

ORDINANCE 20-4/25/79

Chapter 21
Zoning

THE CITY OF DOVER ORDAINS:

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 21, entitled Zoning Ordinance.

Section 2. Amendment. Chapter 21, entitled Zoning Ordinance, of the Municipal Code of Ordinances, 1977, is hereby amended by deleting said Ordinance in its entirety and substituting in its place the following replacement ordinance:

" See attached Ordinance"

Section 3. Takes Effect. This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18.

SPONSORED BY

APPROVED AS TO FORM:

Councilwoman Geraldine Sylvester

Scott E. Woodman
City Attorney

Councilman Arthur D. Maglaras

APPROVED:

Councilman Raymond Hennessey

Philippe J. Morrissette
City Clerk

Councilman Arnold W. Peters

Jack M. Buckley
Mayor

Councilman Charles A. Crocco

Typed April 18, 1979

First Reading 4/25/79

Public Hearing 5/16/79

Committee of the Whole 5/16/79

Second Reading 5/23/79

Adopted 5/23/79

Effective 5/25/79

CHAPTER 21
ZONING ORDINANCE

PAGE

ARTICLE 21:1	<u>APPLICATION OF ZONING ORDINANCE</u>	1
1.1	Title	
1.2	Authority	
1.3	Purpose	
1.4	Interpretation	
1.5	Application	
1.6	Separability	
ARTICLE 21:2	<u>DEFINITIONS</u>	2
2.1	Definitions	
2.2	Other Words and Phrases	
ARTICLE 21:3	<u>ESTABLISHMENT OF ZONING DISTRICTS AND DISTRICT</u> <u>BOUNDARY INTERPRETATIONS</u>	8
3.1	Establishment of Districts	
3.2	Zoning Map	
3.3	Amendments to be Entered on Map	
3.4	Rules for Interpretation of District Boundaries	
ARTICLE 21:4	<u>USE REGULATIONS</u>	10
4.1	Applicability of Use Regulations	
4.2	Uses Permitted by Right (P)	
4.3	Uses Permitted by Right, With Conditions Imposed (by footnote)	
4.4	Uses Permitted by Special Exception (S)	
4.5	Uses Not Permitted (-)	
4.6	Planning Board Site Review Approval	
4.7	Overriding District Regulations	
4.8	Table of Uses	
ARTICLE 21:5	<u>DIMENSIONAL REGULATIONS</u>	17
5.1	Utility/Service Constraints	
5.2	Non-Conforming Parcel Restrictions	
5.3	Open Space Requirements	
5.4	Table of Dimensional Regulations	
ARTICLE 21:6	<u>SPECIAL CONDITIONS</u>	20
6.1	Application	
6.2	Multi-Family Use in Thoroughfare Business District, B-3	
6.3	Mobile Home Parks	
6.4	Farms - Livestock, Poultry and Swine	
6.5	Barber and Beauty Shops	
6.6	Gasoline Service Station	
6.7	Junk Yard	
6.8	Roadside Stands	
ARTICLE 21:7	<u>OVERRIDING DISTRICT REGULATIONS</u>	22
7.1	Applicability	
7.2	Conservation District	
7.3	Urban Renewal District	

ARTICLE 21:8 EXTRACTION INDUSTRY REGULATIONS 26

- 8.1 Applicability
- 8.2 Requirements
- 8.3 Enforcement

ARTICLE 21:9 SIGNS AND FENCES 28

- 9.1 Accessory Signs
- 9.2 General Restrictions - Signs
- 9.3 District Restrictions - Signs
- 9.4 Illumination - Signs
- 9.5 Height Restrictions - Fences
- 9.6 Design Criteria - Fences
- 9.7 Exceptions - Fences

ARTICLE 21:10 NON-CONFORMING LOTS, USES AND STRUCTURES 30

- 10.1 Non-Conforming Lots
- 10.2 Non-Conforming Uses of Land
- 10.3 Non-Conforming Structures
- 10.4 Repairs and Maintenance
- 10.5 Uses Under Special Excemption Provisions
Not Non-Conforming Uses.

ARTICLE 21:11 OFF-STREET PARKING, LOADING REQUIREMENTS 33

- 11.1 General Requirements
- 11.2 Off-Street Parking Requirements
- 11.3 Off-Street Loading Requirements

ARTICLE 21:12 ADMINISTRATION 36

- 12.1 Administrative Officer
- 12.2 Building Permit
- 12.3 Certificate of Occupancy
- 12.4 Building Permit Fees
- 12.5 Enforcement and Penalties
- 12.6 Zoning Board of Adjustment
- 12.7 Amendments

AMENDED

ORDINANCE ~~15-8/27/80~~ 15-80

Chapter 21
Zoning

THE CITY OF DOVER ORDAINS:

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 21, entitled Zoning Ordinance.

Section 2. Amendment. Chapter 21, entitled Zoning Ordinances of the Municipal Code of Ordinances, 1977 is hereby amended by rewording Sections 21:2.1, 21:12.3.D, 21:12.5B, 21:12.6.C.4, and by adding the following new sections 21:11.1.h. and 21:11.2.v, as follows:

21:2 Frontage.....The linear distance measured along the front lot line between the points of intersection with the side lot lines. Frontage along cul-de-sacs shall be the linear at the appropriate front-yard building setback depth from, the front lot line between the points of intersection with the side lot lines. For the purposes of measurement, lot frontage shall be measured along the joint boundary of the front line and a public right-of way.

Lot.....A tract of land under single ownership and occupied by, or designed to be occupied by one principle building and its accessory buildings or uses customarily incident to it, together with such open spaces and yards as are required by this ordinance, exclusive of multi-family dwellings and industrial I-1 and I-2, zoning districts.

21:12.3 Certificate of Occupancy.

D. Action on Application - The Building Inspector shall, within fifteen (15) working days of receipt of such application, render a decision either granting a certificate of occupancy, a temporary certificate of occupancy, or denying said application. When a certificate of occupancy is requested on a project, the Building Inspector shall defer action until in receipt of signoff from the Planning Director, Director of Public Works, Fire Chief and Police Chief certifying the adequacy of required improvement

21:12.5 Enforcement and Penalties.

B. Prosecution of Violations - If the Notice of Violation and Order is not complied with, the Building Inspector shall cause to be initiated the appropriate action or proceeding so to prevent any continued unlawful action, or condition and to restrain, correct or abate such violations. Any person who knowingly takes part i continuance of said violation(s) shall, for each and every violation(s), be liable to a fine not to exceed one hundred doll (\$100.00). Each day beyond the expiration of the afore-mentione Notice of Violation and Order shall constitute a separate offens

21:12.6 Zoning Board of Adjustment.

21:12.6.C.4 Variances - The Zoning Board of Adjustment may authorize a variance from the terms of this ordinance for:

- a. A particular use
- b. A parcel of land
- c. An existing/proposed building

Said variance shall only be granted where unusual difficulty or special hardship would be imposed by the literal application and rigorous enforcement of this ordinance.

In granting variances, the Board, if it deems it proper to the carrying out of the intent and purpose of this ordinance, may impose such reasonable and additional stipulations and conditions as will, in its judgement, better fulfill the purpose of the Ordinance.

21:11.1 General Requirements.

21:11.1.h In the B-2 zoning district (Central Business District) all on-site parking standards required pursuant to Article 21:11.2 of this ordinance shall be binding except in such cases involving the development of previously vacant/vacated parcels.

21:11.2 Off Street Parking Requirements.

21:11.2.v. Elderly Multi-family - one space for every two units

Section 3. Takes Effect. This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18.

APPROVED AS TO FORM:

SPONSORED BY

Scott E. Woodman
City Attorney

APPROVED:

City Clerk

Donald E. Mitchell
Mayor

Councilman James H. McAdams

First Reading 8/27/80

Public Hearing 9/17/80

Second Reading 9/24/80

Adopted 9/24/80

Effective 9/26/80

Re-typed as Amended: 9/29/80

CHAPTER 21
ZONING ORDINANCE

ARTICLE 21:1 Application of Zoning Ordinance.

SECTION ANALYSIS

- 21:1.1 Title
- 21:1.2 Authority
- 21:1.3 Purpose
- 21:1.4 Interpretation
- 21:1.5 Application
- 21:1.6 Separability

21:1.1 Title. This Ordinance shall be known and may be cited as the "Zoning Ordinances of the City of Dover, New Hampshire.

21:1.2 Authority. This Ordinance is adopted pursuant to the authority granted by Chapter 31:60-89 New Hampshire Revised Statutes Annotated, 1955 as amended.

21:1.3 Purpose. This Ordinance is an element of the Dover Comprehensive Development Plan and is designed to promote the health, safety, morals and the general welfare of Dover's residents by serving to facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements; to encourage the maintenance of Dover's economic and aesthetic quality of life; and to encourage the most appropriate use of land throughout the City of Dover.

21:1.4 Interpretation. The provisions of this Ordinance shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals and the general welfare of the City of Dover. The provisions of this Ordinance are not intended to repeal, or in any way impair or negate any other lawfully adopted ordinance, regulations or rule. Whenever the regulations made under the authority hereof differ from those prescribed by any ordinance or regulation, that provision which imposes the greater restriction shall govern.

21:1.5 Application. All buildings or structures hereafter erected, reconstructed, altered, enlarged or relocated, or all future use of premises in the City of Dover shall be in conformity with the provisions of this Ordinance. This Ordinance shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is used at the time of enactment of this Ordinance.

21:1.6 Separability. The invalidity of any section, subsection or provision of this Zoning Ordinance shall not invalidate any other section, subsection or provision thereof.

ARTICLE 21:2 Definitions.

SECTION ANALYSIS

21:2.1 Definitions

21:2.2 Other Words and Phrases

21:2.1 Definitions. For the purposes of this Ordinance, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word "shall" is mandatory; the word "may" is permissive; the words "used" or "occupies" include the words "intended," "designed" or "arranged to be used" or "occupied," and certain terms or words shall be interpreted as follows:

Accessory Building...A building existant on the same lot and within the same zoning district as the principal building shall be customarily incident and subordinate to the principal building, subject however, to the provisions of 21:3.4 (e).

Accessory Use..... A use existing on the same lot and within the same zoning district as the principal use shall be customarily incident and subordinate to the principal use, subject however, to the provisions of 21:3.4 (e).

Alter, Alterations...Any change involving the structural frame of a building or the use of a building.

Auto Service.....A place of business which offers as a service the repair of automobiles. Such auto service place shall not be construed to be a gasoline station.

Building.....Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind and which is constructed and permanently affixed on the land. Such building includes open porches, open breezeways, and any other roofed areas. This in no way is to be construed to include a trailer, mobilehome or any other like product.

Bulk.....A term used to indicate the size, setbacks and location of a building upon a lot.

Country Club.....In this Ordinance the term Country Club shall mean a non-profit establishment involving the use of a golf course, swimming pool or tennis courts and a structure designed as a center for these activities within which food and drink may be served to members of said club and their guests. The term Country Club shall not be so construed as to include within its meaning any operation conducted with a profit making intent.

Coverage.....The percentage of area of a lot which is occupied by the physical limits of a building or buildings. Roofed area to the extent of the drip line shall constitute the physical limits of a building.

