

**Draft :**

**Codes and Ordinances Recommendations from the March 27, 2014, April 3, 2014, Special Codes and Ordinances Committee Meetings, and the April 15, 2014, City Council Workshop**

**Recommendation 1:**

**Removal of Density Rings and Rezoning of Chesley Hill Road to Residential (1) in the Comprehensive Rezoning Proposal**

Councilor Varney **MOVED** to recommend to the full City Council that the Mitchell Property located on the south westerly end of Chesley Hill Road, which is currently being proposed as Residential (2), in the Comprehensive Rezoning Proposal, be reverted back to Residential (1). Additionally, all language pertaining to the density rings be removed from the Comprehensive Rezoning proposal along with the density rings on the map. Councilor Gates seconded the motion. The **MOTION CARRIED** by a 6 to 0 roll call vote. Councilors Kittredge, Gates, Lauterborn, Varney, Lachapelle, and Mayor Jean voted in favor of the motion. ***Please note: an additional recommendation has been made to place the density rings back in the Comprehensive Rezoning Proposal, which can be found under Recommendation 4.***

**Recommendation 2:**

**Labrador Drive and Fillmore Blvd reverted back to Residential (1) in the Comprehensive Rezoning Proposal**

Mayor Jean **MOVED** to recommend to the full City Council that Labrador Drive, currently being proposed as Neighborhood Mixed Use, be reverted back to Residential (1), and that Fillmore Blvd., currently being proposed as Highway Commercial, be reverted back to Residential (1), in the Comprehensive Rezoning Proposal. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a 6 to 0 roll call vote. Councilors Lauterborn, Gates, Varney, Kittredge, Lachapelle, and Mayor Jean voted in favor of the motion.

**Recommendation 3:**

**Retain the Special Downtown Review Process in the Comprehensive Rezoning Proposal**

Councilor Lauterborn **MOVED** to recommend to the full City Council that the Special Downtown Review Process be retained in the Comprehensive Rezoning Proposal. Councilor Gates seconded the motion. Mr. Sylvain gave some insight to why this was changed; however, he did not object to the motion made by Councilor Lauterborn. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 4:****Amendment to the Comprehensive Rezoning Proposal, Article XIX – Dimensional Regulations, Section 8 – Density Rings**

Councilor Varney referred to Article XIX – Dimensional Regulations, Section 8 – Density Rings. He **MOVED** to recommend to the full City Council that the following amendment be made:

Density Rings. The density rings are shown on the Official City of Rochester Map that is adopted as part of this Ordinance **and only apply to multi-family dwellings/developments.** The rings are defined as follows:

The ~~minimum lot area and~~ minimum lot area per dwelling unit with a one and one-half (1 1/2) mile radius of the center of Rochester, shall be 5,000 square feet. The minimum lot area and minimum lot area per dwelling unit outside of the one and one-half (1 1/2) mile radius of the center of Rochester, shall be 7,500 square feet.

The ~~minimum lot area and~~ minimum lot area per dwelling unit within a one-half (1/2) mile radius of the center of Gonic and East Rochester shall be 5,000 square feet. The minimum lot area and minimum lot area per dwelling unit outside of the one-half (1/2) mile radius of the center of Gonic and East Rochester, shall be 7,500 square feet.

Any lot that is partially within the radius of a density ring shall be treated as if it were entirely within the radius of the density ring. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 5:****Amendment to Article II, Definitions of Dwellings: Dwellings Multifamily; Dwelling, Apartment Building; and Dwelling, Multifamily.**

Councilor Varney **MOVED** to recommend to the full City Council that Article II, Definitions, be amended pertaining to the definition of multifamily units, be increased from (3) to (5) in the following definitions in the Comprehensive Rezoning Proposal:

- Development, Multifamily ~~three (3)~~ **five (5)**
- Dwelling, Apartment Building ~~three (3)~~ **five (5)**
- Dwelling, Multifamily ~~three (3)~~ **five (5)**

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 6:****Amendment to the Comprehensive Rezoning Proposal Map – Reinsert all Density Rings**

Councilor Varney **MOVED** to recommend to the full City Council to reinsert the Density Rings in the Comprehensive Rezoning map. *He noted that the language had been modified in Recommendation 4.* Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 7:****Amendment to Article II, Definitions, relative to Minimum Lot Area and Minimum Lot Area per Dwelling Unit in the Comprehensive Rezoning Proposal**

Councilor Varney **MOVED** to recommend to the full City Council that Article II, Definitions Minimum Lot Area [pages 17 and 18], be amended as follows:

Minimum Lot Area: The computed area contained within a lot that meets the Dimensional Standards of the Zoning Ordinance excluding very poorly drained soils and steep slopes greater than 25%. ~~Twenty-Five percent (25%) of poorly drained soils may be used to fulfill the minimum lot area. For example, if there was a 20 acre parcel and 10 acres were useable upland and 10 acres were poorly drained soils, you would be able to use 2.5 acres of poorly drained soils to use toward the minimum lot area. Therefore, you would have total of 12.5 acres of minimum lot area.~~

Minimum Lot Area per Dwelling Unit: The computed area contained within a lot for each additional dwelling unit that meets the Dimensional Standards of the Zoning Ordinances excluding very poorly drained soils and steep slopes greater than 25%. ~~Twenty-Five percent (25%) of poorly drained soils may be used to fulfill the minimum lot area per dwelling unit. For example, if there was a 20 acre parcel and 10 acres were useable upland and 10 acres were poorly drained soils, you would be able to use 2.5 acres of the poorly drained soils to put toward the minimum lot area per dwelling unit. Therefore, you would base you density on 12.5 acres.~~

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 8:****Amendment to Article II Definitions, Solid Waste Facility [page 25] in the Comprehensive Rezoning Proposal**

Councilor Varney **MOVED** to recommend to the full City Council that the second paragraph under definitions of Article II, pertaining to Solid Waste Facility, be amended as shown below:

...Solid waste facility includes, **but is not limited to**, composting facility, junkyard, and recycling facility.

Councilor Gates seconded the motion. Councilor Lachapelle requested to be recused from the vote. The **MOTION CARRIED** by a unanimous voice vote, with Councilor Lachapelle abstaining.

