

CITY OF CONCORD

In the year of our Lord two thousand and twenty-six

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, Section 28-4-5 Development of Attached and Multifamily Buildings, as follows:

28-4-5 Development of Attached and Multifamily Dwellings.

- (a) *Purpose.* It is the purpose of these regulations to provide suitable living environments in developments of attached and multifamily dwellings, including multifamily dwellings for the elderly; to provide diversity in housing location, type, and tenure; and to insure the compatibility of such developments with other existing adjacent development.
- (b) *Application, Review, and Administrative Processes.* The application, review, and administrative processes for a development of attached or multifamily dwellings shall be in accordance with Section 28-9-4(d), Site Plan Review, of this ordinance, and as specified in the Site Plan Review Regulations adopted by the Planning Board. The requirements of the Site Plan Review Regulations shall be augmented by the provisions and standards of this Section. To the extent that a condominium or cooperative form of ownership is proposed to be established as part of an application for development of attached or multifamily dwellings, an approval pursuant to the Subdivision Regulations shall also be required.
- (c) *Permitted Uses.* On a tract proposed for a development of attached or multifamily dwellings, any pre-existing dwelling units on the tract may be retained as part of the development provided that such units are included in the calculation of density for the development. Except in Performance Districts, any pre-existing nonresidential uses on the tract shall not become part of a development of attached or multifamily dwellings, and must be discontinued or relocated to another tract. The following are the principal and accessory uses permitted within a development of attached or multifamily dwellings:
 - (1) *Principal Uses.* The only principal uses that are permitted in a development of attached or multifamily dwellings are pre-existing dwelling units, if any, attached dwellings, multifamily dwellings, or multifamily dwellings for the elderly, including congregate dwelling units, in accordance with Section 28-2-4(j), Table of Principal Uses, of this ordinance.
 - (2) *Uses Accessory to a Principal Residential Use.* The following accessory uses are the only accessory uses permitted in conjunction with a principal residential use within a development of attached or multifamily dwellings:

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- a. Garages, carports, and parking spaces;
 - b. A minor home occupation; and,
 - c. Residential Solar.
- (3) *Uses Accessory to a Development of Attached and Multifamily Dwellings.* The following accessory uses are permitted, subject to Planning Board approval, only as common facilities for the use and benefit of residents of a development of attached or multifamily dwellings:
- a. Outdoor recreational facilities including, but not limited to, tennis courts, golf courses, swimming pools, basketball courts, playgrounds, beaches, docks, and trails;
 - b. Indoor recreational facilities including, but not limited to, a swimming pool, fitness center, clubhouse, cabana, spa, and tennis courts;
 - c. Indoor support facilities including, but not limited to, meeting rooms, management offices, child care facilities, and greenhouses;
 - d. Storage facilities for maintenance equipment for a development of attached or multifamily dwellings;
 - e. A common outdoor storage area for boats, recreational vehicles, and camping trailers owned by individual residents of a development of attached or multifamily dwellings;
 - f. Community gardens;
 - g. Signs in accordance with Article 28-6, Sign Regulations, of this ordinance; and
 - h. Community Solar.
- (d) *Development Standards in Districts Other Than Performance Districts.*
- (1) *Minimum Tract Requirements.* A tract of land proposed for development of attached or multifamily dwellings shall be of a minimum size of twenty-five thousand (25,000) square feet, except in the RS District where the minimum tract size shall be five (5) acres. All tracts shall have frontage in compliance with the standards for minimum lot frontage as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance, for the respective districts, other than Performance Districts, in which attached or multifamily dwellings are permitted.

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- (2) *Maximum Lot Coverage and Density.* The maximum lot coverage for a development of attached or multifamily dwellings shall be as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance, for the respective districts, other than Performance Districts, in which attached or multifamily dwellings are permitted. The maximum development density for attached or multifamily dwellings in units per acre of buildable land area shall be as specified hereinafter:

Principal Residential Use	Maximum Density (units/acre buildable land)
Attached Dwellings	10
Multifamily Dwellings	12
Multifamily for the elderly in districts other than RS	14
Multifamily for the elderly in RS District	6

