

# CITY OF CONCORD

*In the year of our Lord two thousand and nineteen*

**AN ORDINANCE** amending the CODE OF ORDINANCES, Title III, Building and Housing Codes; Chapter 28, Zoning Ordinance, Article 28-2, Zoning Districts and Allowable Uses, Article 28-4, Development Design Standards, Article 28-5, Supplemental Standards and Glossary

**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 28-2-4, Allowable Principal and Accessory Uses in Zoning Districts, Paragraph J, Table of Principal Uses, by amending Use # K Transportation, Communications, and Utilities, as follows:

		BASE DISTRICTS																		DEVELOPMENT DESIGN and SUPPLEMENTAL STANDARDS
		Residential						Commercial				Performance				Other				
	PRINCIPAL USES	open space	medium density	single family	neighborhood	down town	high density	neighborhood	general	urban	highway	central business	gateway	opportunity corridor	office park	civic	institutional	industrial	urban transit	
Use #	Category and Description	RO	RM	RS	RN	RD	RH	CN	CG	CU	CH	CBP	GW P	OC P	OF P	CV P	IS	IN	UT	
K	TRANSPORTATION, COMMUNICATIONS, AND UTILITIES																			

14	<b>Solar Collection Systems</b>	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	-	CU	-	CU	-	CU	CU	CU	<b>Section 28-5-53</b>
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**SECTION II:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-2, Zoning Districts and Allowable Uses, Section 28-2-4, Allowable Principal and Accessory Uses in Zoning Districts, Paragraph K, Table of Accessory Uses, by amending Use # C, Accessory to Any Principal Use, as follows:

		BASE DISTRICTS																		DEVELOPMENT DESIGN and SUPPLEMENTAL STANDARDS
		Residential						Commercial				Performance					Other			
	PRINCIPAL USES	open space	medium density	single family	neighborhood	down-town	high density	neighborhood	general	urban	highway	central business	gateway	opportunity corridor	office park	civic	institutional	industrial	urban transit	
Use #	Category and Description	RO	RM	RS	RN	RD	RH	CN	CG	CU	CH	CBP	GW P	OC P	OF P	CV P	IS	IN	UT	
C	ACCESSORY TO ANY PRINCIPAL USE																			
7	Solar Collection Systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Section 28-5-53

**SECTION III:** 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 (e), Maximum Lot Coverage, as follows:

- (e) *Maximum Lot Coverage.* No buildings, structures, or impervious surfaces or combination thereof shall be constructed on a lot such that the area of the lot covered by buildings, structures, and impervious surfaces, when calculated as a percentage of the total lot area, shall exceed the percentage as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance. ***Solar Collection Systems shall be exempt from the lot coverage standards as defined in this Section but subject to Solar Land Coverage requirements as defined in Section 28-5-53. Buildings for building mount solar collection systems or those constructed to house equipment shall not be excluded from the Maximum Lot Coverage calculation.***

**SECTION IV:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-5, Development of Attached and Multifamily Dwellings, by amending Paragraph (c), Permitted Uses, as follows:

- (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:
    - a. Garages, carports, and parking spaces; [~~and~~]
    - 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; ~~[and]~~
- ~~[h-]~~ g. Signs in accordance with Article 28-6, Sign Regulations, of this ordinance~~[-];~~  
*and*
- h. Community Solar.***

**SECTION V:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-6, Manufactured Housing Parks and Subdivisions, by amending Paragraph (d) Permitted Uses, as follows:

- (d) Permitted Uses. On a tract proposed for a manufactured housing park, any pre-existing use that does not conform to the uses permitted in this Section shall not be part of a manufactured housing park, and must be discontinued or relocated to another tract. The following are the principal and accessory uses permitted within a manufactured housing park:

- (1) Principal Uses. The only principal uses that are permitted in a manufactured housing park are manufactured homes.

- (2) Uses Accessory to a Principal Residential Use. The only accessory uses that are permitted on an individual manufactured home site in conjunction with a manufactured home are as follows:

- a. Garages, carports, and parking spaces;
- b. Accessory buildings and facilities; ~~[and]~~
- c. A minor home occupation~~[-];~~ *and*

***d. Residential Solar.***

**SECTION VI:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-6, Manufactured Housing Parks and Subdivisions, by amending Paragraph (g)

Development Standards for a Manufactured Housing Park, Subparagraph (1) Uses Accessory to a Manufactured Housing Park, as follows:

(1) *Uses Accessory to a Manufactured Housing Park.* The following accessory uses are permitted, subject to Planning Board approval, within a manufactured housing park but not on an individual manufactured home site, and are permitted only as common facilities for the use or benefit of residents of a manufactured housing park:

