

# CITY OF CONCORD

*In the year of our Lord two thousand and twenty-five*

**AN ORDINANCE** amending the CODE OF ORDINANCES, Title IV, Zoning Code; Chapter 28, Zoning Ordinance

**The City of Concord ordains as follows:**

**SECTION I:** Amend the CODE OF ORDINANCES, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-4, Development Design Standards, Section 28-4-1, Dimensional Standards, by amending paragraph (g), Applicability to Performance Districts, subparagraphs (2), (5) and (6) as follows:

28-4-1 – Dimensional Standards.

(g) Applicability to Performance Districts.

(2) Within the Central Business and Opportunity Corridor Performance Districts, a building, structure, or sign shall not obstruct the views of the State House Dome as can be seen from a passenger vehicle in the northbound lanes of Interstate 93 between Exit 12 at South Main Street and Exit 14 at Loudon Road, in the southbound lanes of Interstate 93 between the bridge over the Merrimack River south of Exit 16 and Exit 14 at Loudon Road, and in the westbound lanes of Interstate 393 between Exit 1 at Fort Eddy Road and the interchange of Interstates 93 and 393, unless a Conditional Use Permit has been approved by the Planning Board for any obstruction pursuant to Section 28-9-4(b), Conditional Use Permits, of this ordinance, and Architectural Design Review has been approved in accordance with Section 28-9-4(f) of this ordinance. An applicant for a conditional use permit shall provide adequate technical evaluations and other documentation, including scaled architectural renderings and photographic simulations demonstrating the extent of the proposed obstruction from multiple vantage points within the aforementioned Interstate 93 and Interstate 393 viewsheds, in order for the Planning Board to make a finding that the proposed obstruction meets the following conditions:

- a. Buildings or structures shall only obstruct the view of the State House Dome to the minimum extent necessary to accomplish the development program as approved by the Planning Board;
- b. The design of buildings or structures which obstruct the view of the State House Dome shall provide a positive contribution to the architectural character of the Downtown Central Business District and Opportunity

Corridor, as well as to the visual image of the City's skyline as determined by the Planning Board; ~~and,~~

- c. The design of buildings or structures within the Central Business Performance District which obstruct the view of the State House Dome shall be built *to incorporate recommendations set forth in the Architectural Design Guidelines and the Main Street Design Guide, as adopted and amended. Unless otherwise approved by the Planning Board in conjunction with the Planning Board's conditional use permit approval, buildings and structures shall conform with Article 28-5-48, g, of this Ordinance;* ~~[with no front yard setback and with the front wall of the building being located at the front lot line or street right-of-way line for the ground floor and all stories above the ground floor to a height of sixty-five (65) feet above street level. For each story of a building for which the floor level is at an elevation of more than sixty-five (65) feet above street level, the front wall of those stories shall be set back a minimum of ten (10) feet from the front lot line or street right-of-way line.]~~
- d. *Unless otherwise approved by the Planning Board in conjunction with a conditional use permit,* ~~[T]he design of buildings or structures within the Opportunity Corridor Performance District which obstruct the view of the State House Dome, and for which a Conditional Use Permit has been granted to exceed the maximum [forty-five (45') feet] height limitation in accordance with Article 28-4-1(g)(5), each story of a building for which the floor level is at an elevation of more than sixty-five (65) feet above street level, the front, side, and rear walls of those stories shall be set back ten (10) feet from the exterior wall of those portions of the building located below sixty-five (65) feet[-]; and~~
- e. Buildings or structures which obstruct the view of the State House Dome shall achieve one of the following public benefits for the community:
  - i. Results in the use or reuse of real estate which will enhance the vitality or vibrancy of the Downtown Central Business District or Opportunity Corridor to an extent greater than that could otherwise be achieved if the view of the Dome was not obstructed; or,
  - ii. Results in the removal of slums, or blight, or the cleanup and redevelopment of a property contaminated with hazardous materials (i.e. brownfield site), or results in an economically viable redevelopment of an underutilized property or building which could not otherwise be achieved if the view of the State House Dome was not obstructed; or
  - iii. Expands the supply of housing units within the Downtown Central Business District or Opportunity Corridor by at least ten (10) dwelling units.