- (3) *Building Dimensions.* [~~and Separation. No buildings shall have a horizontal dimension, whether length or width, in excess of one hundred sixty (160) feet, and~~] [a]All buildings shall comply with the maximum height as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance for the respective districts in which attached or multifamily dwellings are permitted. [~~There shall be a minimum of forty (40) feet of separation between all buildings, and a minimum of fifteen (15) feet of separation between buildings and parking lots.~~]
- (4) *Private Yards Required. Unless a Conditional Use Permit is otherwise granted by the Planning Board in accordance with Article 28-9-4(b),* [E]each dwelling unit with direct outside access at the ground level shall have available a private yard or open space of at least three hundred (300) square feet dedicated to the exclusive use of the residents of said unit. The private yard space may contain patios, decks, fences, landscaping, gardens, and other outdoor facilities. ***The Planning Board may reduce, modify, or otherwise waive yard requirements through the approval of a Conditional Use Permit in accordance with the requirements of Article 28-9-4(b).***
- (5) *Perimeter Buffer Required.* In order that adjacent land uses be visually and physically separated, a buffer area shall be observed along the perimeter of a tract of land proposed for development of attached or multifamily dwellings, and no buildings or parking facilities may be located within this buffer. ***Unless a Conditional Use Permit is otherwise granted by the Planning Board in accordance with Article 28-9-4(b),*** [F]the minimum width of the buffer shall be thirty (30) feet for one-story residential

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structures, fifty (50) feet for two-story residential structures, and seventy-five (75) feet for residential structures of three (3) stories or more. ***The Planning Board may reduce, modify, or otherwise waive buffer width requirements through the approval of a Conditional Use Permit in accordance with the requirements of Article 28-9-4(b), provided the Board finds that modification of buffer requirements will not have an adverse impact on adjacent properties or residents of the attached or multifamily development.*** The Planning Board may permit streets and utilities to cross through the buffer, and may allow certain outdoor recreational facilities within the buffer, provided that such improvements are compatible with adjacent land uses and do not diminish the purpose of the buffer. The buffer shall incorporate existing natural features of the tract to the greatest extent possible. Existing vegetation including significant large trees shall be preserved, and the Planning Board may require landscape materials to be integrated with the existing vegetation in order to provide effective screening on a year-round basis between the development tract and adjacent land uses.

(e) *Development Standards in Performance Districts.*

- (1) *Mixed Use Component Required.* For lots less than twenty thousand (20,000) square feet, residential uses are permitted in the Gateway Performance (GWP) and Opportunity Corridor Performance (OCP) Districts in accordance with Section 28-2-4, Allowable Principle and Accessory Uses in Zoning Districts. For lots greater than twenty thousand (20,000) square feet, residential uses are permitted only where a minimum of twenty-five (25) percent of the gross floor area consists of nonresidential uses that are located within fifty (50) feet of a public or private street. The Planning Board may ***reduce, modify or otherwise*** waive the requirement for nonresidential use through the approval of a Conditional Use Permit in accordance with the requirements of Article 28-9-4(b).
- (2) *Comprehensive Development Plan Required.* Where residential uses are proposed in the GWP or OCP Districts, a Comprehensive Development Plan (CDP) must be prepared in accordance with the requirements of Sections 28-4-1(g), Applicability to Performance Districts, and 28-9-4, Decisions by the Planning Board.
- (3) *Maximum Floor Area Ratio.* The density of the development of attached and multifamily dwellings where each structure is located on its own individual lot, excluding accessory structures, shall be established by a maximum floor area ratio for each principal residential use as indicated below.

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Performance District	Maximum Floor Area Ratio by Principal Residential Use		
	Attached Dwellings	Multi-family Dwellings	Multi-family for Elderly
CVP	1.0	2.5	3.0
CBP	not permitted	3.0	3.5
OCP	1.0	4.0	4.5
GWP	1.0	3.0	3.5

- (4) *Density.* For attached and multifamily buildings not on individual lots, the density maximums of Section 28-4-5(d)(2), Maximum Lot Coverage and Density, of this ordinance, shall apply.
- ~~[(5) *Locational Restrictions.* Multifamily dwellings shall be permitted in the Central Business Performance (CBP) District provided that such dwelling units are located on or above the second story of a building, and further provided that the first story of the building is used for a permitted principal nonresidential use.]~~
- (f) *Accessory Facilities.* An application for a development of attached or multifamily dwellings shall include a narrative description and schedule of development for proposed accessory facilities. Such facilities shall be suitable for the scale of the development, its market orientation, and the needs of the anticipated residents of the development of attached or multifamily dwellings.
- (g) *Utility Service Requirements.* All developments of attached or multifamily dwellings shall be served by municipal water and sewer services. ~~[All nonmunicipal utilities, both those existing on the tract and those proposed to serve a development of attached or multifamily dwellings, shall be placed underground. Such utilities include but are not limited to electricity, telephone, gas, cable television, and fiber optic cable.]~~
- (h) *Ownership and Maintenance.* The ownership and maintenance of private roads, utilities, parking facilities, and recreational and other accessory facilities shall be assigned to an ownership interest such as an association of condominium owners or cooperative shareholders, or as otherwise approved by the Planning Board.
- (i) *Parking Requirements.* The parking requirements for a development of attached or multifamily dwellings shall be as specified in Article 28-7, Access, Circulation, Parking, and Loading Requirements, of this ordinance. ~~[except that additional parking spaces shall~~