Cover Crop.....Vegetation designed to prevent erosion of the soil.

Customary Home

OccupationAn occupation carried on a secondary use in a dwelling unit or accessory building by the occupant of such unit. For the use of a dwelling or accessory building in any "R" District for a home occupation, the following conditions shall apply:

- (1) Home occupation shall include not more than one (1) of the following uses provided such uses are clearly incidental and secondary residential purposes: dress-maker, artist, arts and crafts, writer, teacher, (providing not more than eight pupils simultaneously occupy the building) musician, antique dealer, lawyer, doctor, photographer, dentist, architect, engineer or practitioner of any other profession or similar occupation which may be unobtrusively pursued in a residential area.
- (2) No more than one non-resident shall be employed therein.
- (3) The use is carried on strictly by the owner of the principal building, who shall also reside in said building.
- (4) No more than 25 percent of the existing net floor area of the principal and any accessory buildings not to exceed 600 square feet is devoted to such use.
- (5) There shall be no display of goods or wares visible from the street.
- (6) No advertising on the premises other than a small non-electric sign not to exceed two square feet in area and carrying only the occupant's name and his occupation.
- (7) The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic emission of odor, gas, smoke, dust, noise, electrical disturbance, or in any other way. In a multi-family dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multi-family structure.

- (8) Any such building shall include no feature of design not customary in buildings for residential use.
- (9) Such uses as clinics, bakeries, gift shops, tea rooms, tourist homes, animal hospitals, kennels and others of a similar nature shall not be considered as home occupations.
- (10) A minimum of two (2) off-street parking spaces shall be provided. All driveways to be used in connection with such occupations shall conform to the City's Driveway Ordinance.
- (11) Not more than one (1) commercial vehicle in connection with such home occupation shall be stored on the premises.
- (12) A certificate of occupancy for the proposed use is issued by the Building Inspector verifying conformance with the preceding standards.

Drive-In Service.... Service whereby the customer need not leave his vehicle in order to obtain the product offered for sale.

Dwelling Unit..... A building or entirely self-contained portion thereof containing complete housekeeping facilities not in common with any other dwelling unit, except for vestibules, entrance halls, porches or hallways.

Dwelling,
Single Family.... A detached building containing one dwelling unit only.

Dwelling,
Multi-Family..... A building containing more than four dwelling units.

Educational Use.... Schools giving group instruction.

Extension (Use).... The enlargement of a business, industrial or residential activity beyond the limits in use at the time this ordinance was passed.

Extension (Building) Any action which shall cause the floor area or volume of a structure to be increased.

Floor Area..... The sum of the gross horizontal areas of all floors of any building or buildings on a lot measured from the exterior walls. In particular, the floor area shall include:

- (1) In dwellings, any basement space designed to be used for residential purpose.
- (2) In other than dwellings, any basement or cellar space used for any purpose.
- (3) In all buildings, interior balconies, mezzanines roofed porches or terraces and all spaces other than basement or cellar spaces with structural head room of at least seven feet.

- Floor Ratio.....The floor area of any building or buildings on a lot divided by the area of said lot.
- Gasoline Station....An automobile service station, the basic function of which is to provide for the sale of gasoline and oil and routine automobile maintenance.
- General Farming....The pursuit of these activities normally associated with the raising of a crop or the care of animals for agricultural purposes.
- Height of Building..The vertical distance measured from the grade level to the highest level of the roof surface or front parapet, whichever is greater. Church steeples shall not be included in this calculation.
- Height Ratio.....The height of a building divided by the horizontal distance of the foremost point of the building from the center line of the street, measured at right angles to said center line.
- Hotel.....Any building in which more than five rooms are rented to more than ten persons, said rooms being rented for sleeping purposes for compensation and reached from hallways common to more than two.
- Junk Yard.....An open area where waste, used or second hand materials are brought, sold, exchanged, stored, baled, packed dissembled or handled, including but not limited to scrap iron and other metals, paper rags, rubber tires and bottles. The term junk yard shall not include uses established entirely within enclosed buildings.
- Junk Yard -
Motor Vehicle....The term "Motor Vehicle Junk Yard" as used herein shall include any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles which are no longer operable or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage or other waste or discarded or secondhand material which has been a part or intended to be a part of any motor vehicles, the sum of which parts or materials shall be equal in bulk to two or more motor vehicles. Motor Vehicle Junk Yard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof.
- Light Industry.....In this ordinance the term "Light Industry" includes all manufacturing and assembly processes carried on completely within the walls of a structure and involving no outside storage of equipment or materials. This term shall not be interpreted to include any industry the operations of which shall result in noticeable noise, glare, vibration, odor or other nuisance at the property lines of the property on which the use is situated.

- Loading Berth.....A berth designed for the on-loading and off-loading of trucks and other commercial vehicles.
- Lot.....A tract of land under single ownership and occupied by, or designed to be occupied by one principle building and its accessory buildings or uses customarily incident to it, together with such open spaces and yards as are required by this Ordinance, exclusive of multi-family dwellings.
- Frontage.....The linear distance measured along the front lot line between the points of intersection with the side lot lines. Frontage along cul-de-sacs shall be the linear distance measured along a line running parallel to and at the appropriate front-yard building setback depth from, the front lot line between the points of intersection with the side lot lines.
- Mobilehome.....Mobilehome shall mean any vehicle used or so constructed as to permit its being used as a conveyance or transported upon its own wheels upon the public streets or highways and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons, and provided with a toilet and bathtub or shower. A prefabricated residential unit shall not be construed as a trailer or mobilehome if said unit is supported by a permanent foundation.
- Mobilehome Park or Trailer Park ..Mobilehome park or trailer park shall mean any plot of ground upon which two or more mobilehomes, occupied for dwelling or sleeping purposes are located.
- Motel (See Hotel)..A building or group of buildings containing rooms or apartments that are rented or hired out for sleeping purposes and which rooms have direct outside access.
- Neighborhood.....A grouping of structures with more clearly evident relationship to one another than to other structures in the community.
- Non-Conforming BulkA building or use of land is non-conforming as to bulk if it does not conform to the prescribed bulk regulations of the district in which it is located.
- Non-Conforming Use..A lawful use that does not conform to the prescribed use regulations of the district in which it is located.
- Nuisance.....A factor generally recognized to be undesirable such as odor, noise, glare or vibration.

Parking Space.....An off-street area available with paved surface, accessible and suitable for parking one motor vehicle.

Personal Service

Establishment.....In this ordinance a personal service establishment shall mean a commercial use, the primary concern of which is the rendering of services rather than the sale of products. Primary concern shall mean less than 50% of the revenues from such commercial use shall be gained from the sale of products. Personal service establishment shall not be construed to include a gasoline service station.

- Planning Board.....In this ordinance, Planning Board means Planning Board of the City of Dover, as provided in the New Hampshire Revised Statutes Annotated 36:15.
- Room.....An unsubdivided portion of the interior of a dwelling unit, excluding bathrooms, closets, hallways, and service porches.
- Rooming House.....Any building in which not more than five rooms are rented to not more than ten persons, said rooms being for a sleeping purpose for compensation.
- Service Club.....Service Club shall be defined as an establishment to be used as a gathering place for a group of citizens organized for a non-profit purpose.
- Sign.....A sign as a name, identification, description, display or illumination which is affixed to, or painted or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.
- Site Plan.....A plan of the owner's property showing the property lines, location of buildings, means of ingress and egress (access to offstreet parking and curb cuts) on the owners property and the general relationship of this property to the abutting property.
- Structure.....A framework of support.
- Tourist Home.....A dwelling in which rooms are rented or hired out for sleeping purposes to transient guests.
- Used Car Lot.....A unenclosed space on which three (3) or more used cars are stored or offered for sale.
- Warehousing.....This term shall only include the activity of storing wares or goods by the occupant in his own behalf or for the benefit of others.
- Wholesaling.....This term shall only include the activity of storage repacking, sale and/or distribution of commodities in bulk quantities to jobbers, retailers, processors, and manufacturers and shall not allow the sale and/or distribution of commodities to consumers on a retail basis.
- Yard - Front.....An open unoccupied space on a lot between the street line and a line parallel thereto at such distance therefrom as may be specified herein for the district in which said lot is located.
- Yard - Rear.....An open unoccupied space on a lot between the rear lot line and a line parallel thereto at such distance therefrom as may be specified herein for the district in which said lot is located.
- Yard - Side.....An open unoccupied space on a lot between the side lot line and a line parallel thereto at such distance therefrom as may be specified herein for the district in which said lot is located.

Zoning Board of Adjustment...In this Ordinance, Zoning Board of Adjustment means Zoning Board of Adjustment of the City of Dover, as provided in the New Hampshire Revised Statutes Annotated 36-6:6.

CHAPTER 21
ZONING

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 21 of the Municipal Code of Ordinances, 1977.

Section 2. Amendment. Chapter 21, entitled Zoning, of the Municipal Code of Ordinances, 1977, is hereby amended by altering the official Zoning Map of the City of Dover, referred to in Section 21:3.2 of said chapter as follows:

"21:3.2 Zoning Map.

To amend the official Zoning Map, City of Dover, dated May 25, 1979, by rezoning the following area from its present district classification as R-20 (Low Density Residential) to I-1 (Restricted Industrial): That area of land designated on Assessor's Map H, Lot 35."

Section 3. Takes Effect. This ordinance shall take effect upon passage and publication of public notice as required by RSA 47:18.

INTRODUCED BY

APPROVED AS TO FORM:

James H. McAdams, Councilman

Scott E. Woodman
City Attorney

1st Reading 12/10/80
Public Hearing 12/17/80
2nd Reading _____
Adopted _____
Effective _____

APPROVED

Rosemarie Twardus
Deputy City Clerk

Regular Council Meeting Held: Dec. 10, 1980
McAdams moved, seconded by Sylvester to refer to a Public Hearing on Dec. 17, 1980 at 7:00 P.M. in the Council Chambers. Unanimously approved.

Donald Mitchell
Mayor

Typed: December 3, 1980

SECTION ANALYSIS

- 21:3.1 Establishment of Districts
- 21:3.2 Zoning Map
- 21:3.3 Amendments to be Entered on Map
- 21:3.4 Rules for Interpretation of District Boundaries

21:3.1 Establishment of Districts. The City of Dover is hereby divided into the following zoning districts:

Residential

- R-40 Rural Residential District
- S-20 Low Density Residential District
- R-12 Medium Density Residential District
- RM-20 Suburban Density Multi-Residential District
- RM-12 Low Density Multi-Residential District
- RM-10 Medium Density Multi-Residential District
- RM-8 High Density Multi-Residential District
- RM-6 Urban Density Multi-Residential District

Non-Residential

- O Office District
- B-1 Neighborhood Business District
- B-2 Central Business District
- B-3 Thoroughfare Business District
- I-1 Restricted Industrial District
- I-2 Industrial District

Overriding

- CD Conservation District

- 21:3.2 Zoning Map. The location and boundaries of the Zoning Districts are hereby established as shown on a map entitled "Zoning Map of the City of Dover, New Hampshire" dated _____ which accompanies and is hereby declared to be part of this Ordinance.
- 21:3.3 Amendments to be Entered on Map. Any change in the location of boundaries of a Zoning District hereafter made through the amendment of this Ordinance shall be noted on the zoning map.
- 21:3.4 Rules for Interpretation of District Boundaries. Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules shall apply:
 - a. Boundaries indicated as a street, railroad, watercourse, or other body of water shall be construed to be the centerline or middle thereof;
 - b. Boundaries indicated as following approximately or parallel to a street, railroad, watercourse or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map.

