundary of the land now owned by Public Service Company of New Hampshire; thence turning and running in a general easterly direction along the southerly boundary of land of Public Service Company of New Hampshire, crossing the Sampson Road, to a point 1,500 feet from the easterly sideline of Sampson Road, thence turning and running in a general southerly direction on a line parallel with the easterly sideline of Sampson Road and a distance of 1,500 feet easterly therefrom, to a point on the northerly sideline of Route 202A, said point being 1,500 feet from the easterly sideline of Sampson Road; thence turning and running in a general northerly direction by the northeasterly sideline of Route 202A to the point of beginning.

(2) **Amendment Relating to Area of Church Street (Gonic).**

[5]

That the following described area be reclassified from a "R-2 - Residence-2 Zone" classification to an "R-1 - Residence-1 Zone" classification:

Beginning at the southwest corner of Lot #23 on City of Rochester property map #74, heading north along the east side of Church Street, Gonic, to the northwest corner of Lot #25 on City of Rochester property map #75 and from that point to the northeast corner of lot #31 on City of Rochester property map #75 heading south along the west side of Church Street, Gonic, to the southeast corner of lot #31 on City of Rochester property map #74 and from that point back to the southwest corner of lot #23 on City of Rochester property map #74 and from the center line of said Church Street, 200 feet back on both the east side and the west side of said street with the exception of where the land intersects with Route 125 and Sherman Street.

(3) **Amendment Relating to Area Situate on the Northeasterly Side of Rochester Hill Road Abutting the H-Hospital Zone.**

[7]

That the following described areas be classified from an "R-1 - Residence-1 Zone" classification to a "H-Hospital Zone" classification:

(A) A certain tract or parcel of land with the buildings thereon situate on the northeasterly side of Rochester Hill Road, in the City of Rochester, County of Strafford and State of New Hampshire, bounded and described as follows:

Beginning at the southwesterly corner of premises now or formerly of Almond and at the northwesterly corner of the premises herein described, thence running S. 36° 23' E. by and along said Rochester Hill Road a distance of 100 feet to land formerly of Wormhood and now of Stevens; thence turning and running N. 53' 00' E. by and along said other Stevens land a distance of 211.05 feet to land now or formerly of Frisbie Memorial Hospital; thence turning and running S. 89° 28' W. by and along said Hospital land a distance of 19.70 feet to a railroad bound marker set in the ground; thence running N. 36° 23' W. by and along said Hospital land a distance of 88.00 feet to a concrete bound; thence turning and running S. 53' 00' W. a distance of 75.30 feet to a stone bound at land now or formerly of said Almond; thence continuing S. 53° 00' W. a distance of 120.00 feet by and along land of said Almond to the Rochester Hill Road and the point of beginning.

(B) A certain tract or parcel of land situate on the northeasterly side of Rochester Hill Road in the City of Rochester, County of Strafford and State of New Hampshire, bounded and described as follows:

Beginning at a point on the northeasterly side of Rochester Hill Road and the southwesterly corner of other land of Stevens; thence running S. 36° 23' E. by and along said Rochester Hill Road a distance of 18.45 feet to a point to land formerly of Wormhood, now of Stevens; thence turning and running N. 53' 00' E. by and along Stevens land a distance of 236.83 feet to land now or formerly of Frisbie Memorial Hospital; thence turning and running S. 89° 28' W. by and along said Hospital land a distance of 31.54 feet to other land of Stevens; thence turning and running S. 53° 00' W by and along said Stevens land a distance of 211.05 feet to the point of beginning.

(C) A certain tract or parcel of land with buildings thereon situate on the northeasterly side of Rochester Hill Road, in the City of Rochester, County of Strafford and State of New Hampshire, same being designated as Lot #1 on a plan entitled "Boundary Line Revision for Joseph C. & Carol A. Tuck and for George A. & Irene M. Stevens, Rochester Hill Road, Rochester, NH," by Berry Construction Company, Inc., dated March 10, 1985, recorded in the Strafford County Registry of Deeds, bounded and described as follows:

Beginning at a point on the northeasterly side of said road at other land of George A. & Irene M. Stevens, known as 24 Rochester Hill Road, thence running N. 52° 41' 08" E. by and along said Stevens land a distance of 236.83 feet to a point at land now or formerly of Frisbie Memorial Hospital; thence turning and running N. 89° 09' 07" E. by and along said Hospital land a distance of 41.28 feet to a railroad bound found; thence running S. 37° 02' 52" E. by and along said Hospital land a distance of 117.59 feet to a point at land now or formerly of Joseph & Carol Tuck; thence turning and running S. 54° 03' 43" W. by and along said Tuckland a distance of 271.16 feet to Rochester Hill Road; thence turning and running N. 36° 38' 21" W. by and along said Road a distance of 135.62 feet to other land of Stevens and the point of beginning.

(D) A certain tract of land with the buildings situate thereon on the easterly side of the Rochester Hill Road (Route 16) in the City of Rochester, County of Strafford and State of New Hampshire, and being designated as Lots #2 and A on a plan entitled "Boundary Line Revision for Joseph C. and Carol A. Tuck and for George A. and Irene M. Stevens, Rochester Hill Road, Rochester, NH," by Berry Construction Company, Inc., dated March 10, 1985, recorded as Plan #27-57 of the Strafford County Registry of Deeds, bounded and described as follows:

Beginning at a point on the easterly sideline of said Rochester Hill Road at a rebar set at land now or formerly of Stevens (Lot #1), thence running N. 54° 03' 43" E. by and along said Lot #1 a distance of 271.16 feet to a rebar set at land now or formerly of Frisbie Memorial Hospital; thence turning and running S. 37° 02' 52" E. by and along said hospital land a distance of 62.02 feet to an iron pipe in a stone wall at land now or formerly of Leroy E. and Barbara A. Bond; thence turning and running S. 54° 03' 43" W. by and along said stone wall, said Bond land, and land now or formerly of .Margaret A. and Harry Scarth a distance of 271.60 feet to a point on the northeasterly sideline of said Rochester Hill Road (said point being 4.29 feet distant from a drill hole set as shown on said plan); thence running N. 36° 38' 21" W. by and along said Rochester Hill Road a distance of 62 feet to a rebar set at Lot #1 and the point of beginning; containing 16,825 square feet.

(E) A certain tract of land with the buildings thereon situate on the Rochester Hill Road, so called, in said Rochester, County of Strafford and State of New Hampshire, bounded and described as follows:

Beginning at the southwesterly corner of land now or formerly of Harry or Lura Wormhood on said Rochester Hill Road at a stone post set in the ground; thence running northwesterly by said Rochester Hill Road sixtyfive (65) feet to another stone post

set in the ground; thence turning and running northeasterly by land of the Frisbie Memorial Hospital one hundred twenty (120) feet to a stone post set in the ground; thence turning and running southeasterly by said Hospital land sixty-five (65) feet to a stone post set in the ground at land of said Wormhood; thence turning and running southwesterly by said Wormhood land a distance of one hundred twenty (120) feet to the point of beginning.

(4) Amendment Relating to Area Situate on Southeasterly Side of Washington Street (Route 202) and Abutting the Southwesterly Sideline of the Spaulding Turnpike Right-of-Way. [8]

That the following described area be reclassified from an "R-1 -Residential-1 Zone" classification to a "B-2 -- Business-2 Zone" classification:

Beginning on the southeasterly sideline of Route 202 (Washington Street) at its intersection with the southwesterly sideline of the Spaulding Turnpike Right-of-Way; thence running in a general southeasterly direction along the southwesterly sideline of the Spaulding Turnpike Right-of-Way to its intersection with the centerline of Axe Handle Brook; thence turning and running in a general westerly direction along the center line of said Brook to its intersection with the westerly boundary of Public Service Company of New Hampshire Right-of-Way; thence turning and running in a general northerly direction along the westerly boundary of the Public Service Company's Right-of-Way to its intersection with the southeasterly sideline of Route 202 (Washington Street); thence turning and running in a general northeasterly direction along the southeasterly sideline of said Route 202 (Washington Street) to the point of beginning.

(5) Amendment Relating to Area Situate on Route 11 (Farmington Road) and Northwesterly of the Old Four Rod Road. [9]

That the following described area be reclassified from an "I-1 -- Industrial-1 Zone" classification to an "I-3 - Industrial-3 Zone" classification:

Beginning at the centerline intersection of Route 11 and Old Four Rod Road; thence running northwesterly along the centerline of Route 11 a distance of 1500', more or less; thence turning and running southwesterly a distance of 1325', more or less; thence turning and running southeasterly and parallel with Route 11 a distance of 1400', more or less, to the centerline of Old Four Rod Road; thence turning and running northeasterly along the centerline of Old Four Rod Road a distance of 1100', more or less, to the point of beginning.

(6) Amendment Relating to Area Easterly and Westerly of Sherman Street (Gonic). [10]

That the following described area be reclassified from an "R-2 -- Residence-2 Zone" classification to an "R-1 -- Residence-1 Zone" classification:

Beginning at the terminus of the Southerly side of Felker Street, and running in a Northwesterly direction along an imaginary line extending, in the same direction as the course of the Southerly side of Felker Street, from said terminus to the Easterly side of New Hampshire Highway Route 125; thence running Southerly along the Easterly side of New Hampshire Highway Route 125 to its joinder with the most Westerly limit of the existing R-1 zone (two hundred [200] feet Westerly of the Westerly side of Church Street by virtue of amendment adopted September 2, 1986); thence running Northerly along the Westerly limits of the existing R-1 zone of its most Northerly limits at a point on the Easterly side of Sherman Street; thence running Southeasterly and perpendicular to the Easterly side of Sherman Street one hundred (100) feet; thence running

Northerly, parallel to the Easterly side of Sherman Street and one hundred (100) feet distant therefrom, to the Southerly side of Demeritt Street; thence running Northwesterly by the Southerly side of Demeritt Street to its intersection with the Easterly side of Sherman Street; thence running Northeasterly along the Northwesterly terminus of Demeritt Street and the Easterly side of Sherman Street to the intersection of the Easterly side of Sherman Street and the Southerly side of Felker Street; thence running along the Southerly side of Felker Street to the point of beginning.

(7) Amendment Relating to Area Situate on Both Sides of the Rochester Neck Road and between the Rivers. [11]

That the following described area be reclassified from its current "Industry – 4A (I-4A) Zone" classification to an "Industry – 4 (I-4) Zone classification:

Beginning at the confluence of the Cocheco and Isinglass Rivers; thence running in a general northerly and northwesterly direction along the thread of the Cocheco River to a point in the thread of said river, at the northwest corner of Tax Map 267 Lots (as in effect as of April 1, 2002); thence turning and running in a southwesterly direction along said lot line to a point located 2500 feet easterly from the centerline of the right of way for New Hampshire Route 125; thence turning and running in a southerly direction on a line parallel to and 2500 feet easterly of centerline for said road and continuing to the centerline of Rochester Neck Road; thence turning and running in a southeasterly direction along the centerline of Rochester Neck Road to a point 3500 feet easterly of the centerline of the right of way for New Hampshire Route 125; thence turning and running in a south and southwesterly direction on a line parallel to and 3500 feet easterly of the said road and continuing to the Barrington town line; thence turning and running in a southeasterly direction along the Barrington town line to the point where said town line intersects with the thread of the Isinglass River; thence turning and running in a generally southeasterly direction along the thread of the Isinglass River to the point of beginning.

(8) Amendment Relating to Area Situate on Both Sides of the Rochester Neck Road and between the Rivers. [12]

That the following described area be designated as having an "Industry-4A (I-4A) Zone" classification:

Beginning at a point in the thread of the Cocheco River at the northwest corner of Tax Map 267 Lot 2 (as in effect as of April 1, 2002), and thence running in a southwesterly direction along lot line of said parcel to a point located 2500 feet easterly from the centerline of the right-of-way for New Hampshire Route 125; thence turning and running in a southerly direction along a line parallel to and 2500 feet easterly from the centerline of said road and continuing to the centerline of Rochester Neck Road; thence turning and running in a southeasterly direction along the centerline of said road to a point 3500 feet easterly of the centerline of the right of way for New Hampshire Route 125; thence turning and running in a south , southwesterly direction on a line parallel to and 3500 feet easterly of the centerline of the right of way for New Hampshire Route 125 and continuing to the Barrington town line; thence turning and running in a northwesterly direction along said town line, 1500 feet to a point located 2000 feet easterly of the centerline of the right-of-way for said new Hampshire Route 125; thence turning and running in an northeast and northerly direction on a line parallel to and 2000 feet easterly of the centerline of the right-of-way for said New Hampshire Route 125 crossing the Rochester Neck Road and continuing to an iron pipe set in the ground at land of the Rochester Country Club and land of Water Management of New Hampshire, Inc. (formerly Forest Meadows Realty Trust) at a brook or stream; thence

running in an easterly direction to the thread of the Cocheco River; thence following the thread of said River to the point of beginning.

(9) Amendment Relating to Area Situate on the Southerly Side of Rochester Neck Road Near Its Junction With New Hampshire Route 125. [13]

That the following described area be reclassified from an "Agricultural (A) Zone" to an "Industry-3 (1-3) Zone" classification:

Beginning at a point 200 feet easterly from the centerline of the right-of-way for New Hampshire Route 125 at the centerline of Rochester Neck Road; thence running in a general southerly direction along the centerline of said Rochester Neck Road to a point in the centerline of said road located 2000 feet southeasterly of the right-of-way for New Hampshire Route 125; thence turning and running in a southwesterly direction on a line parallel to and 2000 feet southeasterly of the centerline of New Hampshire Route 125 to the Barrington town line; thence turning and running along the Barrington town line in a northwesterly direction to the centerline of the Isinglass River; thence turning and running in a general northerly direction along the centerline of the Isinglass River to a point in the centerline of said river located 200 feet southeasterly of the centerline of New Hampshire Route 125; thence turning and running parallel to and 200 feet southeasterly of the centerline of the right-of-way for New Hampshire Route 125 in a northerly direction to the point of beginning.

(10) Amendment Relating to Area Situated Southwest of the Isinglass River and on Both Sides of Rochester Neck Road [13]

That the following described area be reclassified from an "Agricultural (A) Zone" to an "Industry-2 (1-2) Zone" classification:

Beginning at a point in the thread of the Isinglass River where it intersects the Rochester-Barrington municipal boundary; thence running northeast along the thread of the Isinglass River to the confluence with the Isinglass and Cocheco Rivers; thence running south along the thread of the Cocheco River to the Dover-Rochester municipal boundary; thence running southwest along the Dover-Rochester municipal boundary to the intersection of the Dover-Rochester-Barrington municipal boundaries; thence running northwest along the Rochester-Barrington municipal boundary to the point of beginning.

(11) Amendment Relating to Area Situated Between the Northeasterly Side of the Spaulding Turnpike, the Southerly Side of the Axe Handle Brook and the Axe Handle Road, and the Westerly Side of Route 125. [14]

That the following described parcel be reclassified from a "Residential-2 (R-2) Zone" to a "Business-2 (B-2) Zone" classification:

Beginning at a point where the Axe Handle Road intersects with New Hampshire Route 125, said point being the centerline of said Axe Handle Road; thence running in a generally southwesterly and northerly direction along land of the Spaulding Turnpike to a point where said Turnpike land intersects with the thread of the Axe Handle Brook; thence running in a generally southeasterly direction along the thread of the Axe Handle Brook to a point in the centerline of said brook located approximately 150 feet northeasterly of the centerline of Axe Handle Road at a point where said road turns left in a 90 degree angle; thence turning and running in a generally southeasterly direction along the centerline of Axe Handle Road to the point of beginning.

(12) Amendment Relating to Land Adjacent to the Milton Road and Old Milton Road in

the Vicinity of the Intersection of Such Roads.

[48]

That the following described parcel be reclassified from its current "Residential-1 (R-1) Zone" classification and "Agricultural (A) Zone" classification to a "Business-2 (B-2) Zone" classification:

Beginning at a point which is the intersection of the centerlines of Old Milton Road and the New Hampshire Northcoast Railroad; thence running northerly on the centerline of said railroad to a point which is 400' from the centerline of Old Milton Road; thence turning and running northeasterly on a line parallel with and 400' from the centerline of Old Milton Road to a point which is the westerly corner of the existing southerly terminus of the B-2 zone on the westerly side of Milton Road/Rt. 125; thence turning and running southeasterly about 225' along the terminus of the B-2 zone to the easterly corner of said terminus at the easterly side of Milton Road/Rt. 125; thence turning and running in a general northerly direction following the easterly side of Milton Road/Rt. 125 and along the existing B-2 zone to a point which is the westerly corner of the southerly terminus of the B-2 zone on the easterly side of Milton Road/Rt. 125; thence turning and running northeasterly along the southerly terminus of the B-2 zone to a point which is 200' from the centerline of Milton Road/Rt. 125; thence turning and running southerly about 730'+/- to a point which is 200' easterly from the existing B-2 zone to a point on the westerly sideline of the Spaulding Turnpike off-ramp at land shown on Tax Map 215 as Lot 53; thence turning and running southerly and westerly by said lot 53 and lot 54 to a point which is 200' from the centerline of Old Milton Road; thence turning and running southwestwardly on a line parallel with and 200' from Old Milton Road to a point on the centerline of the New Hampshire Northcoast Railroad; thence turning and running northerly along the centerline of the New Hampshire Northcoast Railroad to its intersection with the centerline of Old Milton Road at the point of beginning.

(13) Amendment Relating to Area Situated on the Easterly Side of Cove Court Adjacent to the Cocheco River.

[49]

That the following described parcel be reclassified from a "Residential-2 (R-2) Zone" to a "Business-2 (B-2) Zone":

Beginning at a point on the Easterly side line of Cove Court which point is where the zoning district division line separating the B-1 zone from the R-2 zone crosses Cove Court, and which point is also approximately 165 feet North of the intersection of Cove Court and North Main Street; thence running N 7° 38' E along the easterly side line of Cove Court a distance of approximately 135 feet to lot 42-236 as shown on the City of Rochester tax maps; thence running N 13° 19' 21" E along the easterly side of Cove Court to lot 42-235 as shown on the City of Rochester tax maps a total distance of 97.99 feet, more or less; thence turning and running S 86° 09' 44" E along said lot 42-235 a distance of 74.6 feet, more or less, to the Cocheco River; thence turning and running in a southerly direction along the Cocheco River a distance of 96 feet, more or less, to lot 42-237 as shown on the City of Rochester tax maps; thence continuing to run in a southerly direction along the said Cocheco River an approximate distance of 170 feet to a point where the zoning district line dividing the B-1 zone from the R-2 zone crosses said lot 42-237; thence turning and running in a westerly direction through said lot 42-237 along the said zoning district boundary line an approximate distance of 140 to Cove Court, being the point of beginning.

(14) Amendment Relating to Area Situate on the Southwesterly Side of Route 11 in the Vicinity of the Extension of the Old Four Rod Road.

[50]

That the following described area be reclassified from an "I-1 - Industrial - 1 Zone" classification to an "I-3 - Industrial - 3 Zone" classification:

Beginning at a point in the centerline of New Hampshire Route 11, at its Intersection with the extension of the centerline of the Old Four Rod Road; thence running southeasterly along the centerline Route 11 a distance of 1,800 feet, more or less, to a point in the centerline of New Hampshire Route 11; thence turning and running in a southwesterly direction on a line parallel with and 1,800 feet southeasterly from the centerline of Old Four Rod Road a distance of 1,600 feet, more or less, to a Point exactly 100 feet northeasterly of the rear property line of the existing infinity Rochester Properties, Limited Partnership property, thence turning and running northwesterly on a line parallel with, and northeasterly of, an imaginary extension of said rear property line of said Infinity Rochester Properties, Limited Partnership property, 1,800 feet, more or less, to the centerline of Old Four Rod Road; thence turning and running northeasterly along the centerline of the Old Four Rod Road a distance of 1,600 feet, more or less, to the centerline of New Hampshire Route 11 and the point of beginning.

(15) Amendment Relating to the Area Situate Between the Old Dover Road and N.H. Route 125. [53]

That the following described area be reclassified from an "I-2 - Industry-2 Zone" classification to a "I-3 - Industry-3 Zone" classification:

Beginning at a point in the center line of Old Dover Road at the point at which the current "B-2 - Business-2 Zone" and the existing "I-2 - Industry-2 Zone" meet near the intersection of N.H. Route 125 and the Old Dover Road; thence running in a general southerly direction along the center line of said Old Dover Road to a point where the center line of the said Old Dover Road intersects with the center line of the exit ramp for Exit 11 from the Spaulding Turnpike; thence turning and continuing to run in a general southerly direction along the center line of the Exit 11 ramp from the Spaulding Turnpike to the center line of the said Spaulding Turnpike; thence turning and running in a general northeasterly direction following the center line of the Spaulding Turnpike to a point in the thread of the Cocheco River thence turning and running in a general northerly direction along the thread of the Cocheco River to the center line of N.H. Route 125; thence turning and running in a northeasterly direction along the center line of N.H. Route 125, to a point, which point is the northwesterly corner of the currently existing "I-2 - Industry -2-Zone;" then turning and running in a general easterly direction along the existing Zone Line between the "B-2 - Business-2 Zone" and the existing "I-2 - Industry-2 Zone" to a point in the center line of the Old Dover Road, said point being the point of beginning.

(16) Amendment Relating to the Area Situate Between Summer Street and Linscott Street. [54]

That the following described area be reclassified from an "R2 - Residence-2 Zone" classification to a "B-2 - Business 2 Zone", classification:

Beginning at a point which is the intersection of centerlines of Summer Street and Wakefield Street; thence running northerly along the centerline of Wakefield St. 500'+ to a point opposite the centerline of Linscott St.; thence turning and running easterly along the centerline of Linscott

St. 300'± to the centerline of Columbus Ave. Ext.; thence turning and running southeasterly along the centerline of Columbus Ave. Ext. 515'+ to the centerline of Summer St.; thence turning and

running westerly along the centerline of Summer Street 500'± to the centerline of Wakefield St. at the point of beginning.

(17) Amendment Relative to the Area Situate on the Southwesterly Side of Route 11 in the Vicinity of the Northgate Apartments and Land Now or Formerly of Casaccio. [55]

That the following described area be reclassified from an "I-1 - Industrial-1 Zone" classification to a "B-2 - Business-2 Zone" classification.

Beginning at a point in the centerline of NH Route 11, also known as the Farmington Road, such point being the easterly corner of the current "I-1 - Industrial-1 Zone" zoning district boundary at its point of intersection with the existing "B-2 - Business-2 Zone" zoning district; thence running in a southwesterly direction along the northern terminus of the existing "B-2 - Business-2 Zone" district boundary line, a distance of approximately 500 feet more or less to the point at which such northern terminus of the current "B-2 - Business-2 Zone" zoning district intersects with the southeasterly sideline of land now or formerly of Casaccio; thence turning and continuing to run in a southwesterly direction along the southeasterly sideline of said land now or formerly of Casaccio to a point at land now or formerly of Grenier, said point being the southerly corner of the track herein described and of said land now or formerly of Casaccio; thence turning and running in a northwesterly direction along said land now or formerly of Grenier along the southwesterly boundary of land now or formerly of Casaccio and of land now or formerly of Hamilton to a point at land now or formerly of Boire and Worster, said point being the westerly corner of the track herein described and the southerly corner of said land now or formerly of Boire and Worster; thence turning and running northeasterly along said land now or formerly of Boire and Worster to a point in the southerly sideline of NH Route 11; thence continuing to run northeasterly along the same course from the southerly sideline of NH Route 11 to the centerline of said NH Route 11 at its intersection with the westerly sideline of the "B-2 - Business-2 Zone" district boundary line, said point being the northerly corner of the track herein described; thence turning and running in a southeasterly direction along the centerline of NH Route 11 to the point of beginning.

(18) Amendment to Zoning Ordinance Relative to the Westerly Side of Maple Street and the Pickering Road in Gonic. [56]

That the following describe area be reclassified from "A-Agricultural -A Zone" classification to an "I-2-Industry -2 Zone" classification:

Beginning at a point at the centerline of Maple Street in the Village of Gonic, so-called, said point being the southeasterly corner of the existing Industry-2 Zone located in said centerline; thence running in a general southeasterly and southerly direction along the centerline of Maple Street and Pickering Road to a point, such point being located in the centerline of the aforesaid Pickering Road to a point located on a course W 86 36'05 W along land now or formally of Optical Alignment Systems and Inspection Services, Inc. and continuing along such course across land now or formally of the City of Rochester to a point in the thread of the Cocheco River, thence turning and running in a general northwesterly along the thread of the Cocheco river to a point in the thread of said River at the existing Industry-2 Zone; thence turning and running in a general northeasterly direction along the southeasterly boundary of the current Industry -2 Zone to a point in the centerline of Maple Street; thence turning and running in a general southeasterly direction along the centerline of said Maple Street to the point of beginning.

(19) Amendment to Zoning Ordinance Relative to the Northwesterly Side of Twombly Street. [57]

That the following described area be reclassified from a "R-1 Residence-1 Zone" classification to a "B-2 Business-2 Zone"

Lying in said North Main Street Zoning District Boundary and located 200 feet more or less along the centerline of North Main Street in a northwesterly direction from the point of intersection of the center lines of North Main Street and Twombly Street, thence running in a southeasterly direction along the centerline of North Main Street a distance of 32 feet more or less (to a point along a line situated 168 feet northwesterly from and the intersection of centerline North Main Street with the centerline of Twombly Street); thence turning and running in a southwesterly direction a distance of 1,550 feet, more or less, along a line parallel to and 32 feet southeasterly of the existing southwesterly boundary of the "B-2 Business-2 Zone" zoning district to a point in the easterly right-of-way line of the Spaulding Turnpike; thence turning and running in a general Northerly direction along the easterly sideline of the Spaulding Turnpike right-of-way to the southeasterly boundary of the existing "B-2-Business 2 Zone" Zoning district to a point in the centerline of North Main Street, such point being the easterly corner of the current "B-2 Business 2 Zone" zoning district lying in said North Main Street and the point of beginning.

(20) Amendment to Zoning Ordinance Relative to the Area Located on Both Sides of the NH Route 11 in the Vicinity of the Farmington Town Line. [58]

That the following described are, which in various locations is currently classified as "A-Agricultural Zone", "B-2-Business-2 Zone", "I-1-Industry-1 Zone", "I-2 Industry-2 Zone", and/or "I-3 Industry-3 Zone":

Beginning at a point in the centerline of North Main Street, such point being the easterly corner of the current "B-2-Business-2 Zone" lying in said North Main Street Zoning District Boundary and located 200 feet more or less along the centerline of North Main Street in a northwesterly direction from the point of intersection of the center lines of North Main Street and Twombly Street, thence running in a southeasterly direction along the centerline of North Main Street a distance of 32 feet more or less (to a point along a line situated 168 feet northwesterly from and the intersection of); thence turning and running in a southwesterly direction a distance of 1,550 feet, more or less, along a line parallel to 32 feet southeasterly of the existing southwesterly boundary of the "B-2 Business-2 Zone" zoning district to a point in the easterly right-of-way line of the Spaulding Turnpike; thence turning and running in a general Northerly direction along the easterly centerline of North Main Street with the centerline of Twombly Street sideline of the Spaulding Turnpike right-of-way to the southeasterly boundary of the exiting "B-2 Business-2 Zone" Zoning district to a point in the centerline of North Main Street, such point being the easterly corner of the current "B-2 Business-2 Zone" zoning district lying in said North Main Street and the point of beginning.

(21) Amendment to Zoning Ordinance Relative to the Ten Rod Road and Capital Circle Area: [67]

That the following described area be reclassified from "A-Agricultural Zone" classification to "R-1-Residence -1 Zone."

Beginning at a point situate 200 Feet southwesterly from the center line of the Ten Rod Road, said point being the westerly corner of the existing Residence-1 Zone in land now or formerly of

the Rochester Cemetery Association; thence running in a northwesterly direction along a line parallel to and 200 Feet southwesterly from the center line of the Ten Rod Road across land now

or formerly of the Rochester Cemetery Association to a point in the northwesterly sideline of property now or formerly of the Rochester Cemetery Association, said point being located 200 Feet southwesterly from the center line of the Ten Rod Road; thence turning and running northeasterly along the northwesterly boundary of said land now or formerly of the Rochester Cemetery association and across a portion of the Ten Rod Road a distance of 200 Feet, more or less, to a point in the center line of the Ten Rod road; thence turning and running in a southeasterly direction along the centerline of the Ten Rod Road to a point located in the center line of said road on a course which is an extension southwesterly of the southeasterly boundary of land now or formerly of Carol Ford; thence turning and running in a northeasterly direction across the northeasterly side of the Ten Rod Road and along the southeasterly and southwesterly boundaries of land now or formerly of Richard T. Glidden, Leon J. Cardinal and of the Jean W. Egerly Revocable Trust to a point in the northwesterly boundary of the existing Residence-1 Zone; thence turning and running in a southwesterly direction along the northwesterly boundary of the existing Residence-1 Zone to a point, said point being located 200 Feet northwesterly of the centerline of the Ten Rod Road at the point where said northwesterly boundary of the current Residence-1 Zone turns and runs in a northwesterly direction; thence turning and running in a northwesterly direction along the northeasterly boundary of the existing Residence-1 Zone on a line parallel to and 200 Feet northeasterly from the center line of the Ten Rod Road to a point, said point being the point at which the boundary line of the existing Residence-1 Zone turns and runs in a southwesterly direction; thence turning and running in a southwesterly direction along the northwesterly boundary of the existing Residence-1 Zone a distance of 400 Feet to the point of beginning.

(22) **Amendment Relating to Area In The Vicinity of Ledgerview Drive.** [68]

That the following described area be reclassified from an "A-Agricultural Zone" classification to a "R-1 Residential-1 Zone" classification.

Beginning at a point in the center line of the Hansonville Road at its intersection with the southerly boundary of the existing R-1 Residence-1 Zone adjoining the southerly side of Oak Street in Gonic, said point being located approximately 200 Feet southwest from the center line of Oak Street, Gonic; thence running southwesterly along the center line of Hansonville Road to a point located in the center line of said Hansonville Road on a course which is an extension to the center line of said Hansonville Road from the westerly corner of land now or formally of Blackhawk Corporation; thence turning and running in a southeasterly direction across the southeasterly half of Hansonville Road and the southwesterly boundary of land now or formally of Blackhawk Corporation to a point, such point being the southerly corner of land now or formally of Blackhawk Corporation; thence turning and running in a northeasterly direction along the easterly boundary of said land now or formally of Blackhawk Corporation to a point in the center line of a stream forming the boundary between land now or formally of said Blackhawk Corporation and land now or formally of Gerald and Theresa Gilman; thence turning and running in a general northwesterly direction of the aforementioned stream to a point where the thread of said stream intersects with the southerly boundary of the existing R-1 Residential-1 Zone; thence turning and running in a general westerly direction along the southerly boundary of said R-1 Residence-1 Zone to the center line of the Hansonville Road, said point being the point of beginning."

(23) **Amendment Relating to Area Situate Off Old Milton Road.** [69]

That the described area be reclassified from an "I-2 Industry-2 Zone" classification to a "A-Agricultural Zone" classification:

Beginning at a point in the westerly sideline of land now or formerly of New Hampshire Northcoast Corporation Railroad, such point being the northerly corner of land now or formerly of one Ellen M. Paquette; thence running in a general southwesterly direction along the northwesterly boundary of land now or formerly of Ellen M. Paquette, land now or formerly of Frank McCutcheon, Jr., land now or formerly of David and B. Paquette, and land now or formerly of Shirley Ford, a distance of approximately 925 feet, more or less, to a point, said point being the southerly corner of the tract herein described; thence turning and running in a northwesterly direction along the northeasterly boundary of said land now or formerly of Shirley Ford a distance of 651.19 feet, more or less, to a point in the easterly sideline of the Spaulding Turnpike right-of-way; thence turning and running in a general northerly direction along the easterly sideline of the Spaulding Turnpike right-of-way to a point at land now or formerly of Ossipee Aggregates; thence turning and running northeasterly along said land now or formerly of Ossipee Aggregates a distance of 500.42 feet, more or less, to a point, said point being northerly corner of the tract herein described; thence turning and running in a southeasterly direction along land now or formerly of said Ossipee Aggregates a distance of 1,081.46 feet, more or less, to a point in the westerly sideline of land now or formerly of New Hampshire Northcoast Corporation Railroad; thence turning and running in a general southerly direction along the westerly sideline of said land now or formerly of New Hampshire Northcoast Corporation Railroad to the point of beginning.

