



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information, 8 days prior** to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to the requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: 10/26/2020

Date of Meeting: Public Hearing: 12/17
Time Required: 20 minutes

Submitted by: Tim Thompson, AICP

Department: Community Development Background Info. Supplied: Yes No

Speakers: Tim Thompson, AICP, Community Development Director

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input checked="" type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

Consideration of Proposed Zoning Ordinance Amendments [Public Hearing]

DESCRIPTION OF ITEM

Amendments to various sections of Zoning Ordinance (Definitions, ordinance references, Home Occupations, Telecommunications Towers, dimensional requirement clarifications, travel trailers, references and modifications to ensure compliance with the State Building Code, signs)

REFERENCE (IF KNOWN)

RSA:	675:2	Warrant Article:
Charter Article:	5	Town Meeting:
Other:		N/A:

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input checked="" type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input checked="" type="checkbox"/>	Note: Not needed for 1 st reading, will need for public hearing	<input type="checkbox"/>

CONTACT INFORMATION

Name:	Tim Thompson, AICP	Address:	
Phone Number:	424-3531	Email Address:	tthompson@merrimacknh.gov

APPROVAL

Town Manager: Yes No Chair/Vice Chair: Yes No

Hold for Meeting Date:



LEGAL NOTICE
Town of Merrimack



Public Hearing

Residents of Merrimack are hereby advised that the Town Council will conduct a public hearing to consider recommended amendments to the Zoning Ordinance (Sections 1, 2, 3, 4, 11 and 17), developed by staff and the Planning Board, to address repeated ordinance administration and/or enforcement tasks (Definitions, ordinance references, home occupations, dimensional requirement clarifications, travel trailers, references and modifications to ensure compliance with the State Building Code, signs), pursuant to RSA 675:2 and Charter Article 5. Copies of the proposed changes are available at the Town Manager's office, Town Clerk's office, the Merrimack Public Library and also on the Town's website. All interested parties are invited to attend. The public hearing will be held on **Thursday, December 17, 2020 at 7:00 PM** in the Matthew Thornton Room located at 8 Baboosic Lake Road in Merrimack.

For Town of Merrimack Use:

Posted: December 9, 2020

To be published: December 9, 2020 (*Union Leader*)

To be published: December 11, 2020 (*Sunday Select, Merrimack Edition*)



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MEMORANDUM

Date: October 26, 2020
To: Town Council
From: Timothy J. Thompson, AICP, Community Development Director
Subject: **Various Zoning Ordinance Amendments**

Background: Please find attached several proposed amendments to the Zoning Ordinance, developed by staff and the Planning Board to address repeated ordinance administration and/or enforcement tasks (Definitions, ordinance references, Home Occupations, dimensional requirement clarifications, travel trailers, references and modifications to ensure compliance with the State Building Code, signs).

Through the course of the development of the amendments, and after 2 discussions with the Planning Board in late 2019 and early 2020, additional changes and modifications have been made to the Telecommunications Tower section (reorganization and updating of standards to comply with changes to state and federal law/legal precedent), Home Occupations section (reformatting and updating of standards), and the Building Code (updating references and exceptions to the most recent State Building Codes after consultation with the Fire Department and Building Division staff).

All of these changes are made to assist the Planning Board and staff in administering/enforcing the ordinance and do so in a manner consistent with the Town's Master Plan (particularly to assist the Town in refining and improving the development review process, in conjunction with the recently adopted Site Plan regulations and the upcoming re-write of the Subdivision regulations).

The Planning Board held 2 public hearings on the proposed amendments, on September 1 and October 20. The Planning Board unanimously supports the adoption of the attached proposed amendments (summarized below) by the Town Council.

Summary of Proposed Amendments:

Section 1

- Add new Section 1.02.E
 - Clarification that certain words and terms are defined under Section 2.02.6.1
- Amend Section 1.03.A.13
 - Update definition of "Community Development Director"
- Amend Section 1.03.A.29
 - Revise definition of "Junk" to be consistent with NH RSA 236:91 & 92, and to clarify that residents are permitted by State law to have 1 unregistered vehicle on a property.
- Amend Section 1.03.A.30

- Revise “Junk Yard Commercial” to be “Junk Yard” and to define it consistently with the language used in RSA 236:91
- Amend Section 1.03.A.31
 - Add new term & definition for “Kennel”
- Amend Section 1.03.A.44
 - Update definition of “Planning & Zoning Administrator”
- Amend Section 1.03.A.52
 - Update definition of “Setback, Side Yard” to clarify that accessory buildings must meet side yard setback requirements
- Amend Section 1.03.A.53
 - Update definition of “Setback, Yard” to clarify that accessory buildings must meet setback requirements
- Amend Section 1.03.A.58
 - Revise definition of “Travel Trailer” to clarify they do not have a permanent foundation and are primarily intended for temporary occupancy or travel. Further, to eliminate weight and length descriptions, and include reference to their being referred to as recreational vehicles or campers.

Section 2

- Amend Section 2.02.1.A.1
 - Clarified language, adding word “not” before “permitted accessory uses.”
- Amend Section 2.02.A.9
 - Added Electric Vehicle Charging Stations as a permitted use
- Amend Section 2.02.1.A.2
 - Complete rewrite of Home Occupation section
- Amend Section 2.02.1.A.3.f
 - Specify how an internal connection of an Accessory Dwelling Unit (ADU) to the Primary Dwelling Unit (PDU) can be achieved
- Amend Section 2.02.1.A.4
 - Delete language and add reference to proposed new Section 2.02.6.1
- Amend Section 2.02.1.C.1
 - Revise previous language regarding special exceptions and create new subsection under conditional use permits adding a reference to proposed new Section 2.02.6.1, renumber remainder of section
- Amend Section 2.02.2.B
 - Add language to permit home occupations in C-1 District
- Amend Section 2.02.2.C.1.c
 - Add “Kennels” as a permitted use by Special Exception in C-1 District

- Amend Section 2.02.3.C.1.f
 - Add “Kennels, Animal Hospitals and Veterinary Clinics” as permitted by Special Exception in C-2 District
- Add new Section 2.02.2.D.1
 - Create new subsection under conditional use permits adding a reference to proposed new Section 2.02.6.1, renumber remainder of section
- Amend Section 2.02.3.B.8
 - Delete language and add reference to proposed new Section 2.02.6.1
- Add new Section 2.02.3.D.1
 - Revise previous language regarding special exceptions and create new subsection under conditional use permits adding a reference to proposed new Section 2.02.6.1, renumber remainder of section
- Amend Section 2.02.4.B.12
 - Add “Kennels” as permitted in I-1 District, and delete language pertaining to 200’ side and rear yards being required between the use and a Residential District
- Amend Section 2.02.4.B.22
 - Delete language and add reference to proposed new Section 2.02.6.1
- Amend Section 2.02.4.D.8
 - Delete language and add reference to proposed new Section 2.02.6.1
- Amend Section 2.02.5.C.4
 - Delete language and add reference to proposed new Section 2.02.6.1
- Create new Section 2.02.6.1
 - New section regarding personal wireless service facilities and telecommunications towers

Section 3

- Amend Section 3.02.A
 - Add clarification under R-1 that a zoning map delineation of R-1 cannot be construed to mean any other residential district besides R-1.
- Amend Section 3.02.6.A.2
 - Update language to conform to 2019 Subdivision Regulations
- Amend Section 3.02.6.A.3
 - Update language to conform to 2019 Subdivision Regulations
- Amend Section 3.02.6.B
 - Delete in entirety because this is not legal
- Amend Section 3.02.7.A.3
 - Update language to conform to 2019 Subdivision Regulations

- Amend Section 3.02.7.B
 - Delete in entirety because it is not legal
- Amend Section 3.05
 - Revise to clarify that any structure, not just a single-family residence, can be built on a nonconforming lot
- Amend Section 3.06
 - Update to reference current DES terminology

Section 4

- Amend Section 4.01
 - Delete last sentence regarding unoccupied travel trailers in order to replace with new Section 4.04
- Amend Section 4.04
 - New section specific to travel trailers that outlines allowances for parking of both occupied and unoccupied travel trailers

Section 11 – Amend to rename “Merrimack Building and Fire Codes”

- Amend Section 11.01
 - Update code & RSA references
- New Section 11.02
 - Insert new Purpose section
- New Section 11.03
 - Insert new Authority section
- New Section 11.04
 - Insert statutory authority
- New Section 11.05
 - Insert list of applicable codes
- New Section 11.06
 - Insert list of applicable codes for 1- and 2-family dwellings
- New Section 11.07
 - Amendments to the International Building Code
- New Section 11.08
 - Adoption of International Residential Code
- New Section 11.09
 - Amendments to International Residential Code
- New Section 11.10
 - Test pits & perc test requirements

- New Section 11.11
 - Sewerage requirements
- New Section 11.12
 - Dwelling unit area requirements
- New Section 11.13
 - Reconstruction of buildings requirements
- New Section 11.14
 - Adoption of International Plumbing Code
- New Section 11.15
 - Amendments to International Plumbing Code
- New Section 11.16
 - Adoption of Life Safety Code, NFPA-101
- New Section 11.17
 - Adoption of Fire Prevention Code, NFPA-1 & requirements
- New Section 11.18
 - Adoption of International Mechanical Code
- New Section 11.19
 - Adoption of NFPA-70, National Electric Code
- New Section 11.20
 - House number requirements
- New Section 11.21
 - Sanitary facilities at public swimming pools

Section 17

- Amend Section 17.02
 - Clerical edit
- Amend Section 17.05.4
 - Add new term “Billboard” and corresponding definition
- Amend Section 17.05.11
 - Add new term “Feather flag” and corresponding definition
- Amend Section 17.05.27
 - Move duration restriction to new section 17.06.9
- Amend Section 17.05.34
 - Clarify that temporary/portable signs are intended to be non-electronic, and do not include real estate signs or political signs
- Amend Section 17.06.8

- Clarify that signs installed by a governmental entity do not require a permit
- Amend Section 17.06.9
 - New language indicating real estate signs of a certain size do not require a permit, don't count against a property's total signage allowance, permission to display for duration while property maintains sale, rent or lease status and requirement to be removed
- Amend Section 17.06.10
 - New language discussing political signage
- Amend Section 17.07.4
 - Revise the interval of changing messages on electronic sign from 20 minutes to 10 minutes, and specify time & temperature can change every 15 seconds.
- Amend Section 17.08
 - Revise section layout & language to require permits for all temporary signs.
- Amend Section 17.08.c
 - Delete language that talks about temporary signs being allowed within any consecutive 90 day period
- New Section 17.08.4
 - Creation of new section dealing with temporary signage for Special Events.
- Amend Section 17.08.d
 - New language that notes no more than 5 temporary sign permits per calendar year per parcel
- Amend Section 17.08.e
 - New language that specifies temporary signs shall not be illuminated, either externally or internally
- Amend Section 17.08.f
 - Revise maximum size of temporary signage from 32 square feet to 24 square feet
- Amend Section 17.10.10.c
 - Update reference
- Amend Section 17.10.10.d
 - Update reference
- Amend Section 17.10.10.e
 - New language prohibiting the use of electronic message displays as temporary signs
- Amend Section 17.12
 - Update reference
- Amend Section 17.13
 - Delete and replace with new language that more-clearly explains how area of ground signs and wall signs are to be calculated

cc: File
Eileen Cabanel, Town Manager
Robert Best, Planning Board Chair
General Government Staff
Community Development Staff
Building Division Staff
Zoning Board of Adjustment

SECTION 1 - PURPOSE AND DEFINITIONS [revised 9/10/15x/x/2020]

1.01 Purposes

This ordinance shall be known as the Zoning Ordinance and Building Code. To promote the health, safety, convenience and general welfare of the Town of Merrimack and to make it an attractive place in which to live, the following ordinance and building code is hereby enacted by the voters of said Town of Merrimack.

1.02 Other Definitions Found at Other Locations in This Ordinance

- A. Certain terms and words are also defined at Section 2.02.8 *Flood Hazard Conservation District*, [Page 28](#).
- B. Certain terms and words are also defined at Section 2.02.11 *Aquifer Conservation District*, [page 42](#).
- C. Certain terms and words are also defined at Section 17.04 *Signs*, [page 126](#).
- D. Certain terms and words are also defined at Section 2.02.12 *Shoreland Protection District*, [page 49](#).
- E. Certain terms and words are also defined at Section 2.02.6.1 *Personal Wireless Service Facilities/Telecommunication Towers*.

1.03 - Definitions

- A. For the purposes of this ordinance, certain terms and words are hereby defined.
 - 1. Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board or Zoning Board of Adjustment.
 - 2. Accessory Dwelling Unit: A second dwelling which is contained within an existing or proposed single family detached dwelling unit that is clearly incidental and subordinate in extent, use and purpose to the principal dwelling.
 - 3. Accessory Use: A subordinate use of land or building which is customarily incidental and subordinate to the principal building or to the principal use of the land and which is located on the same lot with the principal building or use.
 - 4. Airport/helicopter/aircraft: An area of land or water providing certain specified facilities and services for use in connection with air transportation which could be used as a site for landing and taking-off of aircraft. Aircraft means any engine powered contrivance for air transportation.

Section 1.03 Definitions (cont):

- 5. Alternative Treatment Center: An "alternative treatment center" as defined in

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified in RSA 310-A:84, II-a & II-b, is qualified to delineate wetland boundaries and prepare wetland maps in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or its successor and who has been duly certified by the authorized state board of natural sciences.

12. Change of Use: The change in the use of land and/or building(s) to another use.
13. Community Development Director: The ~~chief administrator~~ department head of the Community Development Department, as outlined in Section A198 of the Town's Administrative Code.
14. Conservation Commission: A seven member municipal body appointed by the Town Council for the proper utilization and protection of natural resources and for the protection of water-shed resources within the Town of Merrimack.
15. District, Overlay: A special district or zone which addresses special land use circumstances and/or environmental safeguards and is superimposed over the underlying existing zoning districts. Permitted uses in the underlying zoning district shall continue subject to compliance with the regulations of the overlay zone or district.
16. District or Zone: A geographical section or sections of the Town for which the regulations and provisions governing the use of buildings and land are uniform for each class of use permitted therein and where certain uses of land may be permitted, permitted or denied pursuant to municipal review or prohibited.
17. Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
18. Expansion/Alteration: As applied to a building or structure, means a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.
19. Family: One or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

Section 1.03 - Definitions (continued)

26. Hazardous or Toxic Materials or Liquids: Materials or liquids that pose a threat present or future to the environment, whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976.
27. Home Occupation: A non-residential use carried on within a residence or its accessory buildings, which use is clearly incidental and secondary to the principal use of the property as a residence and does not change the character thereof.
28. Home Owner: The owner of record of any land and residential and accessory structures located thereon.
29. Junk: Means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. Junk shall also include two (2) or more unregistered or old motor vehicles, no longer intended or in condition for legal use on the highways, or used parts or materials from motor vehicles which, taken together, include in bulk, 2 or more vehicles held on the property of a person or persons not operating an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automotive recycling yard (see RSA 236:91 & 236:92).
~~Unregistered motor vehicles no longer intended or in condition for legal use on the public highways; used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be a part, of any motor vehicle; or any machinery, scrap metal or other worn out, cast off, or discarded articles or materials ready for destruction or collected or stored for salvage or conversion to same use. Junk shall also include any worn out or discarded materials including but not necessarily limited to construction material, household wastes, including garbage, discarded appliances, and discarded consumer electronic devices. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered junk.~~
30. Junk Yard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary fills (see RSA 236:91).
31. Kennel: An establishment licensed to operate a facility housing dogs, cats or other household pets and/or where grooming, breeding, boarding, training or selling of animals is conducted as a business.
~~Any space more than 200 square feet in area, whether inside or outside a building, used for storage, keeping, processing, salvaging or abandonment of junk.~~

Section 1.03 – Definitions (continued)

- ~~31. Junk Yard, Commercial: Any junk yard which is operated for profit, whether said profit is derived from the storage, reconditioning, conversion, or sale of junk, or otherwise.~~
32. Lot Depth: Lot depth shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
33. Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements for corner lots and double frontage lots, all sides of a lot adjacent to streets shall be considered frontage.
34. Lot Line, Rear: The lot line or lines generally opposite or parallel to the front lot line, except in a double frontage lot. If the rear lot line is less than 10 feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line.
35. Lot of Record: A lot held under separate ownership from the adjacent lots or a lot shown to be a separate and distinct numbered lot of record by a plan of lots which has been recorded.
36. Manufactured Housing: Any structure, 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. The terms "mobile home" or "trailer", as these may appear in this ordinance, should be understood to mean "manufactured housing" as defined herein.
37. Manufactured Housing Park: A parcel of land containing at least five acres, upon which one or more manufactured homes are parked or intended to be parked for living purposes.
38. Multiple (Multi) family dwelling: A building containing three (3) or more dwelling units.
39. Non-Conforming Lot: A lot lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform with the regulations of the district in which it is located.
40. Non-Conforming Use: A use of a building or of land lawfully existing at the time this or any previous zoning ordinance became effective and which does not conform with the use regulations of the district in which it is located.

Section 1.03 - Definitions (continued)

41. **Nonprofit Organization:** Nonprofit organization shall include, but not be limited to, a not for profit organization, corporation, community chest, fund or foundation organized and operated exclusively for religious, cultural, charitable, scientific, recreational, literary, agricultural, or educational purposes, or to foster amateur competition in a sport formally recognized by the National Collegiate Athletic Association, and an organization exempt from taxation under Section 501 (c) of the Internal Revenue Code of 1986 organized or incorporated in this state or another state of having a principal place of business in this state or in another state.
42. **Parking Space, Off-Street:** A rectangular area, not less than 9 X 18.5 feet forming a parking stall within or without a structure, not located in any public right-of-way.
43. **Planning Board:** A seven member legislative body charged with the duty to prepare and amend the Town of Merrimack Master Plan, prepare and amend a capital improvements program, the formulation of proposed amendments to the Merrimack Zoning Ordinance, and the review and approval of subdivision plans and site plans, and other duties as set forth in RSA 674:1.
44. **Planning & Zoning Administrator:** An appointed official in the Community Development Department whose responsibilities include administration and enforcement the zoning ordinance of the Town of Merrimack, as outlined in Section 7 of this ordinance and Section A198 of the Town's Administrative Code.
45. **Public Hearing:** A publicly advertised meeting of an official legislative or quasi-judicial body conducting Town business during which the public is allowed to give testimony concerning issues under consideration.
46. **Public Land and Institutions:** All publicly owned land and facilities such as schools, parks and conservation land, museums, libraries, administration and maintenance building and grounds, police and fire stations, utility sites and utility rights-of-way and easements.
47. **Restaurant:** An establishment whose principal business is selling food and beverages in a ready-to-consume state whether said food and beverages are consumed on or off the premises.
 - a) **Restaurant, carry-out;** An establishment which sells food and beverages in a ready-to-consume state where no provisions are made for consumption on the premises.
 - b) **Restaurant, combination:** An establishment which sells food and beverages in a ready-to-consume state which may be either consumed on or taken off of the premises.

Section 1.03 - Definitions (continued)

- c) Restaurant, drive-in: An establishment which sells food and beverages in a ready-to-consume state primarily for consumption on the premises by persons in parked motor vehicles.
 - d) Restaurant, sit-down: An establishment which sells food and beverages in a ready-to-consume state primarily to persons who are seated within the building or outside on the premises.
48. Seasonal Building or Structure: A building or structure, usually but not always a dwelling unit, which was originally designed to be occupied only during the warm months of the year, not during winter; such a structure may not have been originally built with insulation or any permanent, central heating system; such a structure, when originally constructed, may not have had a septic system designed for year round use. (Reference 9.02.E)
49. Self-Storage Facility: A building, group of buildings or other facility having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for, by customers for the storage of non-toxic, non-explosive personal or business goods or property, and where the facility owner/operator has limited access to the units. For purposes of this Ordinance, "self-storage facility" shall be considered synonymous with self-storage warehouse, self-service storage facility, mini-warehouse or mini-storage.
50. Setback, Front Yard: Open space extending across the full width of lot between the front lot line and nearest line of the principal building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line and the nearest point of the building or any enclosed portion thereof.
51. Setback, Rear Yard: Open space extending across the full width of lot between the rear line of the lot and the nearest line of the building or any enclosed portion thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building. When the rear lot line is less than 10 feet long or if the lot comes to a point at the rear, the depth of the rear yard is measured to an assumed rear lot line not less than 20 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line.
52. Setback, Side Yard: Open space between the side lot line, and the nearest line of the principal and/or accessory buildings, or any enclosed portion thereof, extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the principal building or any enclosed portion thereof.