**Recommendation 9:****Amendment to Article XX, Standards for Specific Permitted Uses, Removal of the description of a Townhouses [#13]**

Councilor Varney stated that the definition of a Townhouse should be removed from the ordinance since the term would no longer be utilized in the Comprehensive Rezoning Proposal. He **MOVED** that Article XX, Standards for Specific Permitted Uses, Townhouses [# 13] be removed. *This can be found in Article II, page 5, of the Comprehensive Rezoning Proposal document.* Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 10:****Amendment to Article XXI, Conditions for Particular Uses, Assisted Living Facility**

Councilor Varney **MOVED** to recommend to the full City Council that the permitted density for an Assisted Living Facility, be increased by 1 ¼ times that otherwise would be permitted for residential uses in the district, in the Comprehensive Rezoning Proposal. *This can be found under Article XXI, Conditions for Particular Uses, Assisted Living Facilities, page 4.*

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 11:****Amendment to Article XXI Conditions for Particular Uses, Nursing Home**

Councilor Varney **MOVED** to recommend to the full City Council that the permitted density for a Nursing Home be increased by 1 ¼ times that otherwise would be permitted for residential uses in the district. *This can be found under Article XXI, page 6.*

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 12:****Amendment to Article XXI, Conditions for Particular Uses, Senior Housing**

Councilor Varney **MOVED** to recommend to the full City Council that the following statement be **removed** from Senior Housing: The permitted density shall be that of 1 ¼ times that otherwise would be permitted for residential uses in the district. *This can be found under Article XXI, page 7.* Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 13:****Amendment to Article XXVIII, Performance Standards, Waste Disposal**

Councilor Varney **MOVED** to recommend to the full City Council that Article XXVIII, Performance Standards, Waste Disposal [#11], Dumpsters [b], in the Comprehensive Rezoning Proposal be amended as follows:

Dumpsters. All dumpsters **associated with new applications, including changes in use** , shall be fully screened so they are not visible from a public way (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. ) ~~All property owners, property managers, tenants, and businesses shall bring existing dumpsters into compliance with this requirement within 6 months of notification or as stipulated by the Code Enforcement Officer. This provision does not apply to dumpsters used specifically for active construction projects.~~

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 14:****Amendment to Table XXVIII [C] Food-Lodging-Public Recreation Uses**

Councilor Varney **MOVED** to recommend to the full City Council that the Lodging, Bed and Breakfast, conditional use, be amended, by removing the conditional use from Residential (1), and allow Lodging, Bed and Breakfast to be listed as a conditional use under Residential (2). Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 15:****Amendment Table XVIII [D] Industrial-Storage-Transport-Utility Uses; Junkyard and Recycle Facility**

Councilor Varney **MOVED** to recommend to the full City Council that table XVIII-D, Industrial-Storage-Transport-Utility Uses, be amended by removing the exception [E] from both the Junkyard and Recycle Facility under the Highway Commercial District column. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 16:****Amendment to XXVIII [A] Residential Uses, by Removing Dwelling, Townhouse, from the table**

Councilor Varney **MOVED** to recommend to the full City Council that an Amendment to XXVIII [A]: Residential Uses, by removing "Dwelling, Townhouse" from the table of Residential Uses. Councilor Gates seconded the motion. The **MOTION CARRIED** by a majority voice vote.

**Recommendation 17:**

**Amendment to Article XXIII Accessory Uses – (f) Chickens, Fowl and Other Small Livestock**

Councilor Lauterborn **MOVED** to recommend to the full City Council the following amendment to Article XXIII, Accessory Uses, (f) Chickens, Fowl and Other Small Livestock:

(f) Chickens, Fowl and Other Small Livestock

iii – No area or structure for the housing, storage of manure/animal waste, of feeding of animals shall be located within ~~any property setback areas~~ **20 feet of any abutting property lines;**

Councilor Lauterborn asked if this setback applies to all zones. Councilor Varney replied yes. Councilor Hamann asked if this would preclude a homeowner from raising chickens.

Councilor Lachapelle stated if the Committee did not object he would allow a comment to be made from the audience. Tom Kaczynski, resident, stated that the motions are not being made clear and the public does not know what is being voted upon this evening. Councilor Lachapelle apologized and distributed information to Mr. Kaczynski to be shared with the public. Councilor Kittredge expressed concern that more information should be sought prior to making a recommendation. Mr. Sylvain asked if someone would be able to make an appeal to the Zoning Board of Adjustment if necessary. Councilor Gates replied yes. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 18:****Amendment to Article XXIII Accessory Uses – Fences**

Councilor Lauterborn **MOVED** to recommend to the full City Council an amendment to Article XXIII, Fences, by adding (h) and (i) as follows:

h. **No fence shall be erected that blocks or limits the existing sight distance of an abutting driveway or right-of-way. A clear vision area extending along the full width of the front lot line between side lot lines shall be maintained 10 feet from the edge of road pavement or sidewalk at 3 feet 6 inches above the driveway surface (the height of a typical driver's eyes) to points 3 feet 6 inches above the road surface in both directions.**

i. **With regard to existing fences on the effective date of this provision, which fence fails to comply with the requirements of subsections (g) or (h) of this Section, in the event that the Code Enforcement Officer, in a written administrative decision, determines that an existing fence, by virtue of this its height, location or otherwise, constitutes a hazard to public health and/or safety, then such fence shall be required to comply with the requirements of said subsection (g) or (h) hereof within six (6) months of the owners official notification by the Codes Enforcement Officer of the City of Rochester of such administrative decision, failing which, the fence in question shall be removed.**

Councilor Keans questioned if this was the language reviewed by Attorney Wensley. Chief Planner Campbell replied that paragraph (h) deals with a specific matter that the Planning Board wished to address and paragraph (i) is the exact same language submitted by Attorney Wensley. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 19:****Amendment to Boundary Lines on Highland Street**

Councilor Varney **MOVED** to recommend to the full City Council that the proposed Commercial District on Highland Street retain the same boundary lines that it does on the existing zoning map and that it be changed to Neighborhood Mixed Use. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.