(24) Amendment Relating to Area Situate off North Main and Union Streets and Located on Both Sides of Wakefield Street in the Vicinity of its Intersection with Columbus Avenue Extension.
[72]

That the following described area be reclassified from an "R-2 Residence 2 Zone" classification to a "B-1 Business 1 Zone" classification:

Beginning at a point, said point being the northwesterly corner of a tract of land currently occupied by The Sullivan House, said lot being classified as Tax Map 116, Lot 160; thence following in a southerly direction the rear property lines of Lots 160, 158, 157 and 156 on Map 116 and in a southeasterly direction of the rear property lines of Lots 385 and 386 on Map 121; thence following the southeasterly property line of Lot 386 on Map 121 in a northeasterly direction until its intersection with the southwesterly property line of a tract of land classified as Tax Map 121, Lot 387; thence following the southwesterly property line of a tract of land classified as Tax Map 121, Lot 387 in a southeasterly direction until it intersects with the existing B-1 Business 1 Zone boundary line at a point 100 feet northwesterly from the center line of Union Street; thence turning and running in a northeasterly direction along the existing boundary line of the B-1 Business 1 Zone boundary line to a point in the center line of Wakefield Street; thence turning and running in a northerly direction along the center line of said Wakefield Street to a point at which the center lines of Wakefield Street and the extension of the center line of Linscott Street into Wakefield Street intersect; thence turning and running in a northeasterly direction along the center line of Linscott Street and the boundary of the existing B-1 Business 1 Zone boundary line across Columbus Avenue to a point in the center line of the former railroad right-of-way abutting Columbus Avenue; thence turning and running in a northwesterly direction along the center line of the aforementioned railroad right-of-way to a point in the center line of said former railroad right-of-way which is an extension on a straight line of the northerly boundary

of the aforementioned Tax Map 116, Lot 160, (The Sullivan Home); thence proceeding in a westerly direction across Columbus Avenue and Wakefield Street on a line which is a straight

line extension of the northerly boundary of the aforementioned Tax Map 116, Lot 160, (The Sullivan Home) to a point in the westerly sideline of Wakefield Street; thence continuing in a straight line along the northerly boundary of said Tax Map 116, Lot 160, (The Sullivan Home) to the point of beginning.”

(25) Amendment to Zoning Ordinance Relative to Land Situate Off the Southwesterly Side of the Old Dover Road in the Vicinity of its Intersection with the Tebbetts Road, Between Railroad Avenue and the Centerline of said Tebbetts Road. [74]

That the following described area be reclassified from an “A-Agriculture Zone” classification to a “R-1 Residential 1 Zone” classification:

Beginning at a point in the centerline of the Tebbetts Road, so-called, at its intersection with the existing southwesterly boundary of the R-1 Residence-1 Zone, such point being the northeasterly corner of the tract herein described; thence running in a southwesterly direction along the centerline of the Tebbetts Road to the point of its intersection with centerline of the Spaulding Turnpike; thence turning and running in a northwesterly direction along the centerline of said Spaulding Turnpike to the existing northwesterly boundary of the A-Agricultural Zone district boundary line; thence turning and running northeasterly along the existing northwesterly boundary of the A-Agricultural Zone district boundary line to its intersection with the existing southwesterly boundary of the R-1 Residence-1 Zone; thence turning and running southeasterly along the existing southwesterly boundary of the R-1 Residence-1 Zone to a point in the centerline of the Tebbetts Road, such point being the point of beginning.”

(26) Amendment to Zoning Ordinance Relative to Land Situate Northeasterly of the Intersection of the Center Lines of Portland Street (East Rochester) and Salmon Falls Road in the Vicinity of Summer Street and Summer Street Extension. [76]

That the following described areas be reclassified from their existing "R-1 Residence-1 Zone" and "R-2 Residence-2" classifications to a "R-1 Residence-1 Zone" classification.

Beginning at a point in the center line of Portland Street (East Rochester), said point being the point of intersection of the center lines of said Portland Street and Salmon Falls Road; thence running northeasterly along the center line of said Portland Street to the point of intersection of the center line of said Portland Street with the center line of Summer Street (East Rochester); thence turning and running in a general southeasterly direction along the center line of said Summer Street to the point of the intersection of said center line of said Summer Street with the center line of Summer Street Extension; thence turning and running in a general southwesterly direction along the center line of Summer Street Extension in East Rochester to the point of intersection of such center line with the center line of Salmon Falls Road (a portion of the aforesaid Summer Street Extension sometimes being referred to as Old Ox Road); thence turning and running in a northwesterly direction along the center line of the Salmon Falls Road to its point of intersection with the center line of Portland Street, such point being the point of beginning.”

(27) Amendment to Zoning Ordinance Relative to Land Situate Northeasterly of Weare Street in East Rochester. [77]

That the following described area be reclassified from an “AI-2-Industry 2” classification to a “R-2 Residence 2 Zone” classification:

Beginning at a point in the centerline of Weare Street in East Rochester, such point being the point of intersection between the centerline of Weare Street and the centerline of Cocheco Avenue; thence running in a southeasterly direction along the centerline of Weare Street to the northwesterly boundary of the existing "R-2 Residence 2 Zone" boundary line; thence turning and running northeasterly along the northwesterly boundary of said "R-2 Residence 2 Zone" boundary line to the thread of the Salmon Falls River; thence turning and running in a general northerly direction along the thread of said Salmon Falls River to a point in the thread of said river, which point is the point of intersection of said thread of said Salmon Falls River with the southeasterly projection to the thread of the said Salmon Falls River of the northeasterly boundary line of the property currently shown as Rochester Tax Map 102, Lot 21; thence turning and running in a general northwesterly direction to the northerly boundary line of said Rochester Tax Map 102, Lot 21 and continuing to run along said northeasterly boundary of said lot known as Rochester Tax Map 102, Lot 21 to a point, said point being the northernmost corner of said lot known as Rochester Tax Map 102, Lot 21; thence turning and running in a general southerly direction along the westerly boundary of said lot known as Rochester Tax Map 102, Lot 21 to a point in the northerly sideline of Front Street; thence continuing to run along the previous course to the centerline of Front Street; thence turning and running in a general easterly direction along the centerline of said Front Street to its intersection with the centerline of Cocheco Avenue; thence turning and running in a general southerly direction along the centerline of Cocheco Avenue to a point, said point being the point of beginning."

(28) Amendment to Ordinances Regarding Southerly Side of Whitehall Road, Northerly of the New Hampshire Northcoast Railroad Corridor and Northwesterly of Shaw Drive.

[81]

That the following described area be reclassified from an "R-2 Residence 2" classification to a "R-1 Residence 1 Zone" classification:

Beginning at a point in the centerline of Whitehall Road, so-called, such point being the point of intersection between the said Whitehall Road and the centerline of the New Hampshire Northcoast Railroad Corridor; thence turning and running in a northeasterly direction along the centerline of said Whitehall Road to a point opposite the northeasterly extension of the centerline of Shaw Drive, so-called; thence turning and running in a general southerly direction along the centerline of Shaw Drive and continuing on a southerly course along the centerline of the so-called "Old Ten Rod Road" to a point in the centerline of the New Hampshire Northcoast Railroad Corridor; thence turning and running in a general westerly direction along the centerline of said New Hampshire Northcoast Railroad Corridor to point of beginning.

(29) Amendment to Zoning Ordinance Relative to Land Situate Off the Westerly Side of NH Route 125 and Off the Southerly Side of Flagg Road Near Their Intersection. [79]

That the following described area be reclassified from an "A-Agricultural Zone" classification to a "B-2 Business 2 Zone" classification:

Beginning at a point on the existing Business-2 Zone /Agricultural Zone boundary line, said point being located about 200 feet northwesterly from the centerline of NH Route 125 at the center of the Isinglass River; thence turning and running in a general westerly direction along the centerline of the Isinglass River 925 feet, more or less, to a point opposite the extension of the common boundary of Lots 55 and 57 as shown on Tax Map 262; thence turning and running northeasterly along said common boundary

between Lots 55 and 57 a distance of 700 feet, more or less, to the easterly corner of said Lot 57; thence turning and running northwesterly along the common boundary between Lots 55 and 57 a distance of 635 feet, more or less, to a point at the southeasterly corner of Lot 57-3; thence turning and running easterly

along Lots 57-3 and 57-2 a distance of 255 feet, more or less, to a point at the existing Business-2 Zone/Agricultural Zone boundary line, thence turning and running southeasterly a distance of 833 feet, more or less, along the existing southwesterly corner of Lot 53; thence turning and running northeasterly along the westerly boundary of Lots 53 and 54 and following the existing Business-2/Agricultural Zone Line 336 feet, more or less, to a point at a corner of Lot 54; thence turning and running easterly through Lot 54 and following the existing Business-2/Agricultural Zone Line 64.5 feet, more or less, to a point on the existing Business-2/Agricultural Zone Line situated about 200 feet from the centerline of NH Route 125; thence turning and running southerly along the existing Business-2 Zone/Agricultural Zone centerline of NH Route 125, a distance of 1,321 feet, more or less, to the centerline of the Isinglass River and the point of beginning.

(30) AMENDMENT TO ZONING ORDINANCE RELATIVE TO LAND SITUATE ON BOTH SIDES OF ALLEN STREET IN THE VICINITY OF THE NEW HAMPSHIRE NORTHCOAST CORPORATION RAILROAD RIGHT-OF-WAY. [82]

That the following described area be reclassified from its present "A - Agriculture Zone", "I-2 - Industry 2 Zone", and "B-2 - Business 2 Zone" classifications, to a "I-3 - Industry 3 Zone" classification:

Beginning in the centerline of New Hampshire Northcoast Railroad Corporation right-of-way at the point at which such centerline intersects with the northwesterly extension of the northeasterly boundary of the lot known and depicted on Rochester Tax Maps as Lot 2-1, Tax Map 117; thence running in a southeasterly direction across the aforesaid railroad right-of-way to the northerly corner of said Lot 2-1, Tax Map 117; thence continuing in a southeasterly direction along the northeasterly boundaries of Lots 2-1 and 2, Tax Map 117 to a point in the northwesterly boundary of Lot 2-2, Tax Map 117; thence turning and running northeasterly along the northwesterly boundary of said Lot 2-2, Tax Map 117 to the northerly corner of Lot 2-2, Tax Map 117; thence turning and running southwesterly along the northeasterly boundary of Lots 2-2 and 2-7, Tax Map 117 to the easterly corner of Lot 2-7, Tax Map 117; thence turning and running in a southwesterly direction along the southeasterly boundary of Lot 2-7, Tax Map 117 to a point; thence turning and running in a southeasterly direction along the northeasterly boundaries of Lots 2-7 and 2-8, Tax Map 117 to the easterly corner of Lot 2-8, Tax Map 117; thence turning and running in a southwesterly direction along the southeasterly boundary of Lots 2-8 and 2-5, Tax Map 117 to a point in the easterly sideline of Allen Street; thence turning and running in a general westerly direction across Allen Street to the southeasterly corner of Lot 2-9, Tax Map 117; thence turning and running in a southwesterly direction along the southeasterly boundary of Lot 2-9, Tax Map 117 to the southerly corner of Lot 2-9, Tax Map 117; thence turning and running in a northwesterly direction along the southwesterly boundary of Lot 2-9, Tax Map 117 to the easterly sideline of the above referenced railroad right-of-way; thence turning and running in a westerly direction across the above referenced railroad right-of-way to a point in the centerline thereof; thence turning and running in a northerly direction along the centerline of said railroad right-of-way to the point of beginning.

(31) Amendment To Zoning Ordinance Relative To Land Situate On The Northeasterly Side Of NH Route 11 In The Vicinity Of The Little Falls Bridge Road. [83]

That the following described area be reclassified from an “I-3 Industry-3 Zone” classification to a “B-2 Business-2 Zone” classification:

Beginning at a point at which the centerlines of New Hampshire Route 11 and Little Falls Bridge Road intersect; thence running in a southeasterly direction along the centerline of Little Falls Bridge Road to a point in the center line of the former railroad right-of-way, now owned by the State of New Hampshire, Department of Transportation; thence turning and running in a southeasterly direction along the center line of the aforementioned former railroad right-of-way to a point in the centerline of said former railroad right-of-way which point is an extension, on a straight line, of the southeasterly boundary of the known and depicted on the Rochester Tax Maps as Lot 22, Tax Map 216; thence turning and running in a southwesterly direction across the southwesterly half of the aforementioned former railroad right-of-way and along the southeasterly boundaries of the lots known and depicted as Lots 22, 23 and 24, Tax Map 216, and then continuing on the same course to the centerline of N.H. Route 11; thence turning and running in a northwesterly direction along the center line of N.H. Route 11 to a point in the center line of said Route 11 where it intersects with the centerline of Little Falls Bridge Road, such point being the point of beginning.

(32) Amendment To Zoning Ordinance Relative To Land Situate In The Vicinity Of Whitehall Road Near The Existing Hospital Zone. [84]

That the following described area be reclassified from its present “R-1 Residence-1 Zone” classification, to a “Hospital Zone” classification:

Beginning at a point on the centerline of Rochester Hill Road at a point which is the southwesterly terminus of the existing Hospital Zone; thence running northwesterly along the centerline of Rochester Hill Road about 155 feet, more or less, to a point which is the intersection of the centerline of Rochester Hill Road and the extension of the division line of lots now or formerly owned by Michael R. Tobin, Jr. & Pamela A. Parsell (presently shown as Lot 9 on Tax Map 126) and The Frisbie Foundation (presently shown as Lot 10 on Tax Map 126); thence turning and running in a northerly direction along the division line of land of Tobin & Parsell and The Frisbie Foundation 500 feet, more or less, to a point in land now or formerly owned by the Rochester Cemetery Association (presently shown as Lot 19 on Tax Map 126); thence turning and running northeasterly through land of the Rochester Cemetery Association 1,320 feet, more or less, to a point on the centerline of the New Hampshire Northcoast Railroad line; thence turning and running southeasterly along the centerline of the New Hampshire Northcoast Railroad line 2,025 feet, more or less, to a point on the centerline of Whitehall Road; thence turning and running westerly along the centerline of Whitehall Road 1,002 feet, more or less, to the northeasterly corner of the existing Hospital Zone; thence continuing westerly along the centerline of Whitehall Road and following the existing Hospital Zone line 1,213 feet, more or less, to the northwesterly corner of the existing Hospital Zone; thence turning and running southwesterly along the existing Hospital Zone 283 feet, more or less, to the centerline of Rochester Hill Road at the point of beginning. The described area contains 42 acres, more or less.

(33) Amendment To Zoning Ordinance Relative To Land Situate In The Vicinity Of Great Falls Avenue. [92]

That the following described area be reclassified from an “I-2 Industry-2 Zone” classification to a “R-2 Residence-2 Zone” classification:

Beginning at a point in the centerline of Lowell Street, so-called, such point being located in the centerline of said Lowell Street at a point that constitutes the intersection of the said centerline of Lowell Street with the northeasterly extension of the southeasterly boundary of the property shown as Rochester Tax Map 128, Lot 198; thence turning and running in a southwesterly direction along said extension of the southeasterly boundary of the aforesaid lot known as Rochester Tax Map 128, Lot 198 and along the southeasterly boundary of such lot to a point, such point being the southerly corner of the aforesaid lot known as Rochester Tax Map 128, Lot 198; thence turning and running in a northwesterly direction along the southwesterly boundary of Rochester Tax Map 128, Lots 198 and 199 and continuing on the same course across Great Falls Avenue to the southerly corner of the lot known as Rochester Tax Map 128, Lot 201; thence continuing to run in a northwesterly direction along the southwesterly boundaries of Rochester Tax Map 128, Lots 201 and 202 to a point, said point being the westerly corner of the lot known as Rochester Tax Map 128, Lot 202; thence turning and running in a northeasterly direction along the northwesterly boundary of the lot known as Rochester Tax Map 128, Lot 202 to a point in the southwesterly sideline of Lowell Street; thence continuing on the same course in a northeasterly direction to the centerline of Lowell Street; thence turning and running in a southeasterly direction along the centerline of Lowell Street to the point of beginning.

(34) Amendment to Zoning Ordinance Relative to Land Situate in the Vicinity of the Intersection of Brock Street and Washington Street (NH Route 202) [120]

That the following described area be reclassified from an "R-1 - Residence-1 Zone" and an "R-2 - Residence-2 Zone" classification to a "B-1 - Business-1 Zone" classification:

Beginning at the high water mark of Hurd Brook at the point where Hurd Brook intersects with Brock Street; thence proceeding in a Southeasterly direction along the Easternmost right of way line of Brock Street a distance of One Hundred Sixty (160) feet to the property line formerly owned by Hurvey Lagassie; thence turning at approximately right angles and running in an Easterly direction along the Northernmost property line of land formerly owned by Hurvey Lagassie to an intersection with the Hurd Brook; thence following said brook in a Northwesterly direction back to the point of beginning, together with that portion of Brock Street extending from Washington Street approximately 175 feet and to the centerline of said Brock Street.

(35) Amendment to Zoning Ordinances Establishing Granite Ridge Development Zoning District

That Chapter 42, Section 42.2, of the General Ordinances of the City of Rochester, entitled "Zoning Districts and Zoning map", as presently amended, be further amended by amending subsection (b) of said Section 42.2, entitled "Zoning Map", so as to classify that area depicted on the annexed **EXHIBIT A** as being "Granite Ridge Development Zone", as hereafter being classified as "Granite Ridge Development Zone", and by repealing the existing primary zoning classification for the land so depicted on said **EXHIBIT A** (i.e. "A - Agricultural Zone"; "R-1 - Residence 1 Zone"; "R-2 - Residence 2 Zone"; "B-1 - Business 1 Zone"; B-2 - Business 2 Zone"; "I-1 - Industry 1 Zone"; "I-2 - Industry 2 Zone"; "I-3 - Industry 3 Zone"; "I-1 - Industry 4 Zone"; "I-4A - Industry 4A"; "H - Hospital Zone"; "AA - Airport Approach Zone"), while retaining any overlay district classification for the land so depicted. Further, that the so-called "zoning map" provided for in subsection (b) of said Section 42.2 be further amended to reflect, and to incorporate therein, the changes in zoning district classification provided for in this amendment.

42.3 Interpretation of Zoning District Boundaries.

Unless otherwise indicated on the zoning map, the zoning district boundary lines are the centerlines of the streets and other public ways, the middle of the channel of waterways, or the centerline of the main tracks of railroad lines. Where zoning district boundaries are so indicated that they parallel the centerlines of streets and other public rights-of-way, such boundaries shall be interpreted as parallel thereto and at such distance therefrom as indicated on the zoning map.

If no distance is given, such dimension shall be two hundred (200) feet from the street lines, right-of-way lines, or such lines extended or the centerline of a block, whichever is less.

42.4 Lots in Two Zoning Districts. [93]

(a) Where the boundary line of a zoning district divides a lot in single or joint ownership at the time of passage of the ordinance establishing such boundary line, the uses and

other standards for either district may, at the option of the owner, extend beyond the zoning boundary line up to a maximum distance of 100 feet from that zoning boundary line. For any area in which this allowance is used, for any period of time in which this allowance is used, that area shall be treated as if its zoning designation were the zone that is being extended.

(b) The provisions of subparagraph (a) of this Section 42.4 shall not apply to a lot divided by an Industry-4 or Industry-4A zoning district boundary line. In the case of a lot divided by an Industry-4 or Industry-4A zoning district boundary line, the uses and regulations permitted and/or applicable to the Industry-4 and/or Industry-4A zoning districts shall not be extended into the adjoining zoning district. [15] [16] [93]

(c) The provisions of subparagraph (a) of Section 42.4 shall not apply to a lot divided by any of the overlay districts, which include the Airport Approach Zone, the Regulatory Floodway Zone, the Conservation Overlay District, the Aquifer Protection Zone, and the Special Downtown District, as defined in detail in this ordinance. [47] [93]

42.5 Application of Regulations Except as hereinafter provided, no building or land shall hereafter be used, constructed, or altered unless in conformity with the regulations herein specified for the zoning district in which it is located. For single-family dwellings in any zone there shall be only one main building erected on each lot except that if lot size and frontage requirements can be met so that future subdivision would be possible, additional dwellings may be permitted on the same lot.

42.6 Definitions.

(a) In this ordinance the following terms, unless a contrary meaning is specifically prescribed in the ordinance, shall have the following meanings:

(1) Accessory Building. A detached subordinate building located on the same lot, the use of which is incidental and subordinate to that of the main building or use of the land.

(2) Accessory Use. A land use located on the same lot which is incidental and subordinate to the main building or use of the land.

(2a) Adult-Oriented Establishments.

For the purposes of Chapter 42 of the General Ordinances of the City of Rochester, the phrase "Adult-Oriented Establishments" shall include, without limitation, "Adult Bookstores," "Adult Motion Picture Theaters," "Adult MiniMotion Picture Theaters," "Adult Cabarets," and/or "Massage Parlors." When used in connection with the phrase "Adult-Oriented Establishments," the following words and phrases shall have the following meanings ascribed to them: [17]

(A) "Adult Bookstore" means an establishment having a substantial or significant portion of its stock and trade in books, films, video cassettes, or magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for sale, rental, or display to patrons thereof, including but not limited to,

establishments having facilities for the presentation of adult entertainment, as defined below, including adult-oriented films, movies or live entertainment, for observation by or display to patrons therein.

(B) "Adult Cabaret" means a nightclub, bar, restaurant or similar establishment which during a substantial portion of the total presentation time, features live performances involving "adult entertainment."

(C) "Adult Motion Picture Theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

(D) "Adult Mini-Motion Picture Theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

(E) "Adult Entertainment" means any exhibition of any adult-oriented motion pictures, live performance, display or dance or any type performance which has as a significant or substantial portion of such performance any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas," removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers.

(F) "Massage Parlor" means an establishment or place primarily in the business of providing non-therapeutic massage services which involve performance of "specified sexual activities" and/or the touching or manipulation of "specified anatomical areas."

(G) "Specified Sexual Activities" means:

- (i) Human genitals in a state of sexual stimulation or arousal;
- (ii) Acts of human masturbation, sexual intercourse or sodomy;
- (iii) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(H) "Specified Anatomical Areas" means:

(i) Less than completely and opaquely covered:

1. human genitals, pubic region;
2. buttocks;
3. female breasts below a point immediately above the top of the areola; and,

(ii) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(3) Airport, Private. A place where aircraft can land and take off, including helicopter landing fields; privately owned and operated.

(4) Airport, Public. A place where aircraft can land and take off, usually equipped with ancillary facilities and owned by a government entity; including helicopter landing fields.

(5) Amusement Enterprise. An establishment engaged in providing amusement or entertainment for a fee or admission charge.

(5a) Alternate Tower Structure (or "stealth facility"). A wireless communications facility designed to blend into the environment so as to be visually unobtrusive. Examples include screened roof-mounted antenna; building mounted antennas painted to match the existing structure; antennas integrated into architectural elements such as clock towers and church steeples; antenna structures resembling utility poles; and antennas placed on trees. [60]

(5b) Antenna. An exterior apparatus designed to transmit or receive electromagnetic waves for telephonic, radio, or television communications. [61]

(5c) Antenna Support Structure. A building, pole, telescoping mast, tower, or other such structure which supports an antenna. [62]

(6) Auto and Truck Service Station. Automobile and truck service stations shall be deemed to refer to all gasoline service stations and/or filling stations, including but not limited to, so-called self-service gas or filling stations.

(6a) Bed and Breakfast Establishment. A single-family or two-family dwelling unit in which up to five (5) rooms, each intended for occupancy by no more than four (4) adults, and are without associated individual kitchen facilities, are rented to transient guests, provided, however, that no such guests shall stay in such establishment for more than fourteen (14) consecutive days or more than twenty-one (21) days in any calendar month. Any dwelling unit operated as aforesaid shall be occupied by its owner or by a live-in manager. Food service shall be limited to paying guests. [18]

(7) Block Frontage. All the property fronting on one side of a street between the intersections of joining streets; or fronting on one side of a street between a street intersection, railroad waterway, or city boundary; in all instances, measured along the street line.

(8) Building. Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or personal property.

(9) Building Height. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat

roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

(10) Campground. A tract of land wherein sites are rented, leased, or purchased and used for temporary occupancy, only for recreational purposes, in tents, camping trailers, recreational vehicles, motor homes, or the like.

(11) Cluster Development. A subdivision of land in which grouped lots of reduced dimensions are permitted in return for permanent protection of open space.

(12) Cabin. A separate building containing a lodging unit consisting of a room or rooms with its own toilet facilities, and offered or to be offered as sleeping accommodations for transient guests for compensation.

(13) Condominium. Real property involving unit ownership created pursuant to RSA 356-B wherein the undivided interest in common areas is vested in the unit owners. In accordance with RSA 356-B:5, the regulation of condominiums under this ordinance shall be based upon the form and type of structure, and not upon the form of ownership.

(13a) Co-Location. Placement on a single support structure of wireless communications equipment serving more than one provider. [62]

(14) Contractor's Storage Yard. A site upon which heavy vehicles and equipment (such as bulldozers, front-end loaders, and back-hoes) and materials used by professional contractors in construction, land clearing, landscaping or other similar activities are stored. Land upon which any of the above items are temporarily stored on-site during the course of an active construction project shall not be considered a contractor's storage yard. [52]

(15) Convalescent Home. A building where three (3) or more infirm or aged persons are housed for compensation and licensed by the State of New Hampshire, including a convalescent hospital, home for the aged, rest home, and similar uses. [52]

(16) Court. An unoccupied open space, on the same lot with a building, which is bounded on three (3) or more sides by the walls of such building. [99]

(17) Coverage. That percentage of the lot area covered by buildings.

(18) Day Care Center. A State-licensed program of child care involving more than one (1) employee and more than six (6) children.

(19) Drive-In Business. A retail or service establishment catering to customers through window or counter service and designed for easy automobile access.

(20) Dwelling. Any building designated or used as the place of residence for one or more families.

(21) Dwelling Unit. A building or a portion thereof designed or used for one family.

(21a) Elderly Housing. Elderly housing means dwelling units of two (2) bedrooms or less, excluding mobile homes and/or manufactured housing, which are intended for, and solely

occupied by persons fifty-five (55) years of age or older.

[88]

(22) Family. One or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

(22a) Family Day Care Home. A residential home in which one (1) care giver (provider) cares for from four (4) to six (6) preschool children plus up to three (3) part-time school age children who attend a full day program outside of the home. The numbers of children set forth in this definition include the provider's own biological, adopted, or foster children under the age of 10 years.

[20]

(23) Farm. Any parcel of land containing at least ten (10) acres which is used in raising of agricultural products, livestock, poultry, and dairy products, including necessary farm structures and storage of equipment used, excluding raising of fur-bearing animals.

(24) Filling Station. An establishment providing fuel, but not service or sales, for motor vehicles.

(25) Frontage. The width of a lot bordering on and providing access to a Class I through Class V public street, but excluding limited access highways, as defined by RSA 230:44, such as the Spaulding Turnpike, Route 16 and associated access ways to the Milton Town Line.

[122]

(26) Gross Floor Area. The total horizontal area of all floors of a building included between surrounding walls.

(27) Healthcare Activities and Facilities. Healthcare activities and facilities include: those that are provided to inpatients and outpatients, by or under the supervision of physicians, consultation, diagnostic, and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick, persons; rehabilitation services for the rehabilitation of such persons; nursing homes, intermediate and extended care facilities; homes for the aged or infirm; health personnel training facilities; home health agencies; facilities for consultations, diagnosis, treatment, and services by persons or organizations properly licensed and authorized to provide healthcare treatment; and related facilities such as laboratories, outpatient departments, administrative service departments, central service facilities, and all such activities and facilities normally associated with and operated in connection with healthcare services.

(28) Home Occupation. Any use conducted entirely within a dwelling or an accessory building which is clearly incidental and secondary to the use of the dwelling purposes and which does not change the character thereof, and in connection with which there is no outside display or storage, nor emission of dust, noise, fumes, vibration or smoke beyond the lot line. Such home occupation shall not employ more than two (2) persons who are not members of the family nor occupy a floor area greater than twenty-five percent (25%) of the floor area of the dwelling unit. Goods sold at retail shall be those manufactured or assembled on the premises. Care of children in the home, provided that no more than three (3) children are cared for, shall be considered a home occupation and shall be considered exempt from parking restrictions and site review. Signs for a home occupation shall be in accordance with the provisions of Section 42.8 of this ordinance.

(29) Hotel. A building or buildings containing lodging units consisting of a room or suite of

rooms, each with separate toilet facilities and offered or to be offered as sleeping accommodations for transient guests for compensation; also frequently including ancillary facilities such as dining areas, meeting rooms, and convenience shops.

(30) Inn. A single structure affording accommodations such as lodging and/or food for transient guests.

(31) Junk yard and /or Junkyard. "Junk yard" and/or "Junkyard" means a place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material. As used in this subdivision, the term includes, but is not limited to, the following types of junk yards:

(a) Automotive recycling yards, meaning a motor vehicle junk yard, as identified in subparagraph (c), the primary purpose of which is to salvage multiple motor vehicle parts and materials for recycling or reuse;

(b) Machinery junk yards, as defined in RSA 236:12, III; and

(c) Motor vehicle junk yards, meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:

(1) Motor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or

(2) Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle. [130]

(32) Motor vehicle junkyard(s) and/or motor vehicle junk yard(s). "Motor vehicle junk yard(s)" and/or "motor vehicle junkyard(s)", meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:

(a) Motor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or

(b) Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle. [130]

(33) Kenel. A structure for the harboring of three (3) or more dogs that are more than six (6) months old.

(34) Lodging House or Rooming House. A building in which three (3) or more rooms are rented with or without table board.

(35) Lot. A parcel of land considered a unit which is occupied or capable of being occupied by a dwelling or dwellings and other buildings and structures accessory thereto, including open spaces.

(36) Manufactured Housing. Any structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a single family habitation with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical systems contained therein.

(37) Mobile Home. A form of manufactured housing which conforms with the definition in (36) above.

(38) Mobile Home Park. Land upon which two (2) or more mobile homes are parked and occupied for living purposes, whether or not a charge is made for such accommodations.

(39) Mobile Home Subdivision. An approved subdivision of two (2) or more lots designed to be occupied by mobile homes only where the lots will be sold rather than rented or leased.

(40) Modular Home. A prefabricated dwelling more than fourteen (14) feet in width for over fifty percent (50%) of its length, brought to a site in two or more pieces, designed and constructed only for, and erected on, a permanent foundation and used as a dwelling for one (1) family.

(41) Motel. A building or buildings containing lodging units consisting of a room or suite of rooms, each with a separate entrance and its own toilet facilities, and offered or to be offered as sleeping accommodations for transient guests for compensation.

(42) Nonconforming Use. A structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is located.

(43) Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

(44) Professional Office in a Residence. An office for an accountant, architect, attorney, chiropractor, engineer, dentist, medical doctor, or any other similar profession.

(45) Retail Store. A business which involves the display and sale to the general public of numerous and varied items, merchandise, and finished products.

(46) Riding Academy. A business which involves the teaching of horseback riding skills and/or the rental of horses for riding purposes.

(47) Screen or Screening. A strip of land at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting of a type that will form a year-round dense screen at least six (6) feet high within three (3) years; or an opaque wall, barrier, or fence of uniform appearance six (6) feet high and extending to within six (6) inches of ground level.

(48a) Setback. The minimum distance from a lot boundary line that certain types of structures or other objects, elements, or activities must be placed. Setbacks are measured perpendicular to lot lines and extended for the full width or depth of the lot, accordingly (See "Setback, General" and

“Setback, Special”; note that in common usage the term “setback” usually refers to general setbacks.). [98]

(48b) Setback, Area. An area on a lot within which a setback applies, i.e. within which certain types of structures may not be placed. [98]

(48c) Setback, Front. The minimum setback established from the front property line. [98]

(48d) Setback, General. The minimum distance from a lot boundary line from which buildings, roofed structures, open air decks, and porches must be placed as specified in 42.16 Dimensional Regulations, Table 2 in this chapter (In common usage, general setbacks are usually simply referred to as “setbacks.”). [98]

(48e) Setback, Rear. The minimum setback established from the rear property line. [98]

(48f) Setback, Side. The minimum setback established from the side property line. [98]

(48g) Setback, Special. The minimum distance from a lot boundary line or other reference location from certain types of structures or other objects, elements, or activities must be placed. The setbacks specified in 42.16 Dimensional Regulations, Table 2 in this chapter are considered general setbacks. Special setbacks for particular elements are established elsewhere throughout this chapter (as well as within Appendix B of Table 2). [98]

(49) Sign. Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag or insignia of any government or governmental agency, or any civic, charitable, religious, patriotic, or fraternal organization.

(50) Sign, Advertising. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than on the premises or only incidentally on the premises.

(50a) Sign, Easel. A portable sign displayed on an open frame, the outline of which (the frame) is roughly pyramidal in shape. [115]

(50b) Sign, Placard. A portable sign that is upright, usually two sided, and supported by a simple frame and base. [115]

(50c) Sign, Portable. A sign placed upon the ground, which is not permanently affixed to the ground and which is designed and intended to be readily movable. Portable signs specifically include easel signs, placard signs and sandwich board signs. [115]

(50d) Sign, Sandwich Board. A portable sign shaped like an A-frame with a sign panel on one or both sides. [115]

(50e) Solid Waste Facility. A location or system for: resource recovery, recycling, collection, source separation, storage, transportation, processing, treatment or disposal of solid waste. Devices, equipment, and other structures required or ordered to be installed at a Solid Waste Facility by the Department of Environmental Services, State of New Hampshire, shall be deemed to be an accessory use of a solid waste facility. The term “solid waste facility” includes devices, equipment, buildings, uses and structures for the treatment, processing or beneficial use of by-products resulting from the treatment, processing or disposal of solid waste (such as landfill gas

and landfill leachate). For the purposes of this Chapter of the General Ordinances of the City of Rochester, the term "solid waste facility" shall specifically exclude hazardous waste facilities including those regulated under Chapter 1900 of the New Hampshire Code of Administrative Rules (He-P 1900) and, so-called, waste-to-energy facilities involving the incineration of solid waste. For the purpose of the interpretation of the provisions of this ordinance relative to the authorization and operation of a solid waste facility, all definitions contained in Chapter 149M of the New Hampshire Revised Statutes Annotated and applicable regulations promulgated thereunder (e.g. He-P 1900) as presently enacted or the corresponding provision(s) of any recodification or amendment thereof shall apply, unless a specific and more restrictive definition of any applicable term shall be adopted as part of Chapter 42 of the General Ordinances of the City of Rochester.