- c. Where a dimensioned boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.
- d. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other body of water, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angles to the tangent of the curve at the point of intersection;
- e. Where a district boundary divides one lot and more than fifty (50) percent of the area of such lot lies in the less restricted district, the regulations prescribed by this Ordinance for the less restricted district may apply to the remainder of said lot up to a distance of not more than fifty (50) feet from the district boundary. In no case, however, shall such extension of the less restricted district be permitted closer than one hundred (100) feet to any street line in the more restricted district.

ARTICLE 21:4 Use Regulations.

SECTION ANALYSIS

- 21:4.1 Applicability of Use Regulations
- 21:4.2 Uses Permitted by Right (p)
- 21:4.3 Uses Permitted by Right, With Conditions Imposed (by footnote)
- 21:4.4 Uses Permitted by Special Exception (S)
- 21:4.5 Uses Not Permitted (-)
- 21:4.6 Planning Board Site Review Approval
- 21:4.7 Overriding District Regulations
- 21:4.8 Table of Uses

- 21:4.1 Applicability of Use Regulations. Except as herein provided, no building or land shall be used except for the purposes permitted in the district as described in this Article.
- 21:4.2 Uses Permitted by Right. A use listed in the Table of Use Regulations is permitted as a matter of right in the district in which it is denoted by the letter "P", subject to the rules set forth in this Zoning Ordinance and other sections of the Municipal Code of Ordinances of the City of Dover.
- 21:4.3 Uses Permitted by Right, With Conditions Imposed. A use listed in the Table of Use Regulations and denoted by a numerical reference number (footnote) indicates a use that is permitted by right only when in compliance with certain imposed conditions. Refer to the "Footnotes - Conditions Imposed" section immediately following the Table of Use Regulations.
- 21:4.4 Uses Permitted by Special Exception. A use listed in the Table of Use Regulations and denoted by the letter "S", may be permitted as a Special Exception granted by the Board of Adjustment in accordance with the conditions of Section 21:6 and Section 21:12.6 herein and in conformance with such other rules and regulations as may apply. The designation "S" in a given district does not constitute an authorization of an assurance that such use will be permitted.
- 21:4.5 Uses Not Permitted. A use designated as "-" in the Table of Use Regulations shall not be permitted in the district.
- 21:4.6 Planning Board Site Review Approval. All non-residential uses proposed for development/redevelopment and all multi-family residential uses wherein more than five (5) units are proposed for development shall be subject to the rules and regulations contained in the Site Review Ordinance of the City of Dover.
- 21:4.7 Overriding District Regulations. All uses are subject to the regulations of the Overriding Districts as listed and defined in this Ordinance. Refer to Section 21:7.
- 21:4.8 Table of Uses. Uses permitted in those Zoning Districts identified in Section 21:3.1 shall be as set forth in the following Table of Use Regulations:

- I. Principal Uses
- II. Accessory Uses

CHAPTER 21 (170)

ZONING

THE CITY OF DOVER ORDAINS:

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 21 of the Municipal Code of Ordinances, entitled Zoning Ordinance.

Section 2. Amendment. Chapter 21, entitled Zoning, of the Municipal Code of Ordinances, 1977, is hereby amended by deleting the language contained in footnote #6, 21:4.8, Table of Use Regulations and replacing it with the following new language:

"(6) Providing mobile homes are placed within mobile home subdivisions. Installation of mobile homes shall be contingent upon the Building Inspector's certification that such units comply with HUD Mobile Home Construction Standards (1976) and the placement of such units shall be on a continuous masonry foundation (frostwall - floating slab)."

Section 3. Amendment. Chapter 21, entitled Zoning, of the Municipal Code of Ordinances, 1977, is hereby amended by deleting footnote #6, 21:4.8 Table of Use Regulations under the R-20 column and replacing it with a ().

Section 4. Amendment. Chapter 21, entitled Zoning, of the Municipal Code of Ordinances, 1977, is hereby amended by adding the following new definition to 21:2.1:

"Mobile Home Subdivision - Any subdivision involving a division of land into two (2) or more lots, designed to accommodate one or more individual mobile homes."

Section 5. Takes Effect. This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18.

SPONSORED BY

APPROVED AS TO FORM

Scott E. Woodman
Scott E. Woodman, City Attorney

Raymond F. Hennessey
Mayor Raymond F. Hennessey, By Request

RECORDED BY

Carol E. Salava
Carol E. Salava, City Clerk

FIRST READING May 25, 1983

PUBLIC HEARING JUN 22

ORDINANCE COMMITTEE _____

SECOND READING JUN 22

ADOPTED JUNE 22, 83

EFFECTIVE JUNE 25, 1983

Raymond F. Hennessey
Raymond F. Hennessey, Mayor

Typed: May 18, 1983

PASSAGE OF ORDINANCES
City of Dover, NH

This is an official notice that the Dover City Council passed the following ordinance at the special council meeting held June 22, 1983

ORDINANCE 19-83, CHAPTER 21 ZONING

This allows mobile homes in designated areas.

Copies of the above ordinance are available in the City Clerk's office. This ordinance shall take effect upon passage and publication of the public notice as required by RSA 47:18.

Carol E. Salava
City Clerk
6/25/83

I. RESIDENTIAL USES

A. RESIDENTIAL USES

1. One family dwelling
2. Two family dwelling
3. 3-4 family dwelling
4. Multi-family dwelling
5. Mobile Home unit
6. Mobile Home Park
7. Rooming House
8. Conversion of existing dwelling to accommodate not more than two units
9. Conversion of existing dwelling to accommodate not more than four units
10. Conversion of existing dwelling to accommodate five or more units

	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	0	B-1	B-2	B-3	I-1	I-2	Special Condition
1. One family dwelling	P	P	P	P	P	P	P	-	P	P	-	-	-	-	-
2. Two family dwelling	-	-	-	P	P	P	P	-	P	-	-	-	-	-	-
3. 3-4 family dwelling	-	-	-	(1)	(2)	(3)	(4)	P	P	-	-	-	-	-	-
4. Multi-family dwelling	-	-	-	(1)	(2)	-	(4)	(5)	(4)	-	(5)	S	-	-	21:6.2
5. Mobile Home unit	(6)	(6)	-	-	-	-	-	-	-	-	-	-	-	-	21:6.3
6. Mobile Home Park	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-
7. Rooming House	-	-	-	-	-	-	(7)	-	(7)	-	-	-	-	-	-
8. Conversion of existing dwelling to accommodate not more than two units	(8)	(8)	(8)	(1)	(2)	(3)	(4)	P	(4)	S	S	S	S	S	21:12.6
9. Conversion of existing dwelling to accommodate not more than four units	-	-	-	(1)	(2)	(3)	(4)	P	(4)	S	S	S	S	S	21:12.6
10. Conversion of existing dwelling to accommodate five or more units	-	-	-	(1)	(2)	-	(4)	(5)	(4)	S	(5)	S	S	S	21:6.2 & 21:12.6

FOOTNOTES - CONDITIONS IMPOSED

- (1) Providing the lot upon which such multi-family residence is to be constructed shall contain at least 4,000 square feet for each dwelling unit.
- (2) Providing the lot upon which such multi-unit residence is to be constructed shall contain at least 6,000 square feet for each dwelling unit. A maximum of six (6) units per building is allowed.
- (3) Providing the lot contain at least 2,000 square feet for each dwelling unit, plus an additional 500 square feet for every bedroom contained in such multi-unit residence. A maximum of four (4) units per lot is allowed.
- (4) Providing the lot contain at least 2,000 square feet for each dwelling unit.
- (5) Providing the lot contain at least 600 square feet for each dwelling unit.
- (6) Mobile homes shall be permitted on individual lots only in duly licensed mobile home parks.
- (7) Provided no more than five rooms are rented to no more than ten persons.
- (8) Any dwelling unit existing on or before May 27, 1964 may be converted providing the lot contain at least 4,000 square feet per dwelling unit and a minimum floor area of 500 square feet per dwelling unit.

NOTE: All right -of-ways shall be deleted from the lot area when calculating the maximum permitted number of units.

21:4.8 TABLE OF USE REGULATIONS

I. PRINCIPAL USES

B. AGRICULTURAL USES

Special Conditions:

	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-6	0	B-1	B-2	B-3	I-1	I-2	
P	P	-	-	P	P	-	-	-	-	-	-	-	-	
P	S	-	-	S	-	-	-	-	-	-	-	-	-	21:6.8
(1)	(2)	-	-	(2)	S	-	-	-	-	-	-	-	-	21:6.4
(3)	-	-	-	-	-	-	-	-	-	-	-	-	-	

1. Agriculture, horticulture and floriculture.
2. Greenhouses, retail sale of agricultural or farm products raised on-site.
3. Farms - livestock, poultry and swine.
4. Veterinary office, animal hospital, kennel.

FOOTNOTES - CONDITIONS IMPOSED

- (1) Where livestock, poultry and swine are raised and boarded, shelters to house said animals shall not be less than one hundred (100) feet from any property boundary.
- (2) Farms shall be permitted where livestock, poultry and swine are raised and boarded provided the tract upon which said animals are kept shall support a minimum land area of 100,000 square feet. In no instance shall the shelters and pens or runs used to contain said animals be closer than one hundred (100) feet from any property boundary.
- (3) Shelters and runs used to house and/or contain animals shall be no closer than one hundred (100) feet from any property line and must support a maximum tract size of 100,000 square feet.