**Recommendation 20:****Amendment to Article XX Yard Sales [22]**

Councilor Varney **MOVED** to recommend to the full City Council that an amendment be made to Article XX Standards for Mixed Use Yard Sales [22] by removing the words ~~in the front yard~~, which means it cannot be left out overnight. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 21:****Amendment to North Main Street revert back to Residential (1)**

Councilor Gates **MOVED** to recommend to the full City Council that the proposed Neighborhood Mixed Use on North Main Street be changed to Residential (1) in the Comprehensive Rezoning Proposal. Councilor Varney seconded the motion. Mr. Sylvain advised the Committee that this motion would in effect make Carriage Hill non-conforming. It was determined that the specific area of location is to be from Strafford Square north, starting after the CPA office next to Holy Rosary Parish, up to Claire Street, *the other side of Claire Street is the Shell Station [ Highway Commercial]*, to the street prior to Holy Rosary Parish. It was further determined that Residential (1) begin at Strafford Square up to Burger King, but not including Burger King. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 22:****Amendment to Article XXVIII [A] Residential Uses**

Councilor Varney stated that multifamily units are proposed as “permitted” use in the agricultural zone. He **MOVED** to recommend to the full City Council an amendment to XXVIII [A] Residential Uses, by removing the conditional use, in the Agricultural Zone, for the following dwelling uses: Multifamily Development, Multifamily, and Three & Four Family, Dwelling. This would only allow single family homes and duplexes, in the Agricultural zone, which is how the existing ordinance is written. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendation 23:****Rochester Hill Road near Crocket Street**

Councilor Lauterborn **MOVED** to recommend to the full City Council that the Neighborhood Mixed Use, be reverted back to Residential (1), beginning just south of Crocket Street, traveling north on Rochester Hill Road, to the edge of the Downtown Commercial District, only on the west side, *which is located on the opposite side of Frisbie Hospital*. Councilor Gates seconded the motion. The **MOTION CARRIED** by a majority voice vote.

**Recommendations 24: Farms; Farm, Crops**

Councilor Gray **MOVED** to recommend to the full City Council that the 10 acre Farm requirement be reduced to 5 acres, which would coincide with the crop farm requirement of 5 acres. Mayor Jean seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**Recommendations 25: Rochester Hill Road**

Councilor Varney **MOVED** to recommend to the full City Council that a portion of Rochester Hill Road, currently zoned as Office Commercial, be changed to Residential 2, specifically, by starting at the Armory Building on Rochester Hill Road and continuing to the Hill View apartments. The **MOTION CARRIED** by a unanimous voice vote.

6. *Building Stories – Upper Floors.* Upper story/attic spaces count toward the minimum required number of stories specified in the dimensional tables if a portion of the floor area of those upper story/attic spaces equal to at least ½ the floor plate of the building has a ceiling height of at least 7 feet.
7. *Corner lots.* On corner lots, for the purpose of setbacks, there shall be established a front, a street-side side, a (regular) side, and a rear. The ordinary front setback shall apply to that section of the lot which is deemed the front, as determined by the Code Enforcement Officer (based upon the locations of the front entrance, street address, path to the front, and driveway; E911 standards; 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.
8. *Density Rings.* The density rings are shown on the Official City of Rochester Zoning Map that is adopted as part of this Ordinance **and only apply to multi-family dwellings/developments**. The rings are defined as follows:
- ~~The minimum lot area and~~ minimum lot area per dwelling unit within a one and one-half (1½) mile radius of the center of Rochester, shall be 5,000 square feet. ~~The minimum lot area and minimum lot are~~ per dwelling unit outside of the one and one-half (1½) mile radius of the center of Rochester, shall be 7,500 square feet.
- ~~The minimum lot area and~~ minimum lot area per dwelling unit within a one-half (½) mile radius of the center of Gonic and East Rochester, shall be 5,000 square feet. ~~The minimum lot area and minimum lot are~~ per dwelling unit outside of the one-half (½) mile radius of the center of Gonic and East Rochester, shall be 7,500 square feet.
- Any lot that is partially within the radius of a density ring shall be treated as if it were entirely within the radius of the density ring.
9. *Double Frontage Lots.* On double frontage lots, for the purpose of setbacks, there shall be established a front, 2 sides, and a rear. The ordinary front setback shall apply to that section of the lot which is deemed the front, as determined by the Code Enforcement Officer (based upon the locations of the front entrance, street address, path to the front, and driveway; E911 standards; the prevailing pattern of the other buildings on both blocks; impact upon the streetscapes; and other appropriate factors). The regular rear setback shall apply to that section of the lot opposite the front.
10. *Exempt structures.* Non-habitable utilities and utility type structures erected by a governmental, public utility or non-profit agency which customarily are built within the road right of way, on undersized lots, or close to property lines, and which cannot reasonably be made to conform with the requirements of the dimensional tables are exempt from those requirements.

4. A change in the ownership or form of ownership of any property (notwithstanding the definition of a condominium conveyance as a subdivision as set forth in RSA 672:14 I. stating that "Subdivision" means the division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance);
5. The creation or termination of rights of access, easements, or covenants unless in violation of any condition of approval issued by the Planning Board;
6. Planting of landscaping materials

**Development, Multifamily:** A development containing 2 or more buildings containing ~~3~~ **five** or more residential units on the same lot, i.e. most any dwelling other than a single family and/or duplex dwelling. Multifamily development can take many forms.

**Diameter at Breast Height** (or "DBH"): The elevation at which the size of an established tree is customarily measured – 4-1/2 feet above grade.

**Distribution Center:** A facility where a set of products is stored for distribution to retailers and/or wholesalers or directly to consumers. A warehouse, in contrast, often contains the goods from a single entity, whereas a distribution center often contains the goods from multiple entities.

**Drive-Through Use:** A use offering window service to drivers in vehicles, typically including fast food restaurants, pharmacies, and banks.

**Dwelling:** A building containing one or more residential units. Lodging facilities, recreational vehicles, motor homes, travel trailers, and structures intended for transient or short term occupancy are not considered dwellings.

**Dwelling, Apartment Building:** Any building or portion thereof which contains ~~five~~ **three** or more dwelling units.

**Dwelling, Mixed Use:** A building with one or more dwelling units contained within a mixed use (MU) building, such as apartments over commercial uses.

**Dwelling, Multifamily:** A building containing ~~3~~ **five** or more residential units, i.e. most any dwelling other than a single family and/or two family dwelling. Multifamily dwellings can take many forms.

**Dwelling, Single-family** (or "single family house"): A detached dwelling which:

1. Contains exactly one residential unit (except for accessory apartments, where permitted);
2. Is not attached to any other dwelling or residential unit; and
3. Occupies its own individual lot on which there is no other dwelling or principal use.

**Dwelling, Two-family:** A building which:

**Lot Line, Side:** Those lot lines connecting the front and rear lot lines.

**Lot of Record:** A lot which is described in a deed which was lawfully recorded in the Strafford County Registry of Deeds prior to the enactment of planning and zoning regulations in Rochester or which, if not so deeded, is a lot which is part of a subdivision, the plan of which was lawfully recorded in the registry.