Section 1.03 - Definitions (continued)

53. Setback, Yard: A required open space on a lot unoccupied and unobstructed by any principal and/or accessory structure or portion thereof, except for such projections into any required open space as are expressly permitted herein.
54. Special Exception: Uses authorized under the Zoning Ordinance subject to appropriate conditions and safeguards as set forth in the ordinance as may be approved by the Zoning Board of Adjustment. Applicants for a special exception need not prove hardship but must comply with all other applicable zoning laws and any conditions for approval imposed by the Zoning Board.
55. Street: Class V Highway or better, as defined in RSA 229:5(VI).
56. Structural Alterations: Any change in the supporting members of a building or structure, such as walls, columns, beams or girders.
57. Structure: Anything constructed or erected, the use of which demands its permanent location on the land, or anything attached to something permanently located on the land.
58. Travel Trailer: A mobile home without a permanent foundation primarily designed to be used for temporary occupancy for travel, recreational or vacation use. The terms "camper" and "recreational vehicle (RV)" shall have the same meaning; with the manufacturer's permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed forty-five hundred (4500) pounds, or being of any weight provided its overall length does not exceed twenty-eight (28) feet.
59. Variance: A grant of permission by the Zoning Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of the zoning laws, could not otherwise legally be done.
60. Wetlands: "Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
61. Zoning Board of Adjustment: A quasi-judicial body which hears and decides matters relating to the application of the zoning ordinance and considers appeals from the decisions of the Planning & Zoning Administrator and Building Official and considers variance and special exception applications.

Zosctn1

SECTION 2 - ESTABLISHMENT OF DISTRICTS [revised ~~10/27/16~~x/x/2020]

2.01 - The Town of Merrimack is hereby divided into twelve districts:

- R. Residential District
- C-1. Limited Commercial District
- C-2. General Commercial District
- I-1 Industrial District
- I-2. Industrial District
- I-3. Industrial District
- W. Wetland Conservation District
- F. Flood Hazard Conservation District
- E. Elderly Zoning District
- PRD. Planned Residential District
- A. Aquifer Conservation District
- SP. Shoreland Protection District

The location and boundaries of districts are and shall be as shown on the Zoning Map, the Wetlands Conservation District Map, the Flood Hazard Conservation District Map, the Soils Limitation District Photo Maps, the Elderly Zoning District Map, and the Planned Residential District Map which are hereby declared to be a part of this ordinance.

2.01.1 - Industrial District - Metes and Bounds, I-1, I-2, I-3

- A. From Souhegan River North to Bedford line from Merrimack River to 200 feet west of the railroad tracks and the extension of the industrial zone in the area of the B&M Railroad at the northerly side of the Souhegan River as mapped [including all of Tax Map Parcels 6D-1/75 except for that portion of the parcel south and west of the southwesterly property line of Tax Map Parcel 6D-1/76 and north and west of a line drawn from the southwestern corner of Tax Map Parcel 6D-1/76 to a point at a jog in the southwesterly boundary line of Tax Map Parcel 6D-1/75, said point being approximately 249 feet east of the Front Street Right-of-Way, and all of Tax Map Parcels 6D-1/76, 6E-2/60 and 6E-2/61 but excluding all of Tax Map Parcels 6D-1/69 and 75-4, 6E-1/5, 7, 8, 9, 10, 10-1, 11, 12, 13, 38, 37, 36, 35, 34, 33 and 6E-2/39.
- B. Beginning at a point at the intersection of the westerly right-of-way line of Camp Sargent Road and the southerly right-of-way line of Continental Boulevard; thence
 - 1. Westerly along the said southerly right-of-way line of Continental Boulevard, a distance of seven hundred ninety (790) feet, more or less, to a point at the most westerly corner of Lot 4D/54-4 and the most northerly corner of Lot 3D/3; thence
 - 2. Southeasterly along the southwesterly line of said line of said Lot 4D/54-4 and Lot 4D/53 and the northeasterly line of said Lot 3D/3, a distance of three hundred sixty-nine (369) feet, more or less, to a point on the westerly line of Lot 3D/18; thence

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Section 2.01.9 - Aquifer Conservation District (continued)

1. Wellhead Protection Areas.
2. Balance of the Aquifer District.
3. The Balance of the Watershed

The Aquifer Conservation District maps are hereby declared to be a part of this ordinance and is incorporated by reference.

2.02 - Permitted Uses - All Districts

A. Permitted Uses - General: All uses set forth below are permitted in all zoning districts.

1. Streets, road and other access ways including foot, bicycle, horse paths and bridges and nature trails.
2. Farming, gardening, nursery, forestry, harvesting, grazing and other similar agricultural activities. The change of land to one or more agricultural uses as defined herein or expansion of an existing agricultural use shall be subject to nonresidential site plan review by the Planning Board.
3. Wildlife refuges, nature study and conservation areas and other activities designed to conserve soil, water, plants and wildlife.
4. Water impoundments and wells, drainage ways, streams, creeks and other paths of water runoff including the maintenance and operation of water control and supply devices such as dams, weirs and splash boards.
5. Excavation of sand and gravel providing all activities are conducted in accordance with an approved Earth Removal Permit issued pursuant to Section 14 of this ordinance.
6. Public Lands and Institutions.
7. The use or operation of equipment, vehicles or aircraft, including aircraft take offs and landings, for the purpose of emergency response, medical necessity, public safety, emergency landing, media coverage, building construction, equipment installation or political campaigning.
8. The installation of solar, wind, or other renewable energy systems designed to provide energy primarily for on-site use, and the building of any structures necessary for the collection of renewable energy provided that all applicable health and life and safety codes and requirements are adhered to and subject to any applicable building setback or height restrictions.
9. Electric Vehicle Charging Stations (as defined by the Site Plan Regulations) shall be permitted as an accessory use to any primary use on a property. Stations are subject to site plan review when accessory to non-residential uses or subject to administrative approval on single family or duplex residential lots.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02 - Permitted Uses - All Districts (continued)

B. General Prohibitions:

1. No use of any kind shall be permitted in any district, if it in any way would be injurious, noxious, or offensive by way of odor, fumes, smoke, dust, vibrations, noise, light, or other objectionable features or if it would be hazardous to the community on account of fire or explosion or any other cause. The Planning Board shall adopt such standards and regulations as it may deem necessary in order to help ascertain conformance with the above regulations.
2. The underground storage of petroleum, refined petroleum products and organic solvents except with suitable secondary barriers and automatic alarm systems approved by the Planning Board is prohibited in every district. For the purpose of this regulation, storage in basement or cellar spaces shall not be considered as underground storage. This regulation shall apply to all new and replacement storage facilities constructed after the date of its adoption.
 - a) The underground storage of petroleum, refined petroleum products and organic solvents referred to in (2) above is not intended to include Liquefied Petroleum Gas (LPG).

Section 2.02.1 - District R, Residential - Permitted Uses

A. ~~Only~~ The following uses are permitted in the ~~residential~~ Residential district.

1. Residential uses and customary secondary accessory uses and structures. Note: aircraft takeoffs and landings on private land by the owner of such land or by a person who resides on such land are not valid and ~~not~~ permitted accessory uses.
2. Home Occupations
 - a. There shall be two (2) classes of Home Occupations, Level I and Level II.
 - b. Home Occupations shall be personal to the property owner of the premises (or the occupant with permission from the property owner) and shall not survive a transfer of title of the real estate or be transferable to a new occupant.
 - c. Home Occupations are deemed to include professional offices, such as that of a doctor, dentist, lawyer, accountant, engineer, architect and the business offices of a variety of similar occupations; dressmakers; tutors; musicians; photographers; firearm related uses; cooking limited to items for off-premise consumption; home crafts; barbers/hair salons limited to one (1) chair; and family day care homes in accordance with RSA 170-E:2 IV (a).
 - d. Home Occupations expressly do not include kennels; parking or storage of tractor trailers; automotive repair or maintenance; small engine repair or maintenance; welding or any uses which involve the visible storage on the property of automobiles or parts thereof.

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e. Home Occupations meeting the following criteria shall be defined as Level I and are subject to Administrative review by the Community Development Department (the Planning Board Chair shall be consulted for guidance in any situation where there is doubt a Home Occupation should be considered for Administrative Approval):

1. No more than 500 square feet of the existing gross living area (inhabitable floor area) of the dwelling, including the space used in any accessory building(s), shall be utilized by the Home Occupation;
2. No more than one (1) commercial vehicle used in connection with the Home Occupation shall be stored on the premises;
3. All employees shall reside in the dwelling containing the Home Occupation;
4. There shall be no business sign of any type;
5. There shall be no visitors, customers or solicitations for individuals to visit the premises to conduct business;
6. There shall be no storage of any items connected to the Home Occupation externally to the dwelling or its accessory buildings;
7. There shall be no display of any goods or wares visible from the street;
8. Delivery of goods and materials shall be limited to step-vans and similar vehicles customarily associated with residential deliveries;
9. Sufficient off-street parking shall be provided to allow the residential use of the property to coexist alongside the Home Occupation without adversely affecting or undermining the residential character of the property, as determined by the Planning & Zoning Administrator;
10. For sites serviced by municipal sewer, written verification from the Wastewater Division of Public Works shall be provided to the Community Development Department that the Home Occupation complies with their requirements for wastewater discharge.
11. Excluded from consideration from Level I Home Occupations are any firearm related uses.

f. Home Occupations not qualifying as a Level I Home Occupation shall be defined as Level II, are subject to Planning Board Conditional Use Permit review and shall meet all of the following criteria provisions:

1. No more than 500 square feet of the existing gross living area (inhabitable floor area) of the dwelling, including the space used in any accessory building(s), shall be utilized by the Home Occupation;

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2. No more than one (1) commercial vehicle used in connection with the Home Occupation shall be stored on the premises;
3. There shall be a maximum of one (1) person not residing within the dwelling containing the Home Occupation employed therein. All other employees shall reside in the dwelling containing the Home Occupation;
4. There shall be a maximum of one (1) sign advertising the Home Occupation on the property. Any such sign shall be no larger than two (2) square feet.
5. There shall be no storage of any items connected to the Home Occupation externally to the dwelling or its accessory buildings;
6. Delivery of goods and materials shall be limited to step-vans and similar vehicles customarily associated with residential deliveries;
7. Sufficient off-street parking shall be provided to allow the residential use of the property to coexist alongside the Home Occupation without adversely affecting or undermining the residential character of the property, as determined by the Planning Board;
8. If the Home Occupation is a day care facility, off-street parking and an appropriate off-street area for drop-off and pick-up of children, as determined by the Planning Board, shall be provided;
9. For sites serviced by municipal sewer, written verification from the Wastewater Division of Public Works shall be provided to the Community Development Department that the Home Occupation complies with their requirements for wastewater discharge.

Section 2.02.1—District R—Permitted Uses (continued)

- ~~Home Occupations shall be deemed to include professional offices, such as that of a doctor, dentist, lawyer, accountant, engineer, architect, and the business offices of a variety of similar occupations. They shall also include occupations such as dressmaking, cooking limited to items for off-premise consumption, home crafts, hairdressing and barbering limited to one chair, and family day-care homes in accordance with RSA 170-E:2 IV (a).~~
- ~~g) Home occupations expressly do not include commercial kennels, the parking or storage of tractor trailers, auto repair or small engine repair or maintenance, welding, or other uses which involve the visible storage on the property of automobiles or the parts thereof.~~
- ~~h) A contractor or other tradesman may store building materials or construction equipment on his premises only within existing structures.~~
- ~~3. Home Occupations which meet all of the criteria listed below are not subject to site plan~~

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~~review and approval by the Planning Board.~~

- ~~a) — There is no external evidence of the occupation or office.~~
- ~~b) — There is no individual employed on the premises who is not a resident.~~
- ~~e) — The dwelling meets off-street parking requirements Section 18.~~
- ~~d) — There are no visitors, customers or solicitations for individuals to visit the premises to conduct business.~~
- ~~— There is no business sign of any type.~~
- ~~f) — No more than 25% of the inhabitable floor area of the dwelling is utilized by the occupation or office.~~
- ~~g) — Delivery of goods and materials is limited to step vans and similar vehicles customarily associated with residential deliveries. No more than two (2) deliveries are permitted daily.~~

34. To increase housing alternatives while maintaining neighborhood aesthetics and quality, attached accessory dwelling units (ADU) are permitted on any property containing an owner-occupied single-family dwelling, provided that the applicant meets the criteria set forth below:

- a) A maximum of one (1) ADU per property is permitted. An ADU shall not be permitted on property where more than one primary dwelling unit (PDU) currently exists;
- b) The ADU is contained within or will be an addition to an existing or proposed single family detached dwelling;

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Section 2.02.1 - District R - Permitted Uses (continued)

- c) Exterior alterations, enlargements, or extensions of the PDU are permitted in order to accommodate the ADU. However, no such change is permitted which would alter the appearance of the PDU to look like a duplex or any other multi-family structure (i.e., the house should not look like it was designed to house more than one family). The construction of any exterior accessways which are required for access to the ADU shall be located to the side or rear of the building whenever possible. The ADU shall also be designed to remain functionally dependent on the PDU and shall not have provisions for separate utilities, garages, driveways, and other similar amenities;
- d) The ADU shall contain no more than two bedrooms;
- e) The ADU shall not exceed 1,000 square feet in area;
- f) The ADU shall be connected internally to the PDU. Internal connection shall mean the ADU shall share at least one common wall with the PDU, or be attached by a fully-enclosed breezeway that does not exceed 20 feet in length;
- g) The property owner must occupy one of the two dwelling units;
- h) One parking space for the ADU shall be provided in addition to any parking for the PDU;
- i) The PDU, ADU, and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the single family dwelling. In order to assure compliance with this requirement, the property owners at the time the ADU is established shall be required to execute a restrictive covenant running in favor of the Town, which shall be recorded in the Hillsborough County Registry of Deeds and a copy provided to the Community Development Department and the Assessor prior to the issuance of a Certificate of Occupancy; and
- j) Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

- 45. Co-location of a new telecommunication antenna on ~~Existing Towers~~, so long as the additional telecommunication antenna(s) is no more than 20 feet higher than the existing tower, is also disguised through the use of camouflage or the color of the antenna(s) blends with the existing structure or surroundings if camouflage was not required with the tower approval. A building permit shall be required existing Personal Wireless Service Facility (tower): See Section 2.02.6.1.

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Section 2.02.1 - District R - Permitted Uses (continued)

B. Special Exceptions: The Zoning Board of Adjustment may grant a special exception for the following use of lands within the residential district:

1. Churches, provided that it finds that all of the following conditions are met:
 - a) The specific site is an appropriate location for such a use or uses in terms of overall community development.
 - b) The use as developed will not adversely affect the neighborhood and shall produce no diminution of real estate values in the neighboring area.
 - c) There will be no nuisance or serious hazard to vehicles or pedestrians.
 - d) That an adequate parking area is provided for motor vehicles on the premises.
 - e) A buffer shall be erected and maintained to screen existing residential uses. Buffers may be fence screens, dense plantings of suitable trees and shrubbery, or naturally occurring shrubs and trees.
 - f) The use as developed will be restricted for church purposes only. No commercial use of a church within the residential zone will be allowed.

~~2. Telecommunication Towers, provided that it finds that all of the following conditions are met:~~

- ~~a) The applicant shall meet the approval criteria set forth in a e of B.1 above.~~
- ~~b) The applicant meets the criteria set forth in section 2.02.4.B.22.a (New Towers).~~
- ~~c) Proposed towers shall be disguised through the use of camouflage technologies such as trees, flagpoles, steeples, etc.~~
- ~~d) Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location, height, strength, and potential interference which would make co-location impractical.~~

~~3. Co location on Existing Non Tower Structures, provided that it finds that all of the following conditions are met:~~

- ~~a) The applicant shall meet the approval criteria set forth in a e of B.1 above.~~
- ~~b) The applicant meets the criteria set forth in section 2.02.4.B.22.c.~~
- ~~c) Proposed telecommunications antenna(s) shall be disguised through the use of camouflage technologies.~~

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.1 – District R – Permitted Uses (continued)

C. Conditional Use Permits:

1. New Personal Wireless Service Facilities: See Section 2.02.6.1.
2. Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Detached Accessory Dwelling Units (ADU's) in the R District.
 2. The following criteria must be satisfied in order for the Planning Board to grant a Conditional Use Permit for a Detached ADU:
 - a) A maximum of one (1) ADU per property is permitted. An ADU shall not be permitted on property where more than one primary dwelling unit (PDU) currently exists;
 - b) The Detached ADU shall be located only in the side or rear yard of the property;
 - c) The Detached ADU shall not exceed 50% of the size of the Principal Dwelling Unit (PDU) or 1,000 square feet in size, whichever is smaller;
 - d) Lots seeking a Detached ADU shall be comprised of at least 125% of the minimum lot area as required by Section 3.02.A, Table 1;
 - e) A Detached ADU shall not contain more than two bedrooms;
 - f) The property owner must occupy one of the two dwelling units;

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2.02.2- District C-1, Limited Commercial - Permitted Uses

- A. This district is intended to permit commercial uses in areas on streets with high traffic volumes which now have a mixture of residential and non-residential uses but where the trend has been conversion to commercial use. These areas are typified by small lots and are frequently abutted on the rear by attractive residential neighborhoods.

The intent is to permit limited commercial use while buffering residential neighborhoods from disturbance and disruption.

- B. ~~Only~~ The following uses are permitted in the limited commercial district:

1. Stores for the sale of retail goods or performance of personal services except those specifically excluded below;
2. Business and professional offices;
3. Specifically excluded are the following: banks, automotive related uses of all kinds, hotels, and motels, and "big box", single user retail stores greater than 75,000 square feet.
4. Home Occupations: For pre-existing residential uses in the C-1 District or residential uses that have received a Special Exception under Section 2.02.2.C, Home Occupations are permitted in accordance with the requirements in Section 2.02.1.A.2.

- C. Special Exceptions:

1. The Zoning Board of Adjustment may grant a special exception for the following uses of lands within the limited commercial district C-1:
 - a) Restaurants,
 - b) Cafes,
 - ~~c)~~ Kennels,
 - ~~d)~~ Residential (other than a Planned Unit Development), and
 - ~~e)~~ Accessory uses as defined herein;
2. Provided that it finds that all of the following conditions are met:
 - a) The specific site is an appropriate location for such a use or uses in terms of overall community development.
 - b) The use as developed will not adversely affect the neighborhood.
 - c) There will be no nuisance or serious hazard to vehicles or pedestrians.
 - d) Adequate and appropriate facilities will be provided for the proper operation of the proposed use or uses.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.2 - District C-1, Limited Commercial - Permitted Uses (continued)

D. Conditional Use Permits:

1. New Personal Wireless Service Facilities: See Section 2.02.6.1.

~~1.2.~~ Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Alternative Treatment Centers (Non-Cultivation Location) within the C-1 District.

~~2.3.~~ Purpose & Intent: The purpose of this Section is to implement NH RSA 126-X, authorizing the use of therapeutic cannabis and to regulate the locations and operations of Alternative Treatment Center uses, so as to promote and protect the public health, safety, and welfare of the residents of Merrimack. The intent of this Section is to:

- a) Provide for the safe sale and distribution of therapeutic cannabis to patients who qualify to obtain, possess, and use cannabis for medical purposes under RSA 126-X and as managed by the New Hampshire Department of Health & Human Services; and
- b) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, building safety, neighborhood and patient safety, security for the business and its personnel and other health safety concerns.

~~3.4.~~ The following criteria must be satisfied in order for the Planning Board to grant a Conditional Use Permit for Alternative Treatment Centers (Non-Cultivation Location):

- a) An Alternative Treatment Center shall not be located within a pre-existing designated drug free school zone; and
- b) The Alternative Treatment Center shall be located in a permanent structure and may not be located in a trailer, manufactured home, cargo container, or any structure that has axles with wheels. Drive-Thru services at an Alternative Treatment Center are prohibited; and
- c) The Alternative Treatment Center shall provide for the proper disposal of cannabis remnants or byproducts, which remnants or byproducts shall not be placed in the facility's exterior refuse containers; and
- d) The applicant shall provide a detailed narrative and floor plan, as well as any other relevant documentation, describing how the Alternative Treatment Center shall be secured. The security plan must take into account the measures that will be taken to ensure the safe delivery of any product to the facility (including permitted times for delivery), how the product will be secured on site, and how patient transactions will be facilitated in order to ensure safety. The security plan shall be reviewed and approved by the Merrimack Police Department; and
- e) The use of cannabis on the premises is prohibited; and
- f) The Alternative Treatment Center shall emit no cannabis related fumes, vapors or odors which can be smelled or otherwise perceived from beyond the lot lines of the property where the facility is located.