(51) Stable. A building designed or used for the boarding of horses or other animals for compensation.

(52) Street. A public highway as defined in RSA 229:1, except a Class VI or discontinued highway; or a private road within a subdivision as platted and recorded in the Strafford County Registry of Deeds, including the full width of the right-of-way.

(53) Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

(53a) Temporary Wireless Communication Facility. Any wireless communication facility designed for short term use only for a special event or while a permanent wireless facility is under construction. [63]

(53aa) Temporary Structure. A free standing structure (such as a tent or canopy) with a flexible sheathing material such as fabric, canvas, rubber or plastic used as a work space or for the enclosure or storage of property, vehicles, or animals. [94]

(53b) Tower. An antenna support structure consisting of a monopole, guyed structure, or freestanding multi-legged structure. [64]

(54) Veterinary Hospital. A building designed or used in the practice of that brand of medicine dealing with the prevention and treatment of diseases and injuries in animals, especially domestic animals.

(54a) Wireless Communications Facility (or "WCF"). Any towers, poles, or other support structures, attached antennas, and accessory structures and elements used for the transmission or reception of radio or television signals, or any other spectrum-based signals. Mobile vehicle mounted or transported systems, such as used for mobile news organizations, are not considered wireless communications facilities under this ordinance. [65]

42.7 Nonconforming Uses

(a) A nonconforming structure or use may be continued as it exists at the time of passage of this ordinance or as it existed at the time it was made nonconforming by passage of any amendment thereto.

(b) Any nonconforming structure or part thereof declared unsafe by a proper authority may be restored to a safe condition.

- (c) Once changed to a conforming use, no building or land shall revert to a nonconforming use.
- (d) The Board of Adjustment may approve the issuance of a building permit for any nonconforming use to be changed to another nonconforming use not substantially different in its purpose and manner of application and no more harmful or objectionable to the neighborhood.
- (e) A nonconforming use which has been discontinued for a period of one (1) year shall not be resumed or replaced by any other nonconforming use. Discontinuance shall mean cessation of operations and removal of machinery and equipment.
- (f) In any case where a building permit, under Section 42.26 of this ordinance and as required by any other applicable chapter of these ordinances, has been issued prior to the effective date of any amendment of this ordinance, for a building or structure which would not conform to the regulations of such amendment, such building or structure may be constructed or altered as a nonconforming building or structure as permitted by said building permit, provided such construction or alteration is commenced within six (6) months after issuance of such permit and is diligently prosecuted to completion.
- (g) A nonconforming structure or use may not be expanded or enlarged.
- (h) Notwithstanding any other provision of this Section 42.7, any use made nonconforming by the establishment of the Industry-4 or Industry-4A zones may be continued as it exists at the time of the passage of the amendment establishing the industry-4 or Industry-4A zone and such use may be expanded and/or enlarged. [23]

42.8 Signs.

(a) General. All signs shall comply with the regulations for the erection and construction of signs contained in the Building Code of the City of Rochester and other applicable city regulations, except as shall be under the jurisdiction of New Hampshire RSA 236:69-89. Signs shall be permitted in accordance with the following regulations:

(b) Signs Permitted in Any R-1, R-2 Zone.

- (1) One professional nameplate. Maximum surface area: two (2) square feet.
- (2) One identification sign for each dwelling unit. Maximum surface area: two (2) square feet.
- (3) One identification sign for each membership club, funeral establishment, hospital, church, other place of public assembly, community facility, or public utility use. Maximum surface area (all sides) twenty-four (24) square feet. Minimum front setback: one-half required front yard. [100]
- (4) One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership.
- (5) One unlighted temporary sign of an architect, engineer, or contractor erected during the period such person is performing work on the premises on which such sign is erected. Maximum surface area: thirty-two (32) square feet. Minimum set back: ten (10) feet from any street lot line.

(c) Signs Permitted in Any B-1, B-2 or Granite Ridge Zone.

(1) Signs permitted in Section 42.8(b) subject to those same regulations for residential use in these zones.

(2) Signs limited to those which aid identification, advertise goods, services, or products manufactured or offered for sale on the premises. However, portable signs may be placed in the public right of way as provided for in subsection (g), below. General advertising signs in the form of billboards shall be prohibited. **[116]**

(3) One wall sign for lot street frontage of each establishment. Maximum surface area: five (5) square feet for each foot of building frontage. Maximum horizontal projection: eighteen (18) inches.

(4) One projecting sign for each lot street frontage of each establishment. It shall be attached to the main wall of a building and not project horizontally beyond two (2) feet inside the curb line. Maximum surface area: forty (40) square feet. Minimum ground clearance: nine (9) feet. Maximum height: thirty (30) feet.

(5) One pole sign for each lot street frontage of a drive-in establishment. Maximum surface area: 150 square feet. Minimum set back: ten (10) feet from the street lot line. Maximum height: thirty (30) feet.

(6) Portable signs specifically as provided for in subsection (g), below. **[116]**

(d) Signs Permitted in Any I-1,1-2, and 1-3 Zone.

(1) Wall signs permitted in Section 42.8(c) subject to the same regulations.

(2) One ground sign for each establishment. Maximum surface area: 150 square feet. Minimum set back: fifteen (15) feet from any street lot line. Maximum height: thirty (30) feet.

(3) Signs shall be limited in use to identification signs and those signs which advertise goods, services, or products manufactured or offered for sale on the premises. However, portable signs may be placed in the public right of way, as provided for in subsection (g) below. **[117]**

(4) Portable signs specifically as provided for in subsection (g), below. **[117]**

(e) Signs Permitted in Any A Zone.

(1) Signs permitted in an "A" district shall be subject to the provisions as stated in the previous sections, dependent upon the type of use with which they are connected.

(f) Additional Sign Regulations.

(1) Any sign, if lighted, shall be illuminated internally by a luminous tube or by an indirect shielded white light.

(2) The high point of roof signs shall not exceed ten (10) feet above the roof line.

(3) Any traffic or directional sign owned or installed by a governmental agency shall be permitted.

(4) Specifically excluded from these regulations are temporary interior window displays or temporary banners for drive-in establishments or automotive establishments, except as provided in (5) below.

(5) Flashing or animated signs (including temporary interior window displays or banners) of red, amber, or green colored lights shall not be permitted.

(6) No more than two (2) signs shall be allowed for any one business or industrial establishment in the "B," "I," and "A" districts. However, this limitation as to the number of permitted signs does not apply to portable signs. A modular type sign is considered to be a single sign. **[118]**

(7) No more than one (1) sign shall be allowed for each dwelling unit in the "R-1" and "R-2" districts.

(8) The limitations as to the number of signs permitted does not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in a vehicle or on foot, for any business, industry, or residence. **[123]**

(9) All political signs, including posters, are considered to be temporary. They shall not be erected until thirty (30) days prior to any election and shall be removed within fifteen (15) days of the state general and/or local election. The maximum surface area shall not exceed thirty-two (32) square feet in all zones. Attaching signs and/or posters to utility poles shall be prohibited. The candidate or candidates whose name(s) appear on any such signs shall be responsible for their proper location, erection and removal.

(10) The area and location of signs used in conjunction with uses allowed by the Board of Adjustment as special exceptions shall also be approved by the Board of Adjustment and shall conform to the sign regulations for the district in which they are located. The area and location of such signs shall be in harmony with the character of the neighborhood in which they are located.

(11) No sign, except for political signs, shall be erected until a permit for same has been obtained from the Code Enforcement Officer.

(12) Signs located in the Rochester Historic District are subject to review in accordance with the provisions of Section 42.33 Rochester Historic District.

(g) Portable Signs. The following provisions apply to all portable signs: **[118]**

(1) Portable signs are allowed only within those portions of the Business 1, Business 2, and Industry 3 zoning districts which are situated within either the Rochester Historic District or the Special Downtown District.

(2) An application for each portable sign shall be submitted to the Code Enforcement Officer along with a fee of \$10.00. No subsequent application nor fee shall be required for the same portable sign provided it is serving the same business operating in the same location. No formal review is required for portable signs other than an administrative review by the Code Enforcement Officer to ensure compliance with this ordinance.

(3) The maximum permitted area for a portable sign is eight (8) square feet (or a total of 16 square feet for two sign faces) and the maximum permitted height is four (4) feet above grade.

(4) Portable signs shall be placed as follows:

- (A) No portable signs may be placed upon the sidewalk unless there is no practical space on the private property.
 - (B) Any portable sign that is placed on the sidewalk (in accordance with A above):
 - (i) shall be situated directly in front of the business(es) which is (are) being advertised.
 - (ii) shall not block passage along the sidewalk, including passage for handicapped persons; and
 - (iii) shall not present any safety hazard.
 - (C) Portable signs may be displayed during business hours only.
 - (D) An individual business may not display more than one portable sign at any one time.
- (4) Existing portable signs which are not in compliance with this article are not considered to be “grandfathered” under this ordinance. If any notification of noncompliance is given from the Code Enforcement Officer, these signs or conditions must be brought into compliance within 30 days from that notification.
- (h) Removal of Portable and Other Movable and Temporary Signs. The Code Administrator, or other city personnel designated by the City Manager, shall cause to be removed any sign placed on or over any public right-of-way or public property that is without a valid permit or is not in compliance with the terms of a valid permit, or where such a sign is exempt from permit requirements, the sign is not in compliance with the standards and provisions of this ordinance.
- (1) Signs Related to An Adjacent Principal Use. Where a sign that is placed on or over any public right-of-way or public property in violation of this ordinance is related to a principal use of adjacent private property, the Code Administrator, or other city personnel designated by the City Manager, shall notify the owner of the principal use or the property that a violation exists and shall specify a time limit for removal of the sign. If the owner fails to comply with the order for removal, the Code Administrator, or other city personnel designated by the City Manager, shall remove the sign and the owner shall be liable for the cost of said removal and subsequent storage. If the owner does not redeem the sign within thirty (30) calendar days from the date that the sign is removed, the sign shall be deemed to be abandoned and may be disposed of by the City as abandoned property; and
- (2) Other Signs. Where a sign that is placed on or over any public right-of-way or public property in violation of this ordinance is not erected in connection with elections or political campaigns, and is unrelated to a principal use of adjacent private property, the Code Administrator, or other city personnel designated by the City Manager, shall remove the sign and it shall be deemed to be abandoned and may be disposed of by the City as abandoned property.”

42.9 Off-Street Parking and Loading

(a) Off-Street Parking - General Provisions.

- (1) In any district, if any structure is constructed or enlarged or if any use of land is established

or changed, off-street parking spaces shall be provided for the use in accordance with the minimum parking requirements in Section 42.9(b). In the case of an enlarged or expanded structure or use, the minimum parking requirements shall apply only to that portion of the structure or use which is enlarged or expanded.

- (2) For parking requirements in the Special Downtown District, see Section 42.22(b).
- (3) Where public parking is available within four hundred (400) feet of a structure or use, the specific parking requirements may be determined by the Code Enforcement Officer on an individual basis.
- (4) For any use other than one specifically mentioned in Section 42.9(b), the parking requirements shall be as for the closest similar use as determined by the Code Enforcement Officer.
- (5) In the case of two uses on one lot, the requirements for parking and loading spaces shall be the sum of the requirements of the various uses computed separately. The space computed for one use shall not be used to provide the requirements of any other use. Required loading areas shall not be included as parking.
- (6) Where a principal use on a lot is not enclosed in a building, the specific portion of the lot so used shall be considered gross floor area for calculating parking requirements.
- (7) All automobile parking areas shall be reviewed according to the minimum design standards in Section 42.9(c).

(b) Off-Street Parking – Minimum Requirements.

- (1) Single-Family and Two-Family Dwelling: Two (2) spaces per dwelling unit.
- (2) Multi-Family Dwelling: Two (2) spaces per dwelling unit.
- (3) Lodging or Rooming House: One (1) space per sleeping room plus one (1) space per three (3) employees.
- (4) Hotel, Motel, Inn, Cabin: One (1) space per sleeping room plus one (1) space per three (3) employees plus one (1) space per 75 square feet of public meeting space. Additional spaces are required for other uses (such as restaurants, retail space, etc.) occupying over 100 square feet of floor area.
- (5) Retail Commercial and Service Use: One (1) space per 200 square feet of sales area plus one (1) space per 600 square feet of gross floor area of storage.
- (6) Restaurant (Excluding Fast-Food Establishment): One (1) space per three (3) seats, plus one (1) space per two (2) employees; or, one (1) space per 150 square feet of floor area used, whichever is greater. Where there is a bar, add one (1) space per two (2) stools.
- (7) Fast-Food Establishment: One (1) space for every two (2) seats plus one (1) space per each employee in the maximum shift; or, one (1) space per 500 square feet of gross floor area, plus one (1) space per each employee in the maximum shift, whichever is greater.
- (8) Office (General): One (1) space per 200 square feet of gross floor area or one and one-half (1-1/2) spaces per each professional and staff member, whichever is greater.

- (9) Office (Medical - Doctor, Dentist, Chiropractor, etc.): One (1) space per 100 square feet of gross floor area; or, five (5) spaces per professional person keeping office and one (1) per each staff member, whichever is greater.
- (10) Funeral Home: A minimum of twenty (20) spaces plus ten (10) additional spaces for each chapel or viewing room in excess of one (1).
- (11) Auto and Truck Service Station: Three (3) spaces for each service bay plus one (1) space per employee in the maximum shift.
- (12) Hospital, Convalescent, or Rest Home: One and one-half (1-1/2) spaces per bed at design capacity.
- (13) Theater, Auditorium, Church or Similar Place of Public Gathering: One (1) space for each four (4) seats of total seating capacity,
- (14) Private Recreational Facility: One (1) space for each 400 square feet of gross floor area.
- (15) Fraternal Club and Lodge: One (1) space per three (3) persons allowed by maximum standard; or, one (1) space per 75 square feet of assembly room space, whichever is greater.
- (16) Wholesale Distribution, Warehouse: One (1) space per 800 square feet of gross floor area; or, one (1) space per employee in the maximum shift, whichever is greater.
- (17) Industrial, Manufacturing: One (1) space per each 1.5 employees on the largest shift; or, one (1) space per 600 square feet of gross floor area, whichever is greater.
- (18) Bed and Breakfast Establishment: One (1) space for each rented room; two (2) spaces for owner occupant/live-in manager. **[24]**
- (19) Family Day Care, Day Care Center. One (1) space for every five (5) children. **[25]**

(c) Minimum Parking Design Standards.

MINIMUM PARKING DESIGN STANDARDS*

A Angle to Drive	B Minimum Stall Width	C Minimum Aisle Length	D Minimum Aisle Width
0 °	8	22	15
45 °	9	18	15
60 °	9	18	18
90 °	9	18	22

A = Angle to Drive B = Stall Width C = Aisle Length D = Aisle Width

[* Does not apply to parking areas for single and two-family residences.]

(d) Off-Street Loading - Minimum Requirements.

(1) In the commercial or industrial zones when any use having a floor area of 10,000 square feet or more is constructed or enlarged, one (1) off-street loading space shall be provided, plus one (1) additional space for each additional 20,000 square feet of gross floor area in the new or enlarged building area.

(2) Each loading space shall contain at least 1,000 square feet which includes space for maneuvering.

(e) Parking and Loading Specifications. All required off-street parking and loading areas shall be located either within structures or subject to the following specifications:

(1) They shall be effectively screened on each side which faces or adjoins the front, side, or rear property line of any residential lot, as per definition of screening.

(2) All parking and loading areas and access driveways thereto shall have a dust-free surface and shall have a system for handling storm water adequate for the type of construction of the area. Curbing shall be subject to review and recommendation by the Department of Public Works and approved by the Planning Board.

(3) A substantial wheel stop or guardrail shall be placed near all lot lines so that vehicles do not overhang the adjoining property.

(4) Illumination fixtures, if any, shall be so arranged as to direct the light away from streets and away from adjoining premises.

(5) There shall not be any storage of material or equipment in the parking area except: (a) temporarily as part of approved building construction operations; or, (b) for the placement of trash dumpsters or receptacles.

(6) Parking for uses other than residential purposes shall not be located within the required front or side setback areas in any residential district. In other districts, parking in the front setback area shall not be closer than ten (10) feet from any street right-of-way line. **[101]**

(7) Driveways shall be at least fifty (50) feet from the point of intersection of the curb lines of intersecting streets.

(8) The location, number, and width of driveways or entrances and exits shall be subject to the approval of the Planning Board.

42.10 Fences.

(a) No fence shall be erected that exceeds six (6) feet in height unless approved by the Board of Adjustment.

(b) The finish side of a fence shall face outward from the property on which the fence is located. The side of a fence containing the posts or poles and other bracing appurtenances shall face inward to the property being fenced in or on which the fence is located.

(c) When erected near a property or lot boundary line, all of the fence and any of its supporting structures or appurtenances shall be contained within the lot or property of the person erecting or having erected said fence.

(d) No fence shall be erected prior to obtaining a permit for same from the Code Enforcement Officer.

(e)Fences and walls located in the Rochester Historic District are subject to review in accordance with the provisions of Section 42.33 Rochester Historic District. [124]

42.11 Earth Removal. There shall be no excavation or removal of earth, loam, topsoil, gravel, clay, or stone except in conformance with the provisions of RSA 155-E as amended or as may be hereafter amended, which is incorporated herein by reference. Such excavation shall require a special exception by the Board of Adjustment as specified in Section 42.23(a)(16) of this ordinance.

42.12 Performance Standards.

(a) Purpose of Performance Standards.

It is the intent of these performance standards in the control of uses to: permit potential nuisances to be measured factually and objectively; to ensure that all uses will provide methods to protect the community from hazards and nuisances which can be prevented by processes of control and nuisance elimination; and to protect uses from arbitrary exclusion or regulation based solely on the nuisance production by any particular type of use in the past.

(b) Application of Performance Standards.

(1)Any use established or changed to, and any building, structure, or tract of land developed, constructed, or used for any permitted principal or accessory use shall comply with all of the performance standards herein set forth.

(2)If any existing use or building or other structure is extended, enlarged, moved, structurally altered or reconstructed, or any existing use of land is enlarged or moved, the performance standards shall apply with respect to such extended, enlarged, moved, structurally altered or reconstructed building or other structure or portion thereof, and with respect to any land use which is enlarged or moved.

(3) At the request of the Code Enforcement Officer, an applicant shall submit appropriate data at the time of application for a building permit to substantiate that the performance standards will not be violated when the use is put into operation.

(c) Performance Standards.

(1)Noise

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4 - 1983) "Specification for Sound Level Meters," or as amended. The instrument shall be set to the A-weighted response scale and the meter to the slow response. Measurements shall be conducted in accordance with current ANSI guidelines for the measurements of sound.

The sound pressure level of noise radiated continuously from a facility shall not exceed 62 dB(A) at the lot line. An allowance of 2.5 decibels will be permitted for instrument calibration and operator variance.

The following correction factors to the maximum permitted weighted sound pressure level shall be applied when appropriate:

A Scale

<u>Type of Operation or Character of Noise</u>	<u>Correction in Decibels</u>
Noise source operates less than 20% of any one hour period.	Plus 5
Noise source operates less than 20% of any one hour period.	Plus 10
Noise source operates less than 1% of any one hour period.	Plus 15
Noise of impulsive character. (Hammering, etc.)	Minus 5
Noise of periodic character. (Hum, screech, etc.)	Minus 5

- Apply one of these corrections only.

Such noise levels generated beyond the property line of any facility shall not be the responsibility of the property owner.

(2) Vibration

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line; nor shall any vibration produced exceed 0.0002g peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.

(3) Odors

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.

(4) Glare

No operation or activity shall be conducted so as to cause or create excessive glare. Any operation or activity producing glare shall be conducted so that direct or indirect illumination from the source of light shall not cause illumination in excess of 1.0 foot candles on any abutting single family residential property.

(5) Heat

There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

(6) Fire and Explosion

All activities involving flammable and explosive materials, including storage, shall be provided with adequate safety and fire fighting devices in accordance with adopted City codes.

(7) Waste Disposal

(A) No processed waste material or refuse shall be dumped upon or permitted to remain upon any part of any property outside of the building constructed thereon unless in compliance with regulations promulgated by the New Hampshire Water Supply & Pollution Control Commission, the New Hampshire Department of Public Health Services, and the City of Rochester. This provision shall not apply to properly licensed junkyards.

(B) A use whose process or manufacture produces waste, including but not limited to hazardous materials, shall provide for the treatment and effective disposal of such waste in compliance with regulations promulgated by the New Hampshire Water Supply & Pollution Control Commission, the New Hampshire Department of Public Health Services, and the City of Rochester.

(8) Air Pollution

Emissions into the atmosphere shall not exceed the limits set by, and shall, meet the regulations and standards of, the New Hampshire Air Pollution Control Agency.

(9) Sewage Disposal

All sewage disposal shall be in conformance with the rules and regulations of the New Hampshire Water Supply & Pollution Control Commission.

(d) Administration of Performance Standards.

Where determinations can reasonably be made by the Code Enforcement Officer or other City employees, using equipment and personnel normally available to the City, such determinations shall be so made before notice of violation is issued. Where technical complexity or expense make it unreasonable for the City to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures are herein set forth:

(1) Administration Where City Can Make Determination

Where determination of violation of performance standards can be made by the Code Enforcement Officer or other duly designated City employees using equipment and personnel available to the City, determination of violation shall be made; and the Code Enforcement Officer shall take or cause to be taken lawful action as provided by this ordinance to eliminate such violation. Failure to obey lawful orders concerning cessation of violation shall be punishable as provided in this ordinance.

(2) Administration Where Measurement Requires Highly Skilled Personnel and Expensive Instrumentation

Where determination of violation of performance standards entails the use of highly skilled personnel and expensive instrumentation not ordinarily available to the City and when, in the considered judgment of the Code Enforcement Officer a violation exists, the procedure shall be as follows:

(A) Notice. The Code Enforcement Officer shall give written notice, by certified mail,

(B) return receipt requested, to those responsible for the alleged violation. Such notice shall describe the particulars of the alleged violation and the reasons why the Code Enforcement Officer believes there is a violation, and shall require an answer or a correction of the alleged violation to the satisfaction of the Code Enforcement Officer within thirty (30) days of receipt of notice, unless a shorter time limit is specified. The

notice shall state that failure to reply or to correct the alleged violation to the satisfaction of the Code Enforcement Officer within the time limit set above constitutes admission of violation. The notice shall further state that upon request of those to whom it is directed, technical determinations as to compliance with the appropriate portions of this ordinance will be

made, and that if violation as alleged is found, costs of the determinations will be charged against those responsible in addition to such other penalties as may be appropriate, and that if it is determined that no violation exists, costs of the determinations will be paid by the City.

(C) Correction of Violation Within Time Limit. If, within the time limit set, there is no reply but the alleged violation is corrected to the satisfaction of the Code Enforcement Officer, he shall note "Violation Corrected" on his copy of the notice and shall retain it among his records, taking such other action as may be warranted by the circumstances of the case.

(D) No Correction; No Reply. If there is no reply within the time limit set [thus establishing admission of violation as provided in (A) above] and the alleged violation is not corrected to the satisfaction of the Code Enforcement Officer within the time limit set, he shall take or cause to be taken such action as warranted by the continuation of an admitted violation after notice to cease.

(D) Reply Requesting Extension of Time. If a reply is received within the time limit set indicating that an alleged violation will be corrected to the satisfaction of the Code Enforcement Officer, but that more time is required than was granted by the original notice, the Code Enforcement Officer may grant an extension of time, if he deems such extension warranted in the circumstances of the case, and if such extension will not, in his opinion, cause imminent peril to life, health, or property. In acting on such requests for extension of time, the Code Enforcement Officer shall in writing state his reasons for granting or refusing to grant the extension and shall transmit the same by certified mail, return receipt requested, to those to whom original notice was sent.

(E) Reply Requesting Technical Determination. If a reply is received within the time limit set requesting technical determinations as to compliance with the appropriate provisions of this ordinance and if the alleged violations continue, the Code Enforcement Officer may call in properly qualified experts to make the determinations. If expert findings indicate violation of the performance standards, the costs of the determinations shall be paid by the persons responsible for the violations, in addition to such other penalties as may be appropriate under the terms of this ordinance. If no violation is found, costs of the determination shall be paid by the City.

42.13 Zoning District Regulations - General.

In each zoning district, land, buildings, and other structures shall be utilized only as set forth in Section 42.14, Permitted Uses - Table I.

Uses designated "Y" on the table shall be permitted as a matter of right.

Those uses identified "E" shall be permitted only as a special exception granted by the Board of Adjustment in accordance with the provisions of Section 42.23.

A use denoted "N" shall not be allowed in that district.

Any use not specifically listed shall be included in that category deemed most similar by the Code Enforcement Officer.

Special conditions governing certain uses are more fully described in Section 42.15, Permitted

Uses - and in Section 42.23(c), Special Exceptions - Detail. Those uses which have special conditions attached are indicated by a notation in the right-hand column of the table.

The following zoning district designations are used in Table 1:

	A	- Agricultural Zone
	R-1	- Residence 1 Zone
	R-2	- Residence 2 Zone
	B-1	- Business 1 Zone
	B-2	- Business 2 Zone
[131]	GRD	Granite Ridge Development Zone
	I-1	- Industry 1 Zone
	I-2	- Industry 2 Zone
	I-3	- Industry 3 Zone
[26]	I-4	- Industry 4 Zone
[27]	I-4A	- Industry 4A Zone
	H	- Hospital Zone

The following additional zoning districts are treated as overlay districts with additional regulations modifying those of the districts over which they are superimposed:

AA - Airport Approach Zone
F- Regulatory Floodway Zone
W- Wetland Conservation Zone
AP- Aquifer Protection Zone
SD- Special Downtown District

42.14 Permitted Uses - Table 1. See attached "APPENDIX A"

42.15 Permitted Uses - Detail. The below-listed descriptions are not to be interpreted as definitions, but rather as extensions, restriction, or examples of the permitted uses as listed in Table 1:

- (a) Farm. Agricultural Zone: excluding fur ranching and farms raising more than ten (10) swine. All other zones: no buildings or pens for housing livestock or storage of manure shall be within two hundred (200) feet of any side or rear lot line.
- (b) Roadside Stand. For the sale of farm products raised on the premises.
- (c) Professional Office in Residence. In the R-1 Zone: in accordance with the same provisions under which a home occupation is allowed [see definition of "home occupation" in Section 42.6(a)(28)].
- (d) Manufacture of Goods Sold at Retail on the Premises. Such as bakeries, print shops

(including newspapers) and the like.

(e) Industrial Uses in the Industry Zone. Outside storage of goods shall not exceed more than fifty percent (50%) of the lot coverage by buildings and shall be suitably screened from view from the public highway or adjoining residential or commercial zones by appropriate fencing, grading, or landscaping.

(f) Mobile Home. Mobile homes may be located only on individual lots or on lots in mobile home parks or mobile home subdivisions in the Agricultural Zone.

(g) Mobile Home Park. A parcel of land designed to accommodate two (2) or more mobile homes laid out in accordance with the standards contained in the Rochester Mobile Home Park Ordinance. Mobile homes in a mobile home park shall not be required to be placed on permanent foundations.

(h) Convalescent or Rest Home in Hospital Zone. In addition to the minimum lot size, an additional 2,000 square feet of land for each patient bed is required. **[28]**

(i) Two-Family Dwelling in the Agricultural Zone. In the Agricultural Zone the minimum lot size for each two-family dwelling shall be one and one-half times the minimum lot size for a single-family dwelling. **[28]**

(j) Solid Waste Facility. Solid waste facility uses shall be subject to and shall be conducted in accordance with the following requirements, restrictions and/or dimensional regulations in addition to those otherwise applicable in the Industry-4 and/or Industry-4A Zone: **[29] [30]**

(1) The minimum lot size for solid waste facility uses shall be five (5) acres.

(2) Setback for solid waste facilities shall be 100 feet from adjoining zoning district boundary lines, provided, however, that such setback shall not apply in cases where the adjoining zoning district is an Industry-4 or Industry-4A zoning district.

(3) Setback for solid waste facilities shall be 100 feet from the 100 year flood plain of the Cocheco and Isinglass Rivers or 200 feet from the thread of such rivers, whichever is greater. For the purposes of this section, the 100 year floodplain of the Cocheco and Isinglass Rivers shall be defined by the Federal Emergency Management Agency National Flood Insurance Program Floodway Map and Flood Boundary, dated September 16, 1982, or as later amended. Groundwater monitoring wells, piezometers, and other environmental monitoring devices may be located within the 100 year floodplain, if approved by the New Hampshire Department of Environmental Services. Provided further, that the following ancillary structures or uses associated with a solid waste facility may be located in the buffer area between the 100 year floodplain and the Facility if approved by the New Hampshire Department of Environmental Services and the Rochester Planning Board as part of the site review process:

(A) access roads;

(B) drainage ditches and storm water structures;

(C) fencing, screening and earthen beams;

(D) groundwater monitoring wells and piezometers;

- (E) piping and tanks for environmental control systems;
- (F) sedimentation basins; and,
- (G) utility lines.

For the purposes of this section, the term "buffer area" shall mean the area between the floodplain and the point of setback from the flood plain for a solid waste facility.

(4) Setback for solid waste facilities shall be 100 feet from City-owned rights-of-way or if an alternative screen or buffer is approved by the Planning Board, the setback may be reduced to 50 feet; provided that the setback for certain solid waste facilities shall be as specified below:

Setback Detail:

(a) Recycling and Materials Recovery Facility. Setback for the front foundation face of any buildings and/or permanent vehicle storage or materials storage facilities at recycling and material recovery facilities shall be 100 feet from City-owned rights-of-way. Normal parking entrances and accesses are permitted within this setback, but permanent overnight truck or equipment parking is prohibited. In the event an alternative screen or buffer is approved by the Planning Board, this setback may be reduced to 50 feet.

(b) Transfer Station or Composting Facility. Setback for the face of buildings or other physical structures used as transfer station or composting facilities shall be 150 feet from City-owned rights-of-way. Permanent parking of trucks or equipment within the setback is prohibited. Normal customer access and parking is permitted within the setback. In the event an alternative screen or buffer is approved by the Planning Board, this setback may be reduced to 50 feet.

(5) The City shall have the right to enter the solid waste facility during all operating hours and at other reasonable times to administer and enforce the provisions of this ordinance.

(6) Operational standards for and the operation of any solid waste facility shall be governed by and subject to the New Hampshire laws regarding solid waste management and regulations promulgated thereunder by the New Hampshire Department of Environmental Services and other state or federal agencies having jurisdiction over the operation of such facilities.

(k) Bed and Breakfast Establishment. [31]

(1) On-Site Septic Systems. A design permit from the New Hampshire Water Supply and Pollution Division, that the on-site septic system is adequate for the total maximum amount of occupants including guests of the premises.

(2) Exterior Design Standards. Minimal outward modification of the structure or ground may be made only if such changes are compatible with the character of the area or neighborhood.

(3) Intensity of Use. The Bed and Breakfast shall not use more than 50 percent of the floor area of the principal residence.

(4) Sign. The sign shall identify, not advertise, shall be unlighted, and shall not exceed two square feet in area and three and one-half feet in height.

(l) Adult-Oriented Establishments. [32]

Adult-oriented establishments shall exist and be operated subject to and shall be conducted in accordance with the operated following requirements and restrictions in addition to those otherwise applicable in the Business-1 Zone:

(1) Purpose. In the development and execution of this section, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area. Uses subject to these controls are as follows:

Adult Bookstore
Adult Cabaret
Adult Motion Picture Theater Adult Mini-Motion
Picture Theater Massage Parlor

(2) Location Restrictions. No adult-oriented establishment shall be operated or maintained within five hundred (500) feet of a residentially zoned district, or within five hundred (500) feet of a church, a state-licensed day care facility, a public library, a public park or playground, public or private educational facilities which serve persons age seventeen (17) or younger, an elementary school, or a high school. Only one of the above regulated uses shall be allowed per block frontage on any street. No adult-oriented establishment shall be operated or maintained within one thousand (1,000) feet of another such establishment.

(3) Measurement. The distance limitations in subsection (2) shall be measured in a straight line from the main public entrances of said premises, or from the lot lines of properties in residentially zoned districts.

(4) Sign Requirements for Adult-Oriented Establishments. Notwithstanding the provisions of Section 42.8, all Adult-Oriented Establishments shall comply with the following sign requirements:

(A) All signs shall be flat wall signs.

(B) The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, provided however, that in no event shall such sign exceed 32 square feet in total area.

(C) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

(E) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adults only.

(m) Contractor's Storage Yard.

[52] [102]

Minimum setbacks from all property lines shall be 25 feet or as specified in Section 42.16 entitled Dimensional Regulations - Table 2, whichever is greater. No structures or stockpiled materials

related to the storage yard operation shall be situated within these setbacks. Heavy vehicles or equipment in working order may be parked within the setbacks provided that none is parked within 15 feet of a property line (See, Article II, Section 5(E) Contractor's Storage Yards under non-Residential Site Development Plan Review Regulations for other specifications).