**Lot, Triple Frontage:** A lot with frontage on 3 sides. (See also “Lot, Corner” and “Lot Double Frontage” in this article and “Triple Frontage Lots” under Article XIX – Dimensional Regulations.)

**Lot Width:** The width of a lot measured in a straight line between the side lot lines at the front lot setback line.

**Lounge:** See “Eating and Drinking Establishments”

**Marina:** A facility for storing, servicing, fueling, berthing, and securing of boats. This includes land facilities for storage.

**Manufactured Housing:** Any structure, meeting the Federal Manufactured Home Construction and Safety Standards Act, commonly known as HUD Code, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured Housing as defined here does not include pre-site built housing as defined in RSA 674:31-a.

**Manufactured Housing Park:** A single parcel of land on which are placed at least 2 or more manufactured housing units. Manufactured housing units are placed on individual sites rather than individual platted lots. Roads, utilities, and other infrastructure throughout the park are privately owned. A manufactured housing park is specifically approved as such by the Planning Board.

**Manufactured Housing Subdivision:** A major subdivision (i.e. involving construction of a new City road) of a parcel into individual surveyed and platted lots for the placement of manufactured homes. A manufactured housing subdivision is specifically approved as such by the Planning Board.

**Medical Office:** See “Office, Medical”.

**Minimum Lot Area:** The computed area contained within a lot that meets the Dimensional Standards of the Zoning Ordinance excluding very poorly drained soils and steep slopes greater than 25%. Twenty Five percent (25%) of poorly drained soils may be used to fulfill the minimum lot area. For example, if there was a 20 acre parcel and 10 acres were useable upland and 10 acres were poorly drained soils, you would be able to use 2.5 acres of poorly drained soils to use toward the minimum lot area. Therefore, you would have total of 12.5 acres of minimum lot area.

**Minimum Lot Area per Dwelling Unit:** The computed area contained within a lot for each additional dwelling unit that meets the Dimensional Standards of the Zoning Ordinance excluding very poorly drained soils and steep slopes greater than 25%. ~~Twenty-Five percent (25%) of poorly drained soils may be used to fulfill the minimum lot area per dwelling unit. For example, if there was a 20 acre parcel and 10 acres were useable upland and 10 acres were poorly drained soils, you would be able to use 2.5 acres of the poorly drained soils to put toward the minimum lot area per dwelling unit. Therefore, you would base your density on 12.5 acres.~~

**Mini-Warehouse** (or “self storage”): One or more buildings containing separate, self contained, private storage spaces leased or rented to individuals.

**Mobile Home** See “Manufactured Housing”

**Modular Housing or Structure** (or “pre-site built housing”): Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building lot. A modular home is separate and distinct from a manufactured housing unit.

**Monument Production:** The production and/or sales of markers for gravestones generally made of stone, including the outside display and storage of monuments.

**Motel:** See “Lodging Facility, Motel”.

**Motor Vehicle Junkyard:** See “Junkyard”

**Multifamily:** See “Dwelling, Multifamily”.

**Museum** (or “exhibit hall”): A non-profit, public, or commercial institution operated principally for the purpose of acquiring, preserving, and exhibiting to the public objects of historical, cultural, scientific, or artistic interest. It may also sell related items of interest as an accessory use.

**Nightclub:** See “Eating and Drinking Establishments”

**Non-buildable Land:** Land that cannot be built upon due to legal restrictions such as covenants or easements.

**Nonconforming Lot:** A lot which was lawfully established but which does not conform to the current requirements of this chapter, as amended, related to area, frontage, or other elements.

**Nonconforming Property:** A lot, site, structure, or use which does not conform with one or more requirements of this chapter, as amended, but which was lawfully established prior to the adoption of the chapter provision(s) with which it does not comply.

**Nonconforming Site:** A development which was lawfully established but which does not conform to one or more of the current requirements of this chapter, as amended, related to any elements of site layout or design.

**Sight Triangle:** A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. (For additional information see Article XXVII F.)

**Sign:** (For definitions of numerous sign types see Article XXIX – Signs.)

**Single Family Dwelling:** See “Dwelling, Single Family”.

**Single-Unit Dwelling:** See “Dwelling, Single-Unit”.

**Site Plan:** The plan for the development of one or more lots.

**Site Plan Regulations:** The City of Rochester Site Plan Regulations.

**Small Wind Energy:** 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.

**Solar Panel:** A panel that converts the sun's radiation into energy for use.

**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, the term "solid waste facility" shall specifically exclude hazardous waste facilities including those regulated under the NH DES HAZARDOUS WASTE RULES (Chapter Env-Wm 100 - 1100) 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 149-M of the New Hampshire Revised Statutes Annotated and applicable regulations promulgated there under (e.g. Env-Wm 100 - 1100) 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 this chapter. Solid waste facility includes, but is not limited to, composting facility, junkyard, and recycling facility. (See also “Composting Facility”, “Junkyard”, and “Recycling Facility”.)

**Special Exception:** The use of a building or lot, or a departure from standards otherwise applicable, which may be permitted under this chapter only by approval of the Zoning Board of Adjustment, subject to meeting certain criteria. (See Article XXII – Special Exceptions.)

**Stable:** A non-commercial facility used for the boarding and exercising of horses or other farm or work animals as an accessory use. (See also “Stable, Commercial”.)

to be left undisturbed, to have supplemental plantings installed, to be designated part of the overall open space plan for the development, and/or to be part of an individual lot but protected from construction. No roofed structures may be erected in the buffer area.

- b. Buffers from Single Family. A 100 foot buffer shall be established adjacent to any existing single family house or any vacant lots less than 3 acres that are zoned residential.
  - c. Access. Any new multifamily development must take access from an existing collector or arterial road rather than an existing local road. The Planning Board may waive this requirement by conditional use upon a finding that it is preferable to take access from a local rather than a collector road and that taking access from the local road will have no significant adverse impact upon residents or property owners located on the local road.
  - d. Commercial Districts. Within any commercial districts, multifamily is allowed only as a secondary use:
    - i. it must be situated on the second floor or on higher floors of a commercial building or in a separate building behind the commercial building; and
    - ii. at no time may the area of the multifamily dwellings exceed 80% of the square footage of the on site commercial space.
  - e. Sewer and Water. Any new multifamily dwellings/developments must connect to the City of Rochester's public sewer and water systems.
12. Nursing Home. The minimum lot size for the zone shall be increased by 1,000 square feet for each patient bed.
13. Outdoor Wood-Fired Boilers.
- a. Outdoor wood-fired hydronic heater or outdoor wood boiler means a fuel burning device as defined by RSA 125-R.
  - b. The installation and/or operation of outdoor wood-fired hydronic heaters are permitted in the Rural Residential zone only.
  - c. The outdoor wood-fired hydronic heater shall be set back twenty-five feet (25') from the nearest structure it serves.
  - d. The outdoor wood-fired hydronic heater shall be set back one hundred feet (100') from any lot line.