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Section 2.02.2 - District C-1, Limited Commercial - Permitted Uses (continued)

- E. A buffer shall be erected and maintained to screen between commercial and existing residential uses. Buffers may be fence screens, dense plantings of suitable trees and shrubbery, or naturally occurring shrubs and trees.

2.02.3 - District C-2, General Commercial - Permitted Uses

- A. In recognition of the demand created by Merrimack's strategic location and continuing growth, commercial areas are hereby designated allowing for the establishment of retail businesses.

A criterion in their location must be readily accessible to high traffic volume carrying facilities to allow not only for the stores and facilities themselves but also for parking, landscaping, and ancillary requirements as well. The primary function of this district use would be to serve a regional and/or local shopping and service need.

- B. ~~Only~~ The following uses are permitted in the general commercial district. Such uses shall be primarily conducted inside a building:

1. Stores for sale of goods at retail or performance of regional customary personal services, or services clearly incidental to retail sales including services and construction materials, but no fabrication or manufacturing except incidental to, and on the same premises with, such retail sales, provided such incidental fabrication is conducted entirely within a building and does not occupy more than 20% of the floor area used for business purposes. Specifically excluded are "big box", single user retail stores greater than 75,000 square feet.
2. Business, professional, or banking offices.
3. Research and Development on lots of five (5) acres or more located in Commercial Parks of five or more lots.
4. Restaurant, cafe, or other place serving food or beverages.
5. Parking lot areas for transient motor vehicles, but not for storage of new or used motor vehicles for sale or hire.
6. Hotel/motel.
7. Churches.
8. Co-location of a new telecommunication antenna on existing Personal Wireless Service Facility (tower): See Section 2.02.6.1. ~~Co-location on Existing Towers, so long as the additional telecommunications antenna(s) is no more than 20 feet higher than the existing tower and the color of the antenna(s) blends with the existing structure or surroundings. A building permit shall be required.~~

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.3 - District C-2, General Commercial - Permitted Uses (continued)

C. Special Exceptions:

1. The Zoning Board of Adjustment may grant a special exception for the following uses of lands within the general commercial district C-2:

- a) Accessory uses as defined herein,
- b) Residential (other than a Planned Unit Development),
- c) Public Facilities,
- d) Sale or storage of used and new cars,
- e) Commercial recreation and entertainment,
- f) Kennels, Animal Hospitals and Veterinary Clinics, and
- fg) Gasoline and automobile service and repair stations;

Provided that it finds that all of the following conditions are met:

- 1) The specific site is an appropriate location for such a use or uses in terms of overall community development,
- 2) The use as developed will not adversely affect the neighborhood,
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians, and
- 4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use or uses.

~~2. The Zoning Board of Adjustment may grant a special exception for Telecommunication Towers within the general commercial district C-2.~~

~~Provided that it finds that all of the following conditions are met:~~

~~a) The applicant shall meet the conditions set forth in a d of C.1 above.~~

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Section 2.02.3 District C 2, General Commercial Permitted Uses (continued)

b) — The applicant meets the following criteria:

— Towers shall be set back from the property line by a distance equal to the height of the tower. The Planning Board may permit a lesser setback where alternative protections to abutting properties are provided by way of easement, covenant or other adequate deed restriction or where the proposed tower is designed in full compliance with all applicable building codes and building/construction plans submitted to the building inspector are certified and stamped by a

licensed structural engineer prior to the issuance of a building permit. Prior to the issuance of a Building Permit, the tower design and plans shall be reviewed by a structural engineer designated by the Town.

2) — Accessory facilities must satisfy the minimum zoning district setback requirements.

3) — Towers shall maintain a neutral, non-reflective color so as to reduce visual obtrusiveness.

4) — For security purposes, towers and ancillary facilities shall be enclosed by a minimum six (6) foot fence.

5) — All utility buildings and structures accessory to a tower shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.

6) — Any proposed communications tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least three (3) additional users if the tower is over 100 feet in height or for at least one (1) additional user if the tower is less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

7) — Twice yearly inspections and bonding required: a) the structural integrity of all towers, whether in use, abandoned or unused, shall be inspected at least twice a year; b) copies of inspection reports shall be filed with the Community Development Department within thirty (30) days of the inspection; c) all owners of commercial wireless telecommunication towers shall obtain and maintain a bond to cover the cost of removal of abandoned, unused towers or portions of towers. d) the amount of said bond shall be reviewed by the Town every five (5) years to ensure the amount of security is adequate and may be increased if necessary; e) failure to file the required biannual inspection report with the Community Development Department within the specified time frame shall constitute sufficient grounds to cause the bond to be called.

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Section 2.02.3 – District C 2, General Commercial – Permitted Uses (continued)

~~8) — Permit Required: a) building permits shall be obtained for all towers, accessory structures and antennae; b) the number of users and the total number of antennae on any individual tower shall not exceed that which is permitted under the site plan approved by the Merrimack Planning Board.~~

~~e) — Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location, height, strength, potential interference, and co-location costs which would make co-location impractical.~~

~~J.D.~~ Conditional Use Permit: Pursuant to the authority provided in RSA 674:21, the Planning Board may grant ~~a~~ Conditional Use Permits for New Telecommunication Towers, Alternative Treatment Centers (Non-Cultivation Location), and Self-Storage Facilities within the C 2 District.

1. New Personal Wireless Service Facilities: See Section 2.02.6.1.

2. Alternative Treatment Centers (Non-Cultivation Location): Subject to the requirements of Section 2.02.2.D, Subsections 2 and 3.

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2.02.4 - District I-1 & I-2, Industrial - Permitted Uses

A. District Objectives

These districts allow for the establishment of manufacturing employment opportunities in the community and takes into consideration truck access and the availability of utilities. Research and development and other high density activities should be concentrated in this area.

Any permitted industrial or commercial use of which no land, building, structure, or equipment, or ancillary appendages shall be used for any purpose which would be injurious, noxious, or offensive by way of odor, fumes, smoke, dust, vibration, noise, light, or other objectionable features or hazardous to the community on account of fire or explosion or any other cause. The Planning Board shall adopt such standards and regulations as it may deem necessary in order to help ascertain conformance with the above regulations.

B. The following uses ~~only~~ are permitted in the Industrial District I-1:

1. Manufacturing Industries,
2. Warehouse and Wholesale Uses,
3. Office Uses Greater than 10,000 Square Feet,
4. Public Utilities,
5. Churches,
6. Gasoline Stations,
7. Enclosed Service and Repair, including Automotive Vehicles,
8. Machinery and Transportation Equipment, Sales, Service and Repair,
9. Freight and Trucking Terminals, Offices, and Brokers,
10. Contractors Yards,
11. Parking Garages,
12. ~~Kennels, Animal Hospitals, and Veterinary Clinics, provided at least 200 feet of side and rear yards are provided from any residential district,~~
13. Research & Testing Laboratory
14. Fuel Storage and Distribution (Bulk).
15. Printing Establishment,
16. Contract Cleaning Establishment,
17. Industrial Supply Establishment,

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Section 2.02.4 - District I-1 & I-2 - Permitted Uses (continued)

18. Support Uses to an Industrial District:
 - a) Restaurants,
 - b) Branch Banks,
 - c) Offices,
 - d) Hotel/Motel,
 - e) Daycare
19. Breweries and Bottling Facilities,
20. Athletic fields and indoor or outdoor skating facilities.
21. Self-Storage Facilities
22. New Personal Wireless Service Facilities: See Section 2.02.6.1. Telecommunication Towers, Co location on Existing Towers, and Co location on Existing Non Tower Structures, provided that the following criteria are satisfied:
 - a. New Towers
 - 1) ~~Towers shall be set back from the property line by a distance equal to the height of the tower. The Planning Board may permit a lesser setback where alternative protections to abutting properties are provided by way of easement, covenant or other adequate deed restriction or where the proposed tower is designed in full compliance with all applicable building codes and building/construction plans submitted to the building inspector are certified and stamped by a licensed structural engineer prior to the issuance of a building permit. Prior to the issuance of a Building Permit, the tower design and plans shall be reviewed by a structural engineer designated by the Town.~~
 - 2) ~~Accessory facilities must satisfy the minimum zoning district setback requirements.~~
 - 3) ~~Towers shall maintain a neutral, non reflective color so as to reduce visual obtrusiveness.~~
 - 4) ~~For security purposes, towers and ancillary facilities shall be enclosed by a minimum six (6) foot fence.~~
 - 5) ~~All utility buildings and structures accessory to a tower shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.~~

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Section 2.02.4 – District I-1 & I-2 – Permitted Uses (continued)

- 6) — Any proposed communications tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least three (3) additional users if the tower is over 100 feet in height or for at least one (1) additional user if the tower is less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- Twice yearly inspections and bonding required: a) the structural integrity of all towers, whether in use, abandoned or unused, shall be inspected at least twice a year; b) copies of inspection reports shall be filed with the Community Development Department within thirty (30) days of the inspection; c) all owners of commercial wireless telecommunication towers shall obtain and maintain a bond to cover the cost of removal of abandoned, unused towers or portions of towers; d) the amount of said bond shall be reviewed by the Town every five (5) years to ensure the amount of security is adequate and may be increased if necessary; e) failure to file the required biannual inspection report with the Community Development Department within the specified time frame shall constitute sufficient grounds to cause the bond to be called.
- 8) — Permit Required: a) building permits shall be obtained for all towers, accessory structures and antennae; b) the number of users and the total number of antennae on any individual tower shall not exceed that which is permitted under the site plan approved by the Merrimack Planning Board.
- b. — Co location on Existing Towers, so long as the additional telecommunications antenna(s) is no more than 20 feet higher than the existing tower and the color of the antenna(s) blends with the existing structure or surroundings. A building permit shall be required.
- e. — Co location on Existing Non Tower Structures, provided that the following criteria are satisfied:
- 1) — Installing an antenna(s) on an existing structure other than a tower, such as a building, water tank, light fixture, or utility pole, is permitted, without Planning Board review, so long as the additional antenna(s) is no more than 20 feet higher than the existing structure and the color of the antenna(s) blends with the existing structure or surroundings.
- 2) — Accessory facilities must satisfy the minimum zoning district setback requirements of section 3.02.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.4 — District I-1 & I-2, Industrial — Permitted Uses (continued)

- 3) — ~~The antenna(s) and supporting electrical and mechanical equipment shall be a neutral color that is the same as the color as the supporting structure so as to make the antenna(s) and related equipment as visually unobtrusive as possible.~~
- 4) — ~~All utility buildings and structures accessory to the antenna(s) shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.~~

C. Alternative Treatment Centers Permitted in the I-1 District by Conditional Use Permit

1. Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for Alternative Treatment Centers (both Cultivation and Non-Cultivation Locations) within the I-1 District, subject to the requirements of Section 2.02.2.D, Subsections 2 and 3.

D. Mixed Use Developments Permitted in the I-1 District by Conditional Use Permit

Pursuant to the authority provided in RSA 674:21, the Planning Board may grant a Conditional Use Permit for mixed uses on parcels in the I-1 District consisting of a minimum of 50 acres provided there is compliance with the terms of this section.

1. Purpose

The purpose of this section is to permit mixed uses which allow the creative integration of industrial, commercial and residential housing developments based on a master site development plan that permits flexibility in the design and integration of the permitted uses contained therein. The permitted mixed uses are intended to be complementary, so as to provide for the appropriate use of the land, fiscally beneficial development, the efficient provision of public services, and expanded opportunities for a diversity of residential development outside the traditional residential districts.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.4 - District I-1 & I-2, Industrial - Permitted Uses (continued)

Any application to extend the two-year validity period shall demonstrate to the satisfaction of the Planning Board that it was impossible or impractical to receive the necessary approvals to move forward in reliance on the permit granted within two years.

Any renewal/extension application shall be filed with the Planning Board no sooner than 90 days, nor later than 30 days, prior to the conditional use permit expiration.

The Planning Board may, in its sole discretion, grant such extension of the above validity period as it deems warranted.

D. The following uses ~~only~~ are permitted in the Industrial District I-2:

1. Light Manufacturing Industries,
2. Warehouse and Wholesale Uses,
3. Office Uses Greater than 10,000 Square Feet,
4. Churches,
5. Parking Garages,
6. Printing Establishment,
7. Support Uses to an Industrial District:
 - a) Restaurants,
 - b) Branch Banks,
 - c) Offices,
 - d) Hotel/Motel
8. ~~New Personal Wireless Service Facilities: See Section 2.02.6.1 Telecommunication Towers, Co-location on Existing Towers, and Co-location on Existing Non-Tower Structures, provided that the following criteria are satisfied:~~
 - a) ~~New Towers, provided the applicant meets the criteria set forth in section 2.02.4.B.21.A (New Towers).~~
 - b) ~~Co-location on Existing Towers, so long as the additional telecommunications antenna(s) is no more than 20 feet higher than the existing tower and the color of the antenna(s) blends with the existing structure or surroundings. A building permit shall be required.~~
 - c) ~~Co-location on Existing Non-Tower Structures, provided the applicant meets the criteria set forth in section 2.02.4.B.21.C (Co-location on Existing Non-Tower Structures). A building permit shall be required.~~
9. Outlet Village Shops permitted by Conditional Use Permit.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

Section 2.02.5 - District I-3, Industrial - Permitted Uses (continued)

Development in this district shall take cognizance of the need to protect the quality of the Merrimack Village District wells by assuring that the well areas are not deprived of natural replenishment and that foreign materials (salts, oils, etc.) are not introduced into the ground water.

With respect to any permitted industrial or commercial use, no land, building, structure, or equipment shall be used for any purpose which would be injurious, noxious, or offensive by way of odor, fumes, smoke, dust, vibration, noise, or other objectionable features or hazardous to the community on account of fire or explosion or any other cause. The Planning Board shall adopt such standards and regulations as it may deem necessary in order to make proper evaluation, according to the above criteria, of any proposed use.

B. General Requirements

Site Plan Review: In each case where a building or use is proposed in this district other than a single-family residence the Building Official shall refer the site plan of the proposal to the Planning Board for its review in accordance with its Subdivision Regulations. The Planning Board shall determine that all requirements of this ordinance have been met, including appropriate conditions and safe-guards with respect to the adequacy of traffic access, circulation, parking, landscaping and screening.

After holding a public hearing on each application, the Planning Board shall approve, approve with modification, or disapprove said site plan. In modifying or disapproving any site plan, the Board shall enter its reasons for such action in its records.

C. The following uses ~~only~~ are permitted in the Industrial District I-3:

1. Light manufacturing industries (i.e. electronics, light mechanical assembly, etc.)
2. Research and Development.
3. Offices.
4. ~~New Personal Wireless Service Facilities: See Section 2.02.6.1 Telecommunication Towers, Co-location on Existing Towers, and Co-location on Existing Non-Tower Structures, provided that the following criteria are satisfied:~~

D. Special Exceptions

1. Accessory uses as defined herein.
2. Other industrial uses upon the approval by the Board of Adjustment upon finding that such uses are of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses shall be permitted.
3. For the purpose of determining whether an applicant shall be granted a special exception as provided in this section, the Zoning Board of Adjustment shall use the special

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

2.02.6.1 – Personal Wireless Service Facilities/Telecommunication Towers

A. Purpose and intent. It is the purpose of this section to:

1. Facilitate the provision of personal wireless telecommunications services to residents and businesses;
2. Minimize adverse visual effects of wireless facilities through design and siting standards;
3. Encourage location of wireless facilities in non-residential areas; and
4. Encourage co-location of wireless facilities to limit as much as is practicable, wireless facility proliferation.

B. Separability: If any part or provision of this section of the ordinance or the application of this section of the ordinance to any service provider is determined to be invalid by any court of applicable jurisdiction, the judgement shall be confined in its operation to the part, provision, or application directly involved in the judgement, and it shall not affect or impair the validity of the remainder of this section of the ordinance.

C. Definitions. (Please also refer to NH RSA12-K:2 for further definitions applicable in NH)

1. *Personal wireless service facility (or "PWSF"):* means any facility as defined in the Federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services. A PWSF includes the set of equipment and network components, exclusive of the underlying tower or mount, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide personal wireless services;
2. *Accessory equipment:* means any equipment serving or being used in conjunction with a PWSF or mount. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures;
3. *Antenna:* means the equipment from which wireless radio signals are sent and received by a PWSF;
4. *Base station:* means a station at the base of a mount or in the area near the PWSF that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics;
5. *Camouflaged:* means for a personal wireless service facility, one that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure;
6. *Carrier:* means a company that provides personal wireless services;

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2.02.6.1 – Personal Wireless Service Facilities/Telecommunication Towers (continued)

7. Collocation: means the placement or installation of new PWSFs on existing towers or mounts, including electrical transmission towers and water towers, as well as existing buildings and other structures capable of structurally supporting the attachment of PWSFs in compliance with applicable codes. "Collocation" does not include a "substantial modification";
8. Disguised: means, for a PWSF, designed to look like a structure which may commonly be found in the area surrounding a proposed PWSF such as, but not limited to, flagpoles, light poles, traffic lights, or artificial tree poles;
9. Equipment compound: means an area surrounding or near the base of a tower or mount supporting a PWSF, and encompassing all equipment shelters, cabinets, generators, and appurtenances primarily associated with the PWSF;
10. Equipment shelter: means an enclosed structure, cabinet, shed vault, or box near the base of a mount within which are housed equipment for PWSFs, such as batteries and electrical equipment;
11. Height: means the height above ground level from the natural grade of a site to the highest point of a structure;
12. Modification: means the replacement or alteration of an existing PWSF within a previously approved equipment compound or upon a previously approved mount. Routine maintenance of an approved PWSF shall not be considered a modification;
13. Mount: means the structure or surface upon which antennas are mounted and includes roof-mounted, side-mounted, ground-mounted, and structure-mounted antennas on an existing building, as well as an electrical transmission tower and water tower, and excluding utility poles;
14. Radio frequency emissions: means the emissions from personal wireless service facilities, as described in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(B)(iv);
15. Tower: shall mean a freestanding or guyed structure, such as a monopole, monopine, or lattice tower, designed to support PWSFs;
16. Substantial modification: means the mounting of a proposed PWSF on a tower or mount which, as a result of single or successive modification applications:

 - a) Increases or results in the increase of the permitted vertical height of a tower, or the existing vertical height of a mount, by either more than 10 percent or the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; or

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2.02.6.1 – Personal Wireless Service Facilities/Telecommunication Towers (continued)

- b) Involves adding an appurtenance to the body of a tower or mount that protrudes horizontally from the edge of the tower or mount more than 20 feet, or more than the width of the tower or mount at the level of the appurtenance, whichever is greater, except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower or mount via cable; or
- c) Increases or results in the increase of the permitted square footage of the existing equipment compound by more than 2,500 square feet; or
- d) Adds to or modifies a camouflaged PWSF in a way that would defeat the effect of the camouflage.

D. Wireless Communications Facilities/Telecommunication Towers are permitted uses in the I-1, I-2, and I-3 Zoning Districts, subject to site plan review by the Planning Board and the following requirements:

1. New Tower:

- a) Towers shall be set back from the property line by a distance equal to the height of the tower. The Planning Board may permit a lesser setback where alternative protections to abutting properties are provided by way of easement, covenant or other adequate deed restriction or where the proposed tower is designed in full compliance with all applicable building codes and building/construction plans submitted to the building inspector are certified and stamped by a licensed structural engineer prior to the issuance of a building permit. Prior to the issuance of a Building Permit, the tower design and plans shall be reviewed by a structural engineer designated by the Town.
- b) Accessory facilities must satisfy the minimum zoning district setback requirements.
- c) Towers shall maintain a neutral, non-reflective color so as to reduce visual obtrusiveness.
- d) For security purposes, towers and ancillary facilities shall be enclosed by a minimum six (6) foot fence.
- e) All utility buildings and structures accessory to a tower shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.

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2.02.6.1 – Personal Wireless Service Facilities/Telecommunication Towers (continued)

- f) Any proposed communications tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant’s antennas and comparable antennas for at least three (3) additional users if the tower is over 100 feet in height or for at least one (1) additional user if the tower is less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

2. Collocation on existing Tower:

- a) Collocation applications and modification applications (that are not determined to be “substantial modifications” as defined by this section and RSA 12-K:2) shall be reviewed for conformance with applicable building permit requirements but shall not otherwise be subject to zoning or land use requirements, including design or placement requirements, or public hearing review.
- b) Collocation applications that are determined to be “substantial modifications” are subject to site plan review and conformance with the standards outlined in Section 2.02.6.1.D.1, above.