(n) Temporary Structure. Temporary structures are subject to the following requirements. However, temporary structures erected for 15 or fewer days are exempt from this section herein.

(1)A permit is required for temporary structures. An application must be submitted to the Code Enforcement Office specifying the proposed location for the structure and its purpose. A fee will be charged in an amount determined by the City Council.

(2)Temporary structures are subject to all zoning setbacks.

(3)Temporary structures may not be placed forward of the front façade of the primary building on the lot (on corner lots, this applies only to the main entry façade, though other corner lot setbacks, as specified in this ordinance, still apply).

(4)Temporary structures that were in place prior to the adoption of this section must be brought into compliance with this section within six months of its adoption.

(o) Home Occupation. [95]

For any proposed occupation, all abutters shall be notified by certified mail and provided a reasonable period of time to comment prior to final approval. Notices of all proposed home occupations shall be forwarded to the Planning Board members for their information. Appeals of decisions for home occupations shall be made to the Zoning Board of Adjustment.

(p) Outdoor Wood-Fired Boilers [127]

(1)Outdoor wood-fired hydronic heater or outdoor wood boiler means a fuel burning device as defined by RSA 125-R.

(2)The installation and/or operation of outdoor wood-fired hydronic heaters are permitted in the agricultural zone only;

(3)The outdoor wood-fired hydronic heater shall be set back twenty-five feet (25') from the nearest structure it serves.

(4)The outdoor wood-fired hydronic heater shall be set back one hundred feet (100') from any lot line. [129]

42.16 Dimensional Regulations - Table 2. Minimum lot area, frontage, setback requirements, distance of buildings from one another, and maximum lot coverage shall be as prescribed in Table 2. The notation "public water or public sewer" refers to the presence of City water and/or City sewer. See attached "**APPENDIX B.**" [105]

42.17 Dimensional Regulations - Detail. [71]

For the purpose of interpreting Table 2, the following subsections shall apply:

(a) Lot Size. [33] [106]

Where a lot in separate ownership at the time of passage of this ordinance does not conform to the area and width requirements of the zone in which it is located, such lot may be occupied by any

use permitted in that zone provided it conforms to front, side, and rear setback requirements.

(b) Where more than one use is allowed on a lot, the required lot size shall be the cumulative total of areas required by the primary use and all other uses. The primary use shall be the use which requires the greatest minimum lot area. All additional uses other than the primary use shall be required to meet the minimum lot area as established for additional dwelling units on Table 2.

(c) Front Setback. Where lots comprising fifty percent (50%) or more of the block frontage have been developed, the average of the front setback of the developed frontage shall establish the minimum front setback depth, but no front setback shall be less than ten (10) feet nor shall a front setback of more than twenty-five (25) feet be required. **[106]**

(d) Corner Lots. On corner lots, for the purpose of setbacks, there shall be established a front setback, a street-side side setback, a (regular) side setback, and a rear setback. The ordinary front setback shall apply to that section of the lot which is deemed the front, as determined by the Zoning Administrator (based upon the locations of the front entrance, street address, path to the front, and driveway; the prevailing pattern of the other buildings on both blocks; impact upon the streetscapes; and other appropriate factors). The street-side setback shall apply to that side of the lot facing the other street. The street-side setback shall be the ordinary side setback in that district or 12 feet, whichever is greater. The regular side setback and rear setback shall be the ordinance setbacks established in that district. **[108]**

(e) Height. In any zone, required setbacks shall be increased by one (1) foot for each foot buildings exceed thirty-five (35) feet in height, except such requirement shall not apply to silos, spires, cupolas, chimneys, water tanks, and similar mechanical features carried above the roof tile. **[108]**

(f) Setback Application. Required setbacks apply to buildings, roofed structures, open air decks, porches, ground mounted mechanical equipment, ground mounted satellite dishes, fuel tanks, and bulkheads. The setback requirement applies whether the element is a principal or an accessory use (See Extensions beyond setbacks (i.e. into setback areas), below; special exception provisions for porches; and several other specific exceptions and special provisions regarding setbacks in this chapter.)

Setbacks are measured to the building foundation, except where a portion of the building containing usable floor area extends beyond the foundation (such as on the upper floors in a garrison style house). Where a building foundation is not present or not applicable, setbacks are measured to the most appropriate vertical fascia, eave board, or header joist for that part of the structure. For ground mounted mechanical equipment, ground mounted satellite dishes, fuel tanks, and bulkheads, setbacks are measured to the nearest part of the structure. **[108]**

(g) Extensions beyond setbacks (i.e. into setback areas.) Appurtenant elements to buildings or structures which i) do not contribute to usable floor area and do not have a foundation; and ii) which are not specifically included in (f) above, may extend into the setback areas but may not extend beyond any property line. This includes, but is not limited to, architectural trim, awnings, bay windows, chimneys, decorative architectural elements, downspouts, window air conditioning units, exterior steps, fire escapes, gutters, place of refuge decks, building mounted satellite dishes, roof eaves, siding materials, and vents.

In cases where any landing serving exterior steps exceeds 24 square feet in area, that landing (but not the steps) must meet all required setbacks. **[108]**

42.18 Airport Zoning.

(a) Definitions. As used in this section of the ordinance, unless the context otherwise requires:

(1) Airport means any area of land or water, whether constructed or not, which has been approved as a site for landing and taking off of aircraft or utilized by the public as a point of arrival or departure by air, hereinafter referred to as Skyhaven Airport.

(2) Airport Approach Zone means:

(A) For Runway 33, an area which is 1,000 feet wide at a point 200 feet from the end of the pavement and 4,000 feet wide at a point 10,200 feet from the end of the pavement, or future pavement extended.

(B) For Runway 15, an area which is 1,000 feet wide at a point 200 feet from the end of the pavement and 1,500 feet wide at a point 5,200 feet from the end of the pavement, or future pavement extended.

The center line of these areas shall coincide with the center line of the landing strips extended.

(3) Airport Hazard means any structure, tree, smoke, steam, dust, or other substance which obstructs the aerial approaches of Skyhaven 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 or aircraft or be confused with airport lights.

(4) Nonconforming Use means any structure, tree, or use of land which does not conform to a regulation prescribed in this ordinance or an amendment thereto as of the effective date of such regulations.

(5) Person means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or similar representative thereof.

(6) Structure means any object constructed or installed by man, including such objects although regulated or licensed by other provisions of law.

(7) Tree means any object of natural growth.

(8) Building Restriction Lane means a line parallel to the centerline of the runway which limits the location of any permanent structure. The location of the BRL is shown and described on the Airport Layout Plan.

(b) Zones. In order to carry out the purposes of this ordinance, all of the land within the boundaries of the approach zones and all of the land within a distance of twelve thousand (12,000) feet from the airport reference point shown on the Rochester Airport Approach Plan dated December 16, 1983 [attached hereto and made a part hereof], is hereby declared subject to the restrictions of the ordinance.

(c) Height Limits. No structure or tree shall be erected, altered, or allowed to grow within the areas described in Section 42.18(b) hereof, above a slope ratio of thirty-four (34) feet to one (1) foot measured from the end of Runway 33 or a ratio of twenty (20) feet to one (1) foot measured from the end of Runway 15 or above a slope ratio of seven (7) feet to one (1) foot measured from the side of the landing strips and the approaches, or within an ellipse formed by connecting the ends of two semicircles having radii of 10,000 feet from points located 200 feet beyond the ends

of pavement on centerline extended at each end of Runways 15/33 above a height of one hundred fifty (150) feet above the airport elevation; except that the Zoning Board of Adjustment shall have the power to grant a variance of this regulation where literal application or enforcement of the same would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the ordinance.

(d) Use Restrictions. Notwithstanding any other provisions of the Zoning Ordinance, no use may be made of the land described in Section 42.18(b) hereof in such manner as to create electrical interference with radio aids or communications between airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport by the creation and discharge of smoke, steam, dust, or other obstructions to visibility, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

(e) Nonconforming Uses. The regulations prescribed in Sections 42.18(c) and 42.18(d) hereof 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, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted and completed within two (2) years thereof.

(f) Variances. Any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this amendment, may apply for a variance therefrom. Such variance shall be allowed where a literal application of enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this ordinance.

(g) Permits.

(1) Future Uses. No material change in violation of Sections 42.18(c) and 42.18(d) hereof shall be made in the use of land, and no structure or tree shall be erected, altered, planted, or otherwise established in violation of Sections 42.18(c) and 42.18(d) hereof, unless a permit therefore shall have been applied for and granted. Each such application shall indicate the purpose for which the permit is desired.

(2) Existing Uses. Before any existing use, structure, or tree may be replaced, substantially altered, repaired or rebuilt, allowed to grow higher, or replanted, within any of the areas of land described in Section 42.18(b) hereof, a permit must be secured authorizing such replacement, change, or repair if it is in violation of Sections 42.18(c) and 42.18(d) hereof. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made 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. Except as indicated, all applications for a permit for replacement, change, or repair of existing use, structure, or tree shall be granted.

(h) Hazard Marking and Lighting. Any permit or variance granted under Section 42.18(f) and 42.18(g) 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 or tree in question to permit the airport owner at its own expense, to install, operate, and maintain

thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(i) Zone Map. A copy of said approach zone map shall become a part of the Zoning Map of the City of Rochester, New Hampshire.

ROCHESTER. SKYHAVEN AIRPORT APPROACH PLAN

Adopted by New Hampshire Aeronautics Commission

April 1, 1968

Revised December 16, 1983

(1) This Airport Approach Plan, prepared under the authority of Chapter 424.3 of the New Hampshire Revised Statutes Annotated, is based upon the ultimate development of a General Aviation Type Airport with runway and landing strip as follows:

(A) Runway 5,400 feet by 100 feet; Landing Strip 5,800 feet by 300 feet.

(2) Part 77, Federal Aviation Regulations establishes the standards used to determine the limit of height of obstructions in the vicinity of the airport.

(3) The limit of height of obstructions shall be:

(A) In the approach area to the landing strip for Runway 33, which is 1,000 feet wide at a point 200 feet from the end of the pavement and 4,000 feet wide at a point 10,200 feet from the end of the pavement, an inclined plane of 34:1 slope.

(B) In the approach area to the landing strip for Runway 15, which is 1,000 feet wide at a point 200 feet from the end of the pavement and 1,500 feet wide at a point 5,200 feet from the end of the pavement, an inclined plane of 20:1 slope.

(C) On the sides of the landing strip and approach areas, an inclined plane of 7:1 slope.

(D) 472 feet above sea level within the horizontal surface, which is a plane 150 feet above the established airport elevation. This plane is an ellipse formed by connecting the ends of two semicircles having radii of 10,000 feet from points located 200 feet beyond ends of pavement on centerline extended at each end of Runway 15/33.

(E) Within the conical surface, which is an inclined plane sloping upward at a 20:1 ratio extending 4,000 feet outward from the horizontal surface.

(4) No provision of Section (3) shall limit the height of a structure or tree to less than 30 feet above the ground upon which it is located.

(5) The Airport Reference Point is located on the centerline of Runway 15/33, 2,650 feet from the southeast end of the runway and its elevation is 322 feet above sea level.

NOTE: The following is for information only and is not a part of the Airport Approach Plan:

(A) The building restriction line is 300 feet from the center line of the landing strip.

(B) Acquisition of property rights will be necessary:

(I) to remove existing obstructions;

(II) to control the height of objects in those areas where the controlling inclined plane is less than 30 feet above the ground.

42.19 Conservation Overlay District

(a) OBJECTIVES AND CHARACTERISTICS

Wetlands, ponds, and streams are significant natural resources of the City because of their size or functional values, such as flood storage, wildlife habitat, and the enhancement of water quality and/or quantity. The preservation of these water resources promotes the general public health, safety, welfare and convenience in our community. In particular the regulations of the Conservation Overlay District (CO District) are intended to:

- (1) Maintain and enhance the quality and quantity of surface waters and groundwater

by preserving the ability of wetlands to filter pollution, trap sediment, retain and absorb chemicals and nutrients, and produce oxygen;
- (2) Minimize expense to the City and the public in providing and maintaining essential services and utilities, such as wastewater collection and treatment, drainage facilities, and public water supply, which may arise because of the inappropriate use of land within the CO District;
- (3) Minimize impacts to existing land uses and lots (see Section (d) - EXEMPTIONS/PRE-EXISTING RESIDENTIAL STRUCTURES, USES, AND LOTS);
- (4) Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection; protect persons and property against the hazards of flood inundation by assuring the continuation of the natural flow patterns of streams and other watercourses; and provide for nutrient attenuation and augmentation of stream flow during dry periods;
- (5) Encourage those uses that can be appropriately and safely located within the CO District.
- (6) Protect native wildlife habitat and natural vegetation upon which a variety of upland and aquatic species are dependent for purposes of breeding or sustenance.

(b) OVERLAY DISTRICT DEFINED

The Overlay District shall include rivers, lakes, ponds, perennial streams, vernal pools, all jurisdictional wetlands and the surrounding upland areas of each of these resources.

(c) BUFFER DEFINED

In all cases the more restrictive buffer shall be used.

	Location
75 feet	Cocheco River, Salmon Falls River and Isinglass River from the ordinary high water mark of the river.
50 feet	* Named streams and surface water from the ordinary high water mark listed in Table f.

	*Edge of jurisdictional wetland consisting of very poorly drained soils.
	*Vernal pools See #2. below.
	*Edge of jurisdictional wetland consisting of poorly drained soils.

(1) The precise location of a wetland boundary in any particular case must be determined by on-site inspection by a NH Certified Wetland Scientist.

(2) Vernal pools that shall be identified by a NH Certified Wetland Scientist and may be subject to review by the Conservation Commission

(d) DELINEATION PROCESS

The edge of wet of these wetlands shall be determined by the delineation process set forth in the *Corps of Engineers Wetlands Delineation Manual, 1987*, on file with this ordinance with the City Clerk. When there is a dispute in the boundary the landowner may appeal the decision to the Planning Board with written recommendations by the Conservation Commission.

(e) EXEMPTIONS/ PRE-EXISTING RESIDENTIAL STRUCTURES, USES, AND LOTS

The following are exempt:

- (1) All wetlands less than one-half acre in Size, except vernal pools.
- (2) Wetland conditions resulting from the following: constructed drainage structures including, but not limited to swales, ditches, and basins; actively maintained agricultural/irrigation ponds; septage lagoons.
- (3) Notwithstanding other provisions of Section 42:1.9, the construction of additions and extensions to one and two family dwellings and accessory residential uses shall be permitted within the CO District provided that:
 - (A) The dwelling or residential use lawfully existed prior to the adoption of this Section 42.19 by the City Council; .
 - (B) The proposed construction conforms to all other applicable ordinances and regulations of the City of Rochester; and C) The dwelling or use continues in its present use,
- (4) Lots of record except that any lot requiring subdivision (i.e. that creates 2 or more lots) or minor site/site plan review must meet the requirements of this ordinance.

(5) PRE-EXISTING SUBDIVISIONS, SITE PLANS:

Exemptions:

- (A) Subdivisions, site plans and planned unit developments approved by the Planning Board and existing at the time of passage of this Section 42.19 shall be exempt from Section 42.19, as governed by the provision of NH RSA Section 674:39.
- B) Completed applications approved by the Planning Board are exempt from Section 42.19.
- (C) Condominium Conversions where there are no improvements propose to the site

are exempt from Section 42.19.

This ordinance becomes applicable in the following situations:

- (I) Non-Residential Site Plans for additions, expansions, or changes in use.
- (II) Site Plans for new commercial, industrial, or mutt-family development.
- (III) New subdivisions.

(f) DEFINITIONS:

- (1) The term "wetland" as defined by *National Food Security Act Manual* (Soil Conservation Service, 1994) and the *Corps of Engineers Wetlands Delineation Manual* (Environment Laboratory, 1987) as amended, will mean those areas that are surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.
- (2) The term "buffer" means the protected upland areas adjacent to wetlands and surface waters in the Conservation Overlay District other than the wetlands themselves.
- (3) "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the Department of Environment Services. *Source: Comprehensive Shoreland Protection Act, pg. 7 from the State of NH Web Page, 1998*
- (4) The term "overlay district" means a zoning district superimposed on one or more established underlying zoning districts to impose supplemental restrictions on uses in these districts.
- (5) "Poorly drained soil" as defined High Intensity Soil Maps for New Hampshire Standards sponsored by the Society of Soil Scientist of Northern New England Special Publication No. 1, Sept. 2002.
- (6) "Vernal pools" are temporary bodies of water that flood each year for a few months during the spring and summer. Vernal or "spring" pools fill up with melting snow and early rains, then usually *dry* up by mid to late summer. Some relatively deep pools may remain flooded for a few years but become completely dry in seasons with very low rainfall. Autumnal pools fill during the fall with rising groundwater.

Because vernal pools are not permanently flooded, they do not support fish populations and thus provide safe breeding sites for several amphibian and invertebrate species, including wood frogs, spotted salamanders, and fairy shrimp. These species have evolved life cycles that depend on temporary pools.

Vernal pools vary in size, ranging from several square feet to several acres. They can be found in a variety of sites, such as isolated depressions in the woods, kettle holes, and gravel pits. Many are within larger wetlands, such as oxbows in river floodplains and pools in forested swamps or scrub-shrub wetlands. Their common characteristics

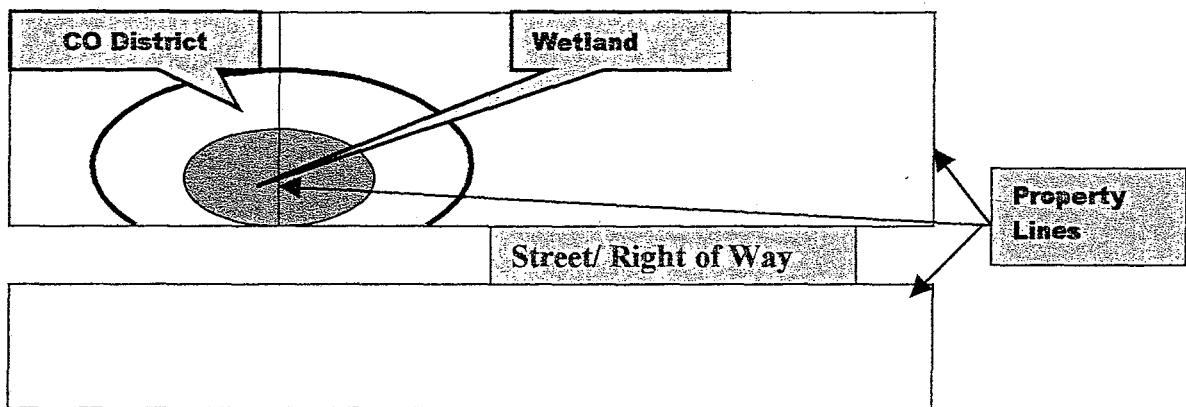
are the absence of fish, temporary flooding regime, and the presence of vernal pool species. Suitable pools must have enough leaf litter and other debris to provide food sources and cover for the species that breed in them. *Source: ASNH Conservation Fact Sheet: Vernal Pools*

- (7) "Very poorly drained soil" as defined High Intensity Soil Maps for New Hampshire Standards sponsored by the Society of Soil Scientist of Northern New England Special Publication No. 1, Sept. 2002.

(g) BUFFER APPLICATION

Buffers are applied irrespective of lot lines and municipal boundaries except (as shown in the below diagram) that when a wetland is bounded by City Class V or a State or Federal highway, existing at the time of passage of this Section 42.19, buffers are not applied to properties directly across the right of way.

Buffers are applied irrespective of lot lines and municipal boundaries except (as shown in the below diagram) that when a wetland is bounded by City Class V, or a State or Federal highway, existing at the time of passage of Section 42.19, buffers are not applied to properties directly across the right of way.



NO BUFFER ON PROPERTIES DIRECTLY ACROSS THE STREET

(h) USES ALLOWED

- (1) The CO District is an overlay district. Where the provisions of this Section conflict with those of the underlying zoning district, the more restrictive standards shall apply.
- (2) The following uses are allowed in this District:
 - (A) Wildlife habitat development and management
 - (B) Conservation areas and nature trails, provided that the planning Board, in consultation with the Conservation Commission, reviews and approves plans of such areas and trails prior to their development.
 - (C) Recreation including open-air recreational uses consistent with the purpose and intent of Section 42.19, such as cross-country skiing, ice skating, hiking, and photography.
 - (D) Education including natural and environmental science walks, wildlife and

botanical studies and similar activities.

- (E) Seasonally permitted hunting and fishing, as regulated by New Hampshire Fish and Game Department.
- (F) Forestry, including both logging operations and tree farming subject to RSA 227-J: 9. Logging and any associated road building and/or skid trail construction shall be conducted in accordance with the then-current Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire published by the UNH Cooperative Extension and NH Department of Resources and Economic Development and the NH Division of Forests and Lands; on file with this ordinance with the City Clerk;
- (G) Production, cultivation, growing, and harvesting of any fruit, vegetable, floricultural or horticultural crops, conducted in accordance with *Best Management Wetlands Practices for Agriculture (July 1993, amended September 1-098)*; (on file with this ordinance with the City Clerk) but not within 25 feet of the edge of wet of the adjacent wetland.
- (H) The land surface within 25 feet of the edge of the wetland shall *not be* altered. Herbicides and *heavy* equipment are prohibited within 25 feet of the edge of the wetland. New lawns may be established beyond 25 feet from the edge of the wetland provided the wetland has been delineated/flagged by a Certified Soil Scientist. Fertilization shall be limited to time and woodash.
- (I) Removal of hazardous trees.
- (J) Removal of "invasive" vegetation (see "Notes on Native Trees and Shrubs and Their Use in Landscaping", by the Rochester Conservation Commission, on file with this ordinance with the City Clerk).
- (K) Minor accessory structures of 200 square feet or less (in which there is no storage of petroleum products, hazardous chemicals or materials). Such accessory structures shall not be constructed with any of the following materials: asphalt shingles or pressure treated or chemically treated/preserved wood. Any uses not listed in this Section are prohibited *in* the CO District.

(i) **CONDITIONAL USE APPROVALS**

Conditional use approval may be granted by the Planning Board (RSA 674:21
II) after proper public notice and public hearing.

(1) The following uses are allowed with a Conditional *Use* Approval:

- (A) Roads and other access ways; drainage ways; pipelines, power lines and other transmission lines; docks, boat launches, and piers; domestic water wells (and associated ancillary pipes and equipment); replacement septic tanks and leach fields where evidence is submitted that no alternative location is available on the property; provided that all of the following conditions are found to exist:
 - (I) The proposed construction is essential to the productive use of land not within the CO District.
 - (II) Design and construction methods will be such as to minimize impact upon the

wetlands and will include restoration of the site consistent with the permitted use.

- (III) There is no feasible alternative route on land controlled by the applicant that does not cross the CO District nor has less detrimental impact on the wetlands. Nothing in this Section shall limit the applicant from exploring alternatives with abutting property owners.
- (IV) Economic advantage is not the *sole reason for the* proposed location of the construction.

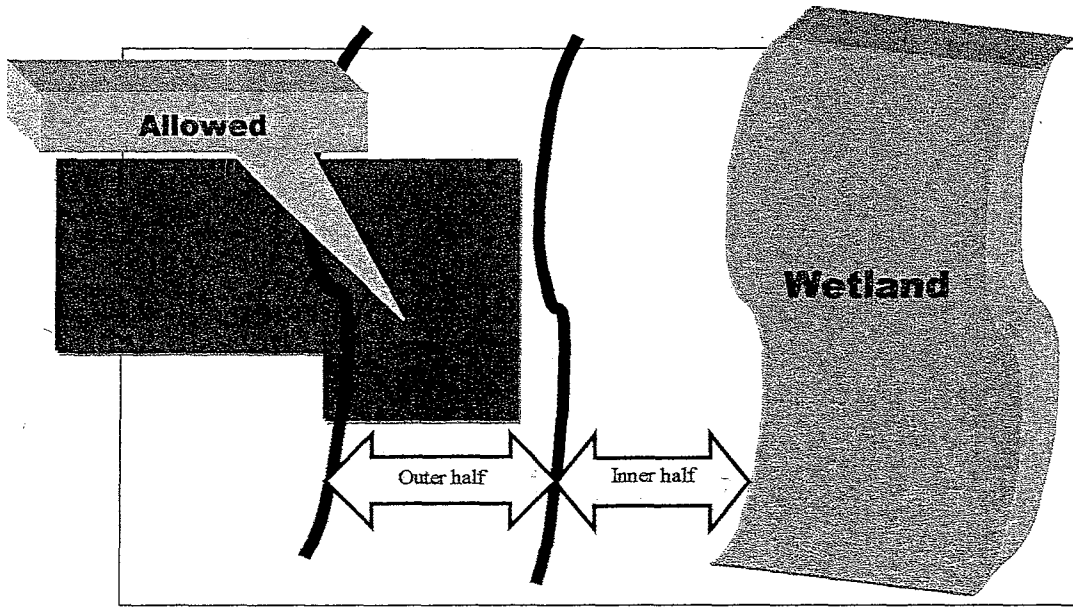
(B) Buffer reductions:

- (I) Lots which are subject to the requirements of this CO District as defined in Sections (II) and (III), above, may be allowed a buffer reduction of no more than one-half (1/2) of any required buffer subject to all applicable provisions of the Zoning Ordinance, in the following situations:

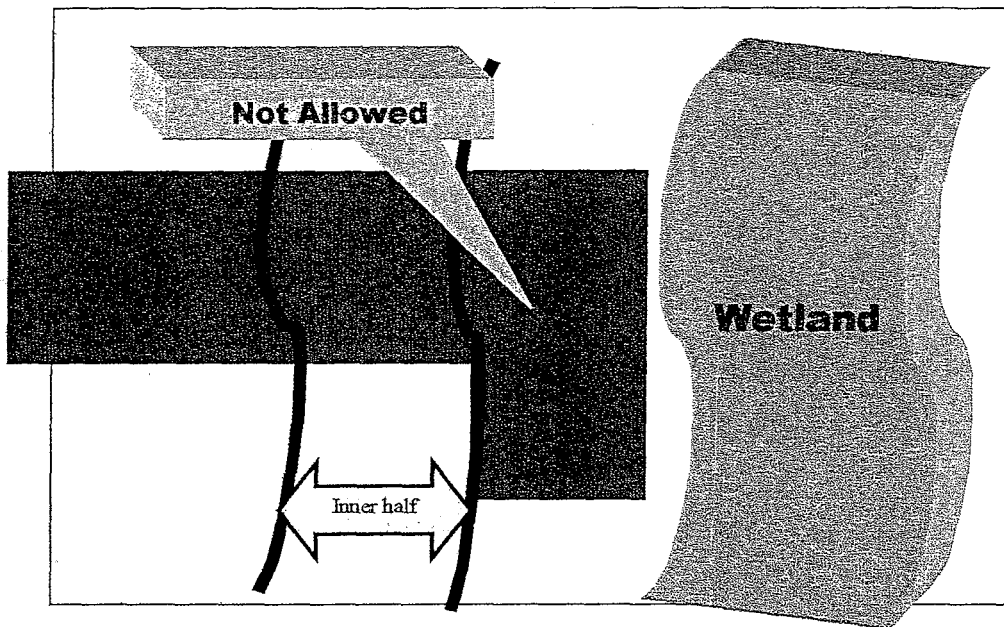
- 1. Expansion of existing structures may be permitted for lots located in the Industrial 1, Industrial 2, Industrial 3, Business 1, and business 2 districts
- 2. Construction of a new structure may be permitted for lots located in the Industrial I, Industrial 2, Industrial 3, Business 1, and Business 2 districts.

(II) All the following conditions shall be met to allow buffer reductions:

- 1. The structure for which the exception is sought cannot feasibly, after consideration of all reasonable alternatives, be constructed on a portion or portions of the lot, which lie outside the CO district, or the application of the CO district eliminates greater than 50% of the buildable area located on the parcel or in the judgment of the Planning Board, the proposed site layout would result in a significantly higher quality design.
- 2. The proposed structure and use must be consistent with the purpose and intent of Section 42.19 and provisions must be made to ensure that drainage from the structure will not adversely impact any wetlands,
- 3. There shall be no impervious areas for parking within the reduced buffer for which the Conditional Use Approval is sought.
- 4. The maximum building coverage is limited to 50% of the outer half of the buffer zone, as shown in the diagram below.



Buffer Reduction Example



- e) Best management practices must be demonstrated to the satisfaction of the Planning Board,
- C) Buffer reduction may also be obtained explicitly by issuance of a NH DES Dredge and Fill Permit, per section (j) DREDGE & FILL PERMITS.
- D) Administration of Conditional Use Approvals.
 1. The application shall be referred to the Conservation Commission for review and comment prior to the Planning Board making any final decision. In acting on the application, the Board shall consider any report received from the Commission.

The Board shall then vote either to approve the application as presented, approve it with conditions, or deny it

2. Prior to the granting of any Conditional Use Approval under (i) Conditional Use Approval A and B, the applicant may be required to submit a performance security in a form acceptable to the Planning Board, depending on the scale of the proposed use and potential threat to the wetlands, The security shall be submitted in a form and amount with surety and conditions satisfactory to the Planning Department to ensure that the construction Will be carried out in accordance with the approved design. The security shall be submitted to and approved by the Planning Department prior to the issuance of any permit authorizing construction.
3. The Planning Board may require the applicant to submit a wetlands impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant.
4. As outlined in NH RSA 676:4 I(g) the applicant may also be assessed reasonable fees to cover the cost of other special investigative studies and for the review of documents required by particular applications, reviews by the City's legal counsel, and any third party wetlands consultant as may be required by the Planning Board.

(j) DREDGE& FILL PERMITS

(1) Dredge and Fill Permits

- (A) Prior to filing an application for a New Hampshire Department of Environmental Services (NH DES) dredge and fill permit, the applicant is strongly encouraged to meet with the Conservation Commission to ensure that the proposed dredge and fill is consistent with the intent of the ordinance
- (B) An approved NH DES dredge and fill permit, once acted upon, will change the CO District Boundary, which will be applied from the new edge of wetland.

(k) MITIGATION

CO District mitigation shall be provided in the same watershed, if required by the Planning Board, at its discretion, with consideration of recommendations by the Conservation Commission.

PROHIBITED USES/ACTIVITIES

- (1) Expansion of motor vehicle recycling and junkyards is prohibited.
- (2) There shall be no storage of petroleum products, hazardous chemicals or materials.
- (3) Accessory structures shall not be constructed with any of the following materials: asphalt shingles or pressure treated or chemically treated/preserved wood.
- (4) There shall be no parking or storage of unregistered vehicles.

(m) BOARD OF ADJUSTMENT NOTE

Any variance or appeal to the Zoning Board of Adjustment, shall be in accordance with NH RSA 676:5 and 42.28 of this Zoning Ordinance. Prior to holding a public hearing on an appeal or variance, the Zoning Board shall forward a copy of the plan and application f.-44R to the Conservation Commission for review and comment. The Conservation Commission shall, after reviewing the plan and application, forward any appropriate recommendations to the Zoning Board of Adjustment for its consideration.

- (n) Any wetland or part of any wetland consisting of very poorly drained soils shall not count toward the minimum lot area or density requirements of any property in any zoning district.

TABLE I
NAMED STREAMS AND SURFACE WATER TABLE

Axel Handle Brook (Bickers & Howard Brooks)
Heath Brook
Hurd Brook
Willow Brook AKA Wardley Brook
Clark Brook
Baxter Lake
Rochester Reservoir
Hanson Pond AKA Squamanagonic Pond
Little Long Pond
Champlin Pond
No name pond south of Champlin Pond

NOTE: The above streams have been identified in the Water Resource Management and Protection Plan, prepared by Southern New Hampshire Planning Commission, dated February 1991 and on file in the office of the Planning Board, as listed in Table 1.

42.20 Regulatory Floodway Zone.

[51]

(a) **Authority and Purpose.** This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the City of Rochester Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the City of Rochester Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

(b) **Regulatory Floodway Boundaries.** The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Strafford County, New Hampshire" dated May 17, 2005, or as subsequently amended, together with the associated Flood Insurance Rate Map Panels of the City dated May 17, 2005, or as subsequently amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

II. This ordinance shall take effect May 17, 2005.

(c) Definition of Terms. As used in this ordinance, the following words and phrases shall have the following meanings:

"Area of Shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

"Building" -- see: "Structure."

"Development" means 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.

"FEMA" means the Federal Emergency Management Agency.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map" (FLOODWAY) is an official map of the community, on which the Federal Emergency Management Agency has delineated the "Regulatory Floodway." This map should not be used to determine the current flood hazard zone or base flood evaluation; the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.

"Flood Elevation Study" means 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 Hazard Boundary Map" (FHBM) means an official map of a community, issued by the Federal Management Agency, where the boundaries of the flood, mudslide (i.e.,

mudflow), related erosion areas having special hazards have been designated as Zone A.

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study" -- see: "Flood Elevation Study".

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source.

"Flood Proofing" means 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.

"Floodway" -- see: "Regulatory Floodway"

"Functionally dependent use" means a use which 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-range storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

"Lowest Floor" means 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Historic Structure" means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or
- (3) A district preliminarily determined by the Secretary to qualify as a registered historic district;
- (4) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (5) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (A) By an approved state program as determined by the Secretary of the Interior, or

(B) Directly by the Secretary of the Interior in states without approved programs.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Manufactured Home" means 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 flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"100-Year Flood" -- see: "Base Flood."

