

ARTICLE 3
INDUSTRIAL/COMMERCIAL ZONE
(Revised to 2007 & 2015 Town Meeting)

- 3.1. **AUTHORITY**: This Section is enacted in accordance with the provisions of RSA 675:3.
- 3.2. **PURPOSE**: The purpose of this ordinance is to provide for the orderly development of an Industrial/Commercial zone and encourage the highest and best use of the land.
- 3.3. **OBJECTIVES**: The objectives are to attract industry and commerce to our Town, to broaden the tax base, expand employment opportunities and increase the activity of existing business establishments.
- 3.4. **BOUNDARIES**: The Industrial/Commercial Zone consists of a single contiguous area bounded on the southerly side by the Epping/Brentwood town line beginning at the southeasterly corner of the Town of Epping, thence running westerly along the town line for its entire length and continuing along the Epping/Fremont town line to the centerline of Beede Hill Road, thence northerly along the centerline of Beede Hill Road to the southerly boundary of Route 101, thence easterly along the southerly boundary of Route 101 to the centerline of the Boston & Maine Railroad (Fremont Branch), thence northerly along said centerline to the westerly boundary of land shown as Lot 292 on Epping Tax Map 29, thence along the boundary of this lot so as to include this lot in the Industrial/Commercial Zone, thence to the centerline of Main Street southerly to the centerline of Route 125 and thence northerly along the centerline of 125 to its intersection of the centerline of the Boston & Maine Railroad (Portsmouth Branch), thence turning easterly along the railroad line twelve hundred (1200) feet, thence turning and traveling northeasterly to a distance of fifteen hundred (1500) feet from the centerline of Route 27, thence turning and traveling easterly to the centerline of the Boston & Maine Railroad (Portsmouth Branch), thence turning and traveling easterly along the centerline of the Boston and Maine Railroad (Portsmouth Branch) until the Epping/Newfields town line, thence turning southerly along the Epping/Newfields and Epping/Exeter town lines to the point of the beginning. (Amended Town Meeting – March 2006).
- 3.5. **PERFORMANCE STANDARDS**:
- 3.5.1. **Sound** - The volume, duration, intermittence and frequency of sound and noise shall be controlled so as not to become objectionable or a nuisance to surrounding uses.
- 3.5.2. **Vibrations** - No operation shall be permitted which creates intense vibration discernible beyond property lines of the industry.
- 3.5.3. **Radioactivity** - No operation shall be permitted which will cause radioactivity in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, “Standards for Protection Against Radiation”, dated June 16, 1957, or any subsequent revision or amendment.
- 3.5.4. **Odor** - No emission of odorous gas or other odorous matter in such quantity as to be readily detectable at any point along lot lines without use of instruments, shall be permitted.
- 3.5.5. **Toxic or Noxious Matter** - No discharge, storage, transfer, or treatment of any toxic or noxious matter in such quantity as to be detrimental to or endanger public health, safety, comfort or welfare, or cause injury or damage to property or business shall be permitted. In addition, any proposed use for the disposal and/or storage of waste matter (including garbage, refuse and any other solid and liquid waste, other than subsurface sewage disposal with State and local approval) shall be subject to Town Meeting approval in accordance with Warrant Article 28 adopted in March of 1979.
- 3.5.6. **Glare** - No direct or reflected glare shall be detectable from any residential zone.
- 3.5.7. **Dust or Fly Ash** - No solid or liquid particles shall be emitted in any such quantity as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond the lot lines or

boundaries of the zone.

- 3.5.8. **Smoke** - No smoke shall be emitted from commercial or industrial uses in such quantity as to become a nuisance.