I. PRINCIPAL USES

C. COMMERCIAL USES

1. Auto Service
2. Barber or Beauty Shop
3. Banks -
4. Com. Parking Facilities
5. Com. Recreation Facilities
6. Country Club
7. Drive-In Theatres
8. Eating and Drinking Est.
9. Farm Produce
10. Fuel, Oil, Gas Storage
11. Funeral Parlor
12. Gas Service Stations
13. Gravel Pit
14. Hotel
15. Junk Yard
16. Liquor Store
17. Motel
18. Motor Vehicle Junk Yard
19. New Car Sales

	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	0	B-1	B-2	B-3	I-1	I-2	Special Conditions
1. Auto Service	-	-	-	-	-	-	-	-	-	-	-	S	S	P	21:6.6
2. Barber or Beauty Shop	-	-	-	-	-	S	S	-	-	P	P	P	-	-	21:6.5
3. Banks -	-	-	-	-	-	-	-	P	-	P	P	P	-	-	
4. Com. Parking Facilities	-	-	-	-	-	-	P	-	-	-	P	-	P	P	
5. Com. Recreation Facilities	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
6. Country Club	P	-	-	-	-	-	-	-	-	-	-	-	-	-	
7. Drive-In Theatres	P	-	-	-	-	-	-	-	-	-	-	-	-	-	
8. Eating and Drinking Est.	-	-	-	-	-	-	-	-	-	(1)	(1)	(9)	-	P	
9. Farm Produce	(2)	(2)	-	-	-	-	-	-	-	-	-	-	-	-	
10. Fuel, Oil, Gas Storage	-	-	-	-	-	-	-	-	-	-	-	-	P	P	
11. Funeral Parlor	-	-	-	-	-	-	P	-	P	-	-	-	-	-	21:6.6
12. Gas Service Stations	-	-	-	-	-	-	-	-	-	-	-	S	S	-	
13. Gravel Pit	P	-	-	-	-	-	-	-	-	-	P	-	-	-	
14. Hotel	-	-	-	-	-	-	-	-	-	-	-	-	-	-	21:6.7
15. Junk Yard	S	-	-	-	-	-	-	-	-	-	P	-	-	-	
16. Liquor Store	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
17. Motel	-	-	-	-	-	-	-	-	-	-	P	-	-	-	
18. Motor Vehicle Junk Yard	-	-	-	-	-	-	-	-	-	-	-	-	-	(3)	
19. New Car Sales	-	-	-	-	-	-	-	-	-	-	P	P	-	P	

I. PRINCIPAL USES

C. COMMERCIAL USES

(continued)

	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	0	B-1	B-2	B-3	I-1	I-2	Special Conditions
20. Offices	(4)	(4)	(4)	(4)	(4)	(4)	(4)	-	P	-	P	P	P	P	
21. Open Storage	-	-	-	-	-	-	-	-	-	-	-	-	(5)	(5)	
22. Per. Serv. Est.	-	-	-	-	-	-	-	-	-	P	P	P	P	-	
23. Rec. Camps	P	-	-	-	-	-	-	-	-	-	-	-	-	-	
24. Retail Stores	-	-	-	-	-	-	-	-	-	P	P	P	-	-	
25. Service Club	-	-	-	-	-	-	(6)	P	P	P	P	P	-	-	
26. Theatres	-	-	-	-	-	-	-	-	-	-	P	P	P	P	
27. Trucking Term.	-	-	-	-	-	-	-	-	-	-	P	P	P	P	
28. Used Car Sales Place	-	-	-	-	-	-	-	-	-	-	P	P	P	P	Cor, 6/22/82 IB
29. Warehousing	-	-	-	-	-	-	-	-	-	-	(7)	(7)	-	-	
30. Wholesaling	(8)	-	-	-	-	-	-	-	-	-	-	-	P	P	

FOOTNOTES

- (1) If fully enclosed with no drive in service.
- (2) Subject to the same conditions as specified in Section B of this Article, footnote #1.
- (3) If completely surrounded by a solid fence or wall not being less than seven (7) feet in height. No portion of the yard shall be located less than two hundred (200) feet from all abutting vehicular right-of-ways.
- (4) Permitted only if operated as a customary home occupation. Refer to definition, Section 21:2.1.
- (5) Provided that safety precautions be implemented so to prevent the endangerment of people and property adjacent to said storage. Screening of all open storage shall be accomplished through use of a fence, wall or vegetal (evergreens) material. All screening shall be at least six (6) feet in height.
- (6) Provided no sale or consumption of alcoholic beverages on the premises.
- (7) If an accessory use to a franchised new car dealership.
- (8) If for the storage of farm products.
- (9) Provided the following bulk restrictions be adhered to: (a) minimum lot size - 60,000 sq. ft.; (b) minimum lot width - 150 ft; (c) 25% of the parcel shall be open/green area; and (s) total permitted sign area shall not exceed 100 square feet.

* Applies to Eating & Drinking Est. Only.

21:4.8 TABLE OF USE REGULATIONS

I. PRINCIPAL USES

	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	0	B-1	B-2	B-3	I-1	I-2	Special Conditions
D. <u>INDUSTRIAL USES</u>															
1. Light Industry	-	-	-	-	-	-	-	-	-	-	-	-	P	P	
2. Industry	-	-	-	-	-	-	-	-	-	-	-	-	-	P	

E. COMMUNITY/PUBLIC USES

	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	0	B-1	B-2	B-3	I-1	I-2	Special Conditions
1. Church	P	P	P	P	P	P	P	P	-	-	-	P	-	-	
2. Clinic	P	-	-	-	-	-	-	-	P	-	-	-	-	P	
3. County Buildings	-	-	-	-	-	-	-	-	P	-	P	-	-	-	
4. Hospital	-	-	-	-	-	-	-	-	P	-	-	-	-	-	
5. Non-profit Ed. Institute	P	P	P	P	P	P	P	P	-	-	-	-	-	-	
6. Profit Educational Institution	P	(1)	(1)	-	-	(1)	(1)	-	P	-	P	-	P	-	
7. Nursing Home	P	-	-	-	-	-	P	-	P	-	-	-	-	-	
8. Public Recreation	P	P	P	P	P	P	P	P	P	-	P	-	P	-	
9. Public Utility	P	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	P	P	

FOOTNOTES - CONDITIONS IMPOSED

- (1) Permitted only if operated as a customary home occupation. Refer to definition, Section 21:2.1
- (2) The utility facility shall be appropriately fenced so to protect the public. Landscaping materials shall be required so to provide a visual screen from any structures and storage within.

	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	0	B-1	B-2	B-3	I-1	I-2
(1) Accessory Use	P (1)	P (1)	P (1)	- (1)	P (1)	P (1)	P (1)	P (1)	P (1)	P (1)	P (1)	P (1)	P (1)	P (1)
(2) Swimming Pool	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(3) Open Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-

II. ACCESSORY USES

- (1) Accessory Use
- (2) Swimming Pool
- (3) Open Storage

FOOTNOTES - CONDITIONS IMPOSED

- (1) Pools for swimming or bathing shall be in conformity with the following regulations:
 - a. Every outdoor swimming pool shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four (4) inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. A primary dwelling or accessory building or structure may be used as part of the enclosure.
 - b. Gates. All gates or door openings through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gates or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
 - c. Applicability. The requirements of this code shall be applicable to all new swimming pools hereafter constructed, other than indoor pools, and shall apply to all existing pools which have a minimum depth of 18 inches of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant or a licensee, upon which is situated a swimming pool having a minimum depth of 18 inches shall fail to provide and maintain such fence or wall as herein provided.
 - d. Appeals and Hearings. The Board of Adjustment, after public hearing, may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefore, provided the protection as sought hereunder is not reduced thereby. The Board of Adjustment may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.
 - e. State Requirements. Swimming pools shall conform to all requirements of the New Hampshire Department of Health and Welfare.
 - f. Option to Fence Regulation. When not in attendance, access ladders or slide ladders to pool shall be removed or raised and locked or otherwise made inaccessible from the outside to small children.

14-80

9 B

ORDINANCE ~~14-7/23/80~~

Chapter 21
Zoning

THE CITY OF DOVER ORDAINS:

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 21, entitled Zoning Ordinance.

Section 2. Amendment. Chapter 21, entitled Zoning Ordinance, of the Municipal Code of Ordinances, 1977, is hereby amended by adding the following new section 21:5.5 and by rewording sections 21:5.2.a.1 and 21:5.4 as follows:

21:5.2.a.1. A lot with a width of less than 110 feet and greater than 75 feet shall have a minimum side yard of ~~ten (10) feet.~~

21:5.4 Table of Dimensional Regulations. The minimum regulations for lot size, lot frontage, building setback standards for front, side and rear yards, building heights, floor ratio and lot coverage shall be as specified in the Table of Dimensional Regulations, except as provided in section 21:5.5 of this chapter.

21:5.5 Dimensional Regulation for Accessory Buildings. All residential zoning districts shall support minimum side and rear yard accessory building setback distances of ten (10) feet."

Section 3. Takes Effect. This ordinance shall take effect upon passage and publication of public notice as required by PSA 47:18.

APPROVED AS TO FORM:

Scott E. Woodman
City Attorney

APPROVED:

Philippe J. Morrissette
City Clerk

Donald Mitchell
Mayor

INTRODUCED BY

James H. McAdams
Councilman James H. McAdams

1st Reading 7/23/1980

Public Hearing 8/13/80

Workshop Session —

2nd Reading 8/27/80

Adopted 8/27/80

Effective 8/29/80

Typed: July 15, 1980

Regular Council Meeting Held: August 27, 1980
McAdams moved, seconded by Maglaras to adopt the ordinance.
Ordinance was unanimously adopted.

ARTICLE 21:5 Dimensional Regulations

SECTIONAL ANALYSIS

- 21:5.1 Utility/Service Constraints
- 21:5.2 Non-Conforming Parcel Restrictions
- 21:5.3 Open Space Requirements
- 21:5.4 Table of Dimensional Regulations

21:5.1 Utility/Service Constraints. In instances where municipal sewer and water facilities are not available within the distance wherein it is mandatory to tap into the sewer and water system, no residential structure shall be permitted to exist on a lot with less than 30,000 square feet in area. Where municipal water is available and sewer is not, the minimum lot size shall be 20,000 square feet in area, unless otherwise regulated. In no instance shall the above requirements be more permissive than those required by the New Hampshire Water Supply and Pollution Control Commission.

21:5.2 Non-Conforming Parcel Restrictions. The erection of a building or structure shall be permitted on any lot which has been duly recorded at the Strafford County Registry of Deeds on or before the effective date of adoption of this Ordinance providing.

a. The lot shall support a land area of at least 5,000 square feet and a minimum width of 50 feet. In such cases the following side yard restrictions shall apply:

1. A lot with a width of less than 100 feet and greater than 75 feet shall have a minimum side yard of eight (8) feet. *SEE AMENDMENT.*

2. A lot with a width less than 75 feet and greater than 50 feet shall have a minimum side yard of six (6) feet.

b. Where such non-conforming lot is in the same ownership as an adjacent lot or lots, the non-conforming lot shall be combined with the adjacent lot or lots to the extent necessary to create a conforming lot, if possible, or another non-conforming lot but to a lesser extent than the first lot. Refer to Section 21:10 for criteria regulating non-conforming uses, structures and lots.

21:5.3 Open Space Requirements.

A. For each bedroom of a multi-family (greater than four dwelling units) residential structure, there shall be provided at least 100 square feet of useable open space. Half of this required open space shall be provided in such a manner so as to afford active recreational opportunities for children, to include such facilities as swings, sandboxes, slides, play areas, etc. The remainder of the required open space shall be provided in such a manner so as to afford passive recreational opportunities for adults, such as sitting areas, outdoor cooking facilities, walkways, etc. The active and passive recreational facilities may be combined or separated as appropriate to the site and to the anticipated occupancy needs of the development. Efficiency apartments shall be counted on the basis of 50 square feet per unit.

Projects which are designed not to contain children (i.e. housing for the elderly) may eliminate the active recreational component of this requirement.

- B. The minimum distance between any main building and any accessory building not structurally attached to such main building shall be not less than the height of the rear wall of the accessory building.
- C. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space similarly required for another building.

21:5.4 Table of Dimensional Regulations. The minimum regulations for lot size, lot frontage, building setback standards for front, side and rear yards, building heights, floor ratio and lot coverage shall be as specified in the Table of Dimensional Regulations.