In issuing a conditional use permit, the Planning Board may, *upon its consideration of applicable design review guidelines, including the Architectural Design Guidelines and the Main Street Design Guide as adopted and amended,* attach conditions to the

permit including but not limited to requirements related to location, *size, scale*, mass, height, color, [and] materials, **and other architectural design details** of a building or structure which will obstruct the State House Dome.

(5) Buildings or structures within that portion of the Opportunity Corridor Performance (OCP) District, which lies easterly of Storrs Street between Loudon Road and an easterly extension of Hills Avenue, may exceed the maximum height restrictions as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance upon the granting of a conditional use permit pursuant to Section 28-9-4(b), Conditional Use Permits, of this ordinance, and Architectural Design Review has been approved in accordance with Section 28-9-4(f) of this ordinance. An applicant for a conditional use permit shall provide adequate **technical evaluations and other** documentation in order for the Planning Board to make a finding that the proposed additional height of the **building or [appurtenant]** structure meets the following conditions:

- a. Buildings or structures shall exceed the height limit only to the minimum extent necessary to accomplish the development program as approved by the Planning Board, and in no case shall any building or structure exceed of a height of eighty (80) feet;
- b. Buildings or structures which exceed the height limit shall be designed to minimize shadow impacts and impacts to solar access to public parks and open space, and on adjacent buildings and properties, to the extent feasible to accomplish the development program as approved by the Planning Board;
- c. ***The design of buildings or structures which exceed the height limit shall respect the surrounding vernacular architecture and make a positive contribution to the architectural character of the City's skyline as determined by the Planning Board. Additionally, the design of buildings and structures which exceed the height limit shall respect the view of the State House Dome unless a conditional use permit to obstruct the view of the State House Dome has otherwise been approved by the Planning Board in accordance with Article 28-4-1(g)(2);*** [~~The design of buildings or structures which exceed the height limit shall respect the surrounding vernacular architecture, views of the State House Dome unless a Conditional Use Permit permitting obstruction of the view of the State House Dome has otherwise been approved by the Planning Board in accordance with Article 28-4-1(g)(2), and the City's skyline;~~]
- d. Buildings or structures which exceed the height limit shall be designed to minimize impacts to views of the Merrimack River valley from the Central Business Performance (CBP) District, to the extent feasible to accomplish the development program as approved by the Planning Board; and
- e. ***That the applicant has demonstrated to the satisfaction of the City Engineer that buildings or structures exceeding the height limit shall have adequate potable water pressure for fire suppression and domestic use;*** [~~The design of buildings or structures which exceed the height limit shall provide a positive~~

~~contribution to the architectural character of the Downtown and to visual image of the City's skyline].~~

- f. ***Unless otherwise approved by the Planning Board in conjunction with a conditional use permit, t[±]he design of buildings or structures shall ensure that each story of a building or structure for which the floor level is at an elevation of more than sixty-five (65) feet above street level, that the front, side, and rear walls of those stories shall be set back ten (10) feet from the exterior wall of those portions of the building or structure located below sixty-five (65) feet of elevation.***

In issuing a conditional use permit, the Planning Board may, ***upon its consideration of applicable design review guidelines, including the Architectural Design Guidelines and the Main Street Design Guide as adopted and amended,*** attach conditions to the permit including but not limited to requirements related to location, ***size, scale,*** mass, height, color, ~~and~~ materials, ***and other architectural details*** of a building or structure which will exceed the height limit.

- (6) Buildings or structures within that portion of the Central Business Performance (CBP) District which lies westerly of Storrs Street and easterly of State Street may exceed the maximum height restrictions as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance upon the granting of a conditional use permit pursuant to Section 28-9-4(b), Conditional Use Permits, of this ordinance, and Architectural Design Review approval in accordance with Section 28-9-4(f) of this ordinance. An applicant for a conditional use permit shall provide adequate ***technical evaluations and other*** documentation in order for the Planning Board to make a finding that the proposed additional height of the ***building or [appurtenant]*** structure meets the following conditions:
  - a. Buildings or structures shall exceed the height limit only to the minimum extent necessary to accomplish the development program as approved by the Planning Board, and in no case shall any building or structure exceed a height of ninety (90) feet from average grade as calculated in Section 28-4-1(f);
  - b. ***Notwithstanding subsection “a” above, no building or structure shall exceed a height of ninety (90) feet from the elevation of South Main Street if located, or proposed to be located, in the Central Business Performance District westerly of South Main Street, between Pleasant Street and Concord Street;***
  - c. ~~[b.]~~ Buildings or structures which exceed the height limit shall be designed to minimize shadow impacts and impacts to solar access to public parks and open space, and on adjacent buildings and properties, to the extent feasible to accomplish the development program as approved by the Planning Board;
  - d. ~~[e.]~~ ***The design of buildings or structures which exceed the height limit shall respect the surrounding vernacular architecture and make a positive***