3. Collocation on Existing Non-Tower Structures:

- a) Installing an antenna(s) on an existing structure other than a tower (such as a building, water tank, light fixture, or utility pole on private property) shall be reviewed for conformance with applicable building permit requirements but shall not otherwise be subject public hearing review, so long as the additional antenna(s) is no more than 20 feet higher than the existing structure and the color of the antenna(s) blends with the existing structure or surroundings. In any other circumstance, site plan review by the Planning Board is required.
- b) Accessory facilities must satisfy the minimum zoning district setback requirements of section 3.02.
- c) The antenna(s) and supporting electrical and mechanical equipment shall be a neutral color that is the same as the color as the supporting structure so as to make the antenna(s) and related equipment as visually unobtrusive as possible.
- d) All utility buildings and structures accessory to the antenna(s) shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.

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2.02.6.1 – Personal Wireless Service Facilities/Telecommunication Towers (continued)

E. Wireless Communications Facilities/Telecommunication Towers are permitted uses in the following circumstances in the R, C-1, and C-2 Zoning Districts:

1. New Tower:

a) New towers in these districts are permitted by Conditional Use Permit (CUP) from the Planning Board. The following criteria, along with the requirements outlined in Section 2.02.6.1.D.1, must be met in order for the Planning Board to grant a CUP:

1) The tower shall not exceed 120 feet in height from grade OR 10 feet above the generally surrounding tree line (determined by measuring the approximate average height of trees within a 500 foot radius of the proposed tower), whichever is less;

2) The applicant shall camouflage or disguise the tower to look like trees or other appropriate alternative designs that blend in to the particular environment;

3) The proposed tower shall not unreasonably impair the view of or from any public park, natural scenic vista, historic building, or significant view corridor as determined by the Planning Board;

4) Demonstration that the proposed wireless communications equipment planned for the proposed site cannot be accommodated on an existing or approved tower or any structure within one mile of the proposed location for one of the following reasons:

i) The planned equipment would exceed the structural capacity of the existing tower/structure, as documented by a qualified professional engineer registered in the State of New Hampshire, and the existing tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost (defined here in as three quarters (3/4) of the cost of the tower); or

ii) The planned equipment would cause interference materially impacting the usability of other existing equipment at the antenna support structure as documented by a qualified professional engineer registered in the State of New Hampshire and the interference cannot be prevented at a reasonable cost.

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2.02.6.1 – Personal Wireless Service Facilities/Telecommunication Towers (continued)

2. Co-Location on existing Tower:

- a) Collocation applications and modification applications (that are not determined to be “substantial modifications” as defined by this section and RSA 12-K:2) shall be reviewed for conformance with applicable building permit requirements but shall not otherwise be subject to zoning or land use requirements, including design or placement requirements, or public hearing review.
- b) Collocation applications that are determined to be “substantial modifications” are subject to Conditional Use Permit and site plan review in accordance with the standards outlined in Section 2.02.6.1.E.1, above.

E. Prohibitions:

- 1. Signs are prohibited on Personal Wireless Service Facilities/Telecommunication Towers.
- 2. Lighting is prohibited on Personal Wireless Service Facilities/Telecommunication Towers except for lighting deemed required by the Federal Aviation Administration or ground level lighting required by the Planning Board for security purposes for accessory equipment structures associated with the tower.

SECTION 3 - LOT AND YARD REGULATIONS *[revised 5/14/15x/x/2020]*

3.01 The Regulations pertaining to minimum lot sizes, minimum frontages, minimum depths, minimum front yard setbacks, minimum side yard setbacks, and minimum rear yard setbacks shall be as set forth in the Table of Lot and Yard regulations, subject to the further provisions of this ordinance.

3.02 **Section 3.02 - Table of Lot and Yard Regulations - Minimum Required Yard Setback to Building Line.**

A. Regarding all lots on which a septic system is to be constructed to accommodate residential wastes, the severe, moderate, or slight non-wetland soils area must be contiguous, not a number of variously-sized pockets whose total area meets the 100,000 square foot, 80,000 square foot, or 40,000 square foot requirement. All principal residential buildings and septic systems, if any, shall be located within a minimum contiguous non-wetland area. Lots with public water and sewerage shall contain not less than 20,000 square feet of contiguous non-wetland soils. Wetland swales, less than three (3) feet in width, passing between adjacent non-wetland parcels, while not being counted as non-wetland soils, shall not be considered as interruptions to contiguous parcels for the purpose of this regulation.

District (See Note 1)	Area Sq Ft.	Frontage Ft.	Depth Ft.	Front Ft.	Side Ft.	Rear Ft.
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(See 3.02.5 for modification of zoning when multiple soils occur within lot.)

R-1 Residential District, Severe Soils Limitations and all areas defined by the Zoning Map (regardless of soils) which is hereby incorporated by reference.

Single Family Residence	100,000	250	300	50	30	60
Two Family Residence	Not permitted					
Multiple Family Residence	Not permitted					

Excludes wetland and flood hazard soils governed by other provisions in this ordinance.

R-2 Moderate Soils Limitations Residential District

Single Family Residence	80,000	200	200	50	30	60
Two Family Residence	Not permitted					
Multiple Family Residence	Not permitted					

Excludes wetland and flood hazard soils governed by other provisions in this ordinance.

3.02.5 - Multiple Soil Districts Within Lots (continued)

R-2, and R-3 Districts. Lots in the R-4 District shall contain not less than 20,000 square feet of contiguous non-wetland soils.

3.02.6 - Soil District Boundary Designated By Slope

- A. Whenever a plat is submitted showing a soil district boundary as designated by slope conditions and such boundary is different from the boundary designated on the photo map, the Planning Board shall adjust such boundary upon submission of the following:
1. A detailed topographic layout of the subdivision and the proposed lots prepared by a registered land surveyor, and accompanied with a written statement of his findings.
 2. Such layout shall conform to the requirements ~~of Section 4.05 of the s~~Subdivision ~~Regulations for preliminary plats and Section 4.06 for final plats.~~
 3. The soil boundary as shown on the photo map shall be overlaid on the plat as ~~proposed in Section 4.04 of~~required by the ~~S~~subdivision ~~Regulations,~~ and the newly proposed boundary location shall be indicated on the same plat by a broken line along the nearest contour line determining the beginning of the slope.
- ~~B. The Planning Board shall reserve the right to withhold action on such plat pending the results of an on-site and/or other investigation by that Board or its appointed agent and shall act to approve or disapprove the final plat within 90 days of submission.~~
- ~~C. The final boundary location shall be confirmed and/or determined by the Planning Board.~~

3.02.7 - Soils District Boundary Designated By Soil Classification

- A. Whenever a plat is submitted showing a soil district boundary that is designated by soil classification and such boundary differs from the boundary designated on the photo map, the Planning Board shall adjust such boundary upon submission of the following:
1. A detailed topographic layout of the subdivision and the proposed lots prepared by a registered land surveyor.
 2. A revised soils map of the Town of Merrimack prepared by the Soils Conservation Service and/or evidence submitted by a soils scientist qualified in soils classification including a written report of his on-site field inspection.
 3. The soil boundary as shown on the photo map shall be overlaid on the plat as ~~proposed in Section 4.04 of~~required by the ~~s~~Subdivision ~~Regulations,~~ and the newly proposed boundary location shall be indicated on the same plat by a broken line.
- ~~B. The final boundary location shall be confirmed and/or determined by the Planning Board.~~The

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~~Planning Board shall reserve the right to withhold action on such plat pending the results.~~

3.02.7 - Soils District Boundary Designated By Soil Classification (continued)

~~of an on-site and/or other investigation by that Board or its appointed agent and shall act to approve or disapprove the final plat within 90 days of submission.~~

~~C. — The final boundary location shall be confirmed and/or determined by the Planning Board.~~

3.03 - Reserved

3.04 - Lot or Yard Size Reduction

No conforming lot or open space on the lot (yard setback) shall be reduced in size or separated in ownership if by such action it shall become nonconforming nor shall any nonconforming lot be reduced in size or otherwise altered if by such action it shall become less conforming.

3.05 - Nonconforming Lots

Notwithstanding the minimum lot area, frontage and depth requirement set forth in Section 3.02 of this ordinance, ~~a single-family residence~~ **a structure may be built on a nonconforming lot not complying with the aforementioned requirements provided that:** ~~may be constructed on a lot which does not comply with the said requirements, provided:~~

1. It shall meet the following yard setback requirements: front - 30 feet, side - 15 feet, and rear - 40 feet

3.06 - Lots Without Public Sewerage

Notwithstanding compliance of any lot with the requirements set forth in Section 3.02 or Section 3.05, no residence shall be constructed on any lot which is not served by public sewerage facilities unless private sewage disposal system absorption area requirements can be and are met to the satisfaction of the Building Official, said area requirements to be determined by the Building Official in accordance with the provisions contained in the NH Department of Environmental Services' ENV-WQ Administrative Code WS1000 Administrative Rules, as most recently amended.

3.07 - Previously Approved Permits

Any structure or portion thereof for which a valid building permit was obtained and which was legally occupied before November 1, 1977, shall be considered to be in compliance with the minimum yard setback requirements of Section 3.02. Any additions or other construction which have taken place after November 1, 1977, must comply with all requirements of Section 3.02 and are therefore not exempted by this subsection.

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SECTION 4 – MANUFACTURED HOUSING UNITS, MANUFACTURED HOUSING PARKS, AND MANUFACTURED HOUSING SUBDIVISIONS *[revised x/x/2020]*

4.01 – Manufactured Housing Units

After the effective date of this section, no manufactured housing units shall be located otherwise than in a manufactured housing park or manufactured housing subdivision except as specifically provided in this section. A manufactured housing unit lawfully existing on the effective date of this section on land out of a manufactured housing park or manufactured housing subdivision, or a replacement hereof if such manufactured housing unit is destroyed by fire or casualty and its replacement is located on the land within 180 days after such fire or casualty may be maintained as a non-conforming use, provided that when such use shall have been discontinued by the removal of such manufactured housing unit or its replacement from the land, the use of such land shall thereafter conform to the provisions of this ordinance. ~~An unoccupied travel trailer registered for use on the highways of this state may be parked on land owned by the owner of the travel trailer, provided that the location or condition of such travel trailer is not detrimental to the neighborhood or to property in the vicinity.~~

4.02 – Manufactured Housing Parks

- A. No manufactured housing park shall be established or operated without approval from the Planning Board of a plan which clearly defines the area of the proposed park, as well as all manufactured housing unit sites, all utilities, and such other requirements as shall be required by the subdivision regulations of the Town of Merrimack as may be adopted from time to time.
1. Manufactured housing parks shall consist of a minimum of six (6) lots and are permitted in any residential zone provided that all requirements pertain to single family houses are met.
 2. Each lot must contain not less than 30,000 square feet and shall have a depth of a least 150 feet and a frontage of at least 100 feet on a public or private street having a width of at least 50 feet, with town water and town sewerage.
 3. No lot shall contain more than one manufactured housing unit. No manufactured housing unit shall be placed closer than 150 feet to an existing residence.
 4. Each lot shall be clearly marked.
 5. Front yard setbacks shall be at least 20 feet. Rear yard setbacks shall be at least 10 feet. Side yard setbacks shall be at least 10 feet.
 6. No principal building shall be located in a manufactured housing park except manufactured housing units and laundry, recreation, or other buildings maintained in connection with the operation of the manufactured housing park or subdivision.

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Section 4.02 – Manufactured Housing Parks (continued)

7. **Ordinary and customary accessory structures and additions including sheds, porches, decks and car ports, are permitted provided that all applicable setback and building code requirements are met.**
8. The proposed manufactured housing park will be effectively screened by the use of the existing natural features of the landscape and/or added landscaping.

4.03 – Manufactured Housing Subdivisions

- A. Manufactured housing subdivisions, consisting of a minimum of six (6) lots, are permitted in any residential zone provided that all requirements, which pertain to single-family houses, are met. Cluster Development provisions may be applied to manufactured housing subdivisions.
- B. If a plat is submitted with a request for approval for a manufactured housing subdivision and such plat is approved, the plat shall bear the legend that it is "approved for manufactured housing units".
- C. The manufactured housing subdivision will be effectively screened by the use of the existing natural features of the landscape and/or added landscaping.

4.04 – Travel Trailers

- A. No person shall park or occupy any travel trailer on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling, except as follows:
 1. The parking of one travel trailer is permitted, provided that said trailer is not occupied and the trailer belongs to the property owner or lessee of the land it occupies.
 2. The temporary use of a travel trailer by a person or persons for whom a residence is being constructed, provided that such use is shown to be a temporary expediency, may be permitted by the Planning & Zoning Administrator or his/her designee. The Planning & Zoning Administrator or his/her designee may grant such permission for a period not to exceed ninety (90) days, excepting that he/she may extend, at his/her discretion, such permission at the expiration of said ninety (90) day period following a written request by the applicant containing a reasonable explanation for the extension request.
 3. Any property owner or lessee of a premises containing an occupied single-family dwelling may accommodate one (1) travel trailer of a nonpaying guest for a period not exceeding thirty (30) days in any one calendar year, pending approval by the Planning & Zoning Administrator or his/her designee.

SECTION 11 ~~ADOPTION OF~~ MERRIMACK BUILDING & FIRE CODES

[revised x/x/2020]

11.01 Enforcement of State Building & Fire Code.

Pursuant to RSA 155-A:2 and RSA 674:51 (I), the Town of Merrimack hereby declares it will enforce ~~the New Hampshire State Building Code. For structures other than one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height, the Town of Merrimack will enforce~~ the current provisions of the State Building Codes and most recent adopted NH State Fire Code and Saf-C 6000, National Fire Protection Association (NFPA) 1- Uniform Fire Code and the National Fire Protection Association (NFPA) 101- Life Safety Code as accepted and authorized for the latest updated edition by the State of New Hampshire, unless specifically addressed within this ordinance. as promulgated pursuant to RSA 155-A-2:V and RSA 155-A:3, and ~~1~~, as may be amended from time to time.

11.02 Purpose

This ordinance shall be known as the Building and Fire Ordinance. This ordinance is written to promote health, safety, fire protection, emergency medical services and general welfare of the Town of Merrimack and as a result make it an attractive place to live, The Town Council hereby enacts the following building and fire codes.

11.03 Authority

- A. As authorized by The Town of Merrimack and the State of New Hampshire Fire Code that the Fire Chief, and/or Designee shall be the Authority Having Jurisdiction (AHJ) within the Town of Merrimack New Hampshire. The Fire Chief, and/or his designee shall enforce the Merrimack Building Code, Fire Prevention, Protection and Safety Ordinance throughout the boundaries of the Town of Merrimack New Hampshire.
- B. The duty of administering and enforcing the provisions of the State Building Codes, National Fire Protection Association (NFPA) 1- Uniform Fire Code and the National Fire Protection Association (NFPA) 101- Life Safety Code as excepted and dually authorized for the current addition approved by the State of New Hampshire, all annexes, appendices and codes referenced in the documents and or references as they may be amended from time to time. is hereby conferred upon the Fire Chief, or his/her duly authorized agent.
- C. The duty of enforcing the provisions of this ordinance is hereby conferred upon the Fire Chief, or their duly authorized agents, as the Authority Having Jurisdiction (AHJ) appropriate to their jurisdictions. The Fire Chief or their duly authorized agents are authorized to issue notices of violations which can include cease and desist orders whenever they become aware of violations of this ordinance.

11.04 New Hampshire State Building & Fire Codes

Statutory Authority: RSA 155-A:2.V Adopted by reference

11.05 Building and Fire Codes

TOWN OF MERRIMACK ZONING ORDINANCE AND BUILDING CODE

- A. International Building Code (IBC) with NH Amendments
- B. International Energy Conservation Code (IEC) with NH Amendments
- C. International Existing Building Codes (IEBC) with NH Amendments
- D. International Mechanical Code (IMC) with NH Amendments
- E. International Plumbing Code (IPC) with NH Amendments
- F. National Electrical Code (NEC) with NH Amendments
- G. NFPA1 Fire Code as amended by Saf-C 6000
- H. NFPA 101 Life Safety Code as amended by Saf-C 6000 and applicable referenced publications in Chapter 2
- I. Fuel Gas Code – NFPA 54 as amended by Saf-C 6000
- J. LP Gas Code – NFPA 58 as amended by Saf-C 6000
- K. Fire Alarm Code – NFPA 72
- L. Fire Protection of Historic Structures – NFPA 914
- M. Sprinkler Code – NFPA 13/13R
- N. NFPA 25 Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
- O. Motor Fuel Dispensing Facilities and Repair Garages – NFPA 30A as amended by Saf-C 6000
- P. Compressed Natural Gas (CNG) – NFPA 52
- Q. Oil Burning Equipment – NFPA 31 as amended by Saf-C 6000
- R. Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances NFPA 211
- S. Carbon Monoxide Detection – NFPA 720 as amended by Saf-C 6000
- T. Commercial Cooking Operations – NFPA 96
- U. Accessibility – IBC Chapters 11 and 34 with NH Amendments, ANSI A117.1 and FHA/UFAS as applicable

11.06 Building and Fire Codes - One and Two Family Dwellings

- A. International Residential Code (IRC) with NH Amendments

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- B. International Mechanical Code (IMC) with NH Amendments
- C. International Plumbing Code (IPC) with NH Amendments
- D. International Energy Conservation Code (IEC) with NH Amendments
- E. National Electrical Code (NEC) with NH Amendments
- F. NFPA 101 Life Safety Code Chapter 24 as amended by Saf-C 6000 and applicable referenced publications in Chapter 2
- G. Fuel Gas Code – NFPA 54 as amended by Saf-C 6000
- H. LP Gas Code – NFPA 58 as amended by Saf-C 6000
- I. Oil Burning Equipment – NFPA 31 as amended by Saf-C 6000
- J. Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances NFPA 211
- K. Carbon Monoxide Detection – NFPA 720 as amended by Saf-C 6000

11.07 Additions, Insertions, Deletions and Changes to the International Building Code, First Edition, 2000

~~11.02.1~~ A. —Amend Section (IBC) 101.1 Title.

Insert “Town of Merrimack, NH”

~~11.02.2~~ B. Delete Section 103.1 and replace with the following:

Section (IBC) 103.1 Enforcement ~~Agency~~Authority:

The Code Enforcement Division of the ~~Community Development~~Merrimack Fire Department shall enforce the provisions of this code pursuant to RSA 155-A:7.

~~11.02.3~~ C. Add new Section 105.2.4 as follows:

~~Permits are not required for "ordinary" repairs, as determined by the Building Official.~~Reserved.

~~11.02.4~~ D. Amend Section ~~108~~109.2 Schedule of Permit Fees

A Schedule of Permit Fees shall be established by the Building Official, reviewed by the Fire Chief and approved by the Town Manager and ratified by the Town Council following a ~~A~~ public hearing ~~shall be~~ held not less than thirty (30) days prior to the implementation of any new fee schedule or any amendment thereto, pursuant to RSA-A:9 and Town Administrative Code Chapter A 198. See "Fee Schedule for Building Construction in the Town of Merrimack."

~~11.02.5~~ E. Add Section 110.1.1 as follows:

~~New multiple family structures and residential condominium structures:~~

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No new single family, multi- multiple family residential, commercial, industrial buildings or structures ~~nor and~~ residential condominium units shall be occupied until the owner thereof shall have received a Certificate of Occupancy an occupancy permit or Certificate of Unit Completion, for:

1. ~~the building in which such multiple family dwellings are located, and/or~~
2. ~~individual units of a residential condominium structure, or a multiple family structure, or a structure containing residential condominium units provided:~~
 - a) ~~all walls and partitions are covered with sheetrock, or other approved finishing material;~~
 - b) ~~all floors shall be in condition ready for finished flooring~~
 - c) ~~all plumbing and electrical wiring shall be complete, except for the installation of finished fixtures~~

All fire protection, fire alarm, fire sprinkler and life safety requirements, as required by this code shall, shall be complete, tested and accepted by Merrimack Fire Department prior to occupancy.

~~11.02.6F. Appeals: Delete Section 112.1 in entirety and replace with the following:~~

~~Section 112.1 Appeals:~~

Any person aggrieved by a decision of the Building Official, Fire Marshal or duly authorized administrative officer relative to the application and enforcement of the building and fire code within the ~~The Zoning Board of Adjustment of the Town of Merrimack shall act as the Board of Appeals~~ may appeal the decision, according to the regulations and procedures set forth in RSA 155-A:10, RSA 155-A:11, RSA 155-A:12 and in Section 10 of the Zoning Ordinance of the Town of Merrimack.