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as floodways on the Flood Boundary and Floodway Maps.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Flood Hazard Area" means an area having special flood, mudslide (i.e. mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, A99, and AH. (See Area of Special Flood Hazard).

"Structure" means for floodplain purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Start of Construction" includes substantial improvement, 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 a site, such as the pouring of a 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; or 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 not part of the main structure.

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

"Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty 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 a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, whether specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

(d) Restrictions - Regulatory Floodway Zone. The following regulations, as well as the regulations contained in Sections 42.7 through 42.22, shall apply to the Regulatory Floodway Zone as delineated in subsection (b) of this Section 42.20:

- (1) All proposed development in any special flood hazard areas shall require a permit.
- (5) The Code Enforcement Officer 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 flood prone area, all new construction and substantial improvements shall (I) be 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, (II) be constructed with materials resistant to flood damage, (III) be constructed by methods and practices that minimize flood damage, and (IV) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) The placement of mobile homes is prohibited within the designated Regulatory Floodway, except in existing mobile home parks.
- (4) Within the Regulatory Floodway, any development or encroachment (including fill) which would result in any increase in flood levels during the base flood discharge is prohibited.
- (5) Where new and replacement water and sewer systems (including on-site systems) are proposed in flood prone areas, the applicant shall provide the Code Enforcement Officer with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.
- (6) The Code Enforcement Officer shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.
- (7) The Code Enforcement Officer 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. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.

(8) In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Code Enforcement Officer. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Code Enforcement Officer.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Code Enforcement Officer certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

Along watercourses that have a designated Regulatory Floodway, no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory Floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Code Enforcement Officer shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the floodway requirements of this section.

Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 on the FIRM, unless it is demonstrated 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 foot at any point within the community.

(e) (1) In special flood hazard areas the Code Enforcement Officer shall determine the 100 year flood elevation in the following order of precedence according to the data available:

(A) In Zones A1-30, and AH, refer to the elevation provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.

(B) In unnumbered A zones, the Code Enforcement Officer shall obtain, review, and reasonably utilize any 100 year flood elevation data available from Federal, State, development proposals submitted to the community [example: subdivisions, site approvals, etc.] or other source.

(C) In Zone A0, the 100 year flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM, at least two feet.

(2) The Code Enforcement Officer's 100 year flood elevation determination will be used as criteria for requiring in Zones A1-30, AE, AH, A0 and A that:

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

(B) That all new construction and substantial improvements of non-residential structures

have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

(I) Be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(II) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

(III) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards or practice for meeting the provisions of this section.

(C) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Recreational vehicles placed on sites within Zones A, A1-30, AH and AE on the City's FIRM must either:

(I) Be on the site for fewer than 180 days; and,

(II) Be fully licensed and ready for highway use; or,

(III) Meet the permit requirements for placement of manufactured homes located on the Rochester firm.

(D) 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: (1) the enclosed area is unfinished or flood resistant, useable solely for parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings have a total net area of not less than one 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 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.

(E) Proposed structures to be located on slopes in Special Flood Hazard Areas, Zones AH and AD, shall include adequate drainage paths to guide flood waters around and away from the proposed structures.

(f) Variances and Appeals.

(1) Any order, requirements, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

(2) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, 1(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

(A) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

(B) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

(C) that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) The Zoning Board of Adjustment shall notify the applicant in writing that:

(I) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and;

(II) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions."

(4) The community shall (I) maintain a record of all variance actions, including their justification for their issuance, and (II) report such variances issued in its annual or biannual report submitted to FEMA's Federal Insurance Administrator.

42.21 Aquifer Protection Zone.

(a) Purpose. The purpose of the Aquifer Protection Zone is to protect groundwater resources from adverse development or land use practices that might reduce the quality and quantity of water that may be available for use as a future source of supply for Rochester's municipal water system.

(b) Aquifer Protection Zone Boundaries. The boundaries of the Aquifer Protection Zone shall generally coincide with those areas identified in the 1982 engineering study of the City's water system conducted by Whitman & Howard, Inc. as having the highest potential to serve as future sources of groundwater supply. These areas are delineated on the Rochester Zoning Map.

(c) Restrictions - Aquifer Zone. The following uses are prohibited:

(1) Coverage of more than forty percent (40%) of any lot with impervious surfaces, except that the Planning Board may allow up to sixty percent (60%) coverage of any lot with impervious surfaces if engineering design provides adequate purification and recharge conditions. The Planning Board shall require the applicant to cover all costs associated with design and Planning Board review.

(2) On-site disposal of solid wastes, other than brush and stumps.

(3) On-site disposal of liquid or leachable wastes other than from a septic system serving only domestic wastes.

(4) On-site disposal of any materials or substances classified as hazardous by the rules and regulations of the New Hampshire Water & Supply Pollution Control Commission or the Environmental Protection Agency.

(d) Special Provisions - Aquifer Zone. On-site storage of petroleum, gasoline, or other materials may be permitted if such storage is in compliance with the rules and regulations of the New

Hampshire Water Supply & Pollution Control Commission for Control of Nonresidential Underground Storage and Handling of Oil and Petroleum Liquids.

42.22 Special Downtown District.

[46] [96]

(a) Boundaries. The boundaries of the Special Downtown District coincide with the "fire limits" established in Chapter 40.13 of the General Ordinances of the City of Rochester. The district includes those areas classified on the Rochester Zoning Map as Business 1, Business 2, and Industrial 3 adjacent to North and South Main Streets in Rochester proper and Main Streets in Gonic and East Rochester.

(b) Regulations and Restrictions - Special Downtown District. The following regulations and restrictions shall apply in the Special Downtown District:

(1) Development within the Special Downtown District shall be exempt from the site plan review process, provided, however, that:

(A) any construction of new structures within the Special Downtown District, and/or

(B) any change to an existing structure or use within the Special Downtown District shall be subject to the site plan review process unless the Planning Director, after consultation with the Code Enforcement Officer, the Commissioner of Public Works, the Fire Chief, the Police Chief, the Economic Development Director, and one representative from the Planning Board appointed by the Board chair certifies in writing to the Planning Board that such proposed construction or change will have no significant adverse impact on the Special Downtown District.

(2) Existing structures and uses are exempt from the parking and loading requirements contained in Section 42.9 of this ordinance.

(3) New structures and uses, including changes to existing structures and uses, shall be subject to the parking and loading requirements contained in Section 42.9 of this ordinance, provided, however, that where a public parking facility is available within four hundred (400) feet of a structure or use, the specific parking requirements may be determined by the Code Enforcement Officer (or the Planning Board in the case of projects that are referred to the Board) on an individual basis. For the purposes of this section, the term "public parking facility" means a publicly owned off-street parking facility for 10 or more vehicles.

(4) The Planning Board shall be notified within ten (10) days of all projects being reviewed pursuant to this section. At the request of any Planning Board member, any project that has been reviewed, or is being reviewed, under this section may be referred to the full Planning Board for regular site plan review. In the event that a Planning Board member requests in writing that a project be referred to the Planning Board for regular site plan review, the Planning Board shall, within thirty (30) days of the date of the notification provided for in this paragraph, vote as to whether or not regular site plan review of such project shall be required.

(5) There are no Planning application fees or Monumentation fees charged for any projects located in the Special Downtown District (whether reviewed administratively or referred to the Planning Board).

42.23 Special Exceptions.

(a) General Provisions

(1) Certain uses, structures, or conditions are designated as Special Exceptions (E) in this ordinance. Upon application, the Board of Adjustment may, subject to the appropriate conditions and safeguards, grant a permit for these special exceptions and no others.

(2) Special exceptions, for which conformance to additional standards is required, may be permitted in their respective districts, subject to the satisfaction of the requirements and standards set forth in this Section 42.23, in addition to all other requirements of this ordinance. All such uses are hereby declared to possess such special characteristics that each shall be considered as an individual case.

(3) The Board of Adjustment may require that a site plan for development for a proposed special exception be submitted showing the location of all buildings, parking areas, traffic access, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special exception is in harmony with the intent of this ordinance.

(b) Considerations Governing Granting Special Exceptions. In acting upon an application for a special exception, the Board of Adjustment shall take into consideration whether:

- (1) The specific site is an appropriate location for the proposed use or structure;
- (2) The proposal is detrimental, injurious, obnoxious, or offensive to the neighborhood;
- (3) There will be undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking;
- (4) Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure; and,
- (5) The proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan.

(c) Special Exceptions - Detail. This section lists specific conditions which must be met in addition to those listed in 42.23(b)(1) - 42.23(b)(5) above in order for the Board of Adjustment to grant the special exceptions below:

(1) Pig Farms. In the Agricultural Zone: using grains only as feed; located one-half (1/2) mile from any other zoning district.

(2) Fur Ranches. In the Agricultural Zone: located one-half (1/2) mile from any other zoning district; raising pens or pelting facilities are at least one thousand (1,000) feet from any lot line.

(3) Hotel, Motel, Inn, Cabin. In the Agricultural Zone or Industrial Zones located on a State highway: additional area of 2,000 square feet of land for each additional sleeping unit above one.

(4) Motor Vehicle Junkyard and Junkyard. In the Agricultural and Industry 2, 4, and 4A Zones: in compliance with applicable State Laws. [36][37]

(5) Drive-In Theater. In the Agricultural Zone: location and design of access roads are approved by the Chief of Police as adequate according to reasonable traffic standards.

(6) Grocery or Variety Store. In the Residence 1 and 2 Zones: not more than 1,000 square feet in gross floor area; not located within one thousand (1,000) feet in a direct line from any other grocery store or variety store; approved by sixty percent (60%) of the owners of the property within a 250-foot radius of the numbered entrance of said store.

(7) Convalescent Rest Home. In the Residence 1, Residence 2, and Agricultural Zones: in addition to the applicable minimum lot size, an additional 2,000 square feet of land area for each patient bed is required. [35]

(8) Office. In the Residence 2 Zone: minimum lot size of 10,000 square feet for each 1,000 square feet of gross floor area; required off-street parking shall be in the rear of the premises. In Industry 1,2, 4 and 4A Zones: a minimum lot size of 5 acres shall be required. In the Agricultural Zone: maximum building footprint of 2,500 square feet; maximum coverage of lot by impervious surfaces 30%; architectural review to insure single-family residential appearance (pitched roof, etc.); parking in rear of structure. [35][36][37]

(9) Funeral Home. In the Residence 2 Zone: minimum lot size of 20,000 square feet.

(10) Second-Hand and Antique Shop. In the Residence 2 Zone: no outside display of stock-in-trade. In the Agricultural Zone: must be conducted and carried on consistently with and subject to the requirements applicable to a "Home Occupation" as set forth in Section 42.6(a)(28) hereof, provided, however, that the outside display of goods shall be permitted on the premises only during such time as the second-hand or antique shop is open for business and provided further that such outside display of goods shall be limited to an area not greater than twenty (20) percent of the floor area devoted to the second-hand or antique store use. [35]

(11) Filling Station. In the Business 1 Zone: where ingress or egress of motor vehicles does not endanger pedestrian traffic and is approved by the Chief of Police. [38]

(12) Amusement Enterprise. In the Business 1 and 2 Zones: location first approved by the Planning Board; where such uses are within fifty (50) feet of a residential zone, the wall facing the residential zone shall have no openings other than stationary window openings and emergency exits.

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(13) Bottling Works. Ice Cream Manufacture. Feed and Fuel Storage and Sales. In the Business 2 Zone: location first approved by the Planning Board; where such uses are within fifty (50) feet of a residential zone, the wall facing the residential zone shall have no openings other than stationary window openings and emergency exits.

(14) Laundry. In the Business 1 Zone: location first approved by the Planning Board; where such uses are within fifty (50) feet of a residential zone, the wall facing the residential zone shall have no openings other than stationary window openings and emergency exits.

(15) Monument Sales. In the Business 2 and Industrial 3 Zones: location first approved by the Planning Board; where such uses are within fifty (50) feet of a residential zone, the wall facing the residential zone shall have no openings other than stationary window openings and emergency exits.

(16) Earth Excavation. In any zone:

The Board of Adjustment may grant a special exception for earth excavation. Following the granting of a special exception, a permit may be applied for to the Planning Board in accordance with RSA 155-E. At the request of the applicant, the Zoning Board of Adjustment and Planning Board may hold a joint public hearing. In accordance with RSA 155-E, the Planning Board shall establish:

(A) an application form and application fee. The cost of notifying abutters shall be in addition to the application fee.

(B) an annual permit fee. After initial issuance, a permit shall be automatically renewable upon payment of the annual permit fee and upon verification that required bonds or other sureties are still in effect for the length of the permit.

(C) requirements for the posting of bonds or other sureties to ensure compliance with the conditions of the permit.

(17) Roadside Stand. In the Business 2 Zone: for the sale of general farm products.

(18) Government Buildings and Cemeteries. In the Agricultural, Residence 1, Residence 2, Business 1 and 2 , and Hospital Zones - where such uses are deemed essential to the public convenience or welfare by the Board of Adjustment. [85]

(19) Public Utility Lines, Stations and Buildings. In any zone where such uses are deemed essential to the public convenience or welfare by the Board of Adjustment.

(20) Airport, Public. In any zone where such use is deemed essential to the public convenience or welfare by the Board of Adjustment and where the proposed use meets all criteria of the FAA and the New Hampshire Aeronautics Commission.

(21) Airport, Private. In the Agricultural, Business 2, Industry 1, Industry 2, Industry 4, and Industry 4A Zones: where such a use will not be detrimental to adjacent properties due to noise or traffic and where the proposed use meets all criteria of the FAA and the New Hampshire Aeronautics Commission. [39][40]

(22) Retail Store. In Industry 1, 2, 4, and 4A Zones: located on a State highway with a minimum of 500 foot frontage and 100 foot setback of any building or parking from said highway; required minimum lot size shall be five (5) acres. [39][40]

(23) Restaurant. In Industry 1, 2, 4 and 4A Zones: allowed only as constructed within a hotel or motel. [42][43]

(24) Group or Shared Home. In the Agricultural Zone: minimum lot size of 80,000 square feet. [41]

(25) Solid Waste Facility. In the Industry 4A Zone subject to the following requirements, restrictions and/or dimensional regulations: [43]

(A) Such use shall be conducted subject to and in accordance with the requirements, restrictions and/or dimensional regulations specified in Section 42.15(j).

(B) Solid Waste Facility uses shall not occupy more than fifty (50%) percent of land area of the lot on which they are located or occur.

(C) Solid waste facility sanitary landfill uses shall not exceed 260 feet NVGD in height.

(26) Elderly Housing. In the Agricultural, Residence 2, Business 1, and Business 2 zoning districts, elderly housing shall be allowed subject to the following variations and limitations to the zoning requirements: **[44]**

(A) The number of dwelling units per acre shall not exceed fourteen (14).

(B) There shall be a minimum of sixty (60) feet of road frontage per development.

(C) Minimum rear setbacks shall be twenty-five (25) feet. **[110]**

(D) Minimum parking spaces shall be one (1) space per dwelling unit

(E) All dwelling units shall be connected to City water and sewer.

(F) All such developments must be within one-half (0.5) mile of some form of existing services and/or amenities such as shopping, public transportation and community facilities.

(G) Limited commercial uses may be allowed in a specific project not to exceed three (3%) percent of the total lot area for the following commercial uses: retail stores, grocery or variety stores, offices, service establishments or restaurants.

(H) The owner and/or developer of an elderly housing project for which a special exception is sought shall be required to enter into a written agreement with the City of Rochester restricting the dwelling units within such project to occupancy by persons fifty-five (55) years of age or older. Such occupancy restriction shall also be incorporated in and appear on the face of any subdivision or site review plan approved by the Rochester Planning Board with respect to such elderly housing project and shall be a Planning Board condition imposed upon any such subdivision or site review approval. Such written agreement with the City of Rochester shall also bind the owner and/or developer of such elderly housing project to incorporate such occupancy restriction in any condominium declaration or similar documents regarding such project. **[89]**

(I) In the Agricultural Zone only, the following additional limitations shall apply: **[90]**

(1) A maximum of eight (8) dwelling units per building.

(2) A minimum three (3) acre lot size per development.

(3) A minimum rear, side and front setback of fifty (50) feet each. **[111]**

(4) All buildings shall be limited to two (2) story buildings.

(5) All building construction shall be in harmony with the existing character of the neighborhood.

(6) The number of dwelling units per acres shall not exceed seven (7).

(27) Wireless Communications Facilities. (See also Wireless Communications Facilities in

this Chapter) Subject to a determination by the Zoning Board of Adjustment that the telecommunications equipment planned for the proposed site cannot be accommodated: (a) within a zoning district where these facilities are permitted by right nor (b) on any existing or approved antenna support structure in the City of Rochester, nor (c) on any prospective alternative tower structure in the City of Rochester for one of the following reasons: [68]

(A) The planned equipment would exceed the structural capacity of the existing or approved antenna support structure, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(B) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

(C) Existing or approved antenna support structures cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

(D) Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

In addition, for the purpose of buffering the proposed structure from neighboring properties and roads, the site proposed for the facility shall be surrounded by an area of dense tree growth - including a sufficient percentage of evergreen trees to partially screen the site in the winter - that extends continuously for a minimum distance equal to one-half the height of the proposed support structure. In locations where this dense tree growth is not presently in place the Zoning Board of Adjustment may, at its option, where it determines that the intent of this requirement can otherwise be met: (a) waive or reduce this requirement due to other mitigating conditions on or off the site; and/or (b) approve a tree planting and landscaping plan for the site (alternatively, the Board may defer review and approval of this plan to the Planning Board as part of Site Plan Review). An appropriate method, such as a deed restriction, shall be employed to ensure that the buffer remains in place as long as the support structure is in place.

(28) Garage Setbacks. A special exception may be granted to reduce side and/or rear setback requirements for garages (only applicable for residential use) in the Agricultural, Residence 1, or Residence 2 districts subject to all of the following conditions: [70] [112]

(A) The lot must not have been created by a subdivision that occurred after January 1, 1998:

(B) A finding by the Zoning Board of Adjustment that there is some existing pattern in the area for garage setbacks smaller than those required;

(C) Locating the garage in conformance with the side and/or rear setback requirements would significantly impact existing vegetation, views from the residence, use of the yard, or site circulation; or is impractical due to lot dimensions of other constraints; [112]

(D) If a new driveway serves the garage, it must be endorsed by the City Engineer, prior

to the public hearing;

(E) The proposed garage must be set back at least 10 feet from any existing building located on an adjacent lot;

(F) The proposed garage must be designed to blend with the architectural character of the neighborhood (siding, fenestration, roof pitch, etc.). Elevation drawings must be submitted to and approved by the ZBA;

(G) The garage does not exceed 24 feet in either length or width; and

(H) The garage walls do not exceed 10 feet in height (the roof may exceed this 10 foot limit)

(29) Front Porch Setbacks. Open air porches may extend into the front setback up to one half of the required setback by special exception. For any porch for which such a special exception is granted the porch must in perpetuity remain open air and not be enclosed (i.e. it may not be enclosed with either glass or screens). [109]

42.24. Cluster Development.

[45]

In the Agricultural Zone, a single detached one-family dwelling, and in the case of "affordable housing" as provided for in Section 42.24(d)(2), multi-family dwelling units not to exceed a maximum of four (4) units per building, may be constructed on certain lots in a cluster development (as hereinafter defined and limited) although such lots have less area and/or frontage than normally required. For the purpose of this section, a cluster development is a division of land into lots used, or available for use, as building sites where said lots are clustered together into one or more common groups, separated from adjacent property and other groups of lots by intervening common land.

(a) Purpose and Intent. The purpose of this section is to provide greater flexibility in the development of land within the City of Rochester and to encourage preservation of natural resources.

(b) Application for Consideration. Any person considering development of a parcel of land having particularly unique topography, valuable farmland, or similar characteristics which in his opinion demand special development considerations may request in writing to the Planning Board that such proposal be considered under the provisions of this section. Such a request will constitute a waiver of other requirements as contained elsewhere in this ordinance or the Subdivision Regulations relating to time limits, referrals, and other specific considerations.

(c) Planning Board Action. The Planning Board shall take action on the request within thirty (30) days of submission. Should the Planning Board determine that the request is compatible with the intent of this section, meets the minimum requirements, and could, in fact, result in a more attractive and efficient development, it may approve the request and consider the proposal under the cluster development procedure.

(d) Special Requirements. The Planning Board, working with the applicant, may approve a cluster development (containing lots with less than the minimum area and/or frontage), provided that:

(1)The total area of land included within the development shall be ten (10) acres or more.

(2) The total number of lots shall not exceed one and a half (1.5) times the number of lots normally permitted in the Agricultural Zone, provided, however, that in the event that the prospective developer of a cluster development shall obtain certification from the New Hampshire Housing Finance Agency that such cluster development and the lots therein shall be developed as "affordable housing" in accordance with the then applicable guidelines of the New Hampshire Housing Finance Agency and the prospective developer shall enter into a written agreement with the City of Rochester to insure that such development and the lots therein are so developed and marketed, the total number of lots in such development shall not exceed two (2) times the number of lots normally permitted in the Agricultural Zone.

(3) Every individual lot for a single detached one-family dwelling shall have an area of at least 10,000 square feet. In the case of a multi-family dwelling, the minimum lot area per dwelling unit shall be 7,500 square feet.

(4) Every individual lot shall have a minimum frontage of at least seventy (70) feet, except that any lot abutting an existing street shall have a minimum frontage on such street not less than the amount normally required in the Agricultural Zone.

(5) All land area in the development which is not included in lots or streets shall be designated as common land.

(6) Every individual lot that is reduced in the area below the amount normally required abuts such common land for a distance of at least fifty (50) feet.

(7) The minimum width of common land between any group of lots and adjacent property, and between every two groups within the development is fifty (50) feet.

(8) All lots shall be connected to a public (or community) water and sewer system or equivalent.

(9) All common land hereunder shall be either: (A) held in common ownership by the owners of lots within the development; or (B) dedicated to the City of Rochester for recreational use in a location, size, and shape approved by the Planning Board. The City shall retain the option of whether or not to accept common land dedicated under alternative (B). If the City chooses not to accept the common land, it shall be held by the owners of the lots. In the case of common ownership, the developer shall include in the deed to the owners, beneficial rights in said common land and responsibilities for its maintenance, and an easement shall be conveyed to the City of Rochester against development of said land and the reaction thereon of any structures other than for neighborhood non-commercial recreational use.

(10) The minimum front and rear setbacks shall be 25 feet and the minimum side setback shall be 10 feet.

[113]

(e) Application for Approval. Each application for approval hereunder shall be accompanied by a plan, in duplicate, prepared in accordance with the specifications in the Rochester Subdivision Regulations for preliminary approval. In its consideration of the proposed cluster development, the Planning Board shall concurrently study the plan with respect to the requirements of the Subdivision Regulations and approval under this section shall include subdivision approval.

42.24 A. Wireless Communications Facilities

[68]

(a) Commercial Facilities. Any plan to install wireless facilities for the commercial transmission

or reception of telecommunications shall be subject to the specific requirements detailed herein and elsewhere in the Zoning Ordinance and Site Plan Regulations. Commercial wireless communications facilities that were approved and constructed prior to the effective date of this amendment are subject to Section 8 and 9 below. Commercial wireless communications facilities shall not be considered accessory uses. (See 42.24A(b) for standards applicable to noncommercial facilities.)

(1) Co-Location All commercial wireless communication facilities erected or located within the municipality shall comply with the following:

A proposal for a new wireless communications facility may only be approved subsequent to a determination to be made by: (a) the Zoning Board of Adjustment, as part of a consideration for a special exception, in zoning districts where a WCF is permitted by special exception (See Special Exceptions) in this chapter or (b) the Planning Board as part of the site plan review process, in zoning districts where a wireless is permitted by right - that the telecommunications equipment planned for the proposed site cannot be accommodated on any existing or approved antenna support structure in the City of Rochester or on any prospective alternative tower structure in the City of Rochester for one of the following reasons:

(A) The planned equipment would exceed the structural capacity of the existing or approved antenna support structures, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(B) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the antenna support structure as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.

(C) Existing or approved antenna support structure within the required radius cannot accommodate the planned equipment at the necessary height as documented by a qualified professional engineer.

(D) Any other substantial reason that precludes the co-location. The burden of proof is upon the applicant to demonstrate that all reasonable alternatives to the erection of a new structure have been fully explored.

(2) Design. Facilities shall be designed to blend into the environment through the use of color and camouflaging architectural treatment (unless otherwise dictated by the FAA or other government authority).

(3) Height. The maximum permitted height from grade is as follows:

(A) 60 feet if the structure is designed to accommodate only one service provider.

(B) 100 feet if the structure is designed to accommodate two service providers.

(C) 140 feet if the structure is designed to accommodate three service providers.

(D) 180 feet if the structure is designed to accommodate four or more service providers.

(4) Accessory Utility Structures All utility structures accessory to a tower shall also be designed to blend in with the environment and shall meet the minimum setback requirements

of the zoning district. Ground mounted equipment shall be screened from view by suitable vegetation or by any other screening method which blends with the architectural character of neighborhood.

(5) Lighting. Antennas and support structures shall not be illuminated and shall not display strobe lights unless specifically required by the FAA or another governmental authority. Where lighting is required by the FAA other options (including but not limited to reducing the height of the support structure) to the extent practicable shall be explored which would remove said requirement for lighting.

(6) Temporary Wireless Communications Facilities. Any facility designed for temporary use (as defined in 42.6), is subject to the following:

(A) Use of a temporary facility is allowed if the owner has received a use permit from the Rochester Code Enforcement.

(B) Temporary wireless facilities are permitted for use not to exceed 30 days during construction of permanent facilities or 10 days during a special event.

(C) The maximum permitted height of a temporary wireless facility is 50 above grade.

(D) Temporary facilities are subject to all applicable portions of Ordinances.

(7) Interference with Public Safety Telecommunications. No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Telecommunications providers shall notify the Police and Fire Departments at least ten calendar days in prior to placing new services on line to give those Departments an opportunity to monitor interference levels during the testing process.

(8) Declaration of Continuing Operation. The owner of a wireless facility, with written authorization from the property owner, shall file annually a declaration with the Planning Department as to the continuing operation of every facility installed subject to these regulations. Failure to do so may be construed to mean that the facility is no longer in use and considered abandoned, thus subject to the provisions of (9), below.

(9) Abandoned or Unused Wireless Communications Facilities.

Abandoned or unused antennas and structures shall be removed as follows:

(A) An agreement between the facility owner (and successors in interest), property owner (and successors in interest), and the City of Rochester which incorporates the provisions (B) through (E) of this section shall be submitted at the time of application.

(B) A copy of the relevant portions of a signed lease (except in cases where the land is owned by the provider) which requires the applicant to remove the antenna, support structure, and associated facilities upon cessation of operations at the site shall be submitted at the time of the application.

(C) All abandoned wireless communications facilities shall be removed within 180 days of the cessation of operations at the site unless a time extension is approved by the Planning Department.

(D) Unused portions of support structures above a manufactured connection shall be removed within 180 days of the time of antenna relocation. The replacement of portions of a support structure previously removed will require a new approval.

(E) In the event that these elements are not removed within 180 days of the cessation of operations at a site, the City of Rochester (in addition to other remedies) may remove the antenna, structure, and associated facilities and assess the cost of removal against the property or if the City must enforce the agreement required by (A) through legal measures, the landowner and facility owner shall reimburse the City for legal costs.

(10) Signs and Advertising. No portion of an antenna or support structure may be used for signs or advertising other than warning or equipment information signs, as appropriate.

(11) Independent Evaluation. The City, as its option, may require, at the expense of the applicant, an independent evaluation of any wireless communications facility proposal, by a qualified licensed professional engineer selected by the City.

(b) Non-Commercial Wireless Facilities. Non-commercial wireless communications facilities (including television antennas and amateur radio antennas) are exempt from review and approved that:

(1) These facilities shall not be illuminated and shall not contain any advertising signage.

(2) Freestanding structures must be located behind the primary rear building façade and in conformance with all side and rear setback requirements or otherwise located and designed so as to be unobtrusive from the street or other public rights-of-way. [114]

(3) Free standing structures may not exceed 49 feet in height and building mounted structures may not be higher than 20 feet above the ridge of the roof unless the applicant demonstrates to the reasonable satisfaction of the Planning Department that such height is necessary for the intended amateur radio communications (for reference see the Federal Communications Commission's preemptive ruling PRB1 regarding amateur radio antennas.

(c) Commercial Wireless Facilities Performance Criteria. Height regulations, setback distances, types of new facility applications shall be as prescribed in Table 3. See attached "**APPENDIX C.**"

42.25 Administration and Enforcement.

(a) Procedure for Enactment and Amendment. [128]

(1) The enactment of the Zoning Ordinance and any proposed amendments must be done in accordance with RSA 675:2. The City Council must hold a public hearing on all enactment and amendment proposals in accordance with RSA 675:7. At least forty five (45) days before the public hearing, the proposal shall be referred to the Planning Board for study and report. The

report of the Board shall be read into and made a part of the minutes of the public hearing. In making its report, the Planning Board shall refer to and take into account its Master Plan for the City. Failure of the Planning Board to file a report on the proposal with the City Council within forty five (45) days shall be deemed to be an approval. In the event the Planning Board

recommends that the proposal not be approved, such proposal shall require a two-thirds (2/3) vote of the City Council. In the event the Planning Board recommends approval, such proposal shall require a simple majority vote of the City Council. A copy of the approved Zoning Ordinance and amendments thereto shall be placed on file with the City Clerk for public inspection. A copy shall also be filed with the New Hampshire Office of State Planning.

(2) Where a petition is filed for an amendment to this ordinance, the City Council shall act within one-hundred twenty (120) days of the date of first reading the petition in accordance with the procedure spelled out in Section 42.25(a)(1). In order to be placed on the City Council agenda for reading, a petition must be received by the City Clerk at least five (5) days prior to the date of the Council meeting. A petition for amendment to this ordinance shall be filed with the City Clerk, accompanied by a description of the proposed amendment on a form prescribed by the City Clerk and by a filing fee of Thirty (\$30.00) Dollars plus the actual costs of legal notice and other charges. [126]

Where an amendment to this ordinance is recommended by the Planning Board or any other department or commission of the City, or by the Mayor or a City Councilor, the City Council shall act within one hundred twenty (120) days of the date of the first reading of the amendment in accordance with the procedure spelled out in Section 42.25(a)(1) above. However, when an amendment is recommended by the Planning Board, it shall not be referred back to the Board for study and report. In order to be placed on the City Council agenda for reading, a proposed amendment must be filed with the City Clerk at least five (5) days prior to the date of the Council meeting. [126]

(4) In accordance with RSA 675:5, in case of a protest against a zoning change signed by either:

(A) The owners of twenty percent (20%) of the area of the lots included in such proposed change; or,

(B) The owners of twenty percent (20%) of the area within one hundred (100) feet immediately adjacent thereto or across a street therefrom; such change shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the City Council present and voting.

(5) In order to have any protest considered by the City Council:

(A) The owners signing the petition shall identify themselves on the petition by name and address, and by address of the property involved, so that the City Clerk may identify such owners as interested and affected parties; and,

(B) The signed petition shall be submitted to the City Clerk at least five (5) days prior to the Council meeting; provided, however, that each protest petition shall apply to only one item on the agenda. The Mayor shall announce at the Council meeting that a protest petition has been received.

(C) In the case of a protest petition, the City Council shall act within one hundred twenty (120) days of the date of first reading of the proposed zoning change.

(b) Enforcement.

[97]

The Director of Code Enforcement, Building Inspector, Commissioner of Public Works, City Engineer, City Solicitor, City Manager and/or such other local official(s) as may be designated, by the City Manager, with authority to enforce the provisions of Title LXIV of the New Hampshire Revised Statutes Annotated, or of any other local ordinance, code or regulation adopted under such Title, shall enforce the provisions of this, Chapter 42 of the General Ordinances of the City of Rochester, the provisions of Title LXIV of the New Hampshire Revised Statutes Annotated, or any local ordinance, code or regulation adopted under such Title, including any provision or specification of any application, plat, or plan approved by, or requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this ordinance or the authority of Title LXIV. The City Manager is authorized to specify which of the above designated City official(s) and/or other local official(s) designated, by the City Manager, with authority to enforce the provisions of Title LXIV of the New Hampshire Revised Statutes Annotated, or of any local ordinance, code or regulation adopted under such Title, shall be responsible for enforcement with regard to any specific violation(s), or alleged violation(s) of the same.

In accordance with the provisions of RSA 676:17, any person who violates any of the provisions of this ordinance, Title LXIV of the New Hampshire Revised Statutes Annotated, or any local ordinance, code or regulation adopted under the authority of said Title, or any provision or specification of any application, plat, or plan approved by, or requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this ordinance or the authority of Title LXIV, shall be guilty of a misdemeanor if a natural person, or guilty if a felony if any other person; and shall be subject to a civil penalty of \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier.”

42.26 Building Permit. This ordinance shall be administered by the Code Enforcement Officer in the same manner and with the same powers provided under the Building Code of the City of Rochester. No building permit shall be issued by the Code Enforcement unless the proposed building or use conforms in all respects to the provisions of this ordinance.