ARTICLE 21:5 Dimensional Regulations

SECTIONAL ANALYSIS

- 21:5.1 Utility/Service Constraints
- 21:5.2 Non-Conforming Parcel Restrictions
- 21:5.3 Open Space Requirements
- 21:5.4 Table of Dimensional Regulations

21:5.1 Utility/Service Constraints. In instances where municipal sewer and water facilities are not available within the distance wherein it is mandatory to tap into the sewer and water system, no residential structure shall be permitted to exist on a lot with less than 30,000 square feet in area. Where municipal water is available and sewer is not, the minimum lot size shall be 20,000 square feet in area, unless otherwise regulated. In no instance shall the above requirements be more permissive than those required by the New Hampshire Water Supply and Pollution Control Commission.

21:5.2 Non-Conforming Parcel Restrictions. The erection of a building or structure shall be permitted on any lot which has been duly recorded at the Strafford County Registry of Deeds on or before the effective date of adoption of this Ordinance providing.

a. The lot shall support a land area of at least 5,000 square feet and a minimum width of 50 feet. In such cases the following side yard restrictions shall apply:

1. A lot with a width of less than 100 feet and greater than 75 feet shall have a minimum side yard of eight ~~10~~ feet.

2. A lot with a width less than 75 feet and greater than 50 feet shall have a minimum side yard of six (6) feet.

b. Where such non-conforming lot is in the same ownership as an adjacent lot or lots, the non-conforming lot shall be combined with the adjacent lot or lots to the extent necessary to create a conforming lot, if possible, or another non-conforming lot but to a lesser extent than the first lot. Refer to Section 21:10 for criteria regulating non-conforming uses, structures and lots.

21:5.3 Open Space Requirements.

A. For each bedroom of a multi-family (greater than four dwelling units) residential structure, there shall be provided at least 100 square feet of useable open space. Half of this required open space shall be provided in such a manner so as to afford active recreational opportunities for children, to include such facilities as swings, sandboxes, slides, play areas, etc. The remainder of the required open space shall be provided in such a manner so as to afford passive recreational opportunities for adults, such as sitting areas, outdoor cooking facilities, walkways, etc. The active and passive recreational facilities may be combined or separated as appropriate to the site and to the anticipated occupancy needs of the development. Efficiency apartments shall be counted on the basis of 50 square feet per unit.

ZONING DISTRICT	MINIMUM ¹ LOT SIZE	MINIMUM FRONTAGE	BLDG. FRONT	SETBACKS: REAR	BLDG. SIDE YARDS: A LOT	SETBACKS: ABUTT A ST	MAX. COV. OF LOT	MAX. FLOOR RATIO	MAX. HEIGHT FEET
RESIDENTIAL:									
R-40	40,000 ^{4,5}	150	50	15	25	50	10%	.1	30 -
R-20	20,000 ⁵	125	35	15	20	35	30%	.2	30 -
R-12	12,000	100	30	15	15	30	30%	.2	30 -
RM-20	20,000 ³	150	50	20	20	50	40%	.5	40 -
RM-12 ⁸	12,000	125 ⁷	35	20	20	35 ⁶	40%	.5	40 -
RM-10	10,000	80	20	15	15	16	40%	.5	40 -
RM-8	8,000	80	15	15	15	15	50%	1.0	40 -
RM-6	6,000	60	15	15	15	15	50%	1.0	60 -
NON-RESIDENTIAL:									
0	10,000	100	12	15	10	12	50%	2.0	2.0
B-1	10,000	100	15	15	10	15	50%	.5	.6
B-2	-	-	-	12	-	-	70%	2.0	2.0
B-3	20,000 ⁹	125	50	15	12	50	50%	1.0	.6
I-1	40,000 ⁹	150	50	25	15	50	50%	1.0	1.0
I-2	10,000	100	15	15	12	15	50%	2.0	2.0

FOOTNOTES

- (1) Refer to Section 21:5.1 and 21:5.2 for exceptions to these lot size requirements.
- (2) Where a non-residential district abuts a residential district, the minimum side yard requirements shall be twenty (20) feet, unless a greater distance is specified in this Table.
- (3) A single family residential dwelling may be constructed within this Zoning District under the same dimensional regulations that govern development in a R-20 District.
- (4) 30,000 square feet of lot area where City water and sewer services are available.
- (5) Refer to Dover Subdivision Ordinance, Section 20-B:7.
- (6) A frontyard building setback for 1-2 units per building shall be 35 feet; for 3-6 units per building: 50 feet. Frontyard shall be determined from public way or private vehicular way.
- (7) A lot width for 1-2 units - 125 feet; 3-4 units - 150 feet; 5-6 units - 175 feet.
- (8) No building shall be closer than 75 feet from any other building.
- (9) Refer to footnote #9 on page 14.

These shall not apply to tracts of land legally existent at the time of passage of this Ordinance whose land area and lot frontage are less than those required herein, but are otherwise in conformance with this Ordinance prior to this amendment.

ARTICLE 21:6 Special Conditions

SECTION ANALYSIS

21:6.1 Application

21:6.2 Multi-Family Use in Thoroughfare Business District, B-3

21:6.3 Mobile Home Parks

21:6.4 Farms - Livestock, Poultry and Swine

21:6.5 Barber and Beauty Shops

21:6.6 Gasoline and Auto Service Station

21:6.7 Junk Yard

21:6.8 Roadside Stands

21:6.1 Application. All uses identified in this section may be permitted only after a public hearing is held by the Zoning Board of Adjustment and an approval is granted therefrom. In issuing a Special Exception, the Zoning Board of Adjustment shall consider the requirements set forth in this Article in addition to the specific requirements of Article 21:11.6 Administration and the other sections of this Ordinance as applicable.

21:6.2 Multi-Family Use in Thoroughfare Business District, B-3.

Multi-family uses in said district shall be subject to the following regulations:

- A. The specific site must be an appropriate location for the use of the structure.
- B. The use shall not be detrimental, injurious, noxious, or offensive to the neighborhood.
- C. The use shall not create an undue hazard or nuisance to vehicular or pedestrian traffic.
- D. Adequate and appropriate facilities shall be provided to insure the proper operation of the proposed use or structure.
- E. The proposed use shall be consistent with the spirit and intent of the Zoning Ordinance.

21:6.3 Mobile Home Parks. Mobile home parks shall be subject to the following regulations:

- A. The proposed park must conform to the Mobilehome Ordinance.
- B. All plans for the proposed mobile home park must have been granted preliminary approval from the Dover Planning Board.
- C. A determination by the Zoning Board of Adjustment that the proposed mobile home park will not adversely affect overall land values in the neighborhood.
- D. A determination by the Zoning Board of Adjustment that the proposed mobile home park will not result in the creation of hazardous traffic conditions.

21:6.4 Farms - Livestock, Poultry, and Swine. Where livestock and poultry are kept, raised or intended to be housed, the buildings for such purpose shall not be less than one hundred (100) feet from any property boundary. Where swine are kept, raised or intended to be housed, the building for such purpose shall be sufficiently sized so to provide a minimum of nine (9) sq. feet per animal and shall be located not less than one hundred and fifty (150) feet from any property line. In addition,



CITY OF DOVER, NEW HAMPSHIRE 03820

OFFICE OF CITY ATTORNEY

742-3551

To: Robert Keefe, Chairman Zoning Board of Adjustment
and Zoning Board of Adjustment Members

From: Scott E. Woodman *SEW*
City Attorney

Re: ZBA Case #H83-17

Date: July 14, 1983

OPINION

Please be advised that I received the attached request for an opinion regarding the above-referenced matter from Gerry Lamoureaux. In response to said request, please be advised as follows.

It is my understanding that the basic querie contained in Mr. Lamoureaux's memo to me of July 8, 1983, is regarding the effect of section 170-23 (formerly 21:6.6) of the Zoning Ordinance on the above-referenced application for Special Exception. Please be advised that this section, in its entirety, is not applicable to the circumstances involved in this matter. The applicant in this matter is under no obligation to apply for a special exception under said section and, in point of fact, has the right, under the terms and conditions of the Zoning Ordinance, to continue to use the subject property as a gasoline station. I reach this conclusion based on the following points.

As I understand it, the lot in question is located in a B-2 Zone and is located at 63 Main Street, Assessor's Map 3, Lot 31. According to the Table of Dimensional Regulations referred to by section 170-16 of the Zoning Ordinance there are no minimum lot size or frontage requirements for lots located in a B-2 zone. There is, however, a maximum lot coverage requirement of 70%. In view of the fact that the lot coverage does not exceed 70% and in light of the afore-mentioned provisions, the subject lot is not a non-conforming lot under the Zoning Ordinance.

Robert Keefe, Chairman
Zoning Board of Adjustment
Re: ZBA Case #H83-17
July 14, 1983
Page 2

The proposed continued use of said lot is, however, a non-conforming use in that pursuant to Section 170-11,D and the Table of Use Regulations, Table I, Part C., the use of this lot as a gasoline service station is not permitted in a B-2 Zone, by special exception or otherwise.

However, it is my understanding that the use of this lot as a gasoline service station, except for the last three or four months, has been carried on on a continuing basis for years, and, most importantly, that this lot was used prior to the time that such use was prohibited in this zone by the current regulations of the Zoning Ordinance. Based on these facts, the use of this land constitutes a non-conforming use of land which existed prior to the prohibition currently contained in Chapter 170 (formerly Chapter 21) and is, therefore, a lawful, non-conforming use of land which is permitted subject to section 170-40, Nonconforming uses of land, of the Zoning Ordinance. Section 170-40 provides as follows:

"§ 170-40. Nonconforming uses of land.

Where, at the time of passage of this chapter, lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided that:

- A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- B. No such nonconforming use shall be moved in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.
- C. If such nonconforming use of land ceases for any reasons for a period of more than twelve (12) consecutive months or for twenty-four (24) months during any three year period, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- D. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land."

there shall be twenty-five hundred (2,500) square feet of pasture area per animal kept or raised.

- 21:6.5 Barber and Beauty Shop. Barber and beauty shops shall be subject to the following regulations:
- A. Nor more than one (1) operator's chair is permitted.
 - B. No assistants are to be employed.
 - C. All operators are to be members of the immediate family who reside in the home.
 - D. All such uses shall conform to the regulations governing customary home occupations, Section 21:2.1.

- 21:6.6 Gasoline & Auto Service Station. The use of land for a gasoline and auto service station may only be permitted upon the determination that the property values of adjacent land will not be compromised. Any gasoline and auto service station which discontinues operations for a period in excess of ninety (90) days shall be required to file a new application for Special Exception with the Zoning Board of Adjustment. Such conditions may include but need not be limited to the provision of adequate and properly maintained screening around land so used.

The minimum lot size shall be 60,000 square feet, the minimum lot width shall be 150 feet. Twenty-five percent of the subject parcel shall be open/green space. The total permitted sign area shall not exceed 100 square feet.

- 21:6.7 Junk Yard. In a R-40 Zoning District, a junk yard may only be permitted upon the determination that the property values of land adjacent to such use will not be compromised. Conditions may include but not be limited to the provision of adequate and properly maintained screening around land so used.

- 21:6.8 Roadside Stands. Roadside stands or sales facilities where agriculture products raised on-site are sold, shall be set back a minimum of forty (40) feet from all abutting vehicular right-of-ways. The building area of said facility shall not be greater than eight hundred (800) square feet in area. For each roadside stand there shall be a minimum of six (6) off-street parking spaces which shall have safe access to and from a public street. A driveway permit shall be required in all cases.