*contribution to the architectural character of the City's skyline as determined by the Planning Board. Additionally, the design of buildings and structures which exceed the height limit shall respect the view of the State House Dome unless a conditional use permit to obstruct the view of the State House Dome has otherwise been approved by the Planning Board in accordance with Article 28-4-1(g)(2); [The design of buildings or structures which exceed the height limit shall provide a positive contribution to the architectural character of the Downtown and to the visual image of the City's skyline as determined by the Planning Board;]*

*e. [~~d.~~] Unless otherwise approved by the Planning Board in conjunction with a conditional use permit, t[~~h~~e] design of buildings or structures which exceed the height limit shall be built **to conform with Article 28-5-48, g of this Ordinance**; [with no front yard setback and with the front wall of the building being located at the front lot line or street right-of-way line for the ground floor and all stories above the ground floor to a height of sixty five (65) feet above street level. For each story of a building for which the floor level is at an elevation of more than sixty five (65) feet above street level, the front wall of those stories shall be set back a minimum of ten (10) feet from the front lot line or street right-of-way line.]*

*f. [~~e.~~] That the applicant has demonstrated to the satisfaction of the City Engineer that buildings or structures exceeding the height limit shall have adequate potable water pressure for fire suppression and domestic use;*

*g. [~~f.~~] That the applicant has demonstrated to the satisfaction of the Fire Chief that buildings or structures exceeding the height limit can be served by the City's tower ladder fire apparatus;*

*h. [~~g.~~] That the buildings or structures which exceed the height limit shall be directly adjacent to at least one building or structure that is three (3) stories or more in height located on the same side of the street as the subject property for which the conditional use permit has been applied;*

*i. [~~h.~~] That the buildings or structures which exceed the height limit shall not be located at properties that have more than fifteen (15) feet of frontage on North State Street or South State Street, or be in those portions of the Central Business Performance District located westerly of North State Street;*

*j. [~~i.~~] Buildings or structures which [~~seek to~~] exceed the maximum height limit shall achieve one of the following public benefits for the community:*

- i. Results in the use or reuse of real estate which will enhance the vitality or vibrancy of the Downtown Central Business District to an extent greater than what would otherwise be achieved within the maximum height limitation; or,*

- ii. Results in the removal of slums, or blight, or the cleanup and redevelopment of a property contaminated with hazardous materials (i.e. brownfield site), or results in the economically viable redevelopment of an underutilized property which could not otherwise be achieved; or
  - iii. Expands the supply of housing units within the Downtown Central Business District by at least 10 dwelling units.
- k. [~~j~~] For applications involving the demolition and replacement of existing structures, that the applicant has sufficiently demonstrated, and the Planning Board has determined:
- i. *The existing building or structure is not a viable candidate for preservation, rehabilitation, and adaptive reuse due to the building's or structure's condition, characteristics, or other circumstances;*
  - ii. *The demolition of the existing building or structure will not result in a significant adverse impact on the historical, cultural, or architectural resources in the community. The Planning Board may require the Applicant provide to the Planning Board, at the Applicant's expense, reports, documents, or evaluations of the subject property prepared by one or more qualified professional(s) selected by the Applicant, or other parties acceptable to the Planning Board, to assist the Planning Board with its review of the Applicant's project and evaluation of its potential impacts upon historic, cultural and architectural resources;*
  - iii. [~~i~~] The replacement building or structure will achieve all of the following public benefits:
    1. Results in the use or reuse of real estate which will enhance the vitality or vibrancy of the Downtown Central Business District to an extent greater than what would otherwise be achieved within the maximum height limitation, **and if the existing building was otherwise preserved and renovated;** and,
    2. The vitality or vibrancy resulting from the replacement building or structure will be to a greater degree than if the existing building or structure was otherwise preserved and renovated; and,
    3. Results in the removal of slums, or blight, or the cleanup and redevelopment of a property contaminated with hazardous materials (i.e. brownfield site), or results in the [~~economically~~] viable redevelopment of an underutilized property which could not otherwise be achieved **if the existing building was otherwise preserved;** and,
    4. Expands the supply of housing units within the Downtown Central Business District by at least ten (10) additional units.
  - iv. [~~ii~~] That the existing buildings or structure is not a viable candidate for preservation and adaptive reuse due to the building or structure's condition, characteristics, or circumstances.