42.27 Certificate of Occupancy. No premises or structure or part thereof hereafter erected or altered wholly or partly in use or structure, or moved, or the open spaces of which are in any way reduced, shall be used until the Code Enforcement Officer shall have issued a certificate of occupancy, specifying the use to which the premises, or building upon being sufficiently completed to comply with the provisions and regulations thereto, may be put.

42.28 Board of Adjustment.

(a) In accordance with the provisions of RSA 673:3, the Board of Adjustment shall consist of five (5) members. The Mayor, in accordance with the provisions of Section 74 of the Rochester City Charter, shall annually appoint members for staggered three (3) year terms so that no more than two (2) members are appointed annually except when required to fill vacancies. A member may be removable in accordance with the provisions of RSA 673:13. Vacancies shall be filled for any unexpired term.

(b) The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this ordinance and the provisions of RSA 676:1.

(c) The duties and powers of the board of Adjustment shall be as prescribed in RSA 674:33, as amended, to which specific reference is made and which is incorporated by reference herein.

42.29 Administrative Review. Before any subdivision plan or site plan can be approved by the Planning Board, an administrative review process shall be followed requiring review and sign-off on technical aspects of the plan by appropriate City department heads and by the City Manager. The final approval shall not be considered complete until all required State of New Hampshire permits and/or licenses are issued. No plans are to be signed by any authorized City official unless this section is totally complied with.

42.30 Interpretation. This ordinance shall not interfere with or annul any ordinance, rule, regulation, or permit, provided that, unless specifically excepted, where this ordinance is more stringent it shall control.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision hereof.

42.31 Impact Fees.

[73][80][121]

(a) Purpose.

(1) This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:

(A) Promote public health, safety, convenience, welfare, and prosperity;

(B) Insure that adequate and appropriate public facilities are available;

(C) Provide for the harmonious development of the City and its environs;

(D) Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;

(E) Insure the proper arrangement and coordination of streets; and,

(F) Insure streets of sufficient width to accommodate existing and prospective traffic.

(b) Authority.

(1) Impact fees may be assessed to new development to compensate the City of Rochester and the School District for the proportional share of capital facilities generated by new development in the City of Rochester. Any person who seeks a building permit for new development may be required to pay an impact fee in the manner set forth herein.

(2) The Planning Board may, as a condition of approval of any subdivision or site plan, or change of use, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's proportional share of off-site improvements to public facilities affected by the development.

(2) Nothing in this section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which is scattered or premature, or which

would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations. Nothing in this section shall be construed to limit the Planning Board's authority to require off-site work to be performed by the applicant, in lieu of paying an impact fee, or the board's authority to impose other types of conditions of approval. Nothing in this section shall be construed to affect types of fees governed by other statutes, ordinances or regulations.

(c) **Definitions.** For the purposes of this chapter, the following terms shall have the meanings indicated:

(1) **IMPACT FEE** – A fee or assessment imposed upon development, including subdivision or building construction in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the City of Rochester, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.

(2) **NEW DEVELOPMENT** - An activity that results in any one or more of the following:

(A) The creation of a new dwelling unit or units; or

(B) The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or

(C) Construction resulting in a new non-residential building or a net increase in the floor area of any non-residential building; or

(D) The conversion of an existing use to another use if such change results in a net increase in floor area and such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessments unless waived by the Planning Board.

New development shall not include the replacement of an existing mobile home or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on public capital facilities.

(d) **Assessment Methodology.**

(1) **Proportionality:** The amount of the impact fee shall be calculated by the Planning Board to be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. The Planning Board may prepare, adopt, or amend studies or reports that are consistent with the above standards, and which define a methodology for impact fee assessment for public capital facilities, and impact fee assessment schedules therefore.

(2) **Existing Deficiencies:** Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

(e) **Administration.**

(1) **Accounting:** In accord with RSA 673:16, II and RSA 674:21, V(c), impact fees shall be

accounted for separately, shall be segregated from the City's general fund, may be spent upon order of the City Council, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet. In the event that bonds or similar debt instruments have been or will be issued by the City of Rochester or the Rochester School District for the funding of capital improvements that are the subject of impact fee assessment, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.

- (2) **Assessment:** All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development, as determined by the Building Inspector. Impact fees shall be intended to reflect the effect of development upon municipal and/or school facilities at the time of the issuance of the building permit. In determining the amount of the impact fee, when the net increase in floor area has triggered the fee, the calculations shall use only the net increase in floor area.
- (3) **Security:** In the interim between assessment and collection, the Building Inspector may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of assessed impact fees.
- (4) **Collection:** Impact fees shall be collected as a condition for the issuance of a certificate of occupancy; provided, however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the City has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the City may advance the time of collection of the impact fee to the issuance of a building permit. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this section shall prevent the Building Inspector, with the approval of the Planning Board, and the assessed party from establishing an alternate, mutually acceptable schedule of payment.
- (5) **Refund of Fees Paid:** The current 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 under the following circumstances:
 - (A) When either the full or partial portion of the impact fee, whichever is applicable, 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 full and final payment of the fee; or
 - (B) When the City of Rochester, or in the case of school impact fees, the Rochester School District, has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate their proportionate non- impact fee share of related capital improvement costs.
- (f) **Appeals.** A party aggrieved by a decision made by the Building Inspector regarding the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board.

In accord with RSA 676:5, III, appeals of the decision of the Planning Board in administering this ordinance may be made to Superior Court, as provided in RSA 676:5, III and RSA 677:15, as

amended.

(g) Waivers.

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed:

- (1) An applicant may request a full or partial waiver of school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over in a development that is also maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on such age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years.
- (2) A person may request a full or partial waiver of impact fees for construction within a subdivision or site plan approved by the Planning Board prior to the effective date of this ordinance. Prior to granting such a waiver, the Planning Board must find that the proposed construction is entitled to the four year exemption provided by RSA 674:39, pursuant to that statute. This waiver shall not be applicable to phases of a phased development project where active and substantial development, building and construction has not yet occurred in the phase in which construction is proposed.
- (3) The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the City Council for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment.

The applicant shall pay all costs incurred by the City for the review of such proposal, including consultant and counsel fees.

- (4) The Planning Board is responsible, when there is a change in use, for determining the net increase on public capital facilities and may agree to waive the entire fee if it determines that its collection and administration will exceed its value to the City.

42.32 Planned Unit Development.

[75] [81]

(a) Authority. This section is adopted pursuant to New Hampshire RSA 674:21 Innovative Land Use Controls subsection I. (e) Planned unit development.

(b) Purpose. A Planned Unit Development (PUD) allows a landowner to propose his/her own development project largely independent from current land use regulations otherwise applicable to that property. A PUD master plan is akin to a special zoning district designation for a particular tract of land in terms of uses, dimensions, and other development standards. (Note: every reference to a master plan in this PUD ordinance refers to the PUD master plan rather than the City of Rochester Master Plan, except where the latter is specifically referred to as such.)

The purpose of this ordinance is to promote flexibility in large scale development by considering project proposals based upon a comprehensive, integrated and detailed plan rather than the

specific constraints applicable to piecemeal lot-by-lot development under conventional zoning. A PUD should improve the quality of new development by encouraging aesthetically attractive features and promoting quality site and architectural design.

(c) Process. The process for administering a Planned Unit Development is as follows.

(1) Due to the complexity inherent in PUD's, prior to developing a detailed PUD proposal or submitting an application applicants are strongly encouraged to: a) meet with the Planning Department to discuss their ideas; and b) hold a conceptual discussion with the Planning Board.

(2) The applicant submits a formal PUD application (also known as the proposed PUD master plan) as specified elsewhere in this section.

(14)The Planning Board holds a public hearing on the PUD application and determines whether or not it is complete, in accordance with this ordinance. The board must take final action on the application within 65 days of a finding of completeness.

(4) The Planning Board approves, denies, or approves with conditions the PUD application. An applicant may appeal any such decision of the Planning Board in the same manner specified for appeals for site plan determinations and subdivision determinations (RSA 677:15).

(5) The Planning Department maintains a record of all approved PUD master plans. The PUD is demarcated on the official Zoning Map of the City (over the underlying zoning district) and labeled based on the order in which the master plan was approved (as PUD-1, PUD-2, etc.).

(6) Subsequent to the PUD approval, the applicant submits a separate site plan application and/or subdivision application for development of the tract in accordance with the master plan. In the event of a conflict between the terms of the approved master plan and the terms of the site plan regulations or subdivision regulations, the terms of the approved master plan shall control.

(7) Any development on the subject property must be consistent with the approved master plan as determined by the Planning Board. While it is the master plan, rather than the underlying zoning district, that regulates development of the subject tract, there shall remain an underlying zoning designation for the tract at all times.

(8) In the event active and substantial development or building has not begun on the site by the owner or the owner's successor-in-interest in accordance with the approved master plan within four years after the date of approval, or in accordance with other specific terms of the approval, then the master plan shall be deemed to have expired and the underlying zoning shall then control development of the land. Landowners may apply to the Planning Board for extensions of this time period for good cause shown.

(10)Landowners may apply to amend all or a portion of an approved PUD following the same process applicable to the establishment of a PUD. A landowner may extinguish a PUD by notifying the Planning Board in writing that he/she does not intend to utilize the PUD.

(d) PUD Master Plan.

(1) In devising the PUD master plan, subject to specific limitations, guidelines, and objectives stated elsewhere in this ordinance, there is flexibility in the selection of land uses, density,

setbacks, buffers, building heights, lot sizes, lot dimensions, parking requirements, and most site design and development standards contained in the Zoning Ordinance, Site Plan Regulations, Subdivision Regulations.

(2) The master plan is composed of: (a) all of the elements submitted by the applicant which describe the project including a land plan (drawing), land use list, PUD application, narrative, architectural guidelines (if applicable), and other development guidelines; and (b) any additions, deletions, modifications, and/or clarifications stipulated by the Planning Board in its approval.

(3) The land plan delineates one or more land use areas. An accompanying land use list gives a designation for each land use area specifying approximate acreage, types of uses, density and any other development standards peculiar to that area.

(e) Basic Requirements. The following requirements apply.

(1) Location. PUD's are permitted only in the Agricultural, Residential-1, and Residential-2 zoning districts. They are permitted on one or more lots, or portions of lots, of land.

(2) Tract size. The minimum area required for a PUD shall be fifty (50) contiguous acres of land. However, within Residence-1 and Residence-2 zoning districts where a bona fide traditional neighborhood development is proposed in accordance with the parameters discussed in the City of Rochester Master Plan the minimum area shall be twenty-five (25) contiguous acres. Where portions of the tract are separated by a road, road right-of-way, utility, waterway, or another like element, the land shall be deemed contiguous unless the intervening feature is of such a nature that the Planning Board determines that the land could not function effectively as a PUD.

(3) Ownership. The PUD shall be under unified ownership or control at the time of application. However, the tract may be subsequently subdivided consistent with the terms and conditions of the approved master plan. Multiple parties may own, manage, and/or develop various components of the PUD provided that the overall PUD remains integrated.

(f) Permitted Uses. The following uses may be proposed for inclusion in a PUD. However, no use is permitted in a PUD unless specifically approved by the Planning Board as part of the master plan.

(1) Any residential use(s) proposed by the applicant which, as reasonably determined by the Planning Board, meet(s) the requirements and objectives of this ordinance. These may include dwelling units in the following forms:

- (A) Single-family detached;
- (B) Duplexes;
- (C) Triplexes;
- (D) Fourplexes;
- (E) Rowhouses/townhouses;
- (F) Attached or detached condominium units;
- (G) Multi-family units;
- (H) Housing for persons fifty-five (55) years of age and over.

(2) Any uses that are permitted in the underlying zoning district, either by right, special exception, or conditional use permit (at such time as this procedure may be established) except for those uses specifically prohibited below; any uses that are allowed in the underlying zoning district under an existing permit or as existing nonconforming uses.

(3) Any uses that are customarily accessory to uses approved in the PUD Master Plan.

(4) Nonresidential Uses. Any nonresidential use(s) proposed by the applicant which, as reasonably determined by the Planning Board, meet(s) the requirements and objectives of this ordinance except for those specifically prohibited below. Nonresidential uses should be

compatible in scale and design with residential uses, be attractive and low key (in terms of building design, signage, lighting, and treatment of parking), and have a strong pedestrian orientation. The types of nonresidential uses compatible with a PUD include (but are not limited to) the following:

(A) Community function halls;

(B) Neighborhood scale commercial uses such as convenience stores, craft store, drug stores, restaurants, beauty shops, tailors, Laundromats, banking establishments;

(C) Professional offices;

(D) Medical care uses, including medical care office buildings;

(E) Day care facilities for adults and children;

(F) Other civic uses such as schools, government offices, and churches;

(G) Inns and bed and breakfasts;

(H) Indoor and outdoor recreation facilities; and

(I) Sales office for the sale or rental of property in the PUD;

(5) Prohibited uses and designs. The following uses and designs are not permitted in a PUD unless they are already allowed in the underlying zoning district under an existing permit or as existing non-conforming uses: commercial telecommunication towers/wireless communications facilities as a primary use, any industrial use, warehousing or storage as a primary use, automobile/vehicle dealerships (new or used), any individual retail sales or service operation with a building footprint exceeding 20,000 square feet, gasoline stations, any restaurant with a drive up window, and internally illuminated signage.

(g) Standards of Development. The following standards shall apply to all PUDs.

(1) All PUDs shall contain a minimum of twenty (20%) percent of the total gross acreage of the site as open space. Plans for ownership and maintenance of all open space areas must be determined at the time of either master plan approval or site plan/subdivision approval.

(2) No more than fifty (50%) percent of the PUD site, excluding open space, shall be devoted to parking, streets, buildings, and accessory structures, except in the case of a bona fide

traditional neighborhood development.

(3) Off street parking and loading shall comply with the Rochester Zoning Ordinance for each proposed use. However, the Planning Board may grant waivers for parking if the Board finds that waivers will be compatible with the design and purposes of the PUD.

(4) All utilities shall be located underground, unless the Planning Board determines that significantly unfavorable site conditions warrant above ground installation.

(3)The overall residential density of a PUD may not exceed six residential dwelling units (including single family homes) per gross acre of the PUD tract. In determining appropriate density, in addition to other criteria here, the Planning Board shall pay special attention to the

amount of buildable land contained on the tract as determined or reasonably estimated in the submission materials. The commercial uses delineated above may be located in a flexible spatial environment, assuring compatibility with residential uses and with the overall development design, provided that non-residential uses do not exceed 25% of the gross tract area of the PUD. These limitations herein: (a) are maximums and should not be construed as by right permitted levels of development, and (b) may be waived in the case of a bona fide traditional neighborhood development.

(6) No building shall exceed four (4) stories in height (except for cupolas, dormers, building towers, and similar elements).

(7)Flexible street design, compatible with the design of the PUD is encouraged. Street designs which promote a sustainable community living environment within the PUD are encouraged. Street widths may be reduced from the provisions of the Zoning Ordinance and Subdivision Regulations where a reduction in street size is compatible with the harmonious development of the PUD and accommodates emergency vehicles and other functional needs.

(8)The PUD shall be in compliance with (a) all standards contained within the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations unless waived or modified as part of the master plan and (b) all applicable local, state, and federal law relating to public health and safety, building construction, drainage, nuisances, and protection of natural and cultural resources (these standards may not be waived or modified).

(9) All roads and structures shall be set back a minimum of fifty (50) feet from all exterior PUD tract boundaries which abut residential uses except where transportation or use linkages are desired. Landscaping and other screening devices shall be designed to provide a reasonable buffer between the PUD and adjoining property except where compatible uses adjoin one another.

(10) Private roads may be utilized provided acceptable arrangements are made for their ownership and maintenance.

(11) In a PUD where ownership is subject to restrictions, covenants and other agreements, those documents shall be recorded in the Strafford County Registry of Deeds and shall be subject to the reasonable approval of the Planning Board.

(12) Where municipal water and/or sewer service is reasonably available the applicant must tie in. However, for good cause the Planning Board may grant a waiver from this requirement.

(13) Any proposed covenants, restrictions, and easements must be approved by the Planning

Board. A provision must be built into the documents providing for municipal enforcement of the covenants, restrictions, and easements at the City's option and at the developer's expense under appropriate circumstances.

(h) Criteria for review of PUD proposals. The following criteria shall guide the Planning Board in determining appropriate land uses, densities, and other development standards for the PUD. It is emphasized that the determination of whether or not a proposal meets the intent and objectives of this ordinance is made by the Planning Board in its reasonable discretion.

(1) General Considerations. The Planning Board shall consider the following:

(A) Standards of underlying zoning district - permitted uses, densities, and other standards. However, these standards shall not be controlling provided the applicant is otherwise in compliance with the terms of this ordinance.

(B) Provisions of City of Rochester Zoning Ordinance, Site Plan Regulations, Subdivision Regulations, and other applicable city, state, and federal law, where appropriate.

(C) Consistency with the City of Rochester Master Plan, particularly the Land Use Chapter.

(D) Conformance with the intent and objectives of this ordinance.

(E) Infrastructure capacity and the effect of the PUD upon public services and public safety.

(F) Prospective fiscal impact upon the City of Rochester.

(2) Specific objectives. Every PUD should incorporate a number of the following elements. Their usage defines a planned unit development and justifies departures from standards otherwise applicable under conventional zoning (introduction of new uses, more intensive land uses, higher density, novel design approaches, etc.).

(A) Traditional neighborhood development approaches (see Rochester Land Use Chapter).

(B) Open space development approaches (see Rochester Land Use Chapter).

(C) Creation of a network of narrow, attractive, walkable streets.

(D) Inclusion of a harmonious mix of uses.

(E) Provisions for quality architectural design.

(F) Placement of structures on most suitable sites with consideration of topography, soils, vegetation, slope, etc.

(G) Preservation of significant open space.

(H) Preservation of natural vegetation and other important natural features.

(I) Preservation of important cultural resources such as stone walls and other

archaeological sites.

- (J) Development of active or passive recreational areas.
- (K) Quality landscaping.
- (L) Use of sidewalks, bikeways, and other multi-use paths.
- (M) Use of traffic mitigation or traffic calming measures.
- (N) Significant screening of, or rear placement of, parking areas.
- (O) Sustainable design and construction practices promoting energy conservation.
- (P) Other public benefits such as provision of a community center or day care center.
- (Q) Public access to community facilities in PUD.

(i) Submission Requirements

(1) Materials. The applicant for a PUD shall provide the following materials (in format and number as reasonably determined by the Planning Department):

- (A) Completed PUD application
- (B) Narrative, including a statement of purpose for the PUD and how it meets the goals of this ordinance
- (C) Proposed land plan
- (D) Proposed land use list
- (E) Completed abutters list
- (F) PUD application fee

(2) Information. The applicant for a PUD shall provide the following information. Given the amount of information needed it is recommended that the plan be developed and refined through several conceptual/preliminary iterations with the staff and Planning Board. Many of these items may be presented as approximations or preliminary estimates subject to change, where appropriate.

- (A) Present underlying zoning classification and zoning classification of all adjoining lots.
- (B) Topographic information on the tract including soil types, wetlands, surface water, land contours, natural and cultural resources, ridges and knolls, rock outcrops, steep slopes, etc. This information may be presented in an overview format, in less detail than would be required of a site plan or subdivision application provided that a clear sense of the tract is conveyed sufficient to evaluate the PUD proposal (for example, wetlands need not be professionally delineated if potentially wet low lying areas are roughly indicated).
- (C) Total acreage of the tract; rough delineation of each land use area with approximate acreage,
- (D) Proposed uses for each land use area, preferably given with some specificity.
- (E) Proposed total number of dwelling units and overall residential density for the tract.

- (F) Proposed number of dwelling units for each land use area.
- (G) Proposed location, size, use(s) for each structure.
- (H) Proposed location, width, and materials of all streets, drives, sidewalks, and paths.
- (I) Proposed location and number of spaces for each parking area.
- (J) Proposed open space areas.
- (K) Natural and cultural resources proposed to be preserved.
- (L) Proposed buffers, if appropriate, to adjoining property.
- (M) Brief explanation or sketch of proposed landscaping.
- (N) Brief explanation or sketch of proposed water and sewer/septic systems.
- (O) Brief explanation or sketch of proposed stormwater management plan.
- (P) Brief explanation or sketch of other proposed utilities.
- (Q) Brief explanation or sketch of proposed firefighting strategy.
- (R) Proposed architectural standards or guidelines or brief explanation/sketch of architectural treatment.
- (S) Proposed time schedule for completion of the project, phasing schedule (if applicable depending on scale and type of PUD), plans for bonding if applicable, and well thought out plan to ensure that the amenities will be completed as proposed and in a timely manner.
- (T) Proposed covenants, restrictions and easements and how they will be monitored and enforced, if applicable.
- (U) Proposed ownership arrangement of each section of the PUD whether to be subdivided, held in fee simple, owned under a condominium arrangement, established as a homeowners association, etc.
- (V) Proposed articles of incorporation and bylaws of any corporation and/or homeowners association to be formed.
- (W) Any other information that the Planning Board or the City Attorney may deem reasonably necessary.

(j) Interpretation/application of PUD master plan. The Planning Board shall review any site plan or subdivision application for its conformity with the approved PUD master plan, however the PUD will have control over site review and subdivision regulations. The board may use its discretion in determining if particular items are consistent with the intent of the plan.

(1) Many items in the PUD Master Plan will be presented and construed to be in preliminary sketch form subject to preparation of detailed, engineering analysis and some modification at

the site plan/subdivision application stage consistent with the master plan. These items include exact lot locations and layouts, exact locations of roads and paths, size and configuration of parking lots, utility information, water and sewer/septic, drainage, landscaping, and

architectural renderings. (For example, the land plan may show numerous trees to be planted. The applicant would be able to significantly modify the locations and types of planting at the site plan stage provided the intent of the landscaping element as presented in the land plan is met.)

(2) All development standards must ultimately be determinable for each land use area. Where specific development standards are neither stated nor implied in the PUD master plan, the most appropriate standards otherwise applicable (from the Zoning Ordinance, Site Plan Regulations, and/or Subdivision Regulations) shall apply as determined by the Planning Board. (For example, an area designated for single family homes in the PUD master plan does not specify front setbacks. The front setbacks contained in the City's primary single family zoning district would then apply.)

(k) Fees. The application fees for a PUD are as follows:

- (1) \$20.00 per gross acre of the tract not to exceed \$3,000
- (2) \$500.00 at the preliminary review with the balance due at the regular review.

42.33 Rochester Historic District

[78] [125]

- (a) Table of contents
- Purpose (b)
 - Identification of the Historic District (c)
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(b) Purpose. This ordinance is established by the Rochester City Council pursuant to and in accordance with NH RSA's 673:4 and 674:44a through 674:50. The purpose of the Rochester Historic District is to promote the general welfare of the community by:

- (1) Safeguarding the cultural, social, political, and economic heritage of the City;
- (2) Fostering the preservation, restoration, and rehabilitation of structures and places of historic, architectural, and community value;
- (3) Fostering civic pride in the beauty and noble accomplishments of the past;
- (4) Furthering the attractiveness of the City of Rochester to home buyers, tourists, visitors, and shoppers, thereby providing economic benefit to the City;
- (5) Conserving and improving the value of property in the District; and

- (6) Enhancing opportunities, where applicable, for financial benefits for owners of historic properties through grants, low interest loans, tax credits, and other tax benefits that may be available through the state or federal governments or preservation organizations.

New construction is an essential process in a vital community, representing the current phase of an evolution that has been ongoing since the settlement of Rochester. There are a number of ways of designing new buildings and additions that will meet the objectives of this

Section. State of the art contemporary architecture is appropriate – and encouraged - provided that it is respectful of the historic fabric of the District.

(c) Identification of the Historic District. A Zoning Map of the Rochester Historic District, as amended, which shows the Historic Overlay District, is hereby incorporated as part of this Section, and is on file with the City Clerk. The Zoning Map and all the notations, references, district boundaries, and other information shown thereon, shall be as much a part of this Section as if all were fully described therein. See the Appendix which lists properties in the district by Assessor's Map and Lot numbers.

(d) Purview of Commission. The primary responsibility of the Commission is to review applications for Certificates of Approval for development within the Historic District (see subsection (g) (2) for full list of Commission responsibilities).

(1)Intent. It is the intent of this Section to limit review primarily to the building itself and those elements of the building reasonably considered to be key to the architectural integrity of the building.

(2)Building Permits. No building permits may be issued and no physical development activity nor significant ground disturbance may occur for activities subject to review herein until a Certificate of Approval has been issued by the Commission for the proposed activity.

In cases where an applicant seeks to do work: a) on the exterior of a building which is subject to review and b) on the interior of a building, a separate building permit may be issued for the interior work, thus allowing that work to proceed independently from review of the exterior work. A separate building permit, however, may not be issued for any interior work (such as changes to window sizes) which is integrally related to the design for the exterior work, which is subject to review.

(3)Activity Subject to Review. Approval is required only when the subject activity or a portion of the subject activity would be visible from a public way. Approval from the Historic District Commission is required for the following activities.

(A) Any activity affecting the exterior architectural appearance of a building within the District that is not exempted by Subsection 4) Activity Exempt from Review, Activities subject to review include the erection of new buildings; additions to existing buildings; alterations to existing buildings; renovation or restoration of existing buildings demolition of existing buildings or portions of existing buildings; reconstruction of damaged or destroyed buildings; and the relocation of any building into, out of, or within the District.

(B) Signage. The purpose of this review is to promote signage that is creative,

distinctive, handsome, pedestrian-oriented, reasonably low key, and harmonious with the character of the historic district. See section 42.8 Signs, of this ordinance for dimensional and other sign standards.

(i) The following sign components are subject to review:

- a. Size
- b. Shape
- c. Location/placement
- d. Colors – see Section (K) Color, herein, as a reference
- e. Illumination – see (iii), below
- f. Materials – see (iv), below
- g. Typefaces

(ii) The following sign components are not subject to review:

- a. Text
- b. Logos
- c. Graphic messages

(iii) Illumination.

- a. If the sign is to be illuminated, use of exterior illumination is strongly encouraged (with light that does not shine toward pedestrian or vehicular ways).
- b. Internal illumination is discouraged. If a sign is to be internally illuminated, the text should be light colored or white and the background/field should be a darker color.

(iv) Materials. Use of wood, urethane, other solid materials, or metal is preferred. Plastic signs are strongly discouraged.

(C) Carts, wagons, trailers, and other vehicles that are intended for the sale of goods, products, or services and which are permanently or temporarily situated in place on the ground.

For the purposes of this provision, “temporarily” means for more than three consecutive days or for more than five individual days in a calendar year.

(D) Fences and walls. Use of chain link fencing is strongly discouraged. See section 42.10 Fences, of this ordinance for other fence/wall standards.

(E) Light fixtures attached to buildings (but light fixtures attached to single or two family houses are exempt from review).

(F) Color of materials and paint and stain colors. However, color of materials, paint, and stain for single family houses and two family houses is exempt from review. See Section (E)(2)(K) Color, herein, as a reference.

(3) Activity Exempt from Review. No review or Certificate of Approval shall be required for the following activities or elements though other specific requirements may apply as specified elsewhere in this Zoning Ordinance. In the case of any conflict in interpretation between Subsection 3) Activity Subject to Review and Subsection 4) Activity Exempt from Review, Subsection 3) shall be determining.

- (A) Structures which are not buildings as defined in this Section (such as light poles and street furniture).
- (B) Work performed on the interior of buildings in all cases is exempt from review.
- (C) Land uses. Land uses are not regulated through this Section herein nor by the Commission. Permitted uses are set forth elsewhere in this Zoning Ordinance.
- (D) Elements which are appurtenant to a building but which are not integral to the building including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar elements. Property owners are encouraged to place antennas and satellite dishes on the rear portions of buildings or where they will be least noticeable from any public way.
- (E) Minor maintenance and repair which does not involve any significant change in materials, design, or the outward appearance of the building.
- (F) Installation or removal of any plant materials.
- (G) Color of materials, paints and stains for single family houses and two family houses.
- (H) Installation of pavement or other impervious or semi-impervious material on the ground or establishment of any parking or driveway area. However, the Commission has purview over the location and position of new construction and additions (which could affect other site conditions).
- (I) Lighting treatment, i.e. wattage and types of bulbs and light fixtures attached to single and two family houses. However, light fixtures attached to buildings (other than single and two family houses) are subject to review.
- (J) Modifications to the site which do not affect buildings.
- (K) Any temporary emergency repairs provided that review and conformance with the guidelines of this Section will be required afterward. As part of that review, the HDC may impose appropriate requirements, including establishing a timeframe in which proper repairs must be completed.
- (L) Items which are not explicitly addressed in this subsection but for which the proposed work clearly:
 - (i) would not have any meaningful negative impact;
 - (ii) would be barely noticeable, if at all, from any public way; and
 - (iii) would be consistent with the intent of this Section, all as reasonably determined by the Planning Department.

(5) Other Terms

- (A) A Certificate of Approval is required for all work within the purview of the Commission whether or not such work requires a building permit or any other permits issued by the City or other authorities.

A Certificate of Approval shall not be required for any construction, alteration, or demolition of any structure or element of a structure which the Code Enforcement Officer certifies as being required for public safety. However, the Code Enforcement Officer shall give the Commission an opportunity to comment upon any such action unless a time emergency precludes it.

(B) A Certificate of Approval is only required for new activities which the property

owner initiates/proposes after adoption of this ordinance. The Commission does not otherwise initiate any review except in response to such proposals/activities by the property owner. Thus, property owners are not required to bring any existing conditions into "conformity" with this ordinance, except in cases where improving certain existing conditions may be integrally related to a proposal presented by the applicant.

(C) Property owned by the City of Rochester shall be subject to review and approval by the Commission in like manner to all other property in the City situated within the district, provided, however, that a vote by 2/3 of the total membership of the Rochester City Council may override any vote of the Commission pertaining to land or property owned by the City of Rochester.

(D) The Commission may, after majority vote of the Commission, coordinate with, or defer to, other City boards, regarding review of items which might also be subject to review by those boards.

(e) Guidelines for Review. The following guidelines shall be used by the Historic District Commission in reviewing applications for Certificates of Approval. Recognizing that every property, every proposal, and every situation is unique, the Commission shall utilize its reasonable judgment, and is granted a fair degree of flexibility, in applying these guidelines, consistent with other requirements and limitations of this Section.

(1) General Principles. The following general principles are adapted from the U.S. Secretary of the Interior's Standards for Rehabilitation:

(A) Every reasonable effort shall be made to minimize alteration of the significant features of the building.

(B) The distinguishing original qualities or character of the building shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided where possible.

(C) All buildings shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.

(D) Changes that may have taken place in the course of time are evidence of the history and development of the building. These changes may have acquired significance in their own right, and this significance should be recognized and respected.

(E) Distinctive stylistic features or examples of skilled craftsmanship that characterize a

building should be treated with sensitivity.

- (F) Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other structures.
- (G) Contemporary design for alterations and additions to existing buildings should not be discouraged when such designs do not destroy significant historical, architectural, or cultural material, and when those designs are compatible with the size, scale, color, material, and character of the property, neighborhood, and environment.
- (H) Whenever possible, new additions or alterations to structures should be done in such a manner that if those additions or alterations were to be removed in the future, the essential form and integrity of the building would be unimpaired.

(2) Elements of Design. The following principles also apply.

- (A) Harmony with surrounding buildings. Proposals should be harmonious with the existing building (in the case of additions and alterations) and with contributing neighboring buildings and other buildings within the District, as appropriate, in respect to:
 - (i) mass,
 - (ii) width,
 - (iii) height,
 - (iv) proportion,
 - (v) spacing,
 - (vi) setback, and
 - (vii) all of the other elements of design discussed herein.
- (B) Sitting of building. Most buildings are oriented parallel or perpendicular to the street. Those in the downtown are traditionally placed very close to the street if not right up to the sidewalk. This pattern reinforces the streetscape. Buildings should not be oriented at odd angles to the street.
- (C) Scale. Every effort should be made to provide an appropriate scale to new buildings both in their overall size and in their details
 - (i) It is important in downtown areas for buildings to be multistory in order to reinforce the sense of enclosure of the street. Alternatively:
 - (ii) A single story building should have a relatively steep roof or a high parapet.
- (D) Proportion. Buildings and their details should be well proportioned in accordance with commonly accepted design principles so as to create a sense of order and balance.

- (E) Massing. Large structures should be broken into smaller masses to provide human scale, variation, and depth. These smaller masses should have a strong relationship to one another and, ideally, each smaller mass will have an integrity of form.
- (F) Roof. As a design element the roof has a significant effect on the building's character. The lack of a roof often promotes a feeling of boxiness. The taller the building the less necessary is a pitched roof.
 - (i) Multistory buildings in downtown rarely included a pitched roof. Extensive areas of visible roof should be broken up with:
 - dormers,
 - cross gables,
 - cupolas,
 - chimneys,
 - parapets,
 - balustrades, and
 - towers.
 - (ii) Where flat roofs are used there should be a distinct cornice and/or parapet to emphasize the top of the building.
- (G) Building façade. Much attention should be given to create an attractive building facade. Broad expanses of blank walls are inappropriate. Traditionally, the parts of a facade that might be embellished, or at least articulated in some fashion include:
 - (i) the horizontal base where the building meets the ground (such as a different treatment for the foundation or a water table)
 - (ii) the horizontal top where the building meets the sky (such as a projecting cornice with brackets)
 - (iii) a horizontal section in between (such as a belt course between stories)
 - (iv) the vertical corners on the left and right sides (such as corner boards or quoins)
 - (v) vertical articulation in the middle (such as pilasters)
 - (vi) the area around the door/entry (such as a portico)
 - (vii) the areas around the windows (such as window surrounds)

In addition, depth may be created for the facade through use of porches, projecting or recessed sections, bay windows, or arcades.