Robert Keefe, Chairman
Zoning Board of Adjustment
Re: ZBA Case #H83-17
July 14, 1983
page 3

In view of the fact that, as I understand it, none of the provisions of section 170-40 set forth above have been violated under the circumstances of this case, the use of this land as a gasoline service station is a permitted use and application by the applicant for a special exception is not required.

8 July 1983

From: Vice Chairman ZBA

Subject: H83-17

To: City Attorney

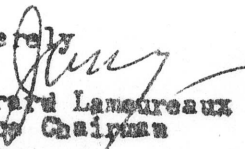
Lord & Keenan Co., Inc., acting as agent for Mr George Janetos, 63 Main St, Assessor's map 3, Lot 31, Zoned B-2, has petitioned for a Special Exception to re-open a gasoline service station that has been closed for more than ninety days.

The Board of Adjustment in N.H. (A Handbook for Local Officials page 40 states: Two questions alone decide whether or not an exception can be legally granted: (1) Is the exception specifically allowed under the terms of the ordinance? (2) Do the conditions stated in the ordinance exist in the particular case? If the answer to both of the above questions is "yes" the exception must be granted, however there is a doubt in my mind that the conditions stated in the Ordinance Chapter 21 Zoning 21:6.6 Gasoline & Auto Service Station Para two exist. The ordinance states: That the minimum lot size shall be 60,000 square feet, the minimum lot width shall be 150 feet and that twenty five percent of the subject parcel shall be open/green space. In my opinion 21:6.6 applies to H 83-17.

The Dover Planning Dept has stated that the provisions of 21.6.6 Gasoline & Auto Service Station Para two does not apply to H83-17.

Request your legal opinion on this matter.

Sincerely,


Gerald Lamoureux
Vice Chairman
ZBA

ARTICLE 21:7 Overriding District Regulations

SECTION ANALYSIS

21:7.1 Applicability

21:7.2 Conservation District

21:7.3 Urban Renewal District

21:7.1 Applicability. All overriding districts shall be superimposed upon other zoning districts established in this Ordinance. The regulations stipulated by the overriding districts shall be in addition to the regulations of the underlying zoning districts and other applicable City Ordinances.

21:7.2 CONSERVATION DISTRICT.

- A. Purpose - In the interest of environmental quality, public health, resource conservation and the general welfare of the public, the regulations of this District are designed to guide development activities in areas with extended periods of high water table, with susceptibility to flooding and with unique or fragile geologic, ecological or nature features.
1. To prevent the development of structures and land uses on naturally occurring wetlands and flood prone areas which would contribute to pollution of surface and ground water by sewage or other contaminants.
 2. To prevent the destruction of natural wetlands or aquifer areas which provide flood protection, recharge of ground water supply, and augmentation of stream flow during dry periods.
 3. To prevent unnecessary or excessive expenses to the City to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands and other environmentally sensitive areas.
 4. To encourage those uses that can be most appropriately and safely located in wetland and other environmentally sensitive areas.
 5. To preserve existing natural drainage systems and the vegetation and wildlife habitats therein.
 6. To preserve wetlands and other environmentally sensitive areas for other ecological reasons inter alia, those cited in RSA 483B.
- B. Location - The Conservation District is hereby determined to consist of the following:
1. Those areas identified and delineated on sheets 23, 24, 27, 28, 31 and 34 in the soil Survey of Strafford County, New Hampshire published by the U.S. Dept. of Agriculture Soil Conservation Service and issued in March 1973, as the following soil types:

Table follows on next page

<u>DESCRIPTION</u>	<u>SYMBOL</u>
Tidal (salt water marshes) Marshes	TA
Biddeford Silty Clay Loam	BE
Mixed Alluvial Land	ML
Muck & Peat	MP
Podunk Fine Sandy Loam	PO
Ondawa Fine Sandy Loam	ON

2. Those areas within a minimum of seventy-five (75') feet of the mean high water of any water body, river, stream, bog, swamp, or marsh subject to tidal action.
3. Those areas within a minimum of seventy-five (75') feet of the mean high water of any river or pond, or within a minimum of fifty feet (50') of the mean high water of any stream, brook, bog, swamp, marsh, or other fresh water body.
4. Those areas owned by and situated in the City of Dover and known as lots:

<u>GENERAL LOCATION</u>	<u>LOT NO.</u>
Garrison Hill	38-32
Smith Well - No Bottom Pond	D-1
Hoppers Well	C-12
Hoppers Well	C-7
Covered Bridge	C-5
Well #107	H-63
Ireland Well	H-58
Willand Pond	4 -17, 40-13
Willand Pond	40-10, 40-10A, 10B
Barbadoes Pond	F-42

C. Special Exceptions - Special Exceptions may be granted by the Zoning Board of Adjustment for the following uses within the Conservation District:

1. Streets, roads, and other access ways and utility rights-of-way, communications equipment, easements, including power lines and pipe lines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands, or other environmentally sensitive areas, where it is physically impossible to locate such ways over land not so zoned. Economic advantage alone shall not be deemed a sufficient reason for such a routing.
2. The undertaking of a use not otherwise permitted in the Conservation District, which may include the erection of a structure, dredging, filling, draining, or otherwise altering the surface configuration of the land, if it can

be shown that such proposed use received any necessary State approvals. Proper evidence to this effect shall be submitted in writing to the Zoning Board of Adjustment by the applicant and shall be accompanied by the findings of a review by the Planning Board and the Conservation Commission of the environmental effects of such proposed use upon the area in question.

- D. Procedures For Subdivision - No subdivision of land shall be permitted which would create a lot or parcel, or leave as a remainder a lot or parcel, which does not have outside the Conservation Zoning District, an area equal to the minimum lot size or one acre whichever is less. The Zoning Board of Adjustment may grant an exception to this rule if such a lot or parcel is to be permanently dedicated to open space or natural uses and is to be dedicated to a public or private agency having as a purpose the holding of such land in a natural state in perpetuity.
- E. Other Provisions -
1. Reference is hereby made to RSA 483A, as amended, which evidences a state concern over preservation of such lands. It is intended that the provisions of that statute shall apply and that in all cases the more restrictive law should apply.
 2. In all cases where the Conservation District is superimposed over another zoning district in the City, that district whose regulations are the more restrictive shall apply.
 3. In the event an area is incorrectly designated on the Conservation District Map and evidence to that effect is satisfactorily presented to the Zoning Board of Adjustment, the appropriate uses will be permitted and/or prohibited. Such evidence may be obtained by adequate on-site soils investigation and analysis conducted by a soils scientist qualified in field analysis.

4. The Conservation District adopted herein is hereby designated as "Open Space" under RSA 79-A and all relevant provisions of RSA 79-A relating to current use assessment of such property shall apply.

21:7.3 Urban Renewal District

- A. The regulatory provisions contained in "The Land Use Provisions and Building requirements" for the Downtown Dover Urban Renewal Project No. 1, so-called, shall apply to the Project Area, as approved by the Dover City Council.

ARTICLE 21.8 Extraction Industry Regulation

SECTION ANALYSIS

- 21:8.1 Applicability
- 21:8.2 Requirements
- 21:8.3 Enforcement

21:8.1 Applicability. The provisions of this article shall be applicable to only those operations conducted for a commercial use, or in conjunction with commercial use, which cause the substances included beneath to be removed from the lot on which they are found. Operations under this article conducted by a public body shall be excluded only from the requirement that a permit be obtained. All other requirements shall apply.

21:8.2 Requirements. No Excavation and/or removal of soil, loam, sand, gravel or other similar substance from land in the City of Dover shall be permitted except under the following provisions.

A. Before any excavation is begun subsequent to the adoption of this ordinance, the owner or lessee of the property upon which excavation is to take place shall obtain a permit for such operations from the Zoning Enforcement Officer of the City of Dover. Such permit shall be issued upon receipt of an application including:

1. A detailed statement of the proposed work and the condition in which the property will be left upon completion of the work.
2. A map drawn to scale 1" equals 50' showing the boundary lines of the property, the bounds of the area upon which it is proposed to work and the location of any public roads or waterways passing through or adjacent to the property within a distance of twenty (20) feet.
3. A written statement from the Tax Collector of the City of Dover that all current taxes levied against the property have been paid in full and that there are no unreleased tax liens encumbering such property.
4. The equivalent of a surety company performance bond written by a company licensed to do business in the State of N.H. made out to the City of Dover in such amount as shall, in the reasonable judgment of the Zoning Enforcement Officer, be sufficient to insure compliance with the requirements of this section to a maximum of \$1,000 per acre. After such bond has been posted for a period of not less than five years, this requirement may be waived at the discretion of the Zoning Enforcement Officer.

5. A permit fee of \$25.00 payable in cash or by a certified check to the order of the City of Dover.
- B. All permits shall expire one year from date of issuance.
- C. During the operation of the excavation:
 1. The applicant shall provide for proper drainage of the area to prevent stagnation and harmful effects upon adjacent properties.
 2. No excavation shall be permitted less than twenty feet from any lot line or public road.
- D. Upon completion of the operations, the applicant shall:
 1. Permit no grade resulting from the operation to remain at a slope rising in excess of one foot of vertical height for each two feet of horizontal distance.
 2. Grade and provide drainage for the denuded area to prevent the accumulation of stagnant water.
 3. Sow all land denuded by such operations with a suitable cover crop.

21.8.3 Enforcement. All operations which in the opinion of the Enforcement Officer have remained substantially unworked for a period in excess of twelve (12) months shall be deemed completed and all provisions required upon completion of such operations enforced.

SECTION ANALYSIS

- 21:9.1 Accessory Signs
- 21:9.2 General Restrictions - Signs
- 21:9.3 District Restriction - Signs
- 21:9.4 Illumination - Signs
- 21:9.5 Height Restrictions - Fences
- 21:9.6 Design Criteria - Fences
- 21:9.7 Exceptions - Fences

21:9.1 Accessory Signs. Accessory signs indentifying each non-residential activity, conducted on any lot shall be permitted in all office, business and industrial districts subject to the following limitations.

21:9.2 General Restrictions. The following restrictions shall apply to all signs:

- a. All signs shall be located upon the same lot as the uses which they identify, except within the Central Business District.
- b. No roof sign shall be permitted to rise more than 10 feet from the roof line.
- c. At least one of the two dimensions of a sign shall not exceed eight (8) feet.
- d. Signs on structures other than buildings shall not extend more than thirty (30) feet above ground level.
- e. Any business use having frontage on more than one street shall be permitted the full sign area permitted by the two frontages with the restriction that the total sign area displayed on any one street shall not exceed that area permitted by the frontage on that street.
- f. Notwithstanding any other provisions of this article, political signs may be displayed in any district of the City subject to the following conditions:
 - 1. The candidate on whose behalf such signs are displayed or his/her representative, shall prior to the placing of any signs, obtain written permission from the property owner.
 - 2. Each candidate shall be responsible for his/her signs, and all must be removed with the exception of primary elections, within two weeks following the election.
 - 3. Any candidate failing to comply with above conditions will be subject to a fine not to exceed \$20.00 per sign.
 - 4. No sign in any district other than Central Business shall be larger than 4 ft. x 4 ft.