In issuing a conditional use permit, the Planning Board may, *upon its consideration of applicable design review guidelines, including the Architectural Design Guidelines and the Main Street Design Guide as adopted and amended*, attach conditions to the permit including but not limited to requirements related to location, *size, scale*, mass, height, color, ~~and~~ materials, *and other architectural details* of a building or structure which will exceed the height limit.

**SECTION II:** Amend the CODE OF ORDINANCES, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-5, Supplemental Standards, by amending Section 28-5-48, Central Business Performance (CBP) District Standards, as follows:

28-5-48 – Central Business Performance (CBP) District Standards.

The following standards shall apply to principal and accessory uses within the CBP District:

- (a) *Multifamily Dwellings.* Multifamily dwellings are permitted in the CBP District provided that, ***unless a Conditional Use Permit has been approved by the Planning Board in accordance with Section 28-9-4(b) of this Ordinance***, such dwelling units are located on or above the second story of a building, and further provided that the first floor of a building is used for a permitted principal nonresidential use in accordance with Section 28-4-5(e) (5) [~~4~~] of this Ordinance.
- (b) *Off-street Parking Requirements, Off-Street Loading Requirements, and Off-Street Loading Area for Refuse Containers.* The requirements for off-street parking, off-street loading areas, and off-street loading area for refuse containers are not applicable to the CBP District in accordance with Section 28-7-12(a)(1), of this Ordinance.
- (c) *Parking Lots and Structures.* ***Unless a Conditional Use Permit has been approved by the Planning Board in accordance with Section 28-9-4(b) of this Ordinance***, parking lots shall not be permitted within one hundred (100) feet of North and South Main Streets and Storrs Street in the CBP District in accordance with Section 28-7-12(a)(2), of this Ordinance. Parking structures located on North Main Street, South Main Street, North State Street, South State Street, Pleasant Street, or Storrs Street shall accommodate permitted principal non-residential uses at street level, and shall meet certain architectural design standards, in accordance with Section 28-5-21, Parking Structures, of this Ordinance
- (d) *Driveway Access.* No new driveway access is allowed to either North or South Main Street in the CPB District in accordance with Section 28-7-12(a)(2), of this Ordinance.
- (e) *Dimensional Regulations.* There are no minimum yard requirements, no maximum lot coverage, and no minimum lot size requirement in the CBP District. There is a minimum lot frontage requirement of twenty-two (22) feet and a maximum height limit of eighty (80) feet in the CBP District ***unless a conditional use permit has been approved by the Planning Board in accordance with 28-4-1***

**(g)(6) of this Ordinance.** These dimensional standards are in accordance with Section 29-4-1(h), Table of Dimensional Regulations, of this Ordinance.