~~13. Townhouse. There shall be a maximum of 6 units per townhouse where~~



~~fronting directly onto an existing road.~~

14. 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:
  - i. 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.
  - ii. Locations, dimensions, and types of buildings on the property and on adjacent properties within 50 feet of the property lines.
  - iii. Locations of the proposed small wind energy system(s), foundations, guy anchors and associated equipment.
  - iv. Tower foundation blueprints or drawings.
  - v. Tower blueprints or drawings.

4. Expiration of Conditional Use Approvals. Any conditional use approval shall expire or become null and void upon the expiration, lapse, nullification, withdrawal, or repeal of any site or subdivision plan to which the conditional use is attached.

**C. Base Criteria**

The Planning Board shall grant a conditional use approval if, and only if, it reasonably determines that all of the following criteria are met (in addition to those criteria/conditions articulated for particular uses in Section D, below, or in addition to those articulated elsewhere in this chapter for departures from standards):

1. Allowed Use or Departure. The use or departure from standards is specifically authorized under the Tables of Uses in Article XVIII as a conditional use or is otherwise specifically authorized in this chapter;
2. Intent of Chapter. The proposal is consistent with the purpose and intent of this chapter;
3. Intent of Master Plan. The proposal is consistent with the purpose and intent of the Master Plan;
4. Compatibility. The proposal is compatible with general dimensional, use, and design characteristics of the neighborhood and surrounding area;
5. Streetscape. The proposal will not adversely impact the quality of the streetscape;
6. Resources. The use or departure will not have a significantly adverse impact upon natural, scenic, historic, or cultural resources and can be designed with sensitivity to environmental constraints; and
7. Public Facilities. The use does not place an undue burden upon the City's resources including the effect on the City's water supply and distribution system, sanitary and storm sewage collection and treatment systems, fire protection, police protection, streets and schools.

**D. Conditions for Particular Uses.** For each individual use listed below, all of the specific conditions attached to that use must be met along with the base criteria articulated in Section C, above.

**1. Assisted Living Facility - The permitted density shall be 1-1/4 times that otherwise permitted for residential uses in the district.**

1. Conservation Subdivision. See Article XXXIII – Conservation Subdivision.
2. Convenience Store. The following standards apply in the R2 zone:
  - a. The planning board shall determine hours of operation.

the rear facade, provided however that the Planning Board may approve parking to the side of the building, but situated no further forward than the front façade by conditional use subject to adequate screening from the road.

6. Lodging, Motel. The minimum lot size shall be 30,000 square feet plus 1,000 square feet per unit.
7. Mini-Warehouse. The front setback for all storage structures shall be 100 feet. Side and rear setbacks from any residential property shall be 75 feet.
8. Nursing Home. The minimum lot size for the zone shall be increased by 1,000 square feet for each patient bed. **The permitted density shall be 1-1/4 times that otherwise permitted for residential uses in the district.**
9. Porkchop Subdivision. The purpose of a porkchop subdivision (see Definition in Article II) is to help preserve the scenic character of neighborhoods by: a) encouraging owners of parcels along existing roads and streets to concentrate subdivision to one side of the parcel and retain the remainder as open space; and b) allowing some minimal level of development on parcels with significant acreage in the rear in order to avoid inducing property owners to develop cul-de-sacs at a higher level of development. Porkchop subdivisions are allowed subject to the following requirements:
  - a. Quality of Project. A finding by the Planning Board that the proposed development is superior to development that would likely occur otherwise.
  - b. Parcel Size. The development parcel shall have a minimum size of 6 gross acres and minimum frontage of 150 feet on an existing public way.
  - c. 3 Lots. There shall be a maximum of 3 lots created from any one lot.
  - d. Minimum Lot Size. The minimum lot size for each new lot shall be 40,000 square feet or the minimum lot size for the district, whichever is greater.
  - e. Average Lot Size. The average lot size for new lots in the porkchop subdivision shall be at least 120,000 square feet or 1.5 times the minimum lot size for the district, whichever is greater.
  - f. Frontage. The minimum frontage for each new porkchop lot shall be 50 feet
  - g. Common Access. All lots shall be entered from a common access point.
  - h. Separate Driveway. Each porkchop subdivision shall have a common driveway independent from any other subdivision.

- i. No Further Subdivision. There shall be no further subdivision of any of the porkchop lots other than lot line adjustments.
  - j. Single Family. The porkchop lots shall be used for single family use only.
  - k. Width. The all season passable width of any shared driveway shall be 20 feet when serving 2 or more lots.
  - l. Easement Width. The width of the common driveway access easement shall be 30 feet. Additional width may be required to accommodate slope and drainage easements.
  - m. Turnaround. An acceptable turnaround for the fire trucks may be required.
  - n. Recording. A document satisfactory to the City Attorney shall be recorded establishing the conditions of use of any common driveway; providing for indemnification for the City for emergency services; and including suitable language to insure that the private way will not become a City road or street.
10. School, K-12; School, Other. Within residential zones all parking shall be located beyond the rear facade, provided however that the Planning Board may approve parking to the side of the building, but situated no further forward than the front façade by conditional use subject to adequate screening from the road.
11. Senior Housing
- a. The minimum development parcel shall be 5 gross acres.
  - b. ~~The permitted density shall be 1-1/4 times that otherwise permitted for residential uses in the district.~~
  - c. The project must provide special facilities and/or programs oriented toward seniors.
  - d. The applicant must explain how he/she will meet the definition for senior housing in this chapter (see Article II – Definitions).
  - e. The developer/manager must provide documentation to the Planning Board demonstrating that the development meets the definition for senior housing in this chapter.
12. Vehicle Sales. No vehicles or other equipment or materials may be stored or displayed within the road right of way. The City of Rochester shall take all appropriate steps to enforce this requirement. See “Enforcement” provisions under Article III – Administration.