~~11.02.6.1 G. Reserved Section 112.1.1 Court Review:~~

~~Any person aggrieved by the decision of the Zoning Board of Adjustment, or any officer, department, board or bureau of the municipality may appeal to the Hillsborough County Superior Court within such time and under such conditions as are set forth by the New Hampshire Revised Statutes Annotated.~~

~~11.02.7 H. Delete Section 113.4 Violations and Penalties and substitute in lieu thereof the following:~~

~~Section 113.4 Violation Penalties:~~

Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of a certificate issued under the provision of the Code, shall be subject to the criminal and civil fines and penalties pursuant to Section 10 of the Town of Merrimack Zoning Ordinance and Building Code.

Fines, penalties, and remedies for violations of this code shall be the same as for violations of title LXIV, as stated in RSA 676:15 and 676:17.

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~~11.02.8 I. Delete Section 114.3 Unlawful Continuance and substitute in lieu thereof the following:~~

~~Section 114.3 Unlawful Continuance:~~

Any person who shall continue any work in or about the structure after having been served with a Stop Work Order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be subject to the criminal and civil fines and penalties pursuant to Section 10 of the Town of Merrimack Zoning Ordinance and Building Code.

~~11.02.9 J. Liquid Petroleum (LP) Storage Tank Add Section 415.7.3.3.3.1~~
Placement:

All outside liquefied petroleum gas storage containers for commercial or industrial use of 500 gallons or more liquid full water capacity shall be located on: a reinforced concrete pad of a minimum thickness of six inches; or located on masonry non-combustible structure supports (lintels) with 4" to 6" of crushed stone spread over polyethylene ground sheeting; or other suitable material approved by the Fire Marshal or his or her authorized designee Building Official and extending a minimum of twelve inches beyond the dimensions of each container.

~~11.02.9.1 K. Liquid Petroleum (LP) Storage Add Section 415.7.3.3.3.2~~
Tank Protection:

Each such container shall be enclosed with a chain link fence at a minimum height of seventy-two inches and secured by a gate or such other type suitable device, which may be approved by the Fire Marshal or his or her authorized designee Building Official to protect the container and its contents from all safety and health hazards,

~~11.02.10 L. Add New Section 708.10 Reserved~~

~~Multiple single family dwelling units containing superimposed occupancies shall be separated by a continuous two-hour fire resistant wall assembly so that no more than 12 units are between wall assemblies. Such assemblies shall extend vertically from the basement floor to the underside of the roof sheathing and horizontally to the interior of the exterior sheathing.~~

~~11.02.11 M. Automatic Sprinkler Systems Required~~
Add New Section 903.2.16

Where required: Approved Automatic Sprinkler Systems in new buildings and structures shall be provided in the locations described below:

1. In locations indicated in (IBC) Sections 903.2.1 through 903.2.15 12,
2. In all buildings and structures of use groups R1, R2, and R3
3. Where required by this code
 - 3.1 In all new buildings or structures
 - 3.2 In all existing structures undergoing expansion to multi-family dwelling

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- 3.3 In all existing buildings and structures, other than 1 and 2 family multi-family dwelling units undergoing alterations, renovations, or reconstruction valued at ~~75~~50% or more as determined by the equalized assessed valuation of the structure.

The sprinkler design and installation shall comply with the provisions of the current edition of N.F.P.A. (National Fire Protection Association) Codes No.13, "Standard for the installation of sprinkler systems", and No.13D, "Sprinkler systems - one and two family dwellings" or No.13R respectively, as may be amended from time to time, and receive certification from the Merrimack Fire Department for compliance with this section prior to the issuance of any occupancy permit for any dwelling unit situated within any building hereunder.

Add Exception: One and Two family ~~Detached single family and duplex dwellings of Use Group R-3 and R-4.~~

~~11.02.12~~ N. Reserved ~~Add New Section 903.6 Domestic Residential Systems:~~

~~Use of sprinkler systems in residential, business, mercantile and assembly occupancies~~

~~1. This section applies to multi family residential, business, mercantile and assembly occupancies. (Multi family residential is defined as three or more dwelling units).~~

~~2. In buildings or structures as described in Section 903, a combination fire protection sprinkler system shall be a minimum requirement (a combination fire protection system for the purposes of this section means that the sprinkler system and the domestic water system utilize the same (common) service water supply pipe to the premises).~~

~~3. Requirements of Use Groups:~~

~~a) Multi-family New multi-family buildings or structures regardless of the form of ownership (i.e., rental, condominium, etc.) and fire wall separation (may not be classified independently) that are not required elsewhere in this code to have a commercial or industrial type fire sprinkler suppression system in accordance with the most recent edition of N.F.P.A. (National Fire Protection Association) No.13 "Standards for the installation of sprinkler systems", or existing structures undergoing major alterations or expansion such that it increases the number of individual residential units to three or more, or existing structures undergoing substantial rehabilitation, alteration or expansion which exceeds fifty (50) percent of the gross floor area. Installation of the combination fire protection sprinkler system shall be in accordance with Section 4, "System design and installation requirements".~~

~~b) Business assembly and Mercantile new business, assembly and/or mercantile buildings or structures (classified as light and ordinary hazards group 1 & 2 structures by N.F.P.A., National Fire Protection Association, No. 13) regardless of the form of ownership (i.e., rental, condominium, etc.) and fire wall separation (may not be classified independently) that are not required elsewhere in this code to have a commercial or industrial type fire suppression system in accordance with the most recent edition of N.F.P.A (National Fire Protection Association, No.13), "Standards for the installation of Sprinkler Systems" or existing structures undergoing substantial rehabilitation, alteration or expansion which exceeds fifty (50) percent of the gross floor area. Installation of the combination fire protection sprinkler system shall be in accordance with Section 4, "system design and installation requirements".~~

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~~4. System Design and Installation Requirements:~~

~~a) All sprinklers shall be Underwriters Laboratories listed residential fast response for residential use and Underwriters Laboratories listed residential-commercial fast response for business, mercantile and assembly.~~

~~b) Only listed and approved Factory Mutual or Underwriters Laboratories materials shall be used in sprinkler systems~~

~~Exception: Listing may be waived for tanks, pumps, hangers, water low detection devices, flow water valves, check valve and gauges.~~

~~e) All systems shall be tested for leakage as follows:~~

~~(1.1) Hydrostatically tested prior to sprinkler head and dry wall installation in accordance with N.F.P.A. 13, "Standard for the Installation of Sprinkler Systems," if Fire Department connection required.~~

~~(2.2) Tested for leakage at normal operating water pressure prior to dry wall installation if not required to be hydrostatically tested.~~

~~(3.3) Tested for leakage at normal operating water pressure after sprinkler head installation.~~

~~d) Water Supply~~

~~(1.1) General provisions. Every automatic sprinkler system shall have at least one automatic water supply. When stored water is used as the sole source of supply for residential applications only, the minimum quantity shall equal the water demand rate times 10 minutes. All other applications (light and ordinary hazard) shall require at least 30 minutes of water quantity.~~

~~(2.2) Multipurpose piping system.~~

~~A piping system serving both sprinkler and domestic needs shall be acceptable when:~~

~~(aa) Residential Use: In common water supply connections serving more than one dwelling unit, five gallons per minute is added to the sprinkler demand in addition to any domestic demand so as to determine the size of common piping and the size of the total water supply requirements.~~

~~(bb) Business, Mercantile and Assembly: Common water supply connections serving the structure shall be calculated in accordance with the domestic demand in addition to the sprinkler demand.~~

~~(3.3) Valves and Drains.~~

~~Each system shall have the components as per Figure 1, a single control valve arranged to shut off both the domestic and sprinkler systems, and a separate shut off valve for the domestic system only.~~

~~Exception: The sprinkler system piping may have a separate control valve where supervised by one of the following methods:~~

~~(aa) Central station, proprietary, or remote station alarm service.~~

~~(bb) Local alarm service which will cause the sounding of an audible signal at a constantly attended point, or~~

~~(cc) Locking the valves open.~~

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~~(4.4) Piping:~~

~~Pipe or tube and fittings used in sprinkler systems shall be of materials listed for such applications by Factory Mutual and/or Underwriters Laboratories. The chemical properties, physical properties and dimensions of the materials shall be designed to withstand a working pressure of not less than 175 psi.~~

~~Joints for the connection of copper tube shall be brazed.~~

~~Exception: Soldered joints (95.5 only) may be used for wet pipe copper tube systems only.~~

~~(5.5) Piping Support~~

~~Piping shall be supported from structural members. This code contemplates support methods comparable to those used in accordance with the most recent edition of the International Plumbing Code. Piping laid on open joists or rafters shall be secured to minimize lateral movement.~~

~~(6.6) Sprinklers:~~

~~Residential: Listed residential sprinklers shall be used. The sprinklers shall be fusing temperatures not less than 35 degrees F above maximum expected ambient temperature.~~

~~Mercantile, business and assembly: Listed residential or fast response commercial type sprinklers with a wall spray pattern shall be used. The sprinklers shall have fusing temperatures not less than 35 degrees F above maximum expected ambient temperature. Operated or damaged sprinklers shall be replaced with sprinkler having the same performance characteristics as original equipment.~~

~~(7.7) Painting and Ornamental Finishes:~~

~~Sprinkler frames may be factory painted or enameled as ornamental finish in accordance with the requirements of 3.4.4.8. Otherwise, sprinklers shall not be painted and any sprinklers which have been painted, except for factory applied coatings, shall be replaced with new listed sprinklers.~~

~~(8.8) Ornamental finishes shall not be applied to sprinkler by anyone other than the sprinkler manufacturer and only sprinklers listed with such finishes shall be used.~~

~~(9.9)1. Alarms:~~

~~Local water flow alarms shall be provided on all sprinkler systems. An accepted water flow switch, bell and/or horn strobe combination shall be installed. Equipment shall be in accordance with Figure (1).~~

~~e) System Design~~

~~(1.1) Design Discharge: The system shall provide a discharge of not less than 18 gallons per minute to any single operating sprinkler and not less than 13 gallons per minute to the number of design sprinklers. If the design discharge area is to be increased, the discharge per sprinkler shall meet the criteria as outlined in each manufacturer's specification sheet.~~

~~(2.2) Number of Design Sprinklers: The number of design sprinklers shall include all sprinklers within a compartment, to a maximum of four sprinklers. Calculations must be provided to show the following:~~

~~Sprinkler flow at highest elevation, most hydraulically remote sprinkler from water supply within~~

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the building.

~~(aa) For rooms or areas with no more than 1 and 2 sprinklers, calculate to flow 1 and 2 sprinklers.~~

~~(bb) For rooms or areas with 3 sprinklers, calculate to flow 3 sprinklers.~~

~~(cc) For rooms or areas with 4 or more sprinkler calculate to flow 4 sprinklers.~~

~~(dd) Single family, two family and town house condominiums with separate individual sprinkler systems shall follow the design criteria of Item 1.1 above.~~

The definition of compartment for use in determining the number of design sprinklers is 'space completely enclosed by walls and a ceiling'. The compartment enclosure may have openings to an adjoining space if the openings have a minimum lintel depth of 8 inches from the ceiling.

~~(3.3) Water Demand: The water demand for the system shall be determined by multiplying the design discharge by the number of design sprinklers.~~

~~(4.4) Sprinkler Coverage:~~

~~(aa) Residential sprinklers shall be spaced so that the maximum area protected by a single sprinkler does not exceed 144 square feet or in accordance with the manufacturers design criteria.~~

~~The maximum distance between sprinklers shall not exceed 12 feet on or between pipelines and the maximum distance to a wall or partition shall not exceed 6 feet. The minimum distance between sprinklers within a compartment shall be 8 feet. Greater coverage may be achieved if Underwriters Laboratories listed as such.~~

~~The minimum operating pressure of any sprinkler shall be in accordance with the listing information of the sprinkler, and shall provide the minimum flow rates as specified previously.~~

~~Application rates, design areas, areas of coverage, and minimum design pressures other than those specified may be used with special sprinklers which have been listed for such specific residential installation conditions.~~

~~(bb) Mercantile, assembly and business shall comply with above or with the listing requirements for fast response commercial sprinkler heads.~~

~~f) — Position of Sprinklers~~

~~(1.1) Pendent sprinklers shall be positioned so that the deflectors are within 1 to 4 inches from the ceiling.~~

~~Exception: Special residential and fast response sprinklers shall be installed in accordance with the listing limitations.~~

~~(2.2) Sidewall sprinklers shall be positioned in accordance with the listing limitations.~~

~~Dropped escutcheons shall be used if sprinkler is obstructed by light fixtures or beams. The installer may use additional sprinklers for areas where obstructions block spray pattern.~~

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~~When ceiling fans are used, sprinklers shall be located so that the fan blade does not interfere with the spray pattern. Relocation of sprinkler shall still conform to spacing requirements. Rooms exceeding 9x9 feet with ceiling fans shall have a minimum of 2 sprinklers.~~

~~g) — System Types~~

~~(1.1) Wet pipe systems. A wet pipe system shall be used when all piping is installed in areas not subject to freezing. No anti-freeze solution or any other type of additive shall be allowed in any combination sprinkler system.~~

~~(2.2) Dry pipe systems. Where system piping is located in unheated areas subject to freezing, a dry pipe system shall be used. Only copper tubing with brazed fittings and steel tubing shall be used in dry pipe systems.~~

~~h) — Pipe Sizing~~

~~(1.1) Piping shall be designed in accordance with (e)(1.) and (e)(2.). If more than one design discharge is required, the pipe sizing procedure shall be repeated for each design discharge.~~

~~Exception: When piping is sized hydraulically, calculations shall be made in accordance with the methods described in N.F.P.A. 13, Standard for the installation of sprinkler systems.~~

~~(2.2) Minimum pipe size shall be 3/4" for copper, blazemaster, and polybutelene, and 1" for steel.~~

~~(3.3) To size piping for systems connected to a city water supply, the following approximate method is acceptable:~~

~~(aa) Establish system flow rate in accordance (e).~~

~~(bb) Determine water pressure in the street.~~

~~(cc) Select pipe sizes.~~

~~(dd) Deduct meter pressure losses if any.~~

~~(ee) Deduct pressure loss for elevation. (Building height above street in feet x .434 psi).~~

~~(ff) Deduct pressure losses from city main to control valve (manifold assembly including backflow prevention) by the total lengths of pipe in feet.~~

~~(gg) Deduct pressure losses for piping within building by the total length in feet of each size of pipe between the control valve (manifold assembly) and the farthest sprinkler.~~

~~(hh) Deduct valve and fitting pressure losses. Count the valves and fittings from the control valve to the highest hydraulically most remote point. Determine the equivalent length for each valve and fitting and add these values to obtain the total equivalent length for each pipe size. Multiply the equivalent length for each size by the factors for the pipe used and total these values.~~

~~(ii) In multi-level buildings, steps A thru G shall be repeated to size piping for each floor.~~

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(jj) If the remaining pressure is less than the operating pressure established by the testing laboratory for the sprinkler being used, a redesign is necessary. If this pressure is higher than required, smaller piping may be used when justified by calculations.

(kk) The remaining piping shall be sized the same as the piping to the farthest sprinkler unless smaller sizes are justified by calculations.

(4.4) To size piping for systems with an elevated tank, pump or pump tank combination, determine the pressure at the water supply outlet and proceed through steps (e), (g), (h), (i), (j), (k), of 3.

(5.5) Piping configurations. Piping configurations may be looped, gridded, straight run or combinations thereof.

(6.6) When a dead-end system is used, the sprinkler system shall be isolated from the domestic water system by not less than a dual action spring loaded check valve or equivalent that conforms to ASSE Standard 1024, and provides the flow requirement of the system without exceeding the allowable pressure drop of the standard or the system, whichever is less. The system components as indicated previously shall be a mandatory requirement and all parts thereof shall be acceptable to the Administrative Authority. The mandatory pressure reducing valve (as part of the system components) shall be regulated at 125 psi. A Watts W.T.S. 530C50 or equivalent, reseating pressure relief valve shall be used on all domestic sprinkler systems. Backflow prevention devices used shall be State of N.H., W.S. and P.C. approved devices and be testable.

Exceptions:

1. One check valve may be omitted when a back flow (dual check valve assembly) is required by the local water jurisdiction.

2. A back flow (dual check valve assembly) shall be required in all instances where a fire department connection is installed. (Note: Where the structure would normally not require a back flow preventer but a fire department connection is required, the dual check valves may be omitted where the back flow preventor is installed in place thereof).

3. In low pressure areas only, where residual pressure or flow GPM's do not meet minimum requirements, one head must flow minimum 18 GPM with a 41 PSI residual; two heads must flow minimum 30 GPM's with a 30 PSI residual, unless otherwise Underwriters Laboratories listed. A circulating system may be used. The terminal end of the sprinkler supply shall be tied directly into the supply to a regularly used water closet or other approved fixture. Branch lines shall not exceed 25 feet on any circulating system. The dual check valves (two in series) requirement is waived on such systems.

(7.7) If the sprinkler system is designed for more than one living unit, all shut off's in the system shall be secured with lock and key in the open position. A sign on the valves should read "Fire Department should be notified when valves are turned off and when turned back on." All shut off's shall be readily accessible at all times.

(8.8) If the sprinkler system is designed for mercantile, assembly or business, then the requirement of 7. shall also apply.

(9.9) If the sprinkler system is designed for more than one unit, and separate electric service is

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~~used for each unit, the alarm switch with bell (horn-strobe) shall be on the "house electric meter."
Where Townhouse type condominiums are constructed, a fire resistive construction of at least one hour shall be utilized between each living unit with a separate riser, flow switch (system components) and outside bell (horn-strobe) installed.~~

~~Exception: A single system riser may be utilized where: No.1. Access is provided to all control valves for fire services and, No.2. All system piping, sprinkler heads, valves and components are controlled under the authority of the condominium association and is included as such with the Article Covenants. A copy of the Article Covenants shall be forwarded containing this information to the Merrimack Fire Department.~~

~~(10.10) A supply line to the sprinkler system shall be tapped off the water service line at a point that would be downstream (customer side of meter) of any back flow preventor the water purveyor might subsequently require in the service line to contain the domestic system from the public mains.~~

~~(11.11) All mechanical rooms (furnace, water heater, etc.) shall have 200 to 212-degree standard sprinklers.~~

~~(12.12) All spacing of sprinklers, in relation to obstruction such as fireplaces and heaters, shall be to the sprinkler manufacturer's requirements.~~

~~(13.13) All sprinkler piping in unheated areas shall be protected from freezing. Where attached garages are unheated, a dry pendent type commercial sprinkler head shall be used where the sprinkler piping is to remain wet at all times.~~

~~(14.14) All commercial (assembly, mercantile and business) structures shall be required to have an acceptable 1 ½ inch fire department connection in an easily accessible location. All residential structures with 20 or more sprinkler heads on a single type system shall be required to have an acceptable 1 ½ inch fire department connection in an easily accessible location.~~

~~i) Location of Sprinklers: Sprinklers shall be installed in all areas.~~

~~Exceptions:~~

~~1. Sprinklers may be omitted from bathrooms not exceeding 55 square feet with non combustibile plumbing fixtures.~~

~~2. Sprinklers may be omitted from small closets where the least dimension does not exceed 3 feet and the area does not exceed 24 square feet and the walls and ceiling are surfaced with noncombustible materials.~~

~~3. Sprinklers may be omitted from open attached porches, carports and similar structures.~~

~~4. Sprinklers may be omitted from attics and crawl spaces, which are not used or intended for living purposes or storage.~~

~~5. Sprinklers may be omitted from entrance foyers, which are not the only means of egress.~~

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j) — All condominiums shall have the following wording in the recorded Declaration of Covenants and a copy of the document shall be provided to the Merrimack Fire Department.

"Sprinkler System. In the event that any unit should be equipped with a sprinkler system, nothing shall be hung from the sprinkler comprising a part of the system, nor shall any such sprinklers, wiring, or components be painted, covered, or otherwise changed, tampered with or altered."

"Prior to any alteration, amendment, modification or change thereof, he/they will submit such alteration, amendment, modification or change to the Merrimack Fire Department for approval and agrees to comply with all domestic sprinkler requirements of said Fire Prevention office".

k) — The installer of domestic sprinkler systems shall attend a familiarization seminar presented by the Merrimack Fire Department. This seminar is mandatory for all prospective domestic sprinkler installers. Prior to the installation of any sprinkler system within the Town of Merrimack a set of detailed plans shall be forwarded to the Fire Prevention office prior to the issuance of a permit.

l) — The sprinkler installer shall certify the flow and PSI requirement at the highest elevation condition farthest from sprinkler water supply in the building. Certification of flow and leakage tests shall be acceptable to the Merrimack Fire Department.

m) — Prior to the occupancy of any structure utilizing a domestic residential sprinkler system, a certificate of occupancy must be issued by the Building Inspection department with a sign off from the Merrimack Fire Department.