- (f) *Views of the State House Dome.* View of the State House Dome from the I-93 and I-393 corridor shall not be obstructed by a building, structure, or sign in the CBP District **unless a Conditional Use Permit has been approved by the Planning Board** in accordance with Section 28-4-1(g)(2) [~~(3)~~] of this Ordinance.
- (g) *Build To Lines.* **Unless a Conditional Use Permit has otherwise been approved by the Planning Board in accordance with Section 28-9-4(b) of this Ordinance,** [~~Except as otherwise specified herein~~] **those portions of buildings located directly along Blake Street, Capitol Street, Center Street, Concord Street, Depot Street, Dixon Avenue, Dubois Avenue, Fayette Street, Hills Avenue, North Main Street, South Main Street, North State Street, South State Street, Park Street, Pleasant Street, Pleasant Street Extension, School Street, [~~and~~] Storrs Street, Railroad Avenue, Theatre Street, Thompson Street, Village Street, and Warren Street** shall be built with no front yard setback and with the front wall of the building being located at the front lot line or street right-of-way line for the ground floor and all stories above the ground floor to a height of sixty-five (65) feet above street level. **Unless a Conditional Use Permit has otherwise been approved by the Planning Board in accordance with 28-9-4(b) of this Ordinance,** [~~For~~] each story of a building for which the floor level is at an elevation of more than sixty-five (65) feet above street level, the front wall of those stories **being located directly along the frontage of the aforementioned streets listed above** shall be set back a minimum of ten (10) feet from the front lot line or street right-of-way line. **Unless a Conditional Use Permit has otherwise been approved by the Planning Board in accordance with Section 28-9-4(b) of this Ordinance, all [~~B~~] buildings located within the Central Business Performance District** shall occupy a minimum of eighty (80) percent of the length of the front lot line. Upon the granting of a conditional use permit pursuant to Section 28-9-4(b), Conditional Use Permits, of this Ordinance, buildings may be set back from the front lot line or street right-of-way line behind a widened sidewalk, or set back in part to allow for outdoor or covered public plazas or pedestrian access ways, or private arcades, terraces, or balconies.
  - (1) An applicant for a conditional use permit for a widened sidewalk or public plaza space shall provide adequate documentation in order for the Planning Board to make a finding that the proposed improvements will be of adequate size to accommodate public use of the same, will be of a design that will enhance the public use and enjoyment of the space, and will not adversely impact adjacent public and private property or public safety. In no event shall a public plaza space occupy more than twenty (20) percent of the street frontage of a property.
  - (2) An applicant for a conditional use permit for private arcades, terraces, or balconies shall provide adequate documentation in order for the Planning Board to make a finding that the proposed improvements will occupy no more than the minimum space necessary to accomplish the purposes of the private improvements, that the improvements will provide a positive



contribution to the overall urban design of the streetscape, that the improvements will enhance the land uses proposed to occupy the ground floor of the building, and that the improvements will enhance the pedestrian activity in the adjacent public way.

- (h) ***Building Entrances at Street Level. Unless a Conditional Use Permit has otherwise been approved by the Planning Board in accordance with Section 28-9-4(b) of this Ordinance, [N] no door providing entry to or exit from a building shall swing into, open or otherwise intrude into the public sidewalk or public plaza.*** Building entrances shall be recessed into the facade to allow for ingress and egress under cover, and to allow the swing of a door to occur outside of the street right-of-way.
- (i) ***Ground Floor Occupancy and Transparency. Unless a Conditional Use Permit has otherwise been approved by the Planning Board in accordance with Section 28-9-4(b) of this Ordinance, [A] a high level of ground floor transparency shall be provided along North Main Street, South Main Street, Storrs Street, Pleasant Street, Pleasant Street Extension, Village Street, and Warren Street, as well as in Eagle Square and Bicentennial Square in the CBP District, in order to encourage and maintain a high level of pedestrian activity in the City's downtowns. Traditional storefront window patterns shall be preserved and enhanced. A minimum of sixty (60) percent of the length of the front of a building at ground level shall be glazed or transparent to the inside along said street frontages. A minimum of sixty (60) percent of the occupancy of a building at the ground level shall be comprised of uses which include the sales of goods and provision of services and entertainment to customers who come to the building to obtain the goods, services, and entertainment.***

**SECTION III:** Amend the CODE OF ORDINANCES, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Glossary, by adding the following defined term:

***Development Program. The development plan for a lot, or lots, as proposed by an applicant for a Planning Board development permit or approval, including proposed buildings and structures, or modifications thereto, as well as proposed uses and square footages allotted for said proposed uses of said lot(s), buildings, and structures, together with associated on-site and off-site improvements, all as approved by the Planning Board.***

**SECTION IV:** This ordinance shall take effect on adoption.

Explanation: Matter removed from the current ordinance appears in ~~[struck through]~~.  
New items are shown in ***bold italic*** font.