5. Vibration.
- a. No vibration which is transmitted through the ground shall be discernable without the aid of instruments at any point beyond the lot line.
  - b. No vibration which is transmitted through the ground shall exceed a maximum displacement of "G peak" measured at any point beyond the property line using, either seismic or electronic vibration measuring equipment (subject to appropriate instrumentation being available to the CEO).
6. Water Pollution. No hazardous or toxic material may be discharged into any stream, river, pond, or private septic system or into the ground such that any deterioration in the quality of the ground or surface water could result.
7. Air Pollution. Any emissions of fumes or gases into the atmosphere shall be in compliance with the standards set by the New Hampshire Department of Environmental Services, Division of Air Resources.
8. Regulated Hazardous Materials. All use or storage of regulated hazardous materials shall be carried out with adequate safety, fire suppression, and fire-fighting devices. All reasonable measures shall be taken to reduce any potential fire hazards.
9. Radiation/Radioactivity
- a. Any emission of radioactivity shall be in compliance with the standards of the Atomic Energy Commission.
  - b. Any emission of radiation shall be in compliance with the standards of the New Hampshire State Radiological Control Agency.
10. Electrical Disturbance. No electrical disturbance adversely affecting the operation of any equipment located beyond the boundaries of the operation shall be permitted.
11. Waste Disposal.
- a. No waste material shall be placed upon or left to remain upon any open area outside of any building except in appropriate waste containers. This provision shall not apply to properly licensed junkyards.
  - b. Dumpsters. All dumpsters **associated with new applications, including changes in use,** shall be fully screened so they are not visible from a public way (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.) ~~All property owners, property managers, tenants, and businesses shall bring existing~~

~~dumpsters into compliance with this requirement within 6 months of notification or as stipulated by the Code Enforcement Officer. This provision does not apply to dumpsters used specifically for active construction projects.~~

- c. The treatment and disposal of any waste materials, liquid and solid, including hazardous materials, shall be in compliance with all standards of the New Hampshire Department of Environmental Services - Divisions of Waste Management and Water Supply and Pollution Control - and of the New Hampshire Department of Public Health.
  - d. Those generating, transporting, or receiving regulated waste must meet the licensing and registration requirements of state and federal law.
- 12. Sewage Disposal. All sewage disposal shall be in compliance with the standards of the New Hampshire Water Supply & Pollution Control Commission.
  - 13. Vermin. No use or activity shall cause, or result in a condition conducive to, the propagation of rodents, insects, or other vermin.
  - 14. Plant Species. No person shall install any plants clearly determined to be invasive or destructive. Refer to the New Hampshire Department of agriculture, Markets, and Food prohibited invasive species list.
  - 15. Site Restoration. No site which has been abandoned; on which construction or development had been occurring but which has been indefinitely suspended; or on which any building or structure has been destroyed, demolished, burned, or abandoned shall be left to remain in a disorderly, unsightly, or hazardous state or in a condition that causes undue erosion, sedimentation, environmental degradation, or impairment of neighboring properties. Some reasonable allowance may be made for such sites for a temporary period not to exceed 90 days upon notification from Code Enforcement Officer to allow property owners to restore or stabilize the sites.

The property owner, business owner, and contractor shall take all reasonable measures to clean, clear, restore, stabilize, re-grade, and plant the site as appropriate in order to remove, correct, or mitigate any disorderly, unsightly, or hazardous conditions. The Code Enforcement Officer may take any appropriate measures to effect compliance with this provision, including correcting conditions and then placing a lien on the property for which the owner would be responsible for financial restitution to the City. Any aggrieved party may request a hearing before the Building Code Board of Appeals for actions taken by the City under this provision.

#### **E. Administration**

TABLE XVIII-C FOOD-LODGING-PUBLIC RECREATION USES

FOOD-LODGING-PUBLIC RECREATION USES	Residential Districts				Commercial Districts			Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	HC	GI	RI	HS	AS	Article Reference
Café	-	-	P	C	P	P	P	-	-	-	P	Article XXI
Campground	-	-	-	E	-	-	-	-	E	-	-	Article XXII
Caterer	-	-	P	-	P	P	P	P	P	-	-	
Club	-	-	C	-	P	P	P	-	-	-	-	Article XXI
Community Center	-	-	P	-	P	P	P	-	-	-	-	
Conference Center	-	-	C	-	P	P	P	-	-	P	P	Article XXI
Country Club	-	-	-	C	-	-	E	-	C	-	-	Article XXI
Foodstand	-	-	E	-	E	E	E	E	E	E	E	Article XXII
Function hall	-	-	-	-	P	P	P	-	-	-	-	
Golf Course	-	-	-	P	-	-	-	-	P	-	-	Article XXII
Health Club	-	-	C	C	P	P	P	-	-	-	-	Article XXI
Lodging, Bed and Breakfast	C	C	P	-	P	P	P	-	-	-	-	Article XXI
Lodging, Hotel	-	-	C	-	P	C	P	-	-	C	C	Article XXI
Lodging, Motel	-	-	-	-	-	-	P	-	-	-	C	Articles XX & XXI
Nightclub	-	-	-	-	E	-	P	-	-	-	-	
Recreation, Indoor	-	-	C	-	C	C	P	-	C	-	-	Article XXI
Recreation, Outdoor	-	-	-	C	-	C	P	-	C	-	-	Article XXI
Recreation, Park	P	P	P	P	P	P	P	-	C	-	-	Article XXI
Restaurant	-	-	P	-	P	C	P	-	-	-	P	Article XXI
Restaurant, Drive-through	-	-	-	-	P	-	P	-	-	-	-	
Tavern	-	-	C	-	P	-	P	-	-	-	P	Article XXI
Theater/Cinema (5,000 s.f. or less)	-	-	P	-	P	P	P	-	-	-	-	Article XXI
Theater/Cinema (over 5,000 s.f.)	-	-	-	-	C	-	P	-	-	-	-	Article XXI