5. Levels of Protection

a) — The responsibility for properly maintaining a sprinkler system is the obligation of the owner or manager who shall understand the sprinkler system operation.

(1.1) Any sprinkler heads located in areas subject to damage shall be protected with a cage or other acceptable device.

(2.2) Refer to Appendix A for additional information.

b) — When a tank is used for domestic and fire protection purposes, a low water alarm actuated when the water level falls below 110 percent of the minimum quantity as required per the discharge design and domestic usage requirements.

c) — Decorative painting of a residential sprinkler is not to be confused with the temperature identification colors as referenced in 3-16.6 of NFPA 13-1983, Standard for the Installation of Sprinkler Systems.

d) — Alarms connected to the water flow devices shall be of sufficient intensity to be clearly audible in all bedrooms over background noise levels with all intervening doors closed. The test of audibility level shall be conducted with all household equipment which may be in operation at night in full operation. Examples of such equipment are window air conditioners and room humidifiers.

e) — The following table shall provide guidance for location of sprinklers near ceiling obstructions. Where beams, light fixtures, sloped ceilings and other obstructions occur, additional sprinklers may be necessary to achieve proper response and distribution. Guidance may be obtained from the manufacturer.

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Maximum Distance from Sprinkler Deflector to Bottom of Ceiling Obstruction

Distance from sprinkler to Side of Ceiling Obstruction _____ Maximum Distance from Sprinkler to Bottom of Ceiling Obstruction _____

6 in. or less	Not permitted
6 in. to less than 1 ft.	0 in.
1 ft. to less than 2 ft.	1 in.
2 ft. to less than 2 ft. 6 in.	2 in.
2 ft. 6 in. to less than 3 ft.	3 in.
3 ft. to less than 3 ft. 6 in.	4 in.
3 ft. 6 in. to less than 4 ft.	6 in.
4 ft. to less than 4 ft. 6 in.	7 in.
4 ft. 6 in. to less than 5 ft.	9 in.
5 ft. to less than 5 ft. 6 in.	11 in.
5 ft. 6 in. to less than 6 ft.	14 in.

f) Definition As indicated throughout this Section, light and ordinary hazard structures shall follow the criteria as defined in the current N.F.P.A. 13, Standard for the Installation of Sprinkler Systems.

g) When approved plastic piping is used in domestic sprinkler systems, all threaded fittings used for testing purposes shall be of CPVC, PVC or Copper. (No black iron nipples shall be used on plastic female fittings for testing purposes).

h) All sprinkler head threads are to receive either a coating of Teflon liquid dope (acceptable to the plastic being utilized) or a second wrapping of Teflon tape prior to installation.

i) All domestic sprinkler systems may be installed by certified personnel (certified by Merrimack Fire Dept.) without special licensing, (i.e., licensed plumber, licensed sprinkler installer). However, the final connection to the water supply shall be completed by licensed master plumber who has also been certified by the New Hampshire Bureau of Fire Prevention.

j) At least three spare sprinklers of each type utilized, temperature rating and orifice size used the system shall be kept on the premises. When fused sprinklers are replaced by the owner, fire department or others, care shall be taken to assure that the replacement sprinkler has the same operating characteristics.

k) Items required on drawing for domestic sprinklers:

(1.1) Sprinkled under Merrimack Fire Department sprinkler requirements.

(2.2) Layout indicating head location, pipe layout, location of cut off, tie in, switch, bell; location of commode if used for circulating; location of bleeder valve and line; 1 1/2" fire department connection.

(3.3) Description notes: Fill out blanks and attach A through T to all drawings.

(aa) Type of head: () pendent () sidewall () both
 () Other _____

(bb) Type of pipe: () Copper () _____

(cc) Type of fastening of pipe: _____

(dd) Type of back flow prevention used: _____

(ee) Size of main line from street: _____

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- (ff) Size of main sprinkler line: _____
- (gg) Size of Branch line: _____
- (hh) Type & degree of heads in mechanical room: _____
- (ii) Note: No branch lines are to exceed 25' on circulating system.
- (jj) Flow test of sprinkler system to be certified before dry wall.
- (kk) Copy of hydraulic calculations to be provided.
- (ll) Calculations to be based on GPM flow test highest elevation worst condition.
- (mm) If separate calculations for each group of buildings, note on drawings and calculations.
- (nn) Pipe in attic shall be laid as close as possible to ceiling.
- (oo) Escutcheons shall be used when heads are near light fixtures or beams so that spray pattern is not obstructed or 2 heads shall be used.
- (pp) Any changes in these drawings or in the event any unfinished rooms are contemplated, all changes shall be submitted for approval.
- (qq) Mechanical rooms to have 200 to 212 degrees F. commercial type sprinkler heads.
- (rr) No exposed piping to sprinkled areas.
- (ss) Piping to be protected from freezing.
- (tt) All sprinkler drops are to be screwed in place with no nails utilized.

l) _____ Required items for valves and manifold assembly.

_____ KEY (Figure 1)

- (1.) Incoming water supply from street line or other.
- (2.) Gate valve, meter assembly, back flow preventer, as required by local water purveyor.
- (3.) Pipe "T" (tee).
- (4.) Domestic supply.
- (5.) Union with Iron Pipe standard.
- (6.) One quarter turn full port gate valve. (Iron pipe standard).
- (7.) Watts 601 (Iron pipe standard) testable check valve or equivalent. Note: a double valve assembly (back flow preventer) will be required where a fire department connection is utilized.
- (8.) McConnell & Miller PS4 3F series flow switch or equivalent.
- (9.) Drains to be piped outside structure.
- (10.) Pressure relief valve to be Watts 530C50 with 1/2 inch fittings or equivalent.
- (11.) Cross connection.
- (12.) Pressure gauge to be rated at least 25 P.S.I. over static pressure.
- (13.) Manifold assembly.
- (14.) Century 1 1/2 inch swivel fire department connection or equivalent. (Iron Pipe Thread)

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(15.) To sprinkler system piping and sprinkler heads.

(16.) Nipple length to extend five pipe diameters.

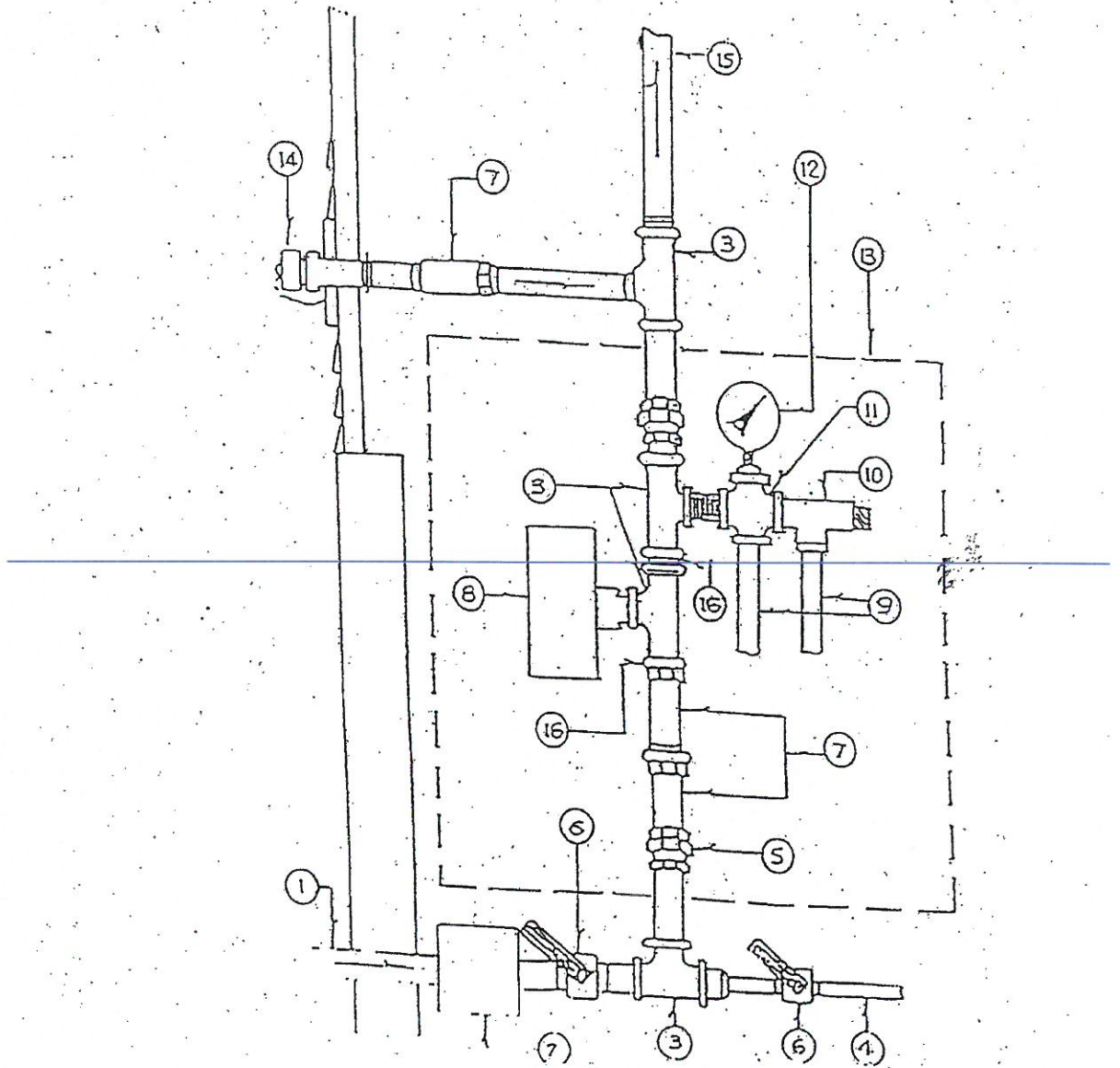


FIGURE 1

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The specific requirements of this code may be modified by the Merrimack Fire Department to allow alternative arrangements that will secure as nearly equivalent safety to life from fire as practical, but in no case shall the modification afford less safety to life than compliance with the provisions as set forth in this Section.

APPENDIX A

A minimum monthly maintenance program should include the following:

(1.1) Visually inspect all sprinklers to ensure against obstruction of spray.

(2.2) Inspect all valves to assure that they are open.

(3.3) Test all water flow devices.

(4.4) The alarm system, if installed, should be tested.

(5.5) Pumps, where employed, should be operated.

(6.6) The pressure of air used with dry systems should be checked.

(7.7) Water level in tanks should be checked.

(8.8) Care should be taken to see that sprinklers are not painted either at the time of installation or during subsequent redecoration. When painting sprinkler piping or painting in areas next to sprinklers, the sprinklers may be protected by covering with a bag which should be removed immediately after painting has been finished.

11.02.13 Add new Section 1004.2.1 Exit Door Requirements:

————— Multi family structures and row houses shall have not less than two independent exit doors serving each dwelling unit. Multiple family dwellings with superimposed units shall have not less than two independent exit doors serving each story. Where mixed designs occur, exit doorways shall be approved by the Building Official

11.02.14 Add Section 2702.4 Materials:

————— No aluminum or copper clad aluminum conductors shall be used within the Town of Merrimack.

————— a) Exception: Aluminum conductors are permitted for service entrance and between main disconnect and sub-panel only.

————— Add Section 2703.1.1 Fees:

————— Fees for electrical permits shall be established by the Building Official. Not less than thirty (30) days prior to the implementation of any fee schedule or any subsequent amendment to the fee schedule under this section, the Building Official shall publish notice of same and shall conduct a public hearing.

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~~11.02.15~~ Add Section 2903: Plumbing Systems:

~~————— The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings shall comply with the plumbing code adopted by the Town of Merrimack except sections that may be at variance with the Town Sewer Ordinance and the State of New Hampshire Plumbing Code.~~

~~————— Delete Section 3102 and replace with the following:~~

~~11.02.16~~ Section 3102 Bonds And Liability Insurance

~~————— Section 3102 Filing: A person shall not erect, install, remove, rehang or maintain over public property any sign for which a permit is required under the provision of this code until an approved bond shall have been filed in the sum of \$150,000 per person and \$500,000 per occurrence as herein required or until an insurance policy shall have been filed for public liability in the amount of \$150,000 per person and \$500,000 per occurrence.~~

~~————— Section 3102.2 Conditions: Such bond or insurance policy shall protect and save the jurisdiction harmless from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor or agents, or by any reasons of defects in the construction, or damages resulting from the collapse, failure or combustion of the sign or parts thereof.~~

~~————— Section 3102.3 Notice of Cancellation: The obligation herein specified shall remain in force and effect during the life of every sign and shall not be canceled by the principal or surety until after a 30 day notice to the building official.~~

~~————— Delete Section 1301.1 and insert the following:~~

~~11.02.17~~ Section 1301.1 Other Standards:

~~————— Buildings shall be designed and constructed in compliance with the energy code listed in Chapter 35 and the New Hampshire Energy Code (“New Hampshire RSA Chapter 155-D”).~~

11.038 Adoption of International Residential Code (IRC)

That a certain document, one copy of which is one file with the Town Clerk and not less than 1 copy is one file in the ~~office of the Fire Department Building Division~~ ~~Community Development Department~~ of the Town of Merrimack, New Hampshire, being marked and designated as the 2000 International Residential Code for One and Two Family Dwellings, including Appendix Chapters A, B, C, E, F, G, H, J, and ~~L~~K, as published by the International Code Council, Inc., be and is hereby adopted as the Residential Building Code for the Town of Merrimack, New Hampshire, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; and each and all of the regulations,

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provisions, penalties, conditions and terms of said Residential Building Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 11.04 of this ordinance.

11.049 Amendments to the International Residential Code (IRC)-2000

~~11.04.1~~ **A.** Section (IRC) R101.1 Insert ‘Town of Merrimack, New Hampshire’

B. Amend Section (IRC) R105.2 (Item #1, under “Building”) to read as follow:
1. One-story detached accessory structures, provided the floor area does not exceed 160 square feet. (14.86 m²)”

~~11.04.3~~ **C.** Amend Section (IRC) R105.2 (Item #10, under “Building”) Delete section:

“10. Decks not exceeding 200 square feet (18.58 m2) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling do not serve the exit door required by Section R311.4.”

D. Amend Section (IRC) R103.1 as follows:

Enforcement Agency: The Code Enforcement Division of the Community Development Merrimack Fire Department shall enforce the provisions of this code.

~~11.04.4~~ **E.** Section 112.1—Appeals

Any person aggrieved by a decision of the Building Official, Fire Marshal or duly authorized administrative officer relative to the application and enforcement of the building and fire code within the ~~The Zoning Board of Adjustment of the Town of Merrimack shall act as the Board of Appeals~~ may appeal the decision ~~according,~~ according to the regulations and procedures set forth in RSA 155-A:10, RSA 155-A:11, RSA 155-A:12 and in Section 10 of the Zoning Ordinance of the Town of Merrimack.

~~11.04.5~~ Court Review:

~~Any person aggrieved by the decision of the Zoning Board of Adjustment, or any officer, department, board or bureau of the municipality may appeal to the Hillsborough County Superior Court within such time and under such conditions as are set forth by the New Hampshire Revised Statutes Annotated~~

~~11.04.6~~ Amend IRC Section R311.1 Exit Door Required:

~~Not less than two exit doors conforming to this chapter shall be provided from each dwelling unit. The required exit doors shall provide for direct access from the habitable portions of the dwelling to the exterior without requiring travel through a garage.~~

~~Add Exception: An accessory dwelling unit shall have one independent exit in conjunction with an interior connection to the main dwelling unit.~~

~~11.04.7~~ Amend Section R314.2 Stairs to read as follows:

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In occupancies in Use Group R-3, within dwelling units in occupancies in Use Group R-2 and in occupancies in Use Group U which are an accessory to an occupancy in Use Group R-3, the maximum riser height shall be 8 1/4 inches (210 mm) and the minimum tread depth shall be 9 inches (229 mm). A nosing not less than 3/4 inches (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279 mm).

~~11.04.8~~ Add New Section M1804

Connectors serving wood-burning appliances shall not be connected to chimneys serving other appliances

~~11.04.9~~ F. "Protection of Structure" Add new Section M2001.3 "Firestopping"

The exposed ceiling area directly over all furnaces, boilers and solid fuel burning equipment shall be protected either by one of the following conditions:

1. One half inch gypsum wallboard drywall extending at least 3 feet beyond the footprint of the unit with all joints sealed. Any combustible wall within said 3 feet of the equipment perimeter shall also be protected fireproofed with 1/2 inch gypsum wallboard drywall and all joints sealed
2. An automatic upright sprinkler head over the specified equipment, connected to the domestic water supply
3. Equivalent protection as approved by the Building Official, Fire Marshal or authorized designee.

~~"The area over all furnaces, boilers and solid fuel burning equipment shall be protected either by:~~

- ~~1. One half inch drywall extending at least 3 feet beyond the footprint of the unit with all joints sealed. Any combustible wall within said perimeter shall also be fireproofed with 1/2 inch drywall and all joints sealed~~
- ~~2. An automatic upright sprinkler head over the specified equipment, connected to the domestic water supply~~
- ~~3. Equivalent protection as approved by the Building Official~~

G. Reserved

~~11.04.10~~ Add Section 3501.2 Materials

~~No aluminum or copper-clad aluminum conductors shall be used within the Town of Merrimack.~~

~~Exception: Aluminum conductors are permitted for service entrance and between main disconnect and sub-panel only.~~

11.0510 Test Pits and Percolation Test

- 11.05.1 A. A percolation test supervised by the Building Official, to ascertain proper drainage on all new construction and minimum of a 1000 gallon septic tank shall be required. In all instances of on-site waste disposal, test pits shall be dug and each such

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pit shall be witnessed by the Building Official or his/her authorized designee; an area of at least 4,000 square feet ~~sq ft~~ including the test pit location shall be designated on a plan and the test pit data attached.

~~11.05.2.B.~~ For purposes of the percolation test, the time required for water ~~of~~to fall one inch shall not exceed 30 minutes; ~~and the leach bed bottom shall be no less than 4' above the seasonal high water table.~~

11.1106 Sewerage

~~A.~~ 11.06.1 — All dwellings and all public buildings shall be equipped with a minimum 1000 gallon septic tank, sanitary chemical closet or approved vault.

~~B.~~ 11.06.2 — Septic designs shall be designed in accordance with NH DES Env-Wq 1000 for Individual Sewage Disposal Systems. ~~address drainage on lots so that the systems will not be adversely affected and so that adjacent lots will not be adversely affected.~~

11.0712 Insert New Section R304.5 Dwelling Unit Area

~~11.07.1.1~~ — ~~A.~~ Single family and two family dwellings shall have a minimum of 600 square feet of gross living area for the main floor of each dwelling unit. For purposes of this section a manufactured housing shall not be considered a dwelling.

~~11.07.1.2~~ — ~~B.~~ Multi-family dwellings: Each dwelling unit shall have a minimum gross living area of 600 square feet for single story dwelling units or 1,040 square feet of gross living area for two-story dwelling units.

~~11.07.1.3~~ — ~~C.~~ Gross living area is defined as that floor area within the perimeter of the outside walls or corridor walls and centerline of party/tenant separation walls

11.0813 — Reconstruction of Buildings

~~a~~A. Any structure damaged or destroyed by fire, explosion, or by any other means including flood, storm, earthquake or other act of God may be repaired or reconstructed, however, if a nonconforming structure is destroyed or damaged to a degree equal to or greater than ~~75~~50 percent of its equalized assessed valuation, when rebuilt it shall thereafter conform to the provisions of this ordinance.

~~b~~B. Any structure, the use of which is non-conforming, that is damaged or destroyed by fire, explosion, or by any other means including flood, storm, earthquake or other act of God may be repaired or reconstructed within one year of the date the damage occurred, however, if the structure is destroyed or damaged to a degree equal to or greater than ~~75~~50 percent of its equalized assessed valuation, when rebuilt it shall thereafter conform to the provisions of this ordinance.

~~e~~C. Every owner, whether individual, partnership, corporation or other entity shall cause to be repaired any damaged structure that poses a threat to the public health or safety as determined by the Fire Chief, Building Official, Fire Marshal or authorized designee and ~~or~~ to remove and properly dispose all debris, ruins, and other waste material within

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one (1) year following the date on which the structure was damaged or destroyed. Owners involved in legal proceedings resulting from the loss or damage to said structure(s), shall comply with the terms of this part within one (1) year following the date of settlement of any such legal proceedings.