3.6. BUILDING DESIGN:

- 3.6.1. All structures shall be designed with due consideration of existing and proposed neighboring structures. The design of structures shall take advantage of the topography and reflect the character, scale and purpose of the area of which it is a part. All structures shall be faced with an aesthetic material.
- 3.6.2. All electrical and telephone connections and wires and all other utilities shall be located underground unless otherwise approved by the Planning Board in writing.
- 3.6.3. **Roads** - Roads within the Industrial/Commercial Zone shall be built to the specifications set forth in the Town of Epping Land Subdivision Regulations.
- 3.6.4. **Traffic Access** - All proposed site traffic access ways shall be adequate (including adequacy of adjacent streets and not excessive in number, adequate in grade, width, corners and with due consideration for safety and access for pedestrians, emergency vehicles and fire protection.
- 3.6.5. **Storage Area** - No materials, supplies, or equipment, including company owned or operated trucks and motor vehicles shall be stored in any area on a site except inside a closed building, or behind a visual barrier approved by the Planning Board, screening such areas from the street and from view of adjoining properties. Barriers shall be located on the rear portions of the sites, unless other locations are specifically approved by the Planning Board. No storage area shall extend past street setback lines established herein.
- 3.6.6. **Proper Landscaping** - The proposed site shall be landscaped, the purpose of which is to further enhance the natural qualities of the land. This shall be accomplished within ninety (90) days of occupancy or completion of the building, whichever occurs first, weather or season permitting, and shall be properly maintained by the occupant thereafter. Where adjacent land use dictates, proper screening and buffer zones may be required.
- 3.6.7. **Certificate of Occupancy** - No Certificate of Occupancy shall be issued for such building or buildings, unless the same conforms in all respects to such site plan and unless all facilities included in the site plan have been in accordance with said site plan. If a hardship exists, application may be made to the Planning Board for waiver of such discrepancies from the site plan. The waiver must be granted before construction may proceed.
- 3.6.8. **Construction Operations** - After commencement of any improvement, the work shall be diligently prosecuted so that the structure shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof.
- 3.6.9. **Excavation and Oil Drilling** - No excavation, mining or prospecting or drilling for oil, natural gas, or kindred substances shall be made on, and no sand, gravel, or soil shall be removed from, any site, except in connection with the construction of improvements, and upon completion thereof. Exposed opening shall be backfilled and disturbed ground shall be graded, leveled, and paved or landscaped in accordance with RSA:155-E.
- 3.6.10. **Signs** - See Article 19 - Sign Ordinance adopted March 8, 1994.
- 3.6.11. **Setbacks etc.** - Are as shown on Schedule I, Permitted Principal Uses and Accessory Uses are shown on Schedule II.
- 3.6.12. **Height Limitations (as adopted by the Town March 14, 1995/March 13, 2018)** – Thirty-five (35) feet - Buildings may have architectural details that exceed 35 feet. The maximum height of a building including these details shall not exceed 40 feet.

3.7. DUAL/TRANSITIONAL USES

To accommodate the transition of this zone from residential to industrial/commercial, any existing non-conforming residential use is allowed to site a dual use on the lot. The provisions of this are as follows:

1. Any added use must be a permitted use in the Industrial/Commercial Zone.
2. The residence must be owner occupied.
3. The owner must receive site plan review approval by the Planning Board.
4. Once a building permit is issued for the added use, the residential use must be removed after a period of thirty (30) years.

3.8 FLEXIBLE USE DEVELOPMENT (Adopted 3/10/98)

Pursuant to RSA 674:21, the planning board is hereby authorized to grant a Conditional Use Permit to allow for a flexible use development in accordance with the restrictions and requirements of this section. A flexible use development may not permit the establishment of a use specifically prohibited by this section.

A. Purpose - This section is to provide a flexible method to permit commercial uses that are consistent with the intent of the underlying zoning district that are not specifically enumerated in the permitted use section. All developments seeking a conditional use permit shall be administered by the Planning Board to insure that flexible use development opportunities do not adversely impact neighboring properties, the citizens of Epping, or other business opportunities.