- (H) Windows. Windows are an integral part of a building and should be incorporated on front facades, and preferably side facades to humanize the building. It is desirable that the windows along with the door establish a coherent, orderly pattern and rhythm.
 - (i) Shape. It is preferable that windows be vertical (except for retail uses, below). Horizontally shaped windows are discouraged. Where horizontal windows are sought a series of contiguous vertical windows with mullions in between should be used arranged in a horizontal "band".
 - (ii) In the downtown use of large picture type windows for retail uses on the

first floor is strongly encouraged.

- (iii) Shutters. Shutters are generally not used traditionally on commercial buildings but, where appropriate, should be sized properly for the window opening (approximately one half the width of the opening).
 - (iv) Preservation of original wood windows is strongly encouraged but not required. Where windows are replaced use of true divided light windows is encouraged but not required. Use of false mullions may be stipulated where appropriate.
- (I) Entrance. The entrance is an important element in defining a building.
- (i) Articulation of the entrance is encouraged through use of:
 - a portico,
 - a canopy,
 - an awning,
 - sidelights,
 - a surround, or
 - another device.
 - (ii) Generally, there should be an entrance, if not the primary entrance, located on the front facade.
- (J) Siding materials. Materials should be high quality and durable, especially in the core downtown areas, where masonry is preferred.
- (i) Use of the following natural materials is strongly encouraged:
 - wood (clapboard and shakes),
 - brick,
 - stone,
 - fiber reinforced stucco,
 - textured block, and
 - terra cotta

However, fabricated materials which effectively imitate the character of these materials is acceptable.

- (ii) Conventional vinyl siding is discouraged, especially on front facades. However, it is less of a concern on side or rear facades. Where used, it should be arranged in a horizontal pattern resembling wood clapboard.
- (iii) Use of the following materials is inappropriate:
- 1 sheet plastic,
 - 2 sheet fiberglass,
 - 3 T-111 plywood,
 - 4 flaky "fish-shack style" wood shingles,
 - 5 simulated brick,
 - 6 "salvage style" brick with multiple colors,
 - 7 highly reflective plastic or metal,
 - 8 prefabricated metal wall panels,
 - 9 undressed cinder block, and
 - 10 other materials similar to these

(K) Color. Appropriate color selection is guided by the following:

(i) Main building color/large areas and signage. The following color palettes are encouraged for the main building color/large areas and signage:

- nature blending,
- earth tone,
- neutral, and
- pastel

(ii) Main building color/large areas. The following color palettes are discouraged for the main building color/large areas:

- 1 bright colors,
- 2 primary colors, and
- 3 Metallic colors

(iii) Building accent areas and signage. The following color palettes are acceptable for building accent areas and signage:

- 1 bright colors,
- 2 primary colors,
- 3 metallic colors

(iv) The following color palettes are prohibited:

- 1 high intensity colors and
- 2 fluorescent colors

(v) For brick, use of deep, dark traditional reds is desirable and may be required.

(2) Other Principles

(A) New construction. Traditional style architecture is certainly desirable provided that it is skillfully designed in accordance with the objectives of this section.

(B) Visibility. Generally, the less visible or prominent a structure or facade the less stringent the standards/review.

(C) Demolition or Removal. Demolition or removal of structures may be denied at the discretion of the Commission.

(i) Contributing Structures. Demolition or removal from the District of a contributing structure is strongly discouraged. No such application should be approved until a detailed redevelopment plan for the site has been approved by the Commission and/or Planning Board, as appropriate.

(ii) Noncontributing Structures. In many cases, demolition or relocation of a noncontributing structure is entirely appropriate, if not desirable, depending upon how the site will be developed afterward.

(D) Relocation within the District. Relocation of a contributing structure from its site is discouraged. The Commission may approve such a relocation if it determines that there are compelling reasons to do so after conducting a rigorous review of the

request.

- (E) Noncontributing Buildings. Significantly less stringent review is in order for "noncontributing" buildings.

(4) References. The Commission may also use the following as references (all of these documents are available in the Planning Department for public review):

- (A) The Secretary of the Interior's "Guidelines for Historic Preservation".(website: <http://www.nps.gov/history/hps/TPS/tax/rhb/>)
- (B) The National Register Nomination form for the Rochester Commercial and Industrial Historic District
- (C) 1999 survey of Rochester conducted to assess impacts of the proposed Exit 10 project.
- (D) Rochester Times series on architecture of Rochester (2002-2003).
- (E) Any other appropriate general architectural manuals or manuals about Rochester.

(f) Procedures

(1)Application. An application for a Certificate of Approval shall be submitted to the Rochester Historic District Commission through the Planning Department, no fewer than nine (9) days (or 8 days if the deadline falls on a holiday) prior to a Commission meeting. However, at the discretion of the Chair this deadline may be reduced on a case by case basis for good cause. In no case shall the review be scheduled more than 30 days from the application filing date.

It is the intent of this Section to make the review process as simple and pleasant as practical. The applicant need only submit those materials which the Commission reasonably determines are necessary to conduct an appropriate review. On small or straightforward projects submission of the application, a letter of intent, a verbal description, and/or one or more sketches drawn by the applicant may suffice.

In the case of more elaborate proposals or those potentially having a significant impact upon sensitive properties any or all of the materials listed below may be required as the Commission sees fit. While the use of an architect is not required under this Section, there will be many situations where it will be difficult to provide appropriate drawings and to meet the objectives of this Section without the use of an architect, particularly where new construction or additions are involved.

Applicants are encouraged to speak with the Planning Department prior to preparing an application package to get a preliminary sense of which of the items below might not be needed. The application package may include any or all of the items listed below as stipulated by the Historic District Commission:

- (A) A completed application form as provided by the City stating the purpose of the proposed project and identifying the nature and extent of the work to be performed.
- (B) Site plans drawn to scale clearly depicting existing conditions and proposed work.

- (C) Elevation drawings to scale of each affected facade of the building clearly depicting existing conditions and proposed work.
- (D) Detail drawings of appropriate elements (such as the balustrade for a handicapped ramp).
- (E) Photographs of each impacted side of the building.
- (F) Sample, swatch, and/or manufacturer's cut sheet of materials to be used (such as a brick), as appropriate.
- (G) Any other items which the Commission may reasonably need to conduct its review.
- (H) There is no fee for the basic application review.

(2) Review of the Application

- (A) Appropriateness. In deliberating whether to grant (with or without conditions) or deny a Certificate of Approval the Historic District Commission shall make a determination as to whether or not the proposal conforms with the provisions of this Section.
- (B) Scheduling and Completeness. The Historic District Commission will consider all applications that were received by the application deadline at its next scheduled meeting. At that time a determination shall be made whether the application under consideration is complete in terms of the list of required items, above, such that the Commission can adequately review the application.
- (C) Public Meetings. Meetings of the Historic District Commission are not public hearings and notice need be made only for public meetings in accordance with RSA Chapter 91-A. The Commission may hold a public hearing on any application if it deems appropriate. All regular meetings shall be posted on the City's website.
- (D) Professional Advice. The Commission may seek advice from such professional, educational, cultural, or other resources as is deemed necessary.
- (E) Recommendations.
 - (i) Applicants are encouraged to meet with the Commission prior to developing projects for an informal discussion about proposed plans.
 - (ii) The Commission may make non-binding recommendations to the applicant on elements outside of its purview such as on parking lot layout or planting materials.
- (F) Architectural Regulations and Planning Board review. In cases where the Historic District Commission has purview, the Planning Board shall not have jurisdiction over architectural design, i.e. the Architectural Regulations under the Site Plan Regulations shall not apply. Nonetheless, the Planning Board shall review all other elements of a site otherwise subject to its review.

(3) Action on an Application

- (A) Recognizing that a lengthy approval process can be costly to landowners, developers, and business owners, the Commission shall seek to take final action at its earliest reasonable opportunity, which in many cases will be at the first regular meeting of the Commission at which the application is presented. To the extent practicable and appropriate, as determined by City staff and the Commission, applicants may file

applications for various permits - to the Planning Board, Zoning Board of Adjustment, Building Department, etc. - simultaneously, or in any appropriate order, in order to save time. This provision, however, shall not be construed in a manner which would prevent the Commission from conducting a thorough review, as it sees fit. Final approval of any permits from other City departments, for projects under the Commission's purview, cannot precede the Certificate of Approval from this Commission.

- (B) The Historic District Commission shall take action on - i.e. to approve, approve with conditions, or deny - all applications within forty five (45) days after the filing of a complete application for a certificate of approval. This time frame may be extended either by consent or request of the applicant or upon formal request from the Commission to, and written authorization from, the City Council for an additional period not to exceed forty five (45) calendar days.

- (C) The Commission shall notify the applicant of its decision within 72 hours. When an application is rejected as being incomplete or denied the reason(s) for the decision shall be conveyed to the applicant and clearly stated in the record of proceedings of the Commission.

- (D) Failure by the Commission to act within the period of time specified above (with or without extensions) shall be deemed to constitute approval of the application as submitted. A Certificate of Approval shall be effective for one year after the date of approval. The applicant must secure a building permit and substantially commence work within this one year timeframe or the Certificate shall lapse. Likewise, where no building permit is involved, the applicant must substantially commence work within this one year timeframe or the Certificate shall lapse. The Commission may grant extensions as it reasonably determines appropriate.

- (4) Hardship. Upon the request of an applicant, the Commission may approve an application, based upon hardship, even if it deems the proposed work does not meet the standards specified in this Section. Approval based on hardship requires, at a minimum, a determination by the Commission that all of the criteria below are met. The Commission may solicit any additional information it deems necessary to make this determination.

- (A) Denial of the application or an element of the application would cause an undue hardship for the applicant as defined in this Section;

- (B) The hardship is unusual and peculiar to the applicant's property or situation;

- (C) The proposal would not have a significant adverse impact upon the Historic District;

- (D) Approval would not constitute a significant derogation of the intent and purpose of the ordinance;
- (E) There is no simple or inexpensive alternative approach which would be effective; and
- (F) In the case of an application for demolition, severe deterioration of the property was not due to negligence or irresponsibility on the part of the owner.

(5) Appeals. Any applicant, person, or organization aggrieved by a decision of the Historic District Commission may appeal the decision to the Rochester Zoning Board of Adjustment in accordance with RSA 674:33 and any appeal procedures specified in the City Ordinances. In its review of any appeals the Zoning Board shall be guided by the provisions of this Section and other applicable law.

(6) Enforcement. This Section shall be enforced as provided for in the Rochester Zoning Ordinance.

(7) Variances and Appeals. If any applications are submitted to the Zoning Board of Adjustment for variances or appeals under the Historic District Ordinance, the HDC shall be notified by the Planning Department of those applications at least ten days in advance of the meeting.

(g) Definitions. The following definitions apply to this Section 42.33 only.

(1) Building. Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or personal property.

(2) Contributing property (structure or site). A property that contributes positively to the District's architectural quality and integrity as a result of its location, design, history, condition, quality, age, materials, workmanship, feeling, and/or association.

(3) Exterior Architectural Appearance. This encompasses the building itself and those individual elements which are integral to the building and are visible on the exterior. It includes colors, materials, texture, arrangement, architectural detailing and trim, the roof, windows, doors, foundation, steps, ramps, porches, decks, awnings, hardware, and light fixtures.

(4) Hardship. A situation where denial of the applicant's request to perform particular work upon a specific property that is not in conformance with the standards of this Section would cause substantial difficulty for the applicant due to significant financial expense, loss of use of the property, diminution in the usability of the property, or impairment of the ability of an existing business to function effectively. (Note that this definition is different from the concept of hardship used elsewhere in this Ordinance regarding applications for variances.)

(5) Massing. The shapes, sizes, and arrangement of the three dimensional forms that compose a building.

(6) Noncontributing property (structure or site). A property which - due to its recent vintage (generally less than 50 years), incompatible design, incompatible and irretrievable alterations, or deteriorated condition - would not be considered to contribute to that character or quality

of the District which the City seeks to preserve.

(7)Proportion. The relation of one dimension to another, such as the height of a window compared to its width. Proportion affects visual order through coordination of such elements as height, width, depth, and spacing.

(8)Public Way. A road, sidewalk, footpath, trail, park, or navigable waterway owned by the City of Rochester or another governmental agency and intended to be accessible to the public.

(9)Scale. The perception of the size of a building or building element relative to the human body or other buildings or objects in the vicinity.

(10) Structure. Anything constructed or erected, the use of which requires permanent or semi-permanent location on the ground or attachment to something having location on the ground. Examples include buildings, fences, walls, signs, and light fixtures.

(11) Traditional. Sensitive to, evocative of, or harmonious with any particular style of architecture established prior to 1950 or the prevailing patterns, forms, or styles of architecture dating from the original settlement of the United States up to 1950.

(h) Historic District Commission

(1) Membership

(A) Composition. The Historic District Commission shall consist of seven (7) regular members and up to five (5) alternate members. Two (2) seats among the regular members are designated for one member of the City Council and one member of the Planning Board, respectively. Likewise, two (2) seats among the alternate members are designated to one member of the City Council and to one member of the Planning Board, respectively, which two (2) alternate members may only sit for the regular City Council and Planning Board members, respectively. All Commission members shall be appointed in accordance with the provisions of Section 74 of the Rochester City Charter.

(B) Qualifications. All members shall be residents of the City of Rochester. In reviewing the qualifications of a candidate for the Commission, the City Council shall consider his/her demonstrated interest and experience in, and knowledge of, historic preservation and his/her ability to administer this Section consistent with its purpose and intent. To the extent that such persons are available the Council shall seek members with diverse backgrounds or interests.

(C) Appointments. The members of the Historic District Commission shall be appointed for terms of three years. Initial appointments shall be staggered so that subsequent terms will not be coterminous.

(2)Powers and Duties. The Historic District Commission shall have the following powers and duties:

(A)Applications. Reviewing and approving, approving with conditions, or denying applications for Certificates of Approval.

(B)Consultation. Calling upon City staff, citizens, abutters to applicants, and

professionals, as it sees fit, for input, consultation, and recommendations on matters before the Commission.

- (C) Surveys. Conducting small area or community-wide surveys of historic, architectural, and cultural resources.
- (D) National Register. Nominating structures and districts for listing in the National Register and reviewing all proposed National Register nominations within the City;

keeping a record of all properties which are included in the local historic districts, listed in the National Register, and determined eligible for National Register listing.
- (E) Planning. Preparing historic resources components of local master plans and insuring that historical resources are considered at every level of local decision-making.
- (F) Advice and Advocacy. Advising other agencies of local, state, and federal government regarding, and advocating on behalf of, the identification, protection, and preservation of local historic, architectural, archaeological, and cultural resources.
- (G) Liaison. Acting as a liaison between local government and individuals or organizations concerned with historic preservation.
- (H) Other Applications. Commenting on applications for site plan/subdivision approval, zoning amendments, variances, special exceptions, and other approvals affecting property in the Historic District or other historic resources.
- (I) Amendments. Investigating and recommending to the Planning Board and City Council amendments to this Section and appropriate areas for designation as historic districts.
- (J) Education. Educating individual members of the Commission, municipal officials, property owners, and the public about the historic district and historic preservation.
- (K) Signage and Recognition. Developing and administering a system of markers and monuments recognizing individual properties and the district and acknowledging special contributions toward historic preservation by members of the community.
- (L) Budget. Developing and submitting an annual request for funds to the City Council if desired. Subject to the availability of funds, the Commission may retain consultants.
- (M) Rules and Regulations. Adopting, and from time to time amending, Rules and Regulations which are consistent with the intent of this Section and appropriate state statutes.
- (N) Other. Undertaking any other appropriate action or activity necessary to carry out its mission as embodied in this Section.

(i) Designation of the Historic District

- (1) Procedures for Designation. The Rochester Historic District functions as a zoning overlay district. The District boundaries may be amended and new historic districts may be designated and delineated following the Amendment
Procedure described in this Zoning Ordinance with the provision that:

- (A) The Commission may initiate such amendments;
 - (B) The Commission shall have an opportunity to comment on any such proposed amendments prior to enactment by the City Council; and
 - (C) Any individual lot or parcel of land may by itself be designated as a historic district upon determination of worthiness under this Section.
- (2) Criteria for Designation. Any building, group of buildings, site, property, group of properties, or area (collectively referred to herein as "site") proposed for inclusion in the Rochester Historic District should generally (but not necessarily) be at least fifty (50) years old and possess one or more of the features listed below. In any district which contains multiple properties or structures, not every property or structure need meet these criteria; rather the district overall should embody a meaningful degree of continuity, cohesiveness, integrity, and a prevailing conformance with one or more of the criteria.
- (A) The site embodies distinguishing characteristics of, or high quality in, design, detailing, materials, craftsmanship, or a particular architectural style;
 - (B) Its antique age, good condition, and special features make it worthy of preservation.
 - (C) Its unique location and characteristics make it an established and appreciated element or visual landmark for the community.
 - (D) The site is identified as the work of a master builder, designer, architect, engineer, or landscape architect whose individual work was influential in the development of the City of Rochester, region, state, or nation.
 - (E) The site contributes to the visual continuity of the District.
 - (F) One or more significant cultural, social, political, economic, or military events in the history of the City of Rochester, region, state, or nation occurred at the site.
 - (G) The site is identified with a person or persons of historic significance;

(j) Appendix

Delineation of the District. The Rochester Historic District is defined as that area made up of the lots listed below as delineated on the Rochester Tax Maps. Unless otherwise noted or shown on the map, all of the land composing each lot shall be considered to lie within the District. The District also includes all City property necessary to make a contiguous District. (Note that in the case of discrepancy between the Zoning Map and this list of lots, the Zoning Map shall be determining.) Lots in the district include:

- (1) Tax Map 116, Lots 156-162, and 201-204;
- (2) Tax Map 120, Lots 322-324, 332-340, 342, 342-1, 343, 346, 347, 351, 352, 354, 355, 358-367, 379-381, 383-390, 392-408, and 419-422;
- (3) Tax Map 121, Lots 9-18, 28, 29, 361-364, 366-368, 368-1, 369-400; and

(4) Tax Map 125, Lots 1, 181, 182, and 202-204

42.34 Granite Ridge Development Zone (GRD)

(a) Purpose. Well-planned commercial districts provide many benefits. For the community, tax revenue is maximized, infrastructure burden is reduced, and traffic impacts are minimized. For landowners and developers good planning allows for a process that is coherent, flexible and easy to navigate. The Granite Ridge Development Zone (GRD) is intended to:

- (1) Provide landowners and developers with flexible yet clearly defined requirements.
- (2) Minimize infrastructure cost to the City through good planning for the district as a whole rather than based upon individual lots.
- (3) Maximize the developable areas on the parcels within the district through creation of flexible dimensional requirements.
- (4) Minimize traffic impacts to Route 11 through implementation of a service road and shared intersections with Route 11.

(b) Delineation of the Granite Ridge Development Zone.

- (1) The zone includes those parcels of land so identified on the “Zoning Map of the City of Rochester, NH” which accompanies this ordinance and is on file in the offices of the Director of Planning and Development and the Director of Code Enforcement.
- (2) The Granite Ridge Development Zone includes parcels of land located on both the easterly and westerly sides of Route 11/Farmington Road. These parcels will benefit from any improvements to be made to Route 11/Farmington Road.

Parcels located on the westerly side of Route 11/Farmington Road may have direct contact with, and benefit from, the service road planned to be built on the westerly side of Route 11/Farmington Road and intersections connecting to this service road, if and when opportunities for construction of this service road and these intersections develop.

(c) GRD Pavement Dimensional Regulations. The setbacks shown in the table, below, shall apply to pavement used for parking and interior access ways. Driveways into the site from the service road are exempt from these setbacks. These setbacks guarantee a minimum 10-ft wide area for landscaping around the perimeter of the site (5 feet plus 5 feet for adjoining lots along the side lot lines). This subsection shall supersede perimeter landscaping buffer requirements (15 feet along the front and 10 feet along the side lot lines) established in the Site Plan Regulations.

	Minimum Property Lines Setbacks (in feet)
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	Front	Side	Rear
Pavement	10	5	10

- (d) Granite Ridge Development Plan. This zoning ordinance was created pursuant to the March 2009 “Granite Ridge Development Study, Farmington Road, Rochester, New Hampshire” prepared by CLD Consulting Engineers. This study should be referred to for reference in designing, reviewing, and approving proposed site plans and subdivision plans.
- (e) GRD Zone Service Road Regulations. The following requirements apply to those lots situated on the westerly side of Route 11/Farmington Road, on which the planned service road and access roads leading to or from the service road, are to be situated.
- (1) Right-of-ways. To the extent practical and appropriate, as determined by the Planning Board, as part of any proposed site plan or subdivision plan, each landowner/developer shall incorporate into his or her plan, on the subject land, a 60 foot wide right-of-way for the construction of the service road and/or access road(s). The right-of-way shall traverse the subject lot from the southerly lot line to the northerly lot line, as appropriate, and in the case of any access road, from the easterly to the westerly lot line, as appropriate, in accordance with the layout of the planned service road and access road(s).
 - (2) Temporary Termination. Where the service road has not been built on the lot adjacent to the subject property, a temporary cul-de-sac shall be built on the subject property to provide for an appropriate turnaround and future connection to the service road on that adjacent lot. Appropriate provisions may be established by the Planning Board to facilitate seamless connection of that cul-de-sac in the future to a service road on the adjacent lot, when that road may be constructed. The temporary cul-de-sac shall conform to the City of Rochester Subdivision Regulations.
 - (3) Route 11 Intersections. As part of any site plan or subdivision plan, the landowner/developer shall incorporate predetermined Route 11 access points into his or her plan.
 - (4) NHDOT. Developers shall coordinate with the New Hampshire Department of Transportation (NHDOT) regarding the design of the access roads and any intersections with Route 11.
- (f) GRD Zone Road Design Standards.
- (1) Service and access roads shall comply with the following standards.

Right-of-Way	60 feet
Lane Width (each)	12 feet
Paved Shoulder (each)	4 feet
Sidewalk (bituminous)	5 feet

Grass Strip	5 feet (between road and sidewalk)
Curb	<u>Granite</u>
	Sloped – side without sidewalk
	Vertical – side with sidewalk
Cross-sectional Requirements:	
Wearing Course	1 inch (NHDOT Item 403.11)
Bearing Course	2 inch (NHDOT Item 403.11)
Crushed Gravel	6 inch (NHDOT Item 304.3)
Bank Run Gravel	12 inch (NHDOT Item 304.2)

- (2) Refer to **APPENDIX D** annexed hereto and entitled “**42.34(f)(2) GRD SERVICE ROAD CROSS-SECTION – FIGURE 1**”, for configuration details.
- (3) All materials shall be installed in compliance with NHDOT specifications and the City of Rochester Subdivision Regulations.
- (g) GRD Zone Stormwater Management Requirements. Stormwater controls for each individual site plan shall be designed in compliance with the New Hampshire Stormwater Manual Volume 2. To ensure adequate stormwater control given the more flexible dimensional regulations, these design guidelines shall be followed regardless of any requirement imposed as part of the New Hampshire Department of Environmental Services Alteration of Terrain permitting (for 100,000 square feet +/- of disturbed surface).

The Planning Board shall consider proposals for use of innovative stormwater control structures, such as porous pavement, bio-retention areas, gravel wetlands, etc.. If the board concludes that use of these structures is in order, then:

- (1) it may be appropriate to allow for interior landscaped islands within parking lots to be constructed without perimeter curbing if the curbing would interfere with the routing of the stormwater.
- (2) the Planning Board is hereby empowered to adjust parking requirements specified in **Section 42.9 Off Street Parking and Loading**, herein.
- (h) GRD Zone Utility Standards.
- (1) All utilities shall be underground.
- (2) Utilities into individual sites shall be run from the common utility lines to be placed in the Service Road right-of-way.
- (3) Service connections for utilities for pad sites, if any are created, shall be provided within the Service Road right-of-way.

- (i) GRD Zone Parking Lot Interconnections
 - (1) Where practical, and not impeded by wetlands or other physical constraints, parking lots shall be interconnected between sites.
 - (2) Appropriate cross easements shall be developed between properties to accommodate parking lot interconnections.
- (j) GRD Zone Design Standards
 - (1) Trash and delivery areas. The lots situated between the Service Road and Route 11 call for special treatment because they have double frontages.
 - (A) Whenever practical, and not impeded by wetlands or other physical constraints, trash and delivery areas shall be located off of a shared access driveway between sites.
 - (B) The access driveway may be located at/along the side lot line(s), with each lot having its own trash and delivery area located off this access driveway.
 - (C) Trash, delivery, and loading areas shall be well screened from Route 11.
 - (2) Facade Treatment. Building facades fronting on the Service Road and Route 11 shall both be treated as front facades, both thereby meriting attractive treatment, under The Architectural Standards included in the City of Rochester Site Plan Regulations.
 - (3) Outdoor Seating. Restaurant proprietors are encouraged to include seasonal outdoor seating.
 - (4) Signage. All provisions of **Section 42.7 Signs**, herein shall apply except for the following allowances:
 - (A) For buildings located between the Service Road and Route 11, an additional building-mounted sign is permitted.
 - (B) Off premises directory style signs and off premises directional signs are permitted by conditional use by the Planning Board.
- (k) Adjustments in Requirements. Since a number of the requirements specified in this Section 42.34, herein, are design oriented, the Planning Board may adjust any requirements of subsections (c) GRD Pavement Dimension Regulations, (e) GRD Zone Service Road Regulations, (f) GRD Zone Road Design Standards, (g) GRD Zone Stormwater Management Requirements, (h) GRD Zone Utility Standards, and (i) GRD Zone Design Standards, on a case by case basis, where it reasonably determines that strict application of any requirement is impracticable due to particular conditions on a given site.

That Chapter 42, Section 42.2, of the General Ordinances of the City of Rochester, entitled “Zoning Districts and Zoning map”, as presently amended, be further amended by amending subsection (b) of said Section 42.2, entitled “Zoning Map”, so as to classify that area depicted on the annexed **EXHIBIT A** as being “Granite Ridge Development Zone”, as hereafter being classified as “Granite Ridge Development Zone”, and by repealing the existing primary zoning classification for the land so depicted on said **EXHIBIT A** (i.e. “A – Agricultural Zone”; “R-1 – Residence 1 Zone”; “R-2 – Residence 2 Zone”; “B-1 – Business 1 Zone”; B-2 – Business 2 Zone”; “I-1 – Industry 1 Zone”; “I-2 – Industry 2 Zone”; “I-3 – Industry 3 Zone” “I-1 – Industry 4 Zone”; “I-4A – Industry 4A”; “H – Hospital Zone”; “AA – Airport Approach Zone”), while retaining any overlay district classification for the land so depicted. Further, that the so-called “zoning map” provided for in subsection (b) of said Section 42.2 be further amended to reflect, and to incorporate therein, the changes in zoning district classification provided for in this amendment.

This amendment supercedes the zoning classifications for any parcels listed in previous subsections in Chapter 42.2(b). Please see attached list of parcels.

Primary Area of the GRDD

PID	Address	Acres	Owner
0208-0001-0000	126 Farmington Rd	82.50	Adamian Construction & Dev.
0208-0001-0001	116 Farmington Rd	34.18	Infinity Properties Rochester
0208-0002-0000	0 Farmington Rd	32.00	The Kane Co. Inc.
0208-0004-0000	148 Farmington Rd	1.30	John & Carolyn Meader
0208-0005-0000	150 Farmington Rd	0.63	Roslyn Stone & Carolyn Meader
0208-0006-0000	154 Farmington Rd	1.05	Alkurabli LLC
0208-0006-0001	152 Farmington Rd	0.94	Richard Ottino
0208-0007-0000	160 Farmington Rd	1.33	160 Farmington Rd Realty Trust
0216-0001-0000	20 Farmington Rd.	15.00	Robert Beranger
0216-0002-0000	22 Farmington Rd.	2.60	Robert Beranger
0216-0003-0000	0 Farmington Rd.	2.90	Robert Beranger
0216-0004-0000	36 Farmington Rd.	17.10	Northgate Investment Properties
0216-0005-0000	46 Farmington Rd.	1.24	Gene V. Roe
0216-0006-0000	48 Farmington Rd	5.62	Casaccio Real Estate Holdings
0216-0007-0000	58 Farmington Rd	7.60	Casaccio Real Estate Holdings
0216-0008-0000	60 Farmington Rd	6.30	Packy's Investment Properties
0216-0009-0000	68 Farmington Rd	20.00	Stratham Industrial Properties
0216-0010-0000	76 Farmington Rd	21.00	PSNH
0216-0011-0000	92 Farmington Rd	85.00	Stratham Industrial Properties
0216-0017-0000	5 Lydall Way	12.00	State of New Hampshire DOT
0216-0019-0000	0 Farmington Rd	4.50	PSNH
0216-0020-0000	8 Crane Dr	6.09	Newport Partners LLC
0216-0021-0000	33 Crane Dr	4.80	Spinelli Realty Trust
0216-0022-0000	27 Crane Dr	6.35	Black Marble Realty Trust
0216-0023-0000	21 Crane Dr	3.16	Black Marble Realty Trust
0216-0024-0000	7 Crane Dr	4.01	Four Hidden Rd Trust
0216-0025-0000	47 Farmington Rd	<u>2.80</u>	Poulin Realty Acquisition

382.00

Secondary Area of GRDD

PID Address Acres Owner

0208-0008-0000	174 Farmington Rd.	60.00	Diane Smith
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0208-0008-0001	176 Farmington Rd.	11.61	Robidas Properties LLC
0208-0009-0000	178 Farmington Rd.	4.30	Rochester/Rural District
0208-0010-0000	180 Farmington Rd.	1.02	WAH Realty Corporation
0208-0011-0000	184 Framington Rd.	4.00	Bonnie J. O'Shea
0208-0015-0000	0 Farmington Rd	0.29	City of Rochester
0208-0016-0000	0 Farmington Rd	1.66	Robert Rowe
0208-0017-0000	127 Farmington Rd	8.90	Robert Rowe
0208-0018-0000	17 Sterling Dr.	2.02	Raven Realty
0208-0018-0001	18 Sterling Dr.	2.85	Raven Realty
0208-0018-0002	27 Sterling Dr.	5.04	Axis Property Holdings LLC
0208-0018-0003	23 Sterling Dr.	1.55	Raven Realty
0208-0018-0004	0 Sterling Dr.	0.64	Raven Realty
0208-0019-0000	123 Farmington Rd	1.16	Black Dog Car Wash LLC
0208-0019-0001	115 Farmington Rd	1.25	Hermitage Place LP
0208-0019-0002	131 Farmington Rd.	0.57	JMB Automotive Group LLC
0209-0001-0000	105 Farmington Rd	1.70	Rudolph Tetreault
0216-0012-0000	4 Little Falls Bridge Rd	1.89	Ralph Torr Rev. Trust
0216-0013-0000	0 Little Falls Bridge Rd	11.80	State of New Hampshire DOT
0216-0018-0000	95 Farmington Rd	3.50	Motiva Enterprises LLC
0216-0018-0001	83 Farmington Rd	2.25	Joseph Blanchette
0216-0018-0002	77 Farmington Rd	3.60	Rochester Hospitality LLC
0216-0019-0000	0 Farmington Rd.	4.50	PSNH
0216-0020-0000	8 Crane Dr.	6.09	Newport Partners LLC
0216-0021-0000	33 Crane Dr.	4.80	Rose Realty LLC
0216-0022-0000	27 Crane Dr.	5.30	Black Marble Realty Trust LLC
0216-0023-0000	21 Crane Dr.	3.16	Black Marble Realty Trust LLC
0216-0024-0000	7 Crane Dr.	4.01	Four Hidden Rod Rd. Realty Trust
0216-0025-0000	47 Farmington Rd.	2.60	Poulin Realty Acquisitions LLC
0216-0026-0000	0 Farmington Rd.	68.00	Donald & Bonnie Toy
0216-0028-0000	23 Farmington Rd.	1.70	Miles Cook III
0216-0028-0001	25 Farmington Rd.	0.10	City of Rochester
0216-0029-0000	21 Farmington Rd.	2.41	Cardinals Seafarer Restaurant
0221-0154-0000	2 Farmington Rd.	20.80	Jean Edgerly Trust
0221-0156-0000	14 Farmington Rd.	1.20	Renee & Louanne Cardinal
0221-0157-0000	0 Farmington Rd.	1.20	Wayne Cardinal
0221-0158-0000	14 Farmington Rd.	1.30	Rene & Luanne Cardinal
0221-0159-0000	10 Farmington Rd.	2.45	Lawrence Shapiro Trust
0221-0160-0000	18 Farmington Rd.	1.32	Michael & Jean Garzillo
0221-0162-0000	18A Farmington Rd.	6.40	Richard & Phyllis Glidden
0221-0163-0000	20 Farmington Rd.	3.20	Robert & Karen Beranger
0221-0164-0000	17 Farmington Rd.	0.91	Rene G Cardinal & Cardinal Way
0221-0165-0000	11 Farmington Rd.	1.70	Seckendorf Real Estate
0221-0166-0000	9 Farmington Rd.	1.10	MIB LLC Greenwood Inn
0221-0167-0000	7 Farmington Rd.	0.30	Basel Alkurabi
0221-0168-0000	3 Farmington Rd.	14.00	Charles Karacas
		290.15	

42.35 Small Wind Energy Systems

- (a) Authority and Purpose. This Small Wind Energy Systems ordinance is enacted in accordance with RSA 672:1 III-a and RSA 674:62-66. The purpose of this ordinance is to accommodate the installation of small wind

energy systems in the City of Rochester, while protecting the public's health, safety and welfare.