- 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/sales offices, childcare facilities, laundry facilities, and greenhouses;
- d. Storage facilities for maintenance equipment for a manufactured housing park;
- e. A common outdoor storage area for boats, recreational vehicles, and camping trailers owned by individual residents of a manufactured housing park;
- f. Community gardens; [~~and~~]
- g. Signs in accordance with [Article 28-6](#), Sign Regulations, of this Ordinance[-]; *and*

*h. Community Solar*

**SECTION VII:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-6, Manufactured Housing Parks and Subdivisions, by amending Paragraph (g) Development Standards for a Manufactured Housing Park, Subparagraph (8) Open Space Requirements, as follows:

(8) *Open Space Requirements.*

- a. *Minimum Common Open Space.* Common open space shall be provided in the amount of twenty-five (25) percent of the tract, and shall include the perimeter buffers as well as areas internal to the manufactured housing park such that all dwelling units have access and are contiguous to some of the

common open space. Common open space shall incorporate natural features of the parcel including shorelines, surface waters, wetlands, floodplains, steep slopes, and other environmentally sensitive areas within which existing vegetation shall be preserved. A minimum of forty (40) percent of the required common open space in a manufactured housing park shall be comprised of buildable land which may be used for recreational and utilitarian purposes as provided in this Section. A minimum of one-half (1/2) of the common open space that is comprised of buildable land, shall be contiguous, shall be accessible from a public or private road, and shall have no horizontal dimension which is less than fifty (50) feet. Furthermore, such common open space that is comprised of contiguous buildable land shall not be less than ten thousand (10,000) square feet in area, and where such land exceeds one (1) acre in area, the minimum horizontal dimensions of such land shall be increased by fifty (50) feet for each additional acre, or portion thereof.

- b. *Protection of Common Open Space.* Provision shall be made to ensure that the common open space is permanently restricted as such. Covenants, easements, or other legal instruments providing for the permanent protection of the common open space shall be submitted to the Planning Board for review and approval. The legal instruments shall be recorded at the Merrimack County Registry of Deeds as a condition of approval of the manufactured housing park application.
- c. *Permitted Uses of Common Open Space.* Natural features and environmentally sensitive areas shall be retained as such, with allowance for establishment of walking paths and trails, and for forest management practices. On that portion of the common open space which is comprised of buildable land, the Planning Board may permit ***community solar and*** outdoor recreational facilities, provided that no more than ten (10) percent of the required common open space be devoted to outdoor recreational facilities with impervious surfaces such as tennis courts, swimming pools, and basketball courts;

**SECTION VIII:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-7, Cluster Development, by amending Paragraph (d) Permitted Uses, as following:

- (d) *Permitted Uses.* On a tract proposed for Cluster Development, any pre-existing use that does not conform to the uses permitted in this Section shall not be part of a Cluster Development, and must be discontinued or relocated to another tract. The following are the principal and accessory uses permitted within a Cluster Development:
  - (1) Principal Uses. The only principal uses that are permitted in a Cluster Development are single-family detached dwellings.

- (2) *Uses Accessory to a Principal Residential Use.* The only accessory uses that are permitted on a lot for an individual single-family detached dwelling within a Cluster Development are as follows:
- a. Garages, carports, and parking spaces;
  - b. Accessory buildings and facilities;
  - c. Outdoor storage of a boat, recreational vehicle, or camping trailer; ~~and~~
  - d. A minor home occupation[-]; **and**
  - e. ***Residential Solar.***
- (3) *Uses Accessory to the Cluster Development.* The following accessory uses are permitted, subject to Planning Board approval, in a Cluster Development but not on a lot for an individual single-family detached dwelling, and are permitted only as common facilities for the use or benefit of residents of the Cluster Development:
- 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 Cluster Development maintenance equipment;
  - e. Community gardens, agricultural and horticultural operations, and timber management; ~~and~~
  - f. Signs in accordance with Article 28-6, Sign Regulations, of this ordinance[-]; **and**
  - g. ***Community Solar.***

**SECTION IX:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-7, Cluster Development, by amending Paragraph (g) Open Space Standards, Subparagraph (3) Permitted uses of Common Open Space, as following:

(g) *Open Space Standards.*

- (3) *Permitted Uses of Common Open Space.* Natural features and environmentally sensitive areas shall be retained as such, with allowance for establishment of walking paths and trails, for forest management practices, and for the maintenance of open fields. The Planning Board may permit the following recreational and utilitarian uses of that portion of the common open space which is comprised of buildable land:
- a. Outdoor recreational facilities, provided that no more than ten (10) percent of the required common open space be devoted to outdoor recreational facilities with impervious surfaces such as tennis courts, swimming pools, and basketball courts;

- b. Water supply wells;
- c. The leaching systems of subsurface wastewater disposal systems; [~~and~~]
- d. Community gardens, and agricultural and horticultural operations[-]; **and**
- e. ***Community Solar.***