21:9.3 District Restrictions.

- a. Office. Each tenant shall be permitted to display a sign not to exceed four (4) square feet in area.
- b. Neighborhood Business. Each business shall be permitted to display signs totalling in area not more than one square ft. for each one foot of building frontage.
- c. Central Business. Each street level business shall be permitted to display signs totalling in area not more than three (3) square feet for each one foot of business frontage. Each business located on other than the street level in the same building shall be permitted to display a sign not to exceed four (4) square feet in area for each one hundred (100) square feet of floor space occupied by said business. Such floor space shall not be construed to include public or common hallways or other facilities. Each business not located within the building on which its sign is placed shall be permitted to display a sign not to exceed four square feet in area.
- d. Thoroughfare Business. Each business shall be permitted to display signs totalling in area not more than three square feet for each one foot of building frontage.
- e. Customary House Occupations. Each customary home occupation recognized as such by this Ordinance shall be permitted to display a sign not to exceed two square feet in size.
- f. Restricted Industrial and Industrial. Each industry shall be permitted to display signs totalling in area not more than three (3) square feet for each one (1) foot of building frontage.

21:9.4 Illumination. In Office or Neighborhood Business Districts, no flashing intermittent lighting or moving devices shall be permitted. In Residential Districts no sign shall be illuminated except by a constant indirect source of lighting which source shall be shielded and shall illuminate only the sign. No sign in any Office, Neighborhood Business or Residential District shall be illuminated after nine (9) p.m.

21:9.5 Height Restrictions - Fences No person, firm, corporation or other organization shall erect, or cause to be erected, a fence exceeding six (6) feet in height from ground level.

21:9.6 Design Criteria - Fences. The finish side of a fence shall face outward from the property on which the fence is located. The side of a fence containing the posts or poles and other bracing appurtenances shall face inward to the property being fenced in or on which the fence is located.

When erected on a property or lot boundary line, all of the fence and any of its supporting structures or appurtenances shall be contained within the lot or property of the person erecting said fence.

21:9.7 Exceptions - Fences. The provisions of Section 21:9.5 this article shall not apply in Industrial (1-2), Restricted Industrial (1-1), Thoroughfare Business (B-3) Central Business (B-2) and Office (O) Zoning Districts or whenever the Zoning Board of Adjustment as a condition attached to the granting of a variance or special exception to the zoning ordinance requires for screening purposes a fence exceeding six (6) feet.

ARTICLE 21:10 Non-Conforming Lots, Uses and Structures

SECTION ANALYSIS

- 21:10.1 Non-Conforming Lots
- 21:10.2 Non-Conforming Uses of Land
- 21:10.3 Non-Conforming Structures
- 21:10.4 Repairs and Maintenance
- 21:10.5 Uses Under Special Exception Provisions Not Non-Conforming Uses

21:10.1 Non-Conforming Lots. In any district in which structures are permitted as a matter of right but not as a Special Exception may be erected on each lot which was a lot of record at the date of adoption or amendment of this Ordinance even though such lot fails to meet the requirements for area, width or frontage. Such lot must be in separate ownership and shall not be of continuous frontage with other lots in the same ownership. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirement established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division or any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance. See Section 21:5.2 for exceptions to the Dimensional Regulations. Further, yard dimensions and requirements other than those applying to area, width and frontage shall conform to the regulations for the district in which the lot is located.

- 21:10.2 Non-Conforming Uses of Land. Where at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:
- A. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
 - B. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
 - C. If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months or for twenty-four (24) months during any three (3) year period, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

- D. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

21:10.3 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot, coverage, height, yards, its location on the lot, or other requirements concerning the structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
- B. A building or structure non-conforming either in terms of use or bulk, may be restored to its former bulk if destroyed by fire or other hazard provided that:
 - 1. The structure was not destroyed to an extent requiring destruction of the remainder prior to reconstruction, or it was not destroyed voluntarily.
 - 2. Restoration of the structure is begun within twelve (12) months after the act of destruction. All such structures in use at the time of destruction for agricultural purposes shall be exempt from the provisions of this subsection, provided that such reconstruction, alterations or repairs is in compliance with the provisions of section 21:10.3 (A).
- C. Should such structure be intentionally moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

21:10.4 Repairs and Maintenance. On any non-conforming structure or portion of a structure containing a non-conforming use, ordinary repairs may be made, subject to the following provisions:

- A. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is so declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. Any duly authorized official charged with protecting the public safety may rightfully order a structure to be secured to a safe condition.

21:10.5 Uses Under Special Exception Provisions Not Non-Conforming Uses

Any use which is permitted as a special exception in a district under the terms of this Ordinance (other than a change through the Board of Adjustment action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

ARTICLE 21:11 Off-Street Parking, Loading Requirements

SECTION ANALYSIS

- 21:11.1 General Requirements
- 21:11.2 Off-Street Parking Requirements
- 21:11.3 Off-Street Loading Requirements

21:11.1 General Requirements. The following conditions shall apply to all parking and loading spaces provided in conformance with this ordinance:

- a. Conformity to the Site Review Ordinance (20-A:6.4 and 6.5) parking and loading design criteria.
- b. The enlargement of any building shall require the provision of off-street parking for the existing building as if it were newly erected, in addition to the required off-street parking spaces for the enlargement.
- c. All required parking spaces in residential districts shall be upon or adjacent to the lot upon which they are designed to serve. In all non-residential districts, such parking spaces shall be provided within a 500 foot radius of the primary structure.
- d. Where one building is used for more than one use, parking requirements shall be computed for each use as if it were a principal use.
- e. Where a parking area is provided to serve two or more structures, the total number of spaces provided shall be not less than the sum of the individual total numbers of spaces required.
- f. Where parking spaces are provided for non-residential structures and this parking area adjoins a residential use, suitable screening at least seven feet in height shall be provided and maintained.
- g. Municipal parking lots shall not be substituted for the requirements of this section.

21:11.2 Off-Street Parking Requirements. The following number of spaces shall be required according to the use of the structure. Each space shall be provided with adequate and maneuvering space.

- a. One and Two-Family Dwelling - Two per each dwelling unit.
- b. Multi-Family Dwelling - One and one-half spaces for each lodging unit.
- c. Restaurants (excluding fast food establishments) One space per three seats; plus one per two employees; or one space per 150 square feet of

floor area as used, whichever is greater. Where there is a bar, one space per two stools.

- d. Fast Food Establishments - One space per every two seats, plus one seat per each employee in the maximum shift; or one space per 50 square feet of gross floor area, plus one space per each employee in the maximum shift.
- e. Wholesale Distribution - One space per 800 square feet of gross floor space or one space per employee in maximum shift.
- f. Manufacturing - One space per each 1.5 employees or one space per 500 square feet of gross floor area.
- g. Hotel, Motel, Tourist Home - One space for each sleeping room plus one space for each 400 square feet of public meeting room.
- h. Office (General) - One space per 325 square feet of gross floor space.
- i. Office (Professional, Medical) - One space per 250 square feet of gross floor space; of five spaces per professional person keeping office and one per each staff member.
- j. Retail I (Service Establishment, Auto Retail, Real Estate, Laundry - One space per 300 square feet of gross floor area.
- k. Retail II (Furniture, Hardware, Carpets) - One space per 600 square feet of gross floor area.
- l. Retail III (Food Retail) - One space for 200 square feet of net floor area.
- m. Retail IV (General, Including Drugs, Clothing) - One space for 250 square feet of net floor area.
- n. Retail V (Shopping Center) - One space for every 200 square feet of gross leaseable space.
- o. Community Facility (City Building, Recreation) - One space for each 400 square feet of gross floor space.
- p. Hospital and Nursing Home - One space per each two beds at design capacity.
- q. Theater, Auditorium, Church - One space for each four seats of total seating capacity.
- r. Funeral Home - Eight spaces for each chapel with a minimum total of ten spaces.
- s. Gasoline Service Station - Three spaces for each service bay plus one space per employee in the maximum shift.

- t. Mixed Use - Sum of various uses computed separately.
- u. Other - Closet similar use as shall be determined by the Director of Planning.

21:11.3 Off-Street Loading Requirements. In all districts no non-residential structure shall be erected, enlarged or used unless off-street loading spaces are provided as specified herein.

- a. Off-street loading spaces shall be provided on the same lot as the principal use they are intended to serve. In no instance shall an off-street loading space be counted as part of an area to satisfy the off-street parking requirements and vice-versa.
- b. No loading bay in a non-residential district shall be located within 100 feet of a residential district boundary or within 100 feet of the lot line of an a butting residential use.
- c. All bays shall be located at the side or rear of the building they are intended to serve.

PRINCIPAL LAND USE	NUMBER OF LOADING SPACES REQUIRED BY GROSS FLOOR AREA (Thousands)			
	<u>5 - 25</u>	<u>25 - 60</u>	<u>60 -150</u>	<u>Over 150 or Fraction thereof</u>
1 Retail Trade	1	1	2	1
2. Wholesale Trade	1	2	3	1
3. Transport Trade	1	2	3	1
4. Manufacturing	1	2	3	1

AMENDED

ORDINANCE 15-8/27/80 15-80

Chapter 21
Zoning

THE CITY OF DOVER ORDAINS:

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 21, entitled Zoning Ordinance.

Section 2. Amendment. Chapter 21, entitled Zoning Ordinances of the Municipal Code of Ordinances, 1977 is hereby amended by rewording Sections 21:2.1, 21:12.3.D, 21:12.5B, 21:12.6.C.4, and by adding the following new sections 21:11.1.h. and 21:11.2.v, as follows:

21:2 Frontage.....The linear distance measured along the front lot line between the points of intersection with the side lot lines. Frontage along cul-de-sacs shall be the linear at the appropriate front-yard building setback depth from, the front lot line between the points of intersection with the side lot lines. For the purposes of measurement, lot frontage shall be measured along the joint boundary of the front line and a public right-of way.

Lot.....A tract of land under single ownership and occupied by, or designed to be occupied by one principle building and its accessory buildings or uses customarily incident to it, together with such open spaces and yards as are required by this ordinance, exclusive of multi-family dwellings and industrial I-1 and I-2, zoning districts.

21:12.3 Certificate of Occupancy.

D. Action on Application - The Building Inspector shall, within fifteen (15) working days of receipt of such application, render a decision either granting a certificate of occupancy, a temporary certificate of occupancy, or denying said application. When a certificate of occupancy is requested on a project, the Building Inspector shall defer action until in receipt of signoffs from the Planning Director, Director of Public Works, Fire Chief and Police Chief certifying the adequacy of required improvements.

21:12.5 Enforcement and Penalties.

B. Prosecution of Violations - If the Notice of Violation and Order is not complied with, the Building Inspector shall cause to be initiated the appropriate action or proceeding so to prevent any continued unlawful action, or condition and to restrain, correct, or abate such violations. Any person who knowingly takes part in continuance of said violation(s) shall, for each and every violation(s), be liable to a fine not to exceed one hundred dollar (\$100.00). Each day beyond the expiration of the afore-mentioned Notice of Violation and Order shall constitute a separate offense.