1. Conditional Use Permits. All Flexible Use Developments shall obtain a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval.
2. Application Procedure. Applications for conditional use permits for a flexible use development shall be made in accordance with the procedures set forth in the Site Plan Review Regulations of the Planning Board. Applications shall comply with all requirements of the Site Plan Review Regulations and Subdivision Regulations, as applicable.
3. Approval of Applications. A conditional use permit shall be issued only if a flexible use development complies with all of the requirements of this section. The Planning Board may condition its approval of planned unit developments on reasonable conditions necessary to accomplish the objectives of this section or of the Epping Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law, including a reduction in allowed density, or reasonable increase in required frontage, setbacks, or any other requirement if necessary to accomplish said objectives.
4. General. The flexible use development provisions of this ordinance provide applicants with an alternative development approach intended to promote flexibility and innovation in land planning. Within this context, the regulations that are established are intended to be a minimum consideration of allowable impacts. Each tract of land possesses different, unique development characteristics and limitations, and the use allowed on any particular tract will be a function of innovative land planning and building design interacting with the special characteristics and limitations of the site.
5. Thus these provisions shall not be construed as establishing any legal right to a given use. Those who wish to pursue their "rights" to a certain use of land should consider developing their land with the traditional, permitted use approaches, or through the variance procedure as provided for by New Hampshire law.
6. Standards for approval - All standards below must be met or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

- a) The permit is in the public interest.
- b) There will be no greater diminution of neighboring property values than would be created under any other use permitted in the zone by § 1.3.
- c) That there are no existing violation of the Epping zoning ordinance on the subject property.
- d) That the character of the area shall not be adversely affected.
 - i. Architecture
 - ii. Transportation
 - iii. Scale of coverage
 - iv. Scale of building size
 - v. Consistency of uses
- b) That granting the permit will not result in undue municipal expense.
- c) That the proposed use will be developed in a manner compatible with the spirit and intent of the ordinance.
- d) That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- e) That the general welfare of the Town will be protected.
- f) That the following impacts have been mitigated to the extent practical:
 - i. Noise
 - ii. Light
 - iii. Transportation
 - iv. Visual effects
- b) Landscaped or other appropriate buffers of sufficient opacity and materials shall be required if deemed reasonably necessary for the welfare of neighboring properties or the Town.

7. Additional provisions for Multi-family in the Industrial-Commercial District. The purpose of these provisions is to meet the obligations of the Town of Epping to provide a reasonable and realistic opportunity for workforce housing that is not only affordable to build but also stable in its costs to own and operate. **(All of Section 7 was Adopted, Town Meeting – March 9, 2010)**

- a. The developer shall submit evidence and a written report to the Planning Board showing that the proposed units will assist the Town of Epping in insuring compliance with the mandate of RSA 674:58-61. The report shall provide evidence that the conditional use permit has provided a reasonable and realistic opportunity for the development of workforce housing, including rental and multi-family housing.
- b. All structures shall be in compliance with the provisions of Article 22 as if the facility were a commercial building.
- c. Shared facilities, including but not limited to parking, green space, and recreation facilities shall be required and constructed on the site.
- d. Public water and sewer shall be available to the site.
- e. All proposed developments shall be constructed with adequate facilities to address concerns related to off site impacts such as noise, visual impacts, odors, etc.
- f. Pedestrian access networks shall be constructed within the development and shall connect with

current and future planned networks and developments off site.

g. The Planning Board may consider existing and reasonable future uses and impact resulting from these uses when considering the appropriateness of the residential developments. Mitigation for such impacts may be considered by the Board but not all locations are suitable for multi-family developments.

8. Any Conditional Use Permit shall expire if: (1) the use is not in place within one year of the date of issuance of such permit; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a Conditional Use Permit must be completed.

****** ARTICLE 3, ALL SECTIONS, “THE PLANNING BOARD MAY REQUIRE SPECIAL BUFFERING OF EXISTING RESIDENTIAL AREAS.”**

****** (VOTED BY THE TOWN OF EPPING MARCH 12, 1996)**