**SECTION X:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-8, Planned Unit Development (PUD), by amending Paragraph (d) Permitted Uses, as follows:

- (d) *Permitted Uses.* On a tract proposed for a PUD, any pre-existing use that does not conform to the uses permitted in this Section shall not be part of a PUD, and must be discontinued or relocated to another tract. The following are the principal and accessory uses permitted within a PUD:
  - (1) *Principal Uses.* The only principal uses that are permitted in a PUD are single-family detached dwellings, two-family dwellings, attached dwellings, multifamily dwelling units for the elderly including congregate dwelling units, and assisted living residences. All PUDs must contain at least two (2) of these types of principal residential uses. Each type of principal residential use that is proposed within a PUD shall comprise not less than twenty (20) percent of the total number of units in the PUD.
  - (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 PUD:
    - a. Garages, carports, and parking spaces; [~~and~~]
    - b. A minor home occupation[-]; **and**
    - c. ***Residential Solar.***
  - (3) *Uses Accessory to the PUD.* The following accessory uses are permitted, subject to Planning Board approval, only as common facilities for the use and benefit of residents of the PUD:
    - 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. A nursing home in a PUD that is a retirement community which is comprised solely of principal residential uses limited to occupancy by elderly persons;
    - e. Storage facilities for PUD maintenance equipment;



- f. A common outdoor storage area for boats, recreational vehicles, and camping trailers owned by individual residents of the PUD;
- g. Community gardens; [~~and~~]
- h. Signs in accordance with Article 28-6, Sign Regulations, of this ordinance[-]; *and*
- i. *Community Solar.*

**SECTION XI:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-8, Planned Unit Development (PUD), by amending Paragraph (g) Open Space Standards, as follows:

(g) *Open Space Standards.*

- (1) *Common Open Space.* All land not utilized for structures, parking, driveways or roadways, and not otherwise dedicated to private yards, shall be preserved as common open space. Common open space shall include perimeter buffers as well as areas internal to the PUD such that all units are adjacent to some of the common open space. Common open space shall incorporate natural features of the parcel including shorelines, surface waters, wetlands, floodplains, steep slopes, and other environmentally sensitive areas. Existing vegetation including significant large trees shall be preserved, and landscape materials shall be integrated with natural features and existing vegetation in such a manner to enhance the perimeter buffer as well as to screen dwelling units from parking lots and service areas within the PUD.
- (2) *Protection of Common Open Space.* Provision shall be made to ensure that the common open space is permanently restricted as such. Covenants, easements, or other legal instruments providing for the permanent protection of the common open space shall be submitted to the Planning Board for review and approval. The legal instruments shall be recorded at the Merrimack County Registry of Deeds as a condition of approval of the PUD application.
- (3) *Permitted Uses of Common Open Space.* The Planning Board may permit the following uses of the common open space:
  - a. Outdoor recreational facilities, provided that no more than ten (10) percent of the common open space be devoted to outdoor recreational facilities with impervious surfaces such as tennis courts, swimming pools, and basketball courts; [~~and~~]
  - b. Community gardens[-]; *and*
  - c. *Community Solar.*

**SECTION XII:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-4, Development Design Standards, Section 28-4-8, Planned Unit Development (PUD), by amending Paragraph (j) Ownership and

Maintenance, Subparagraph (1) Roads, Utilities, and Other Accessory Facilities, as follows:

(j) *Ownership and Maintenance.*

- (1) *Roads, Utilities, and Other Accessory Facilities.* The ownership and maintenance of private roads, utilities, parking facilities, **community solar**, 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.

**SECTION XIII:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-5, Supplemental Standards, Section 28-5-32, Accessory Buildings and Facilities, as follows:

**28-5-32 - Accessory Buildings and Facilities.**

Accessory buildings, including but not limited to toolsheds and greenhouses, and accessory facilities, including but not limited to swimming pools, ~~[or]~~ tennis courts, **or on-site consumption solar collection systems**, shall be located in the side or rear yard of a lot. **Where compliance cannot be achieved with these standards for solar collection systems, the Planning Board may grant a conditional use permit pursuant to Section 28-9-4(b) of this Ordinance.** The required side or rear yards as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance, may be reduced to a minimum of five (5) feet for accessory buildings and accessory facilities provided that they are located more than fifty (50) feet from any street and that accessory buildings shall be detached one-story structures which shall not exceed twelve (12) feet in height or two hundred fifty (250) square feet in gross floor area **of encroachment** into the setback.