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

AS OF APRIL 2014

**TABLE XVIII-D INDUSTRIAL-STORAGE-TRANSPORT-UTILITY USES**

INDUSTRIAL-STORAGE-TRANSPORT-UTILITY-USES	Residential Districts				Commercial Districts			Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	HC	GI	RI	HS	AS	Article Reference
Airport	-	-	-	E	-	-	-	-	-	-	P	Article XXII
Contractor's Storage Yard	-	-	-	E	-	-	E	P	P	-	-	Articles XX & XXII
Distribution Center	-	-	-	-	-	-	C	P	-	-	-	Article XXI
Emergency Services Facility	-	-	-	-	C	C	C	C	-	P	-	Article XXI
Fuel Storage	-	-	-	-	-	-	E	E	-	-	-	Article XXII
Helipad (accessory use)	-	-	-	E	-	E	E	P	P	P	P	Article XXII
Industry, Heavy	-	-	-	-	-	-	E	P	E	-	-	Article XXII
Industry, Light	-	-	-	-	-	-	P	P	-	-	-	Article XXII
Industry, Recycling	-	-	-	-	-	-	-	-	P	-	-	Articles XX & XXII
Junkyard	-	-	-	-	-	-	E	E	P	-	-	Articles XX & XXII
Laundry Establishment - 3	-	-	-	-	-	-	P	P	-	-	-	
Mini-Warehouse	-	-	-	-	-	-	C	P	-	-	-	Articles XX & XXI
Monument Production	-	-	C	-		C	P	P	P	-	-	Article XXI
Parking Lot	-	C	C	C	C	C	P	C	P	C	P	Article XXI
Printing Facility	-	-	C	-	-	P	P	P	-	-	-	
Recycling Facility	-	-	-	-	-	-	E	E	P	-	-	Articles XX & XXII
Research and Development	-	-	-	-	E	P	P	P	-	-	-	Article XXII
Sawmill	-	-	-	-	-	-	-	E	-	-	-	Article XXII
Sawmill, Temporary (accessory use)	-	-	-	P	-	P	P	P	P	-	P	Article XXIII
Solid Waste Facility	-	-	-	-	-	-	-	-	P	-	-	Articles XX & XXII
Tank Farm	-	-	-	-	-	-	C	P	-	-	-	
Trade Shop	-	-	C	-	C	C	P	P	P	-	-	Article XXI
Transportation Service	-	-	C	-	C	-	P	C	C	-	-	Article XXI
Truck Terminal	-	-	-	-	-	-	-	C	C	-	-	Article XXI
Utility - Substation	E	E	E	E	E	C	P	P	P	E	E	Article XXII
Utility - power generation	-	-	-	-	E	-	-	E	E	-	-	Article XXII
Warehouse	-	-	C	-	C	C	P	P	C	-	C	Articles XX, XXI, & XXIII
Wireless Communications Facility	-	-	-	E	E	E	E	P	P	E	E	Articles XX & XXII

*\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception*

AS OF April 2014



TABLE XVIII-A RESIDENTIAL USES

RESIDENTIAL USES	^ Residential Districts				Commercial Districts			Industrial Districts		Special		Criteria/Conditions
	R1	R2	AG	NMU	DC	OC	HC	GI	RI	HS	AS	Article Reference
Apartment, Accessory (accessory use)	E	P	P	P	P	P	P	-	-	-	-	Articles XXI & XXIII
Apartment, Inlaw	P	P	P	P	P	P	P	-	-	-	-	
Apartment, Security	-	P	-	P	P	P	P	P	P	P	P	Articles II & XXIII
Assisted Living Facility	-	C	C	C	C	C	C	-	-	C	-	Article XXI
Boarding House	-	-	-	-	E	-	-	-	-	-	-	
Community Residence - I	-	E	E	-	E	E	E	-	E	E	-	Article XXII
Community Residence - II	-	-	E	-	-	E	-	-	E	E	-	Article XXII
Conservation Subdivision	C	C	C	-	-	C	C	-	-	-	-	Articles XXI & XXXIII
Dwelling, Apartments (Apt/Mixed Use Bldg)	-	-	-	P	P	C	P	-	-	-	-	Article XXI
Dwelling, Multifamily Development	-	P	C	-	C	-	P	-	-	-	-	Articles XX & XXI
Dwelling, Multifamily	-	P	C	-	C	-	P	-	-	-	-	
Dwelling, Single Family	P	P	P	P	P	P	P	-	-	P	-	
Dwelling, Three & Four Family	-	P	C	C	C	C	P	-	-	-	-	Articles XXI & XXXIII
Dwelling, Townhouse	-	P	G	-	-	-	P	-	-	-	-	Articles XXI & XXXIII
Dwelling, Two Family	-	P	P	P	P	P	P	-	-	-	-	Articles XXI & XXXIII
Flag Lots	-	C	C		-	-	-	-	-	C	-	Article XXI
Home Occupation - 1 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Article XXIV
Home Occupation - 2 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Articles XXII & XXIV
Home Occupation - 3 (accessory use)	-	E	E	P	P	P	P	-	-	E	-	Articles XXII & XXIV
Manufactured Housing Unit on own lot	-	-	P	-	-	-	-	-	-	-	-	Articles XX & XXI
Nursing Home	-	-	C	-	-	C	-	-	-	P	-	Articles XX & XXI
Outdoor Wood-Fired Hydronic Boiler	-	-	P	-	-	-	-	-	-	-	-	Article XX
Porkchop Subdivision	-	-	C	-	-	-	-	-	-	-	-	Article XXI
Residential Facility	-	-	E	-	-	E	-	-	E	E	-	Article XXII
Senior Housing	-	P	C	C	C	C	-	-	-	-	-	Article XXI
Temporary Structure	P	P	P	P	P	P	P	P	P	P	P	Article XX
Zero Lot Line Development	C	C	C	-	-	C	C	-	-	-	-	Article XXXIII

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

- v. There is an additional  $\frac{1}{4}$  acre of land beyond the minimum specified in iii. and iv, above, for each animal kept beyond the first one;
  - vi. No area or structure for the housing, stabling, storage of manure/animal waste, or feeding of animals shall be located within 100 feet of any property line;
  - vii. Handling of manure/animal waste must follow best management practices and not be a nuisance for neighbors;
  - viii. No animals shall be pastured within 25 feet of any side or rear property line except where the abutting property owner consents to a reduced setback.
- f. Chickens, Fowl and Other Small Livestock. Keeping less than ten (10) chickens, ducks, rabbits, bee hives, or other small animals defined as livestock is an accessory use to a residence subject to the following standards:
- i. The activity is not carried out as a business;
  - ii. No roosters are allowed and the number is limited to less than ten in the Residential 1 & 2 Districts;
  - iii. No area or structure for the housing, storage of manure/animal waste, or feeding of animals shall be located within ~~any property setback areas~~ **20 feet of any abutting property lines;**
  - iv. Handling of manure/animal waste must follow best management practices and not be a nuisance for neighbors;
4. Clubhouse, community center, recreation facilities, laundry, storage areas, and other facilities for a residential development.
- i. The Planning Board shall review the these uses for location, design, size, additional parking, and setback requirements.
  - ii. These uses and facilities shall only be used by residents of the development and their guests.
  - iii. There shall be no outside storage of materials or equipment.
  - iv. Buffers and screening shall be used to help alleviate and adverse affects on abutting residential properties.
  - v. No emission of noise, odor, dust vibrations, or smoke beyond property lines.
5. Commercial Vehicles, Parking of. Parking commercial vehicles outdoors overnight within residential districts is permitted as an accessory use as follows:
- a. One small commercial vehicle - a passenger automobile, pick up truck or van - is allowed. Additional commercial vehicles may be allowed by