- (b) Accessory Use. A small wind energy system and meteorological tower are allowed as accessory uses to on-site principal residential or nonresidential uses that are legally established, including grandfathered nonconforming uses.
- (c) Building Permit. No small wind energy system or meteorological tower may be erected, constructed, or installed without a building permit issued by the Code Enforcement Officer. A building permit shall also be required for any physical modification to an existing small wind energy system.
- (d) Meteorological Towers. Meteorological towers shall be permitted on a temporary basis and must be removed within 3 years from the date the building permit for the tower is issued.
- (e) Total Capacity. The total capacity for one or more small wind energy systems situated on one site or lot may not exceed a rated capacity of 100 kilowatts.
- (f) Application. An application for a building permit shall be submitted to the Code Enforcement Officer and shall include a site plan and documentation providing all of the following:
 - (1) Property lines and physical dimensions of the applicant's property. A survey may be required at the reasonable discretion of the Code Enforcement Officer if necessary to confirm compliance with the setback and other requirements of this ordinance.
 - (2) Locations, dimensions, and types of buildings on the property and on adjacent properties within 50 feet of the property lines.
 - (3) Locations of the proposed small wind energy system(s), foundations, guy anchors and associated equipment.
 - (4) Tower foundation blueprints or drawings.
 - (5) Tower blueprints or drawings.
 - (6) Height of proposed tower and setback requirements as outlined in this ordinance.
 - (7) A plan showing the height of the overall prevailing canopy of trees within 300 feet of the tower.
 - (8) Any public road that is contiguous with the subject property.
 - (9) Any overhead utility lines.

(10) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower type, and nameplate generation capacity.

(11) Small wind energy systems that may be connected to the power grid including a copy of the application for interconnection with the electric utility provider.

(12) Sound level analysis prepared by the wind generator manufacturer or a qualified engineer.

(13) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms with the New Hampshire State Building Code and with any local amendments adopted by the City of Rochester.

(14) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.

(15) A shadow flicker analysis including: a) a plan showing the seasonal shadow patterns of the proposed facility, the occupied buildings on the abutting properties, and building setback lines on the abutting properties; and b) an evaluation of the shadow flicker impacts on the abutting properties including the extent and length of shadow flicker impacts.

(16) List of abutters to the applicant's property.

(17) Any other information required for issuance of building and electrical permits.

(g) Abutter Notification and Appeals.

(1) The Code Enforcement Officer shall notify all abutters by certified mail upon application for a building permit to construct a small wind energy system. The cost of abutter notification shall be paid by the applicant. Abutters shall be afforded a 30-day comment period prior to the issuance of a building permit.

(2) An appeal may be made to the Zoning Board of Adjustment pursuant to RSA 676:5.

(3) The Code Enforcement Officer shall also notify the City Council of the application.

(4) The Code Enforcement Officer shall determine whether the proposal qualifies as a development of regional impact pursuant to RSA 36:56. If the Code Enforcement Officer determines that it does then he or she shall follow the procedures set forth in RSA 36:57.

(h) Standards. The following standards apply to Small Wind Energy Systems. The Code Enforcement Officer shall evaluate the application for compliance with these requirements.

(1) Tower Height. The maximum tower height is the lesser of a) 150 feet; or b) 35 feet above the height of the overall prevailing canopy of trees within 300 feet of the proposed tower.

(2) Setbacks. The following setback requirements apply to small wind energy systems:

(A) The tower must be set back (measured from the center of the tower base) from every property line of the subject property a distance equal to: a) the system height multiplied by 1.1; or b) the regular setback otherwise applicable in the zoning district, whichever is greater.

(B) The tower must be set back (measured from the center of the tower base) a distance equal to the system height multiplied by 1.5 from:

- i) any occupied building on an abutting property;
- ii) the buildable area on an abutting property as determined by the setbacks on that abutting property;
- iii) any existing utility transmission or distribution lines; and
- iv) the edge of pavement of any public roads.

(C) Guy wires used to support the tower must be set back at least five feet from any property line.

(3) Sound Level. The small wind energy system shall not exceed 55 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe windstorms and utility outages.

(4) Shadow Flicker. Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year of shadow flicker on abutting occupied buildings. The applicant has the burden of demonstrating compliance with this requirement. Potential impacts may be addressed through special siting and/or mitigation measures.

(5) Signs. All signs including flags, streamers and decorative items, both temporary and permanent, are prohibited on small wind energy systems. Manufacturer identification or appropriate warning signs are allowed.

(6) Code Compliance. The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code and with

any local amendments adopted by the City of Rochester.

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

(8) Visual Impacts. Inherently, small wind energy systems can create some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without unduly restricting the owner's access to the optimal wind resources on the property.

(A) The applicant shall demonstrate through project site planning and mitigation measures that the visual impacts of the small wind energy system, including ground mounted electrical and control equipment, will be minimized for surrounding neighbors and the greater community. These measures may include, but are not limited to, special site selection, wind generator design, buffering and screening.

(B) All electrical service leading to the small wind energy system shall be underground.

(C) The small wind energy system shall be either the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors for the latter include, but are not limited to, white, off-white or gray.

(D) A small wind energy system shall not be illuminated unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA for determination to establish the required markings and/or lights for the small wind energy system.

(9) Approved Wind Generators. Selection of the manufacturer and model of the wind generator to be used in the proposed small wind energy system is limited to those that have been approved by the California Energy Commission, the New York State Energy Research and Development Authority, or (if applicable) the State of New Hampshire.

(10) Utility Connection. If the proposed small wind energy system is to be connected to the power grid through net metering, it shall be in compliance with RSA 362-A:9.

(11) Unauthorized Access. The tower shall be designed and installed so

as not to provide step bolts or a ladder or other means readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

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

(i) Discontinuation or Abandonment.

(1) If a small wind energy system is going to be discontinued or abandoned, the owner shall notify the Code Enforcement Officer by certified U.S. mail of the proposed date of discontinuation or abandonment.

(2) Upon discontinuation or abandonment, the owner shall physically remove the small wind energy system within 90 days from the date of discontinuation or abandonment. This period may be extended at the discretion of the Code Enforcement Officer, upon request of the owner. Physical removal includes, but is not limited to:

- (A) Removal of the wind generator and tower and related above-ground structures.
- (B) Restoration of the location of the small wind energy system to its natural condition, except that any existing landscaping, grading or below-grade foundation may remain in the same condition.

(3) In the event that an owner fails to notify the Code Enforcement Officer of the discontinuation or abandonment, the system shall be considered discontinued or abandoned if it is out of service for a continuous 12-month period. After such a period of time, the Code Enforcement Officer may issue a Notice of Abandonment to the owner of the small wind energy system.

(4) The owner shall have the right to respond to the Notice of Abandonment within 30 days from when he or she receives the notice. After review of the information provided by the owner, the Code Enforcement Officer shall determine if the small wind energy system has been discontinued or abandoned. If it is determined that the small wind energy system has not been discontinued or abandoned, the Code Enforcement Officer shall withdraw the Notice of Abandonment and notify the owner accordingly.

(5) If the owner of the small wind energy system does not respond to the Notice of Abandonment, the owner shall remove the wind generator and the tower at the owner's sole expense within 90 days of receipt of the

Notice of Abandonment. If the owner fails to physically remove the small wind energy system as called for herein, then the Code Enforcement Officer may pursue any appropriate legal action to have the small wind energy system removed at the owner's expense.

(j) Systems exceeding 100 KWH capacity. Wind energy systems exceeding a rated capacity of 100 kilowatts, either singly or in combination, are considered public utilities and are allowed by special exception only as specified in Section 42.14, the Permitted Uses Table 1.

(k) Definitions. The following definitions apply specifically to small wind energy systems, as presented in this section:

(1) Meteorological tower. A temporary structure erected to collect environmental information for the purpose of assessing the potential for a small wind energy system. The meteorological tower includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

(2) Modification. Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Non-structural maintenance and repair is not considered to be a modification.

(3) Net metering. The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

(4) Power grid. The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

(5) Shadow flicker. The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and on nearby structures causing a repeating pattern of light and shadow.

(6) Small wind energy system. A wind energy conversion system consisting of a wind generator, tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and which is used primarily for on site consumption.

(7) System height. The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

(8) Tower. The monopole, guyed monopole or lattice structure that supports a wind generator.

(9) Tower height. The height above grade of the fixed portion of the tower, excluding the wind generator.

(10) Wind generator. The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

42.14

PERMITTED USES - TABLE 1

APPENDIX A
ZONING

USES (A)	RESIDENTIAL USES	A	RI	R2	BI	B2	GRD	II	12	13	14	14A	H	Detail
[1][8]	(1) Single-Family Dwelling	Y	Y	Y	Y	Y	N	N	N	N	N	N	Y	
[1]	(2) Two-Family Dwelling	Y	N	Y	Y	Y	N	N	N	N	N	N	N	42.15 (i)
[1]	(3) Multi-Family Dwelling	N	N	Y	Y	Y	N	N	N	N	N	N	N	
[4]	(3a) Elderly Housing	E	N	E	E	E	N	N	N	N	N	N	N	43.23 (c) (26)
[1]	(4) Lodging or Rooming House	N	N	Y	Y	Y	N	N	N	N	N	N	N	
[1]	(4A) Group or Shared Home	E	N	Y	Y	Y	N	N	N	N	Y	N	N	42.23(c)(24)
	(5) Hotel, Motel	N	N	N	Y	Y	Y	E	E	E	E	E	N	42.23(c)(3)
	(6) Inns, Cabins, Transient Lodgings	E	N	N	Y	Y	Y	N	N	N	N	N	N	42.23(c)(3)
	(7) Cluster Development	Y	N	N	N	N	N	N	N	N	N	N	N	42.24
	(8) Mobile Home	Y	N	N	N	N	N	N	N	N	N	N	N	42.15(f)
	(9) Mobile Home Park or Subdivision	Y	N	N	N	N	N	N	N	N	N	N	N	42.15(g)
	(10) Modular Home	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	
	(11) Accessory Building or Use	Y	Y	Y	Y	N	Y	N	N	N	N	N	N	42.23(c)(28)
[94]	(12) Temporary Structure	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	42.15(n)
[127]	(13) Outdoor Wood-Fired Boiler	Y	N	N	N	N	N	N	N	N	N	N	N	52.15(p)
	(B) COMMERCIAL USES													
	(1) Retail Store-Sale of Goods First Hand	N	N	N	Y	Y	Y	E	E	Y	E	E	N	42.23(c)(22)
[5]	(1a) Adult-Oriented Establishments	N	N	N	Y	N	N	N	N	N	N	N	N	42.15(1)
	(2) Grocery or Variety Store Not More Than 1,000 sq. ft	N	E	E	Y	Y	Y	N	N	Y	N	N	N	42.23(c)(6)
	(3) Second Hand and Antique Shops	E	N	E	Y	Y	Y	N	N	Y	N	N	N	42.23(c)(10)
	(4) Manufacture of Goods Sold at Retail	N	N	N	Y	Y	Y	N	N	Y	N	N	N	42.15(d)
	(5) Monument Sales	N	N	N	N	E	N	N	N	E	N	N	N	42.23(c)(15)
[1]	(6) Office	E	N	E	Y	Y	Y	E	E	Y	E	E	N	42.23(c)(8)
	(7) Professional Office in Residence	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	42.15(c)
	(8) Service Establishment	N	N	N	Y	Y	Y	N	N	Y	N	N	N	
	(9) Restaurant	E	N	N	Y	Y	Y	E	E	Y	E	E	N	42.23 (c)(23)
	(10) Bank (Including Drive- In)	N	N	N	Y	Y	Y	N	N	Y	N	N	N	

	(11)	Laundry	N	N	N	E	Y	N	N	N	Y	N	N	N	42.23(c)(14)
	(12)	Self-Service Laundry	N	N	N	Y	Y	Y	N	N	Y	N	N	N	
	(13)	Drive-In Business, Service in Car	N	N	N	N	Y	Y	N	N	Y	N	N	N	
	(14)	Funeral Home	N	N	E	Y	Y	N	N	N	Y	N	N	N	42.23(c)(9)
	(15)	Carpentry, Cabinet, Upholstery Sheet Metal and Sign Painting Shop	N	N	N	E	Y	Y	N	N	Y	N	N	N	
	(16)	Filling Station	N	N	N	E	Y	Y	N	N	Y	N	N	N	42.23(c)(11)
	(17)	Auto and Truck Service Station, Sales, Repair Or Storage	N	N	N	N	Y	Y	N	N	Y	N	N	N	
[95]	(18)	Home Occupation	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	
[6]	(18a)	Bed and Breakfast Establishment	Y	N	Y	Y	Y	Y	N	N	N	N	N	N	42.15(c)(k)
	(19)	Accessory Building or Use	Y	Y	Y	Y	Y	Y	N	N	Y	N	N	N	

USES (C)	AGRICULTURAL/RECREATION USES	A	R1	R2	B1	B2	GRD	11	12	13	14	14A	H	Detail	
	(1) Farm	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	42.15 (a)	
	(2) Roadside Stand, Sale of Farm Products	Y	N	N	N	E	E	N	N	N	N	N	N	42.15(b) and 42.23(c)(17)	
	(3) Pig Farm	E	N	N	N	N	N	N	N	N	N	N	N	42.23(c)(1)	
	(4) Fur Ranch	E	N	N	N	N	N	N	N	N	N	N	N	42.23 (c)(2)	
	(5) Veterinary Hospital, Kennel	Y	N	N	N	N	Y	N	N	N	N	N	N		
	(6) Flower and Plant Nursery and Greenhouse	Y	N	N	N	Y	Y	N	N	N	Y	Y	N		
	(7) Amusement Enterprise	N	N	N	E	E	Y	N	N	N	N	N	N	42.23(c)(12)	
	(8) Recreation Area, Day Camp	Y	N	N	E	E	N	N	N	N	N	N	N		
	(9) Theater/Place of Public Assembly	E	N	N	Y	N	Y	N	N	N	N	N	N		
	(10) Drive-in Theater	E	N	N	N	N	Y	N	N	N	N	N	N	42.23(c)(5)	
	(11) Stable and Riding Academy	Y	N	N	N	N	N	N	N	N	N	N	N		
	(12) Campground	E	N	N	N	E	N	N	N	N	N	N	N		
	(13) Accessory Building or Use	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N		
(D) PUBLIC INSTITUTIONAL USES															
	(1) Government Building	E	E	E	E	E	Y	N	N	N	N	N	N	42.23(c)(18)	
[8]	(2) Cemetery	E	E	E	E	E	N	N	N	N	N	N	E	42.23(c)(18)	
	(3) Fraternal Club and Lodge	N	N	N	E	E	Y	N	N	E	N	N	N		
	(4) Wireless Communication Facilities	E	N	N	E	E	Y	Y	Y	E	Y	Y	N	42.23(c)(27)	
	(5) Public Utility Lines, Station,	E	E	E	E	E	E	E	E	E	E	E	E	42.23(c)(19)	
[10]	(5a) Small Wind Energy System	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	42.35	
	(6) Airport, Public	E	E	E	E	E	N	E	E	E	E	E	E	42.23(c)(20)	
	(7) Airport, Private	E	N	N	N	E	N	E	E	N	E	E	E	42.23(c)(21)	
	(8) Hospital	N	N	N	N	N	N	N	N	N	N	N	Y		
[1]	(9) Convalescent or Rest Home	E	E	E	N	N	N	N	N	N	N	N	Y	42.15(h) and 42.23(c)(7)	
	(10) Healthcare Activities and Facilities	N	N	N	N	N	Y	N	N	N	N	N	Y		
[11]	(11) Philanthropic and Charitable Inst.	E	N	Y	Y	Y	Y	N	N	N	N	N	N		
	(12) Public or Private School	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N		

	(13) Day Care Center	Y	N	Y	Y	Y	N	N	N	N	N	N	N	N
[7]	(13) Family Day Care Home (a)	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N
	(14) Church	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N
	(15) Park and Playground	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N
	(16) Accessory Building or Use	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N

42.14 Permitted Uses - Table 1 (Continued)

USES		A	RI	R2	B1	B2	GRD	11	12	13	14	14A	H	Detail
(E)	INDUSTRIAL USES													
(1)	Industry, Research, Testing	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	42.15(e)
(2)	Wholesale or Storage Warehouse	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	
(3)	Motor Vehicle Junkyard	E	N	N	N	N	N	N	E	N	N	E	N	42.23(c)(4)
(4)	Junkyard	E	N	N	N	N	N	N	E	N	E	E	N	42.23(c)(4)
(5)	Gravel Processing Plant	E	N	N	N	N	E	N	E	N	E	E	N	
(6)	Truck Terminal, Bus Garage	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	
(7)	Contractors' Storage Yard	Y	N	N	N	Y	N	Y	Y	Y	Y	Y	N	
(8)	Feed and Fuel Storage and Sales	N	N	N	N	E	Y	Y	Y	Y	Y	Y	N	42.23(c)(13)
(9)	Bottling Works	N	N	N	N	E	Y	Y	Y	Y	N	N	N	42.23(c)(13)
(10)	Ice Cream Manufacture	N	N	N	N	E	Y	Y	Y	Y	N	N	N	42.23(c)(13)
(11)	Sawmill	Y	N	N	N	N	N	Y	Y	Y	Y	Y	N	
(12)	Earth Excavation	E	E	E	E	E	E	E	E	E	E	E	E	42.23(c)(16)
(13)	Accessory Building or Use	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	
[2]	(14) Solid Waste Facility	N	N	N	N	N	N	N	N	N	Y	E	N	42.15 and 42.23(25)

[1] Amended 5/10/88 with respect to Agricultural Zone

[2] Amended 3/26/90 by addition of Industry -4 Zone.

[3] Amended 6/5/90 by addition of Industry-4A Zone.

[4] Amended 6/25/90 by addition of Elderly Housing.

[5] Amended 2/1/94 by addition of Adult-Oriented Establishments.

[6] Amended 10/2/90 by addition of "Bed and Breakfast Establishment."

[7] Amended 2/1/94 by addition of Family Day Care Home.

[8] Amended 1/4/05 by allowing single-family and cemetery (SE) in H zone

[9] Permitted Uses Table Amended by Addition of GRD column [131]

[10] Permitted Uses Table Amended by Addition of Small Wind Energy Systems

6/8/10

**APPENDIX B
CHAPTER 42**

42.16 DIMENSIONAL REGULATIONS - TABLE 2

(See next page for details and exceptions)

District	Minimum Lot Area			Minimum Lot Area Per Added Dwelling		Minimum Setbacks			Distance from other buildings	Minimum Frontage	Max. lot coverage
	with no water or sewer	with water or sewer	with both water & sewer	with both water & sewer	with water or sewer or none*	Front Setback	Side Setback	Rear Setback			
Agricultural	40,000	30,000	20,000	NP*	NP*	35	25	50	10	150/U	30%
Residence 1	40,000	30,000	10,000	NP	NP	25	10	25	10	100	30%
Residence 2	40,000	30,000	6,000	6,000	30,000	15	8	25	10	60	30%
Business I (Res. Use)	R	R	R	1,000	NP	F	S	25	6	R	75%
Business I (Non-Res. Use)	R	R	R	R	R	F	S	25	6	R	R
Business 2 (Res. Use)	40,000	30,000	6,000	6,000	10,000	15	8	25	10	60	40%
Business 2 (Non-Res. Use)	R	R	R	R	R	F	S	25	6	R	50%
GRD	R	R	R	NP	NP	R	R	R	10	50	R
Industry 1	40,000	30,000	20,000	NP	NP	25	10	25	10	100	40%
Industry 2	40,000	30,000	20,000	NP	NP	R	S	25	6		60%
Industry 3	40,000	30,000	20,000	NP	NP	25	10	25	6	100	60%
Industry 4	40,000	30,000	20,000	NP		50	25	50	6	100	60%
Industry 4A	40,000	30,000	20,000	NP	NP	50	25	50	6	100	60%
Hospital	R	R			NP	R	10	25	10	R	60%

Note: The notation "water" and "sewer" refer to the presence of City Water and City Sewer

Continued on next page...

[103] [131]

APPENDIX B CHAPTER 42

42.16 DIMENSIONAL REGULATIONS - TABLE

2 Legend:

- DU: Dwelling Unit.
- NP: Not Permitted.
- R: No regulation.
- S: No regulation except that where adjoining a residential zone, side setback shall equal that requirement in the residential zone; any wall that is not a party wall requires a six (6) foot side setback with access for fire fighting. **[104]**
- F: None required, except where frontage between two intersecting streets is partly residential and partly business: minimum front setback in business district shall equal that required in residential district. **[104]**
- U: The minimum lot frontage shall be 125 feet for lots serviced by 2 public facilities.

Notes & Exceptions:

- 1: Any interior court shall have a width and depth each not less than the average height of the walls facing the court.
- 2: In any zoning district the minimum rear setback for swimming pools, to be used in connection with a residential dwelling of four (4) or less dwelling units, shall be 10 feet except in the Agricultural district, in which district the minimum rear setback for such pool to be used in connection with such residential dwelling use shall be 25 feet, and provided, further, that any building to be used in connection with pools shall be subject to the normal minimum; rear setback applicable in such zoning district.
- 3: In any zoning district the minimum side and rear setbacks for single-story outdoor storage sheds of less than 144 square feet floor area space and not located on a permanent foundation and used in connection with a residential dwelling of four (4) or less dwelling units shall be 10 feet for each setback. **[76]**
- 4: Minimum front, side, and rear yard setback for contractor's storage yards are specified in Section 42.15(m).
- 5*: For details on duplexes in the Agricultural District, please see Section 42.15(i).
- 6: The side and rear setbacks for garages (residential use only) in the Agricultural, Residence 1, and Residence 2 districts can be reduced by Special Exception, as provided for in Section 42.23(c)(28).

Note #3 - Amended 6/22/99

APPENDIX C CHAPTER 42

42.24A (c) Commercial Wireless Facility Performance Criteria - Table 3

	R-1, R-2, H	A, B-1, B-2,1-3	GRD, I-1, I-2,14, 14A
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Cellular Antenna to Be affixed to a new (proposed) ground tower	Not Permitted	Special Exception Required	Maximum Tower Height: See Section 42.24A (a)(3) Setbacks: The GREATER distance by application of the following: 1. Tower Height + 10 feet from street rights-of way or site boundaries 2. 2 times the tower height from abutting residential property lines
Cellular antenna to Be affixed to an existing building without a Roof tower	Subject to Article II, Section 7(B)(4) Of Site Plan Regulations, and Criteria from third column.	Subject to Article II, Section 7(B)(4) of Site Plan Regulations, and criteria from third column.	Subject to Article II, Section 7(B)(4) of Site Plan Regulations, and: 1. Antenna may be placed on the facade or roof of conforming building or structures without regard to height or setback of the building. 2. Antenna support structures will be considered to be roof towers if the height of the structure exceeds 10 feet above permitted height of building
Cellular antenna to Be affixed to a new (proposed) roof tower	Not Permitted	Special Exception Required	Roof Towers may be placed on the roof of a conforming building using either of the following to determine tower height and setback: 1. Tower height above the roof may be as high as the setback distance to the nearest roof edge 2. The heights allowable for a ground tower may be used for a roof tower if the required setbacks for a ground tower are met.
Cellular antenna to be added to an existing approved or permitted tower	Subject to Article II, Section 7(B)(4) of Site Plan Regulations, and criteria from third column.	Subject to Article II, Section 7(B)(4) of Site Plan Regulations, and criteria from third column.	Subject to Article II, Section 7(B)(4) of Site Plan Regulations, and: 1. The tower height is not increased 2. No ancillary features are added to the tower other than antenna, required safety hardware, and ancillary equipment buildings 3. All conditions of the previous tower approval have been satisfied
Existing Nonconforming tower	N/A	Subject to Section 42.7	Subject to Section 42.8
Ancillary equipment building(s)	Not Permitted	Must be included in Special Exception	Subject to all requirements of appropriate zone (i.e., lot coverage, setback, etc.)

AMENDMENTS

- [1] Amended 3/4/86 - New Chapter 42
[2] Amended 3/26/90 by addition of Industry-4 Zone

- [3] Amended 6/5/90 by addition of Industry-4A Zone
- [4] Amended 6/3/86 [New Subparagraph (1)]
- [5] Amended 9/2/86 [New Subparagraph (2)]
- [6] Amendment dated 6/3/86, Subparagraph (1), invalidated by action of Strafford County Superior Court:James McGoldrick, Trustee, Rochester Eagle Realty Trust v. City of Rochester, Docket #86-E-154, dated March 11, 1987.(City Council voted not appeal on April 7, 1987).
- [7] Amended 6/2/87 [New Subparagraph (3)]
- [8] Amended 8/2/88 [New Subsection (4)]
- [9] Amended 10/4/88 [New Subsection (5)]
- [10] Amended 9/5/89 [New Subsection (6)]
- [11] Amended 3/26/90 [New Subsection (7)]
- [12] Amended 6/5/90 [New Subsection (8)]
- [13] Amended 6/5/90 [New Subsections (9) and (10)]
- [14] Amended 4/6/93 [New Subsection (11)]
- [15] Amended 3/26/90 [New Subparagraph (b)]
- [16] Amended 6/5/90 [New Subparagraph (b)]
- [17] Amended 2/1/94 [New Subparagraph (13a)]
- [18] Amended 10/ 2/90 [New Subparagraph (6a)]
- [19] Amended 6/25/90 [New Subparagraph (21 a)]
- [20] Amended 2/1/94 [New Subparagraph (22a)]
- [21] Amended 2/1/94
- [22] Amended 3/26/90 [New Subsection 50a)]
- [23] Amended 6/5/90 [New Subparagraph (h)]
- [24] Amended 10/2/90
- [25] Amended 2/1/94
- [26] Amended 3/26/90 by addition of Industry-4 Zone
- [27] Amended 6/5/90 by addition of Industry-4A Zone
- [28] Amended 5/10/88
- [29] Amended 3/26/90
- [30] Amended 6/5/90
- [31] Amended 10/2/90 [New Subparagraph (k)]
- [32] Amended 2/1/94 [New Subparagraph (1)]
- [33] Amended 5/5/87 [Second paragraph of Subsection (a) eliminated; was commonly referred to as "75% rule."]
- [34] Amended 2/1/94
- [35] Amended 5/10/88
- [36] Amended 3/26/90
- [37] Amended 6/5/90
- [38] Amended 5/10/88
- [39] Amended 3/26/90
- [40] Amended 6/5/90
- [41] Amended 5/10/88
- [42] Amended 3/26/90
- [43] Amended 6/5/90
- [44] Amended 6/25/90
- [45] Amended 5/10/88
- [46] Amended 6/7/94
- [47] Amended 2/7/95
- [48] Amended 8/16/94 (12)
- [49] Amended 6/6/95
- [50] Amended 12/5/95

[51]	Amended 4/5/2005	
[52]	Amended 2/4/97	
[53]	Amended 4/1/97	
[54]	Amended 5/6/97	
[55]	Amended 9/2/97	
[56]	Amended 12/1/98	[New Subparagraph 42.2 (b)](18)]
[57]	Amended 12/1/98	[New Subparagraph 42.2(b)](19)]
[58]	Amended 4/7/98	[New Subparagraph 42.2(b)](20)]
[59]	Amended 6/24/98	[New Subparagraph 42.27]
[60]	Amended 6/24/98	[New Subsection 42.6 (5a)]
[61]	Amended 6/24/98	[New Subsection 42.6 (5b)]
[62]	Amended 6/24/98	[New Subsection 42.6 (5c) & (13a)]
[63]	Amended 6/24/98	[New Section 42.24(a)] 42.6 (53b)
[64]	Amended 6/24/98	[New Subsection 42.6(53b)]
[65]	Amended 6/24/98	[New Section 42.24. (a) 42.6 (54a)]
[66]	Amended 6/24/98	[New Section 42.24 (a) (c) Appendix "c"]
[67]	Amended 2/2/99	[New Subparagraph 42.2(b)(21)]
[68]	Amended 6/22/99	[New Subparagraph 42.2(b)(22)]
[69]	Amended 6/03/99	[New Subparagraph 42.2(b)(23)]
[70]	Amended 6/22/99	[Subsection 42.23 (c)(28)]
[71]	Amended 6/22/99	
[72]	Amended 8/01/00	[New Subparagraph 42.2(b)(24)]
[73]	Amended 6/05/01	[New Section 42.31]
[74]	Amended 12/05/01	[New Subparagraph 42.2(b)(25)]
[75]	Amended 12/05/01	[New Section 42.32]
[76]	Amended 4/2/02	[New Subparagraph 42.2(b)(26)]
[77]	Amended 8/06/02	[New Subparagraph 42.2 (b)(27)]
[78]	Amended 12/02/2003	[New Subsection 42.33]
[79]	Amended 2/3/2004	[New Subsection 42.2(29)]
[80]	Amended 8/2/2005	[Section Revised 8/2/2005]
[81]	Amended 12/7/2004	[Section Revised 12/7/2004]
[82]	Amended 9/7/2004	[Section 42.2(30) added]
[83]	Amended 9/7/2004	[New Subparagraph (31)]
[84]	Amended 1/4/2005	[New Subparagraph (32)]
[85]	Amended 1/4/2005	[Subparagraph (c)(18) amended]
[86]	Amended 1/4/2005	Appendix A Amended
[87]		
[88]	Amended 3/2/2004	Subsection 21a Amended
[89]	Amended 3/2/2004	Subparagraph (c)(26)(H) Amended
[90]	Amended 3/2/2004	Subparagraph (c)(26)(I) added
[91]	Amended 3/2/2004	Subparagraph 42.33 (h)(1)(A)
[92]	Amended 12/2/2003	New Subparagraph Added (33)
[93]	Amended 5/1/07	Section 42.4 Amended
[94]	Amended 11/9/04	New Subparagraph 42.15(n)
[95]	Amended 4/3/07	New Subparagraph 42.15(o) & Permitted Uses Table (B)(18)
[96]	Amended 4/3/07	42.22(a) through (b)(5) Amended.
[97]	Amended 7/10/07	Section 42.25(b) replaced
[98]	Amended 10/2/07	Sections 48(a) – 48(g) added. Sections (55) – (58) rescinded.
[99]	Amended 10/2/07	Section 42.6(a)(16) amended
[100]	Amended 10/2/07	Section 42.8(b)(3) amended
[101]	Amended 10/2/07	Section 42.9(e)(6) amended

[102]	Amended 10/2/07	Section 42.15(m)
[103]	Amended 10/2/07	Table 2, Appendix B amended
[104]	Amended 10/2/07	Table 2, Appendix B amended
[105]	Amended 10/2/07	Section 42.16 amended
[106]	Amended 10/2/07	Section 42.17(a) and (c)
[107]	Amended 10/2/07	Section 42.17(e)
[108]	Amended 10/2/07	Section 42.17(d) repealed and replaced. Sections (f) and (g) added
[109]	Amended 10/2/07	Section 42.23(29) added
[110]	Amended 10/2/07	Section 42.23(c)(26)(C)
[111]	Amended 10/2/07	Section 42.23(c)(26)(I)(3)
[112]	Amended 10/2/07	Section 42.23(c)(28)
[113]	Amended 10/2/07	Section 42.24(d)(10)
[114]	Amended 10/2/07	Section 42.24A(b)(2)
[115]	Amended 10/2/07	Sections 42.6(a)(50a)-(50d) added, (50e) renumbered
[116]	Amended 10/2/07	Section 42.8(c)(2) replaced and (c)(6) added
[117]	Amended 10/2/07	Section 42.8(d)(3) replaced and (d)(4) added
[118]	Amended 10/2/07	Section 42.8(f)(6) replaced
[119]	Amended 10/2/07	Section 42.8(g) added
[120]	Amended 1/15/08	Section 42.2 (34) added
[121]	Amended 9/2/08	Section 42.31 Amended
[122]	Amended 2/3/09	Section 42.6 (25) Amended
[123]	Amended 7/7/09	Section 42.8 (f)(12) added
[124]	Amended 7/7/09	Section 42.10(e) added
[125]	Amended 7/7/09	Section 42.33 replaced in entirety
[126]	Amended 12/1/09	Section 42.25 replaced paragraphs 2 and 3
[127]	Amended 12/15/09	Section 42.15(p) added
[128]	Amended 12/15/09	Section 42.25 (a)
[129]	Amended 4/6/10	Section 42.15 (p) (4) added
[130]	Amended 3//10	Section 42.6(a)(31) & (32)
[131]	New Section 6/8/10	Section 42.34 added (GRD)
[132]	New Section 8/3/10	Section 42.35 added (Small Wind Energy Systems)

8/3/10