***The required side or rear yard setbacks may be reduced to a minimum of five (5) feet for on-site consumption solar collection systems provided that the panels do not exceed nine (9) feet in height or two hundred fifty (250) square feet of solar land coverage encroachment into the setback, and are screened from adjacent properties in accordance with the requirements of Section 28-5-53(d).***

**SECTION XIV:** Amend the Code of Ordinances, Title IV, Zoning Code, Chapter 28, Zoning Ordinance; Article 28-5, Supplemental Standards, by adding a new Section 28-5-53, Solar Collection Systems, as follows:

**28-5-53. - Solar Collection Systems.**

- (a) **Purpose.** *The purpose of this section is to regulate the siting of solar collection systems pursuant to RSAs 672:1 III-a, 674:17(I)(j), and 674:36II(k).*
- (b) ***Solar Land Coverage.*** *Solar Land Coverage shall include the occupied land area that encompasses the Solar Collection System, including the land beneath and between*

*solar panels. Where other development exists or is proposed, the calculation for Solar Land Coverage shall be the percentage of the total remaining land excluding the existing or proposed lot coverage as defined under 28-4-1(e). When components are separated by natural features such as wetlands, bluffs, or buffers, or are located greater than 50 feet apart, the occupied land area shall be calculated as separate units.*

- (c) **Required Setbacks.** *Setbacks for solar collection systems which constitute a principal use shall be in accordance with Section 28-4-1(d), Minimum Yard Requirements, and 28-4-1(h), Table of Dimensional Regulations, with the exception of principal uses within the RO and RM Districts, where it shall be increased to a 50 foot minimum for front, side, and rear setbacks.*
- (d) **Screening and Buffer Requirements.** *In order that adjacent land uses be visually and physically separated, existing vegetation and topography or supplemental naturalized plantings and topography shall be utilized to minimize adverse visual impacts to the street, abutting properties, and scenic vistas, at the discretion of the Planning Board. If insufficient vegetation or topography exists, the Planning Board may require an additional 30' landscaped buffer beyond the required setbacks to ensure appropriate visual and physical separation. Screening shall be maintained for the life of the project, any required plantings shall be replaced if the tree or shrub dies.*
- (e) **Uses Allowed and Maximum Solar Land Coverage.** *The uses allowed and maximum solar land coverage area for each district is in the following table. No development shall exceed 25 acres of solar land coverage, with the exception of developments in the IN District. Community solar shall be limited by group net metering rules as established under RSA 362-A:9, XIV. The Planning Board may require a reduction in size below the maximum allowed based on aesthetics and existing site conditions.*

<b>Solar Land Coverage Table</b>		
	<b>Commercial Solar</b>	<b>Community Solar</b>
<b>RO, RM</b>	40%	50%
<b>RS, RN, RD, RH</b>	-	70%
<b>CN</b>	-	70%
<b>CG</b>	80%	80%
<b>CU</b>	-	70%
<b>CH</b>	80%	80%
<b>CBP</b>	-	-
<b>GWP</b>	60%	70%
<b>OCP</b>	-	-
<b>OFP</b>	60%	70%
<b>CVP</b>	-	-
<b>IS</b>	75%	75%
<b>IN</b>	85%	85%
<b>UT</b>	-	70%

- = not permitted, % = total percentage of solar land coverage allowed in each district

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

***Solar Collection System.*** A system to collect solar energy to generate electricity or thermal energy, including all panels and collectors, inverters, battery and other storage devices, power conditioning equipment, and transfer equipment up to (but not including) the point of connection to the utility grid or the site service point.

***Solar Land Coverage.*** The occupied land area that encompasses all components of the Solar Collection System, calculated as defined in Sections 28-4-1(e) and 28-5-53(b).

***Rated Nameplate Capacity.*** Maximum rated alternating current (AC) output of solar collection system based on the design output of the solar system.

***Building Mount.*** A solar collection system that is structurally mounted to the roof of a building or other permitted structure, including limited accessory equipment associated with system which may be ground mounted. For purposes of calculating Solar Land Coverage under the solar definitions in this section, the building upon which a solar system is mounted shall be included in the Maximum Lot Coverage calculation under 28-4-1(e).

***Ground Mount.*** A solar collection system and associated mounting hardware that is affixed to or placed upon (such as ballasted systems) the ground including but not limited to fixed, passive, or active tracking racking systems.

***On-Site Consumption Solar.*** Any accessory ground mounted or roof mounted solar collection system for on-site use, and consisting of one or more free-standing, ground- or roof-mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power for that facility's needs and not intended to be shared or sold for commercial purposes.

***Residential Solar.*** Any ground mounted or roof mounted solar collection system for on-site residential use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to reduce on-site consumption of utility power.

***Community Solar.*** Solar Collection System that provides solar energy or net metering credits to multiple end users via group net metering or similar community solar program.

***Commercial Solar.*** A use of land that consists of a development of one or more free-standing, ground mounted solar collection systems regardless of rated nameplate capacity, for profit, not to exceed solar land coverage requirements.

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

Explanation: Matter added to the current ordinance appears in ***bold italics***.

Matter removed from the current ordinance appears in [brackets and ~~struck through~~].