- c. The maximum fence height (from grade) in nonresidential districts is 8 feet. Greater heights may be approved by special exception.
  - d. Razor wire fences are not permitted in any district.
  - e. Fences are exempt from setbacks provided they are fully contained on the subject property and do not encroach on any adjacent property or road right of way.
  - f. The finished side of a fence shall face outward from the property on which the fence is located.
  - g. Fences must conform to sight triangle requirements at corner lots (see Article XXVII – Miscellaneous Provisions).
  - h. **No fence shall be erected that blocks or limits the existing sight distance of an abutting driveway or right-of-way. A clear vision area extending along the full width of the front lot line between side lot lines shall be maintained 10 feet from the edge of road pavement or sidewalk at 3 feet 6 inches above the driveway surface (the height of a typical driver's eyes) to points 3 feet 6 inches above the road surface in both directions.**
  - i. **With regard to existing fences on the effective date of this provision, which fence fails to comply with the requirements of subsections (g) or (h) of this Section, in the event that the Code Enforcement Officer, in a written administrative decision, determines that an existing fence, by virtue of its height, location or otherwise, constitutes a hazard to public health and/or safety, then such fence shall be required to comply with the requirements of said subsection (g) or (h) hereof within six (6) months of the owners official notification by the Code Enforcement Officer of the City of Rochester of such administrative decision, failing which, the fence in question shall be removed.**
- 11. Flagpole. The maximum height for flagpoles is 30 feet in residential districts and 50 feet in nonresidential districts.
  - 12. Fuel Tank. Above ground fuel tanks must be in compliance with setbacks. Fuel tanks situated in front yards must be fully screened.
  - 13. Home occupation (see Table of Uses XVIII-A and Article XXIV – Home Occupations)
  - 14. Mobile Units. Mobile units are allowed as accessory uses with a permit issued from the CEO as follows:

19. Vehicle Sales. No vehicles or other equipment or materials may be stored or displayed within the road right of way. The City of Rochester shall take all appropriate steps to enforce this requirement. See “Enforcement” provisions under Article III – Administration.

20. Veterinary Clinic

- a. Veterinary clinics shall set back 100 feet from any residential property, restaurant or lodging establishment.
- b. All animals housed overnight shall be in completely enclosed buildings.
- c. The Planning Board may stipulate that appropriate sound mitigation devices be installed and that fences, walls, and/or vegetation be installed to screen the site where animals will be maintained out of doors.

21. Warehouse

- a. All goods must be stored within a completely enclosed building or located in rear setbacks.
- b. If the warehouse or storage area constitutes less than 50% of the gross interior floor area of the building it shall be considered an accessory use.

22. Yard Sale, Commercial

A second hand dealer license must be obtained from the City Council.

Items may be displayed outside on the lawn or driveway or in a garage or other structure. They must be displayed neatly and may not be left outdoors

TABLE XVIII-A RESIDENTIAL USES

RESIDENTIAL USES	^ Residential Districts				Commercial Districts			Industrial Districts		Special		Criteria/Conditions
	R1	R2	AG	NMU	DC	OC	HC	GI	RI	HS	AS	Article Reference
Apartment, Accessory (accessory use)	E	P	P	P	P	P	P	-	-	-	-	Articles XXI & XXIII
Apartment, Inlaw	P	P	P	P	P	P	P	-	-	-	-	
Apartment, Security	-	P	-	P	P	P	P	P	P	P	P	Articles II & XXIII
Assisted Living Facility	-	C	C	C	C	C	C	-	-	C	-	Article XXI
Boarding House	-	-	-	-	E	-	-	-	-	-	-	
Community Residence - I	-	E	E	-	E	E	E	-	E	E	-	Article XXII
Community Residence - II	-	-	E	-	-	E	-	-	E	E	-	Article XXII
Conservation Subdivision	C	C	C	-	-	C	C	-	-	-	-	Articles XXI & XXXIII
Dwelling, Apartments (Apt/Mixed Use Bldg)	-	-	-	P	P	C	P	-	-	-	-	Article XXI
Dwelling, Multifamily Development	-	P		-	C	-	P	-	-	-	-	Articles XX & XXI
Dwelling, Multifamily	-	P		-	C	-	P	-	-	-	-	
Dwelling, Single Family	P	P	P	P	P	P	P	-	-	P	-	
Dwelling, Three & Four Family	-	P		C	C	C	P	-	-	-	-	Articles XXI & XXXIII
Dwelling, Townhouse	-	P	G	-	-	-	P	-	-	-	-	Articles XXI & XXXIII
Dwelling, Two Family	-	P	P	P	P	P	P	-	-	-	-	Articles XXI & XXXIII
Flag Lots	-	C	C		-	-	-	-	-	C	-	Article XXI
Home Occupation - 1 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Article XXIV
Home Occupation - 2 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Articles XXII & XXIV
Home Occupation - 3 (accessory use)	-	E	E	P	P	P	P	-	-	E	-	Articles XXII & XXIV
Manufactured Housing Unit on own lot	-	-	P	-	-	-	-	-	-	-	-	Articles XX & XXI
Nursing Home	-	-	C	-	-	C	-	-	-	P	-	Articles XX & XXI
Outdoor Wood-Fired Hydronic Boiler	-	-	P	-	-	-	-	-	-	-	-	Article XX
Porkchop Subdivision	-	-	C	-	-	-	-	-	-	-	-	Article XXI
Residential Facility	-	-	E	-	-	E	-	-	E	E	-	Article XXII
Senior Housing	-	P	C	C	C	C	-	-	-	-	-	Article XXI
Temporary Structure	P	P	P	P	P	P	P	P	P	P	P	Article XX
Zero Lot Line Development	C	C	C	-	-	C	C	-	-	-	-	Article XXXIII

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception