

# CITY OF CONCORD

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

**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 28-2 Zoning Districts and Allowable Uses, Section 28-2-2, Zoning Districts Established, by amending paragraph (b), Purposes of the Established Districts, subparagraphs (10) and (12) as follows:

28-2-2 – Zoning Districts Established.

(b) Purposes of the Established Districts. The Base Districts are established for the purposes so stated hereinafter. A statement of purpose for each Overlay District is included in Article 28-3, Overlay Districts, of this ordinance.

(10) The Central Business Performance (CBP) District is established to encompass the traditional downtowns of Concord and Penacook, incorporating a wide range of uses including retail, restaurant, service, entertainment, cultural, lodging, office, governmental, and high density residential uses as well as mixed use developments. The majority of uses are housed within architecturally significant 19th century structures in a pedestrian-oriented area, with little or no on-site parking, and parking is generally provided in structures and on the street. New buildings and additions to existing buildings in downtown Concord shall be designed in such a manner as to not obstruct views of the State House Dome, ***or exceed the maximum height limit, unless a Conditional Use Permit has otherwise been approved by the Planning Board.***

(12) The Opportunity Corridor Performance (OCP) District is established for the economic redevelopment of under utilized urban properties located between downtown Concord's Central Business Performance (CBP) District and Interstate 93, as well as in other former brownfield locations in the City. The range of permissible uses, including retail, restaurant, service, and office, are intended to reinforce, but not compete with the CBP District as a retail, office, and government center. High density residential uses may be allowed immediately adjacent to the CBP Districts in downtown Concord and Penacook. Development design standards for buildings and signs in the District should improve the visual character of the City as seen from the highway, provide an inviting entryway to the City's historic downtowns, and incorporate screening for adjacent neighborhoods. New buildings and additions to existing buildings in the OCP District adjacent to downtown Concord shall be designed in such a manner as to not obstruct

views of the State House Dome, *or exceed the maximum height limit, unless a Conditional Use Permit has otherwise been approved by the Planning Board.*

**SECTION II:** 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) and (5) 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 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. The 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 45' 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 10' from the exterior wall of those portions of the building located below 65'.*
- 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 10 dwelling units.*

*In issuing a conditional use permit, the Planning Board may attach conditions to the permit including but not limited to requirements related to location, mass, height, color, and materials 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*** ~~and approval in accordance with Section 28-9-4(f), Architectural Design Review, of this ordinance~~. An applicant for a conditional use permit shall provide adequate documentation in order for the Planning Board to make a finding that the proposed additional height of the 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] 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. 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. ***The 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 10' from the exterior wall of those portions of the building or structure located below 65' of elevation.***

In issuing a conditional use permit, the Planning Board may attach conditions to the permit including but not limited to requirements related to location, mass, height, color, and materials of a building or structure which will exceed the height limit.

**SECTION III:** Amend the CODE OF ORDINANCES, Title IV, Zoning Code, Chapter 28, Zoning Ordinance, Article 28-4, Development Design Standards, by amending Section 28-4-1, Dimensional Standards, to create a new provision as follows:

28-4-1 – Dimensional Standards.

(g) Applicability to Performance Districts.

***(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 documentation in order for the Planning Board to make a finding that the proposed additional height of the 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. 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 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;*
- d. The design of buildings or structures which exceed the height limit 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. 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.*
- 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;*
- 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;*
- 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;*
- h. That the buildings or structures which exceed the height limit shall not be located at properties that have more than 15' 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;*
- 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 or Opportunity Corridor 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 or Opportunity Corridor by at least 10 dwelling units.*
- 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 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 or Opportunity Corridor to an extent greater than what would otherwise be achieved within the maximum height limitation; 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; and,*
    - 4. *Expands the supply of housing units within the Downtown Central Business District or Opportunity Corridor by at least 10 additional units.*
  - ii. *That the existing building 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 attach conditions to the permit including but not limited to requirements related to location, mass, height, color, and materials of a building or structure which will exceed the height limit.*

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

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