11.0914 Adoption of **International Plumbing Codes (IPC)**

That a certain document, one copy of which is on file in the office of the Town Clerk, one copy of which is kept in the Office of ~~the Merrimack Fire Department Building Division~~ Community Development being marked and designated as "The International Plumbing Code ~~2000~~" thereto as published by the International Code Council be and is hereby adopted as the Plumbing Code in the Town of Merrimack in the State of New Hampshire; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, conditions and terms of The International Plumbing Code ~~2000~~, are hereby referred to, adopted, and made a part hereof, with the additions, insertions, deletions and changes, if any, prescribed in Section 11.10 of this ordinance.

11.105 Amendments to the International Plumbing Code ~~2000~~

~~11.10.1~~ A. Title Insert "Town of Merrimack, New Hampshire"

~~11.10.2~~ B. Add Section (IPC) 106.6.2 Fee Schedule:- "Fee Schedule for Building Construction in the Town of Merrimack."

~~The Building Official shall establish the fees for plumbing permits and inspections. Not less than thirty (30) days prior to the implementation of any fee schedule or any subsequent amendment to the fee schedule under this section, the Building Official shall publish notice of same and shall conduct a public hearing.~~

~~11.10.3~~ C. Delete Section 108.4 in entirety and insert the following:Penalties

~~Section 108.4 Penalties:~~ Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall install plumbing work in violation of an approved plan or directive of the plumbing official, or of a permit or certificate issued under the provisions of this Code, shall be subject to the criminal and civil fines and penalties pursuant to Section 10 of the Town of Merrimack Zoning Ordinance and Building Code.

Fines, penalties, and remedies for violations of this code shall be the same as for violations of title LXIV, as stated in RSA 676:15 and 676:17.

~~11.10.4~~ D. Delete Section 108.5 and insert the following:Unlawful Continuance

~~Section 108.5 Unlawful Continuance:~~ Any person who shall continue any plumbing work in or about the structure after having been served with a Stop Work Order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be subject to the criminal and civil fines and penalties pursuant to Section 10 of the Town of Merrimack Zoning Ordinance and Building Code.

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~~11.10.5 E.~~ Delete Section 109 in entirety and replace with the following: Appeals

Any person aggrieved by a decision of the Building Official, Fire Marshal or duly authorized administrative officer relative to the application and enforcement of the building and fire code within the Section 109.1 The Board of Adjustment of the Town of Merrimack shall act as the Board of Appeals the decision, according to the regulations and procedures set forth in RSA 155-A:10, RSA 155-A:11, RSA 155-A:12 and in Section 10 the Zoning Ordinance of the Town of Merrimack.

~~11.10.6~~ Delete Section 109.7 Court Review in its entirety.

~~11.10.7 F.~~ Add Section 301.7 Public Water Supply and Sewer Systems Available

A public water supply system and/or public sewer system shall be deemed available to dwellings used for human occupancy if such dwellings or existing on-site sewerage disposal system are within 200 feet, (measured directly through the dwelling lot perpendicularly from a street, alley, or easement) of the public water supply or sewer system, and a connection conforming with the standards set forth in this code may be made thereto.

All sewer applications, permits and installations shall be submitted to and approved by the Merrimack Waste Water Department

~~11.10.8 G.~~ Add to Table 608.17.1 "Distance from Sources of Contamination to Private Water Supplies and Pump Suction Lines":

~~Under 'Source of Contamination' column, the category "public right-of-way" and under 'Distance (feet), column correspondingly the words "shall not be located within the front yard setback".~~ Reserved

~~11.10.9 H.~~ Add Section 716 Individual Sewage Disposal Systems

All proposed Individual Sewage Disposal Systems shall conform to NHDES Chapter Env-Wq 1000 subdivisions; individual sewage disposal systems

~~11.10.10~~ I. Add Section 716.1 General Approval Requirements: Any private sewage disposal system proposed shall have written approval from Department of Environmental Services, Water Supply & Pollution Control Division and the Building Official, prior to making application for a building and/or plumbing permit.

~~11.10.11~~ J. Add Section 716.2 Septic Tanks: Discontinued use of private sewage disposal systems as required in the Town Sewer Ordinance shall govern this section.

Drain pipe connections to abandoned holding tanks for individual on-site sewage disposal systems shall be plugged with cast iron, masonry, or other suitable watertight stop at points of tie-in with new drains to sewers. All holding tanks ~~other than these~~ including tanks constructed of concrete, for individual on-site disposal systems, that are abandoned shall be removed from the property, or drained and filled completely with gravel or clean fill.

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11.116 - Adoption of Life Safety Code, NFPA-101, 2000

That a certain document, three (3) copies of which are on file in the office of the Town Clerk, in the office of the Building Official, and in the office of the Fire Chief being marked and designated as the "Life Safety Code, NFPA-101, 2000" is hereby adopted as the Life Safety Code of the Town of Merrimack.

11.127 - Adoption of Fire Prevention Code, NFPA-1, 2000

That a certain document, three (3) copies of which are on file in the office of the Town Clerk, in the office of the Building Official, and in the office of the Fire Chief being marked and designated as the "Fire Prevention Code NFPA-1, 2000" as the Fire Prevention Code of the Town of Merrimack.

A. Applicability

1. The Town of Merrimack hereby declares it will enforce the State of New Hampshire current annotated and adopted NH State Fire Code and Saf-C 6000, National Fire Protection Association (NFPA) 1- Uniform Fire Code and the National Fire Protection Association (NFPA) 101- Life Safety Code as accepted and authorized for the current edition by the State of New Hampshire, unless specifically addressed within this ordinance.
2. The provisions of this ordinance shall be supplemental to the Fire Code as adopted by the State of New Hampshire. When any provision of this ordinance is found to be in conflict with any building, zoning, safety, health or other applicable law or code, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail as determined by the AHJ. This ordinance shall apply to all areas of The Town of Merrimack New Hampshire.

B. Authority

1. As authorized by The Town of Merrimack and the State of New Hampshire Fire Code that the Fire Chief, and/or Designee shall be the Authority Having Jurisdiction (AHJ) within the Town of Merrimack New Hampshire. The Fire Chief, and/or his designee shall enforce the Merrimack Fire Prevention, Protection and Safety Ordinance throughout the boundaries of the Town of Merrimack New Hampshire.
2. The duty of administering and enforcing the provisions of the National Fire Protection Association (NFPA) 1- Uniform Fire Code and the National Fire Protection Association (NFPA) 101- Life Safety Code as excepted and duly authorized for the current addition approved by the State of New Hampshire, all annexes, appendices and codes referenced in the documents and or references as they may be amended from time to time. is hereby conferred upon the Fire Chief, or his/her duly authorized agent.
3. The duty of enforcing the provisions of this ordinance is hereby conferred upon the Fire Chief, or their duly authorized agents, as the Authority Having Jurisdiction (AHJ) appropriate to their jurisdictions. The Fire Chief or their duly

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authorized agents are authorized to issue notices of violations which can include cease and desist orders whenever they become aware of violations of this ordinance.

C. Fire Protection Application and Plans

A Fire Protection Application with associated plans and documents shall be submitted to the Office of the Fire Marshal prior to any alteration, remodel, addition or demolition of any part of a building that is equipped with an Automatic Fire Suppression System or Automatic Fire Detection or Fire Alarm System, regardless of the size of proposed project.

D. Plan Review

1. The Fire Department shall perform a review of all pertinent building plans, site plans and fire protection system plans and specifications of any project which require a permit within the boundaries of the Town of Merrimack in order to determine whether such plans and specifications comply with the applicable rules of this ordinance and any other codes, standards or rules that may apply.
2. Plans shall be submitted both in traditional paper form and in an electronic format as identified on the permit application.
3. Fire Department Plan Review shall occur at the following phases: Site Plan, Sketch Plan, Construction Plan and Fire Protection Systems Plan. This review shall occur concurrent to the Community Development plan review and any issues or corrections that need to be made to the plans shall be completed by the developer prior to the approval of the Town of Merrimack Planning and Zoning Boards. No permits shall be issued until Department review and compliance has occurred.

E. Fire Protection Requirements

1. Fire Hydrants – General

- a. Fire hydrants shall be installed pursuant to the requirements of the water utility having jurisdiction. Quantity and location of hydrants shall be determined by the Fire Chief, or designee.
- b. Fire hydrant(s) shall be placed on eight inch or larger water main and outlets 18 inches above finished grade.
- c. Fire hydrants shall be located not more than eight feet from the edge of pavement.
- d. If a temporary water system is to be used for the purposes of fire protection, prior approval shall be given by the Fire Chief, or designee.
- e. Fire hydrants out of service shall be covered by the water utility having jurisdiction with a device indicating, "Out of Service". In addition, the Fire Department shall be notified when the Hydrant is out of service and

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when the hydrant is placed back in service by the water utility provider.

f. Fire hydrants shall be kept clear and accessible at all times by the water utility having jurisdiction.

g. Fire hydrants shall be in service prior to any issuance of a building permit for the structure.

2. Fire Hydrants – Multiple Family, Commercial and Industrial Development

a. Fire hydrants shall be installed no more than 500 feet apart, no more than 250 feet to any structure on a public or private road. When any portion of a commercial building being protected is in excess of 150 feet from a water supply on a public or private road, there shall be provided on site, mains and hydrants capable of supplying the required fire flow as required by the Fire Chief, or designee. Required fire flow shall be calculated in accordance with National Fire Protection Association Standards 1231 and 1142.

b. Required Water Supply for Fire Protection. A water supply capable of supplying the required fire flow, for firefighting purposes, as determined by local ordinance, shall be provided to all premises upon which a Class 1 building or a portion of Class 1 buildings are hereafter constructed. The water supply shall be provided as follows:

i. When a public water supply is available to a structure, there shall be provided fire hydrants and mains capable of supplying the required fire flow.

ii. When a public water supply is not available to a structure, the water supply shall consist of a fixed system (cistern) capable of providing the required fire flow. The on-site water supply shall be accessible to the fire department and be located within one hundred fifty (150) feet of the Class 1 building or structure being protected. If the on-site water supply is not within one hundred fifty (150) feet of the structure being protected, the water supply shall be connected to on-site fire hydrants and mains capable of supplying the required fire flow. The owner shall verify the water supply requirements with the fire department prior to final design and construction.

iii. As provided in the sections of the New Hampshire Fire Code.

3. Fire Hydrants – Multiple Family, Commercial and Industrial Development

Fire hydrants shall be installed no more than 500 feet apart and no more than 250 feet to a building or structure on a public or private road.

4. Sprinkler Systems or Standpipes

Fire hydrants installed to provide fire suppression augmentation for sprinkler

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systems or standpipes shall be installed within 50 feet of Fire Department Connection or as required by the Fire Chief or designee.

5. Public and Private Fire Hydrants

a. Public fire hydrants shall be painted "safety yellow" in accordance with the regulations of the water utility having jurisdiction an identifying 5 foot pole with reflectors. Private fire hydrants shall be painted per current edition of NFPA 291 (Fire Flow Testing and Marking of Hydrants). The barrel is to be painted "safety yellow". The top portion (bonnet) and nozzle caps to be painted with the following color scheme to indicate flow capacity:

<u>Class</u>	<u>Capacity</u>	<u>Color</u>
<u>Class AA</u>	<u>1500 gpm or greater</u>	<u>Light blue</u>
<u>Class A</u>	<u>1000 gpm to 1400 gpm</u>	<u>Green</u>
<u>Class B</u>	<u>500 gpm to 999 gpm</u>	<u>Orange</u>
<u>Class C</u>	<u>499 gpm or less</u>	<u>Red</u>

b. The type and model of fire hydrants to be installed shall be in accordance with the requirements of the water utility having jurisdiction.

6. Automatic Sprinkler Systems

The sprinkler design and installation shall comply with the provisions of the current edition of NFPA.13 (National Fire Protection Association) "standard for the installation of sprinkler systems". NFPA 13D, "Sprinkler systems one and two family dwellings or NFPA 13R respectively, as may be amended from time to time and receive certification from the Merrimack Office of the Fire Marshal for compliance with this section prior to the issuance of any occupancy permit for any dwelling unit situated within any building here under.

Where required under the Town of Merrimack Building Code Section 11 and NFPA standards Automatic Fire Suppression Systems shall be installed: In all new buildings or structures regardless of gross square footage area. In all existing structures undergoing change of use to multi family dwelling. In all existing multi family dwelling units undergoing alterations, renovations, or reconstruction valued at 75% or more as determined by the equalized assessed valuation of the structure or 50% or more of the existing gross area of the structure.

7. Domestic Residential Systems

Use of sprinkler systems in residential, business, mercantile and assembly occupancies this section applies to multifamily residential, business, mercantile and assembly occupancies. (Multifamily residential is defined as three or more dwelling units).

In buildings or structures, a combination fire protection sprinkler system shall be a minimum requirement (a combination fire protection system for the purposes of this section means that the sprinkler system separate from the domestic water

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system service water supply pipe to the premises).

8. Requirements of Use Groups

a. Existing and New Multi Family

Existing Multi family and New multi family buildings or structures, regardless of the form of ownership (i.e., rental, condominium townhouse, etc.) and fire wall separation (may not be classified independently) that are not required elsewhere in this code to have a commercial or industrial type fire sprinkler suppression system in accordance with the most recent edition of NFPA 13 (National Fire Protection Association) "Standards for the installation of sprinkler systems". Existing structures undergoing major alterations or expansion such that it increases the number of individual residential units to three or more, or existing structures undergoing substantial rehabilitation, alteration or expansion which exceeds fifty (50) percent of the gross floor area. Installation of the fire protection sprinkler system shall be in required.

b. Business Assembly and Mercantile

All new business, assembly and/or mercantile buildings or structures (classified as light and ordinary hazards group 1 & 2 structures by NFPA 13, National Fire Protection Association) regardless of the form of ownership (i.e., rental, condominium, etc.) and fire wall separation (May not be classified independently) that are not required elsewhere in this code to have a commercial or industrial type fire suppression system in accordance with the most recent edition of N.F.P.A (National Fire Protection Association No.13), "Standards for the installation of Sprinkler Systems" or existing structures undergoing substantial rehabilitation, alteration or expansion which exceeds fifty (50) percent of the gross floor area. Installation of the combination fire protection sprinkler system shall be in accordance with Section 19.09, "system design and installation requirements".

9. Fees

In addition to any fees paid at the time of application for a building permit pursuant to ordinances, at the time of such application, the applicant shall also pay a nonrefundable plan review fee to the serving Fire Department as set forth in The current revision of the Fire Department sprinkler plan conditions.

10. Permitting and Inspection

a. General

Pursuant to the Town of Merrimack Fire Department, subject to the limitations and conditions stated in the applicable, it shall be the duty of the Fire Marshal or his designees to inspect or cause to be inspected as

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often as he may deem necessary or appropriate, all Class 1 structures, and the common areas of all multi-family dwelling buildings within his jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion, endanger life from fire or explosion, or any violations of the provisions of the ordinance, or any other ordinances, standards or rules that may apply pertaining to life safety, fire or explosion hazards. The maximum time between routine fire inspections should normally not exceed 12 months. Some occupancies such as high risk, educational, assembly or day-care facilities may require the maximum time between routine inspections not to exceed 6 months between inspections.

b. Right of Entry

Where it is necessary to make an inspection to enforce the provisions of this ordinance, the applicable rules of most recently adopted State of New Hampshire Fire Laws Annotated, State Fire Code RSA 153:21, or where the fire marshal has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this ordinance which makes the structure or premises unsafe, dangerous or hazardous, the Fire Marshal is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the Fire Marshal shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the fire marshal shall have recourse to the remedies provided by law to secure entry.

c. Inspection Process

i. New construction

The serving Fire Marshal or his designee shall conduct the following inspections on all new class 1 structures located within the boundaries of the Town of Merrimack Fire Protection District with the local building department inspector having jurisdiction:

- (1). Smoke/ and carbon monoxide detectors
- (2). Building address assignment
- (3). Emergency access
- (4). Certificate of occupancy

Prior to the issuance of a Certificate of Occupancy for a new building or tenant space, the Fire Marshal or his designee shall conduct the Pre-Occupancy Inspection and then sign the Certificate of Occupancy.

ii. Existing Class 1 Structures

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A routine fire inspection should occur at a sequence not to exceed 12 months. The inspection is completed by the Merrimack Fire Department Office of the Fire Marshal.

At the time the inspection occurs, the inspector will evaluate the premises for violations of the applicable rules of the State of New Hampshire, this Ordinance and any other life safety concerns. At the completion of the inspection, the inspector will review the results with the occupant and provide a copy of the Inspection Report with the occupant within 5 working days.

At the end of the correction period, a re-inspection will occur to determine if the violations have been corrected. If the previously cited violations are found to be corrected, no other action shall be needed. If violations are found to still exist after this first re-inspection, then a copy of the inspection form will be left with the occupant and the results reviewed with the occupant, the occupant shall then forward to the owner.

A second re-inspection will occur in 14 days and a fee as per Article XVIII of this ordinance, shall be assessed. If the previous cited violations are corrected at this re-inspection, then no further action shall be required. If previously cited violations are found, a fee shall be assessed and a third re-inspection will occur in 7 days.

If those violations are not corrected, a fee shall be assessed for each re-inspection and those re-inspections will occur every 7 days until the violations are corrected.

If at any time an Inspector completes an inspection and finds an immediate fire or life safety hazard, the violation shall be corrected immediately. In the event the violation cannot be corrected immediately, a Fire Violation Order will be issued and the violation must be corrected by the date on the ORDER. Failure to correct the violation by the date on the ORDER will result in a fee and may cause further legal action to be taken against the violator. Please note that the fees/fines of this ordinance are in addition to those fines/fees that may be levied by the State of New Hampshire Office of the Fire Marshal.

d. Limits

The inspection or permitting of any building, system or plan by the Fire Department, under the requirements of this Article and the applicable rules of the state of New Hampshire, shall not be construed as a warranty of the physical condition of such building, system or plan or the adequacy thereof, nor as an approval thereof. Neither the Fire Department nor any of its agents, shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such

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building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

11. Construal of Permit; Validity; Effect

The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this Ordinance, the applicable rules of the State of New Hampshire or any other codes, standards or rules that may apply to the permit or review process. No permit presuming to give authority to violate or cancel the provisions of this section shall be valid, except so far as the work or use which it authorizes is lawful.

The issuance of a permit upon plans and specifications shall not prevent the serving Fire Department from thereafter requiring the correction of errors in such plans and specifications nor from prohibiting the starting or continuance of work there under when in violation of this section or of any other provisions of this Ordinance or the applicable rules of the State of New Hampshire or any other codes, standards or rules that may apply that pertain to the project.

12. Service of Orders or Notices

The service of orders or inspection notices for the correction of violations of the applicable rules of the State of New Hampshire, or of this Ordinance shall be made upon the owner, occupant or other person responsible for the conditions, either by personally delivering a copy of same to such person or by delivering the same to and leaving it with any person in charge of the premises or by sending a copy of the order or notice by certified or registered mail to the owner's last known address.

When buildings or other premises are occupied by one other than the owner under a lease or other agreement, the orders or notices issued to correct violations of the Ordinance shall apply to the owner and occupant thereof; provided that where the order or notices require the making of additions to or changes in the premises themselves which may become part of the real property of the owner, then in such cases, the orders or notices shall also be issued to the owner of the premises or real property.

The tenant shall be responsible to contacting the building owner to repair any issue that the tenant believes is the responsibility of the owner. Failure to deliver an order or notice to the owner, if other than the occupant shall not invalidate such order or notice.

13. Building Permit

No permit shall be issued for construction, addition, alteration or demolition of any structure located within the jurisdiction limits of the Town of Merrimack, New Hampshire Fire Protection District without the prior plan review and approval of the serving Fire Department's Fire Marshal's Office.

No permit for combustible construction shall be issued prior to the required

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water source and the required fire department access roads being in-service and tested by the serving Fire Marshal or his designee.

14. Occupancy Permit

Prior to the occupancy of any non-construction related materials into the space of a newly constructed structure, an inspection and approval must be given by the serving Fire Marshal and local building inspector having jurisdiction. After the Final Inspection occurs, a Certificate of Occupancy shall be signed by both the serving Fire Marshal and the local building official, authorizing the occupant to start moving into that building. Occupancy prior to the Final inspection of the serving Fire Marshal and the issuance of Certificate of Occupancy shall result in a fee/fine as set forth in this ordinance.