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~~be provided in conjunction with accessory facilities for the common use and benefit of the residents of a development of attached or multifamily dwellings. Parking spaces shall be provided on the basis of one space for every five (5) dwelling units that are more than five hundred (500) feet distant from an accessory facility. Parking spaces for accessory facilities shall be located immediately adjacent to the accessory facility and shall be counted in the calculation of lot coverage.]~~

- (j) *Architectural Design.* Architectural elevations of all buildings proposed within a development of attached or multifamily dwellings shall be submitted for review and approval by the Planning Board pursuant to Section 28-9-4(f), Architectural Design Review, of this ordinance. The architectural design of buildings within a development of attached or multifamily dwellings shall recognize and respect the architectural character of existing adjacent structures in terms of scale and proportion. The review by the Planning Board shall be conducted with attention to proposed architectural features, details, massing, materials, and colors of structures within a development of attached or multifamily dwellings, and the Board may require modification of designs and may impose conditions in granting approval.
- (k) *Phasing of a Development of Attached or Multifamily Dwellings.* An applicant may propose a phasing plan subject to the approval of the Planning Board. The Board may impose conditions upon such a phasing plan including the duration of each phase and total number of phases. ***Unless otherwise approved by the Planning Board,*** [A] accessory recreational and support facilities shall be completed in the same phase as the dwelling units intended to be served by the accessory recreational and support facilities, except that all accessory recreational and support facilities shall be completed at such time as fifty (50) percent of the dwelling units in the entire development of attached or multifamily dwellings are complete.
- (l) *Additional Requirements for Multifamily for the Elderly.* Multifamily dwellings for the elderly shall be subject to the following additional requirements:
 - (1) *Documentation of Restriction on Age of Occupants.* An application that involves multifamily dwellings for the elderly shall include the submission of documentation substantiating that the development complies with RSA 354-A:15, Housing for Older Persons. Evidence shall be provided to the Planning Board that the units are either subject to the terms of a recognized state or federal program designed to provide housing for older persons, or that the units will be limited to occupancy by persons of a minimum age as specified in the statute. In the latter case, proposed covenants, condominium documents, or other legally binding instruments shall be submitted to the Board as part of the application process.

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- (2) *Facilities and Services Required for Certain Dwellings.* Where the development of multifamily units for the elderly is proposed for occupancy under the statutory provisions in which at least one occupant of each unit must be of fifty-five (55) years of age or older, the development of such units shall include significant facilities and services designed specifically to meet the physical or social needs of older persons. Such facilities and services shall include but are not limited to recreational facilities, congregate dining facilities, an accessible physical environment, transportation services, homemaker services, maintenance services, preventive health care programs, counseling services, and social programs.
- (m) *Access.* Where access to a site for a development of attached or multifamily dwellings is not directly from an arterial or collector street, the following standards shall be observed in providing access over local streets:
- (1) Access and egress shall be provided from more than one local street where deemed necessary by the Planning Board;
 - (2) ***Unless a Conditional Use Permit is otherwise granted by the Planning Board in accordance with Article 28-9-4(b), [W]*** where local streets are used for access, the traffic service volume of local streets, which is defined in the Master Plan as fifteen hundred (1,500) vehicles per day, shall not be exceeded by the traffic projected to be generated from the development of attached or multifamily dwellings;
 - (3) Traffic calming measures shall be provided as deemed necessary by the Planning Board on local streets used for such access;
 - (4) Safety measures for pedestrians, bicycles, and vehicles shall be implemented as deemed necessary by the Planning Board on local streets used for such access, including, but not limited to, installation of curbing and sidewalks, widening of the traveled way, dedication of right-of-way, elimination of substandard road conditions, and improvements to sight distances;
 - (5) Opportunities for connectivity from the development site to existing or future streets shall be constructed or dedicated as determined by the Planning Board; and
 - (6) Intersection improvements shall be made on local streets used for such access and at the intersections of those local streets with collector or arterial streets, as deemed necessary by the Planning Board.

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SECTION II: 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.