11.138 –Adoption of International Mechanical Code (IMC) 2000

That a certain document, one copy of which is on file with the Town Clerk, one copy of which is kept in the Office of ~~the Merrimack Fire Department Building Division~~Community Development, being marked and designated as "The International Mechanical Code ~~2000~~" as published by International Code Council be and is hereby adopted as the Mechanical Code of the Town of Merrimack in the State of New Hampshire for the control of buildings and structures as herein provided, and each and all of the regulations; provisions, conditions and terms of the International Mechanical Code, ~~1996~~, are hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, described in Section 11.13 of this ordinance.

~~11.13.1~~ A. Section (IMC) 101.1 Insert "Town of Merrimack".

~~11.13.2~~ B. ~~Delete Sections 106.5.2 and 106.5.3 as written:~~Reserved

~~11.13.3~~ C. ~~Add Section 106.5.2 Fee Schedule:~~ "Fee Schedule for Building Construction in the Town of Merrimack:"

~~11.13.4~~ D. ~~Penalties~~Delete Section 108.4 as it now reads and replace with the following:

~~Section 108.4 Penalties:~~ Any person who shall violate a provision of this Code or shall fail to comply with any other requirements thereof, or who shall erect, construct, alter or repair mechanical equipment or systems in violation of any approved plan or directive of the building official, or of any permit or certificate issued under the provisions of this Code, shall be subject to the criminal and civil fines and penalties pursuant to Section 10 of the Town of Merrimack Zoning Ordinance and Building Code.

Fines, penalties, and remedies for violations of this code shall be the same as for violations of title LXIV, as stated in RSA 676:15 and 676:17.

~~11.13.5~~ E. Unlawful Continuance~~Delete Section 108.5 in its entirety and insert the following:~~

~~Section 108.5 Unlawful Continuance:~~ Any person who shall continue any work in or about the structure after having been served with a Stop Work Order,

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except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the criminal and civil fines and penalties pursuant to Section 10 of the Town of Merrimack Zoning Ordinance and Building Code.

F. Reserved

~~11.14~~ - Reserved

11.159 - Adoption of NFPA 70, National Electric Code ~~2002~~ edition

That a certain document, one copy of which shall be on file in the office of the Town Clerk, and one copy of which shall be located in the office of the Merrimack Fire Department Building Division Community Development of the Town of Merrimack, being marked and designated as "NATIONAL ELECTRIC CODE ~~2002~~" a.k.a. NFPA 70 and is hereby adopted as the Electric Code of the Town of Merrimack in the State of New Hampshire.

~~11.1620~~ - Driveways

~~Permits are required for construction or reconstruction of all driveways. Plan and profile plus site distance shall be submitted to the Department of Public Works for approval. Permit must be issued prior to the issuance of a building permit.~~

~~11.2117 - 22~~

11.20319 - Street (House) Numbers

All buildings requiring a certificate of occupancy shall, before said certificate can be issued, display the house number as designated by the Fire Marshal or authorized designee ~~House Numbering Committee~~, if said number has been assigned.

~~11.18-2140~~ - Sanitary Facilities at Public Swimming Pools

Any multi-family residential development, including Planned Unit Developments (PUD) or cluster residential developments as described in this ordinance, wherein dwelling units are served by a swimming pool, the pool area shall be equipped with customary lavatory facilities; i.e., toilets, showers.

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TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

SECTION 17 - SIGNS [*revised 10/27/16x/x/2020*]

17.01 - Purpose

The purpose of this article is to encourage the effective use of signage to direct movement, advertise, and inform the public while protecting public safety, preserving neighborhood character and minimizing visual clutter.

17.02 - Severability

If any part of this section, subsection, sentence, clause, or phrase is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have adopted the Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.θ

17.03 - Governmental Signs, Signs Required By Law and Flags

Nothing in this section shall prevent the erection, location or construction of signs on private property where such erection, construction or location is required by any law or ordinance enacted by the local, state or federal governments, nor shall any village district or municipally operated utility be prohibited from erecting signs on private property when otherwise permitted. This ordinance does not regulate flags of National, State, Local or historical significance.

17.04 - Permit Required

No sign shall be erected or affixed to any building exterior or placed freestanding on any parcel or altered or moved, without a permit issued by the Building Official and approved by Planning/Zoning Administrator except as otherwise exempted in this ordinance. Signs containing *noncommercial speech* are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

17.05 - Definitions

The following definitions shall apply throughout these regulations:

1. *Awning*: a removable shelter of canvas, plastic, metal or some other material, extending over a doorway or window and providing shelter from rain or sun.
2. *Awning Sign*: a sign affixed to the surface of an awning but not extending above below or beyond the awning surface.
3. *Banner Sign*: a temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames. Flags and insignias containing only markings of any government, corporation or business are not considered to be banners.

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17.05 – Definitions (continued)

- ~~3.4.~~ 4. *Billboard*: a sign which directs attention to a business, product, service, or entertainment conducted, sold, or offered at a location other than on the premises on which the sign is located. For the purposes of this ordinance, an off-premise sign becomes a billboard when it is greater than 150 square feet in size.
- ~~4.5.~~ 5. *Building Face or Wall*: all window and wall area of a building in one plane or elevation.
- ~~5.6.~~ 6. *Changeable Copy Sign*: a sign on which message copy can be changed through use of attachable letters and numerals excluding electronic switching of lamps or illuminated tubes to form words and numerals. *Changeable copy sign* includes a sign which has automatic switching, limited to time and temperature.
- ~~6.7.~~ 7. *Construction or Project Sign*: a sign erected on a project site prior to or during a construction project.
- ~~7.8.~~ 8. *Directional Sign*: a sign identifying site locations, entrances, exits, parking areas, loading areas, or other messages necessary to direct vehicles or pedestrians to, through or within a site.
- ~~8.9.~~ 9. *Directory Sign*: a sign which identifies or locates the occupants of a building or site.
- ~~9.10.~~ 10. *Electrical Sign*: a sign containing or attached to electrical wiring.
- ~~11.~~ 11. *Feather flag*: a freestanding temporary sign that is in the shape of a feather or teardrop and constructed of a non-rigid material.
- ~~10.12.~~ 12. *Flashing*: a pattern of changing light illumination where the sign illumination alternates between illuminated and non-illuminated.
- ~~11.13.~~ 13. *Flashing Sign*: a sign containing an intermittent flashing light by means of animation or an externally mounted intermittent light source.
- ~~12.14.~~ 14. *Ground Sign*: a sign erected on a freestanding frame, mast or pole that is not attached to any building.
- ~~13.15.~~ 15. *Illuminated Sign*: a sign lit with either an internal or external artificial light source.
- ~~14.16.~~ 16. *LED*: a Light-Emitting Diode is a semiconductor diode that emits light when a voltage is applied to it.
- ~~15.17.~~ 17. *Marquee*: a permanent roof-like shelter extending from part or all of a building face over a public-right-of-way, and constructed of some durable material such as metal, glass or plastic.

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17.05 – Definitions (continued)

~~16-18.~~ *Mobile Signs*: a sign mounted on wheels or a wheeled trailer primarily situated and decorated to display an advertising message.

~~17-19.~~ *Nameplate*: a non-electric sign identifying only the name and occupation or profession of the occupant of parcel on which the sign is located. If any parcel includes more than one occupant, nameplate means all names and occupations or professions as well as the name of the building and directional information.

~~18-20.~~ *Nit*: a unit of visible-light intensity that is used to describe the brightness of a display; one nit is equal to one candela per square meter (cd/m²). For an LED display it is calculated as the following: nit = candela per pixel times pixels per square meter.

~~19-21.~~ *Non-commercial Speech*: Any form of speech conducted for personal use or enjoyment without the intent of realizing a profit or recovering costs through the sale of goods or services.

~~20-22.~~ *Off-Premise Sign*: a sign visible from a public right of way identifying or advertising a business, person, activity, goods, products or services not located on the parcel where the sign is installed and maintained.

~~21-23.~~ *On-Premise Sign*: a sign visible from a public right of way identifying or advertising a business, person, activity, goods, products or services located on the parcel where the sign is installed and maintained.

~~22-24.~~ *Premise*: a lot or number of lots on which are situated a building, or group of buildings designed as a unit, or on which a building or a group of buildings are to be constructed.

~~23-25.~~ *Projecting Sign*: a sign, other than a wall sign, which is attached to, and projects more than eighteen inches from a building face or wall.

~~24-26.~~ *Real Estate Directional Signs*: real estate signs advertising an open house and located off premises.

~~25-27.~~ *Real Estate Sign*: a sign advertising exclusively the sale, rental, or lease of the premises, or a portion thereof, upon which the sign is located. ~~Such sign must be removed within fifteen days after the closing of sale, rental or lease.~~

~~26-28.~~ *Roof Sign*: a sign erected upon, against or directly above a roof, or on the top of or above the parapet of a building.

~~27-29.~~ *Rotating Sign*: a sign, or portion of a sign, which moves in a revolving manner.

30. *Scrolling Graphics*: a mode of message transition on an electronic message display sign where the message appears to move across the display surface.

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

17.05 – Definitions (continued)

~~28~~31. *Sign*: a permanent or temporary structure, device, two or three dimensional object or any combination of words, letters, figures, lights, designs, pictures, insignias, emblems, logos, banners, pennants or flags visible to the public from the outside of a building that conveys a message to the public in order to advertise, inform, identify, direct, invite or draw attention to any business, goods, products, facilities, services, activities or events that are available, provided or conducted on or off the premises. "Sign" includes any permanently installed and prominently displayed merchandise and for the purpose of removal also includes the sign structure.

~~29~~32. *Sign, Electronic Message Display*: an electronic changeable sign capable of displaying text, symbols, figures or graphics, which can be electronically or mechanically changed by remote or automatic means, and incorporates both Electronic Changeable Copy and/or Electronic Graphic Display signs.

a. *Sign, Electronic Changeable Copy*: a sign or portion thereof that displays electronically non-pictorial, text information in which each alphanumeric character or symbol is defined by some number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic Changeable Copy includes computer programmable, microprocessor controlled electronic displays. Electronic changeable copy does not include time and temperature signs.

b. *Sign, Electronic Graphic Display*: a sign or portion thereof that displays electronic static images, static graphics, or static pictures, with or without text information, defined by some number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization or dissolve modes. Electronic Graphic Display Signs include computer programmable, microprocessor controlled electronic displays.

~~30~~33. *Sign Structure*: a structure which supports or is capable of supporting a sign, including decorative cover. A sign structure may be a single pole and may or may not be an integral part of a building or structure.

~~31~~34. *Temporary/Portable Sign*: a non-electronic sign which is not permanently installed or affixed to any sign structure or building. Temporary signs shall not include Real Estate Signs or Political Signs.

~~32~~35. *Transition*: a visual effect used on an electronic message display to change from one message to another.

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17.05 – Definitions (continued)

~~33.~~36. *Wall Sign:* a sign attached to, painted on or erected against any wall of a building or structure so that the exposed face of the sign is on a plane parallel to the plane of the wall. "Wall sign" also includes any sign erected against, installed on or painted on a penthouse above the roof of a building as long as the wall of the penthouse is on a plane parallel to the wall of the building, and a sign attached to, painted on or erected against a false wall or false roof that does not vary more than thirty degrees from the plane of the adjoining elevation.

17.06 - Permit Not Required

The following signs may be erected without a permit and are not included in the maximum sign area allowed unless otherwise indicated, but must comply with all other requirements of this ordinance:

1. In all districts, one (1) sign shall be allowed on a residential property for each residence. Each sign shall have a maximum area of four (4) square feet, shall be a maximum of six (6) feet high and may not be located within ten (10) feet of an abutter or public right-of-way. Additional signage may be permitted per Section 17.09.2.
2. Wall plaques or markers on properties where a structure has been identified as historic by a local, state or federal agency.
3. In order to maintain public safety, directional or directory signs, no greater than four (4) square feet, which are located outside of setback areas and are not visible from the public right-of-way or abutting properties. Other directional or directory signs are governed by section 17.10.
4. Signs affixed to the interior side of a window so as to be visible from the exterior.
5. In order to maintain public safety, utility signs which identify the location of utility lines, cables, or pipes.
6. Lettering, logos or graphics affixed to products or packaging.
7. In order to maintain public safety, nameplate signs, not to exceed two (2) square feet, showing street addresses, property numbers, names of occupants of the premises, or other identification.
8. ~~Signs installed by governmental bodies.~~
98. Signs erected by a governmental entity, including but not limited to those for public safety and/or information, including Electronic Changing Signs (Message Centers).

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17.06 - Permit Not Required (continued)

9. One (1) temporary non-illuminated on premise real estate (for sale, rent or lease) sign not exceeding six (6) square feet in Residential districts, nor greater than twelve (12) square feet in other districts. Real estate signs shall not count against any property's total signage allowance, may be displayed for the duration the property is for sale, rent or lease, and shall be removed within fifteen (15) days after the closing of sale, rental or lease.
10. Political signs that conform to all applicable New Hampshire State Statutes, including but not limited to RSA 664:14 through 664:18 and as may be amended, and enforcement shall be through the State of New Hampshire Office of the Attorney General.

17.07 - Prohibited Signs in All Districts

1. Rotating and Revolving Signs
2. Flashing Signs
3. Billboards
4. Any changes made to the display of any sign which occurs more often than once in a ~~twenty—ten (10)(20) secondminute~~ minute period, with the exception of a time/temperature display which may change every fivefifteen (15) secondsseconds.

17.08 - Temporary Signs

1.
In all districts, one (1) temporary sign shall be allowed on each property ~~in accordance with the following standards.~~

~~For properties that are currently for sale, rent or lease, one additional temporary sign is permitted for the duration that the property maintains that status.~~ 2.

~~Temporary signs that comply with the following standards do not require a permit. All temporary signs that do not follow these standards shall be require a permit in accordance with Section 17.04, and shall adhere to the following standards:-~~

- ~~1a):~~ Sign placement shall be set back not less than ten (10) feet from any public right-of-way;
- ~~2b):~~ Sign placement shall be set back not less than twenty (20) feet from any intersection;
- ~~3c):~~ Temporary signs may be maintained displayed for a period no longer than

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thirty (30) days ~~in any consecutive ninety (90) day period whatsoever;~~

d) No one parcel may be issued more than five (5) temporary sign permits in any calendar year;

e) Temporary signs shall not be illuminated, either externally or internally; and

4f) Temporary signs shall be no larger than ~~thirty-two~~ twenty-four (3224) square feet in area.

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17.08 - Temporary Signs (continued)

3. Special Events – For multiple day special events, temporary signage can be placed on the property where the event is taking place in accordance with Section 17.08.2, however the Community Development Department, in conjunction with the Building Division, may allow deviations from the dimensional and number of sign requirements provided that a complete signage plan is submitted to the Community Development Department and is approved at least 30 days prior to the planned event.

17.09 - Signs in Residential Zones

Except as provided in subsection 17.06, only the following signs shall be permitted in residential zones:

- For public safety, Permanent Subdivision Identification Signs: One (1) single or double-faced ground sign per entrance into a development with a maximum of two per development, non-illuminated, in areas set back from vehicle or pedestrian traffic. The signs shall not exceed a total area of 32 square feet per sign, and shall be set back a minimum of twenty (20) feet from any intersection and shall be located on common land or land covered by appropriate easements and maintained by a homeowners association.
- Home Occupation Signs: One (1) home occupation sign, not to exceed two (2) square feet, in accordance with Section 2.02.1.A.2 of the Zoning Ordinance.
- Nonresidential Signs: One single or double face sign identifying any nonresidential use permitted in a residential zone. Area may not exceed six (6) square feet and such signs shall not be illuminated, rotate, or flash.

17.10 - Commercial and Industrial Districts

Except as provided for in Section 17.06, only the following signs are permitted in commercial and industrial zones; and no more than two major sign types (ground, roof, wall and projecting) are permitted per parcel.

- Residential Signs: Residential signs within these zones are subject to the regulations of Section 17.06 and 17.09.
- Temporary Signs: In addition to signs permitted under Section 17.06, temporary signs for nonresidential uses are permitted, in accordance with the requirements of Section 17.08.

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17.10 - Commercial and Industrial Districts (continued)

- c) Marquee signs must have a minimum clearance between the bottom of the sign and the ground of not less than eight feet six inches.
 - d) Where the sign is attached above or below or to the face of the marquee, the same maximum allowable area for projecting signs on the same parcel is allowed. The marquee itself shall not contain animation or flashing lights.
 - e) Permanent copy on each face of a marquee sign in commercial and industrial zones may include only the name of the occupant and the principal activities, goods, products or services located on the premises.
10. Sign, Electronic Message Display: Signs permitted in section 17.10.3 & 17.10.4 shall be permitted as electronic message display subject to the following:
- a) Electronic Message Displays shall display static messages for a period of a minimum of ~~20-10 seconds~~minutes;
 - b) Transitions from one static message to the next static message may include the use of frame effects, so long as such effects do not utilize flashing, scrolling or in any manner imitate movement;
 - c) Electronic Message Displays shall have automatic dimming technology which automatically adjusts the sign's brightness levels as specified in ~~Section 11.10 Subdivision~~the Site Plan Regulations of the Town of Merrimack; and
 - d) The owner/installer of Electronic Message Displays shall certify as part of the application that signs will not exceed the brightness levels specified in ~~Section 11.10 Subdivision~~the Site Plan Regulations of the Town of Merrimack.
 - e) Electronic Message Displays shall not be permitted as temporary signs.
11. Signage Requirements for Alternative Treatment Centers
- a) In addition to the requirements of Section 17.10, Alternative Treatment Centers that have received a Conditional Use Permit and Site Plan approval from the Planning Board shall be subject to the applicable requirements of the NH Health & Human Services Department (DHHS) Administrative Rules (He-C 400, as most recently published or amended by DHHS) pertaining to Advertising Restrictions.

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17.11 - Off-Premise Signs

Off premise signs may be erected on parcels of real estate only within the Commercial and Industrial zones. Off premise signs shall be limited to Ground Signs conforming to the regulations provided in Section 17.10.3. A parcel may contain either an On-Premise sign or an Off-Premise sign, but not both, unless it has enough frontage to display two signs (as described in 17.10.3) in which case one sign may be devoted to on-premise advertising and one sign devoted to off-premise advertising.

17.12 - Site Plan Review

A building permit for any ground sign at a nonresidential or multi-family site shall be issued only after approval by the Planning Board in accordance with the Site Plan [Review](#) [Regulations](#) of the Town of Merrimack.

17.13 - Area and Dimensional Calculations

1. Area of Ground Signs

- a) Sign face area is calculated as the total area within the smallest rectangle, circle or triangle, which will completely enclose the sign face. The sign structure shall not be included as a portion of the sign face, provided that no message, symbol, or anything that can be construed as part of the sign face is displaced on or designed as part of the sign structure.
- b) If a ground sign consists of more than one module or section, the total area of all modules or sections shall constitute the sign area.
- c) The area of one side of a double-faced sign shall be regarded as the total area of the sign provided that such sign faces are either parallel or at an angle of thirty (30) degrees or less to each other. If the sides are of unequal area, the larger shall determine the area.

2. Area of Wall Signs

- a) The sign face area of signs attached or affixed to buildings or other structures shall include all lettering, designs or symbols, together with the background, whether open or enclosed, upon which they are displayed. When signs are incorporated into canopies or awnings, the entire panel containing the sign copy is counted as the sign face area.
- b) Where a sign consists of individual letters or symbols attached, painted or applied to a building, wall or window, without any distinguishing border, panel or background, the area shall be considered to be the smallest rectangle, triangle or circle encompassing all the letters and symbols.

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17.13 - Area and Dimensional Calculations (continued)

c) In no case can the additional surrounding background area exceed the area of the copy. For the purpose of this section, the permitted background area is the total area between the lintel bar and the parapet on a one (1) story building or between the lintel bar and the floor level of the floor above on a multi-story building.

1. ~~Area: The area of a sign is considered to be the area, on the largest single face of a sign, within a perimeter which forms the outside shape of a sign. If the sign consists of more than one module (i.e. Section) the total area of all modules shall constitute the sign area. The area of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of a three dimensional, round or irregular shape, the largest cross section shall be used in a flat projection for the purpose of computing sign area (figures 1-4, Appendix to this title). If a sign is lettered on both sides back to back only one side shall be counted as the total sign area. All appendages or riders are calculated within the area of the sign to which they are appended.~~
2. ~~Height: The height of a sign is the vertical distance measured from the adjacent undisturbed grade of the sign to the highest point of the sign.~~

Appendix to Section 17 follows.