ARTICLE 21:12 Administration

SECTION ANALYSIS

- 21:12.1 Administrative Officer
- 21:12.2 Building Permit
- 21:12.3 Certificate of Occupancy
- 21:12.4 Building Permit Fees
- 21:12.5 Enforcement and Penalties
- 21:12.6 Zoning Board of Adjustment
- 21:12.7 Amendments
- 21:12.1 Administrative Officer.

- A. This Ordinance shall be enforced by the Building Inspector who shall have the authority to make inspections necessary to carry out his/her duties in the enforcement of this Ordinance.
- B. The Building Inspector shall not approve an application or issue a building permit or certificate of occupancy for any purpose, except in compliance with the provisions of this Ordinance.

21:12.2 Building Permit.

- A. Applicability - No building or structure shall be constructed, reconstructed, altered or relocated, nor shall any excavation be commenced without a duly authorized building permit issued by such Building Inspector.
- B. Prerequisite Approvals - An applicant for building permit approval shall be responsible for providing certified verification of all requisite state and/or local approvals prior to the issuance of said building permit.
- C. Application- Application for a building permit shall be made in duplicate on standard forms provided by the Building Inspector. In addition, all applications for building permits shall be accompanied by the following:
 - 1. Two (2) copies of the project's construction specifications and renderings.
 - 2. A written description of all proposed erections, extensions, removals, demolition and structural changes.
 - 3. The existing and intended use of each structure and/or portion of any structure.
 - 4. The estimated cost of any structure or improvement and such other information as may be necessary to provide for the administration and enforcement of this Ordinance.
 - 5. When constructing new structures, the following must be provided:
 - a. the location of all proposed and existing structures within the defined subject parcel;
 - b. the location of the subject parcel's legal vehicular accessway.
 - c. all plans shall be drawn to an appropriate scale, as determined by the Building Inspector.
- D. Exemptions - No building permit shall be required for minor maintenance, repairs or remodeling where the total cost of such work will not exceed four hundred (\$400) dollars.

- E. Statute of Limitations - Any work for which a building permit has been issued shall be executed within ninety (90) days from date of issuance or such permit shall be considered null and void.

21:12.3 Certificate of Occupancy.

- A. Purpose - The purpose of a certificate of occupancy is to give the Building Inspector a mechanism by which he/she can verify conformance to provisions of this Ordinance, the building permit and other requisite approvals related thereto.
- B. Applicability - No person shall use or permit the use of any building, structure or premises, or part thereof, hereafter erected, relocated, altered, repaired, converted or extended until a certificate of occupancy is issued by the Building Inspector.
- C. Application - Application for a certificate of occupancy shall be made on standard forms provided by the Building Inspector. Application shall be required at such time as when the applicant has complied with the provisions of this Ordinance, the building permit and/or any other requisite approval related thereto.
- D. Action on Application - The Building Inspector shall, within fifteen (15) working days of receipt of such application, render a decision either granting a certificate of occupancy, a temporary certificate of occupancy, or denying said application. When a certificate of occupancy is requested on a project that has received site review approval from the Planning Board, the Building Inspector shall defer action until in receipt of a memorandum from the Planning Director certifying the adequacy of required improvements.

21:12.4 Building Permit Fees. Fees shall be established by the Building Inspector. The City of Dover and any legal entity thereof shall be exempt from the payment of said fees.

21:12.5 Enforcement and Penalties.

- A. Violations - The Administrative Officer shall serve a Notice of Violation and Order to any owner or person responsible for the erection, construction, reconstruction, conversion or alteration of a structure; increase in intensity of use or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Ordinance, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner or person who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, or general welfare.

21:12.6 Zoning Board of Adjustment.

21:12.6.C.4 Variances - The Zoning Board of Adjustment may authorize a variance from the terms of this ordinance for:

- a. A particular use
- b. A parcel of land
- c. An existing/proposed building

Said variance shall only be granted where unusual difficulty or special hardship would be imposed by the literal application and rigorous enforcement of this ordinance.

In granting variances, the Board, if it deems it proper to the carrying out of the intent and purpose of this ordinance, may impose such reasonable and additional stipulations and conditions as will, in its judgement, better fulfill the purpose of the Ordinance.

21:11.1 General Requirements.

21:11.1.h In the B-2 zoning district (Central Business District) all on-site parking standards required pursuant to Article 21:11.2 of this ordinance shall be binding, except in such cases involving the development of previously vacant/vacated parcels.

21:11.2 Off Street Parking Requirements.

21:11.2.v. Elderly Multi-family - one space for every two units.

Section 3. Takes Effect. This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18.

APPROVED AS TO FORM:

SPONSORED BY

Scott E. Woodman
City Attorney

Councilman James H. McAdams

APPROVED:

First Reading 8/27/80

City Clerk

Public Hearing 9/17/80

Second Reading 9/24/80

Donald E. Mitchell
Mayor

Adopted 9/24/80

Effective 9/26/80

Re-typed as Amended: 9/29/80

- B. Prosecution of Violation - If the Notice of Violation and Order is not complied with, the City Council shall institute the appropriate action or proceeding so to prevent any unlawful action, or condition and to restrain, correct, or abate such violation.

21:12.6 Zoning Board of Adjustment.

- A. Purpose - The purpose of the Zoning Board of Adjustment is to hear and decide appeals of any person(s) who are aggrieved by the administration, enforcement, and application of this Ordinance.
- B. Authority - The Board shall be duly constituted and shall have such duties and powers as specified under New Hampshire State Law, Chapter 31:68, 31:69 Revised Statutes Annotated and this Ordinance as set forth herein.
- C. Powers and Duties-
1. Powers - The Board shall have the following Powers:
 - a. to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Inspector, in the enforcement of this ordinance. (Interpretation of Ordinance.)
 - b. to hear and decide special exceptions to the terms of the Ordinance upon which such Board is required to pass under this Ordinance. (Special Exception.)
 - c. to authorize upon appeal in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. (Variance.)
 2. Interpretation of Ordinance-
 - a. on appeal from an order or decision made by the Building Inspector, or on request by any officer or board of the City, the Board shall have the power to decide any of the following questions:
 - 1) determination of the meaning of any provision of the text of the Ordinance;
 - 2) determination of the exact location of any district boundary shown on the Zoning Map;
 - b. the Board shall hear and decide appeals de novo and review on appeal any order, requirement, decision, or determination made by the Building Inspector in the enforcement or application of this Ordinance. Upon such appeal, the Board may, in accordance with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify, any such order, requirement, decision, as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

3. Special Exceptions - The Board shall have the power to hear and decide on application for special exceptions. In applying for a special exception, the applicant need not demonstrate hardship, since the basis for the action is of general benefit to the City as a whole. In granting a special exception the Board, with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
 - a. the requested use is essential or desirable to the public convenience or welfare.
 - b. the requested use will not create undue traffic congestion, or unduly impair pedestrian safety;
 - c. the requested use will not overlaid any public water, drainage, or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety, or the general welfare.
4. Variances - The Board may authorize a variance for a particular use or parcel of land or to an existing building thereon from the terms of this Ordinance where, owing to conditions especially affecting such parcel or such building but not affecting generally the district in which it is located, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship to the applicant, and where desirable relief may be granted, would not be contrary to the public interest and without nullifying the intent or purpose of this Ordinance. In granting variances, the Board, if it deems it proper to the carrying out of the intent and purpose of this stipulations and conditions as will, in its judgment, better fulfill the purpose of the Ordinance. Also, in cases involving use variances, the Building Inspector shall refer a copy of the application for such variance to the Planning Board for their advice and comment. Failure of the Planning Board to respond within thirty-one (31) days shall indicate approval.
5. Other Requirements - The granting of any appeal by the Board shall not exempt the applicant from any provision of this Ordinance not specifically ruled upon by the Board or specifically set forth as excepted in this particular case from a provision of this Ordinance. It shall be unlawful for any owner or person to reconstruct, convert, or alter a structure or change the use, increase the intensity of use or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the Board in authorizing

a special exception or variance without appealing to the Board as a new case over which the Board shall have complete administrative power to deny, approve, or modify.

6. Public Hearing - The Board shall fix a reasonable time for the hearing of an appeal taken within the time specified by its rules and before any hearing is given either on an appeal or an application for variance or special exception of the Zoning Ordinance, notice shall be given to all property owners within 200 feet of any portion of the lot in question. Notice shall be sent by registered mail and notice shall be given by publication in a newspaper published in the City of Dover, New Hampshire. Said notice shall be sent or delivered in hand and published at least ten (10) days to abutters, from hearing date and five (5) days from hearing date for public notice. The costs of notice shall be paid by the appellant or applicant to the Building Inspector.

D. Appeal from the Decision of the Board of Adjustment -

1. Rehearing - Within twenty (20) days after any order or decision of the Board, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the grounds therefore, and the Board may grant such rehearing if in its opinion good reason therefore is said in such motion.
2. Appeal to Superior Court - No appeal from any order or decision of the Board shall be taken unless the appellant shall have made application for rehearing as provided above, and when such application shall have been made, no ground not set forth herein shall be urged, relied on, or given any consideration by the court unless the court for good cause shown shall allow the appellant to specify additional grounds. Within thirty (30) days after the application for a rehearing is denied, or, if the application is granted, then within thirty (30) days of the decision on such rehearing, the applicant may appeal by petition to the Superior Court.

21:12.7 Amendments.

- A. Power to Amend - The City Council may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend supplement or repeat the regulations and provisions of this Ordinance after public notice and hearing as provided in Section 21:8.7 (C)
- B. Referral to the Planning Board - Every such proposed amendment or change whether initiated by the City Council or by petition shall be referred to the Planning Board. The Board shall hold a public

hearing on all such amendments or changes to this Zoning Ordinance prior to transmitting its recommendation to the City Council.

- C. Public Hearing - A letter of notification shall be sent to landowners whose property lie within that area affected by the proposed amendment or change. Said notice shall be by certified return receipt mail.

Landowners whose property lie within one hundred (100) feet of the subject srea shall be sent a letter of notification by first class mail. All notices shall be sent at least five (5) days prior to the scheduled public hearing date.

A notice of said public hearing shall also be posted in a newspaper of general circulation in the City at least fifteen (15) days prior to the scheduled public hearing date.

A notice of said public hearing shall be posted in at least three (3) conspicuous public places in the City of Dover.

All letters of notification and public notices shall state the time and place of the public hearing, the nature of the amendment or change and a general description of the property involved, where applicable.

- D. Action Required -

1. The Planning Board shall make a report and recommendations on the amendments or changes referred to it by the City Council within thirty-one (31) days after the next regularly scheduled meeting of the Board. In specific instances where circumstances warrant, the City Council may extend the time of consideration by the Planning Board for a period of not greater than ninety (90) days.
2. Upon receipt of the Planning Board's recommendations or upon the expiration of thirty-one day study period, the Council shall establish a date for a public hearing and shall further publish and post a notice of such hearing as specified in Section 21:8.7 (C).
3. The City Council shall not have the right to overrule such Planning Board recommendations unless by a vote of not less than two-thirds of its membership present and voting.
4. Any party requesting an amendment to the Zoning Ordinance, exclusive of the Planning Board and City Council, shall pay a fee of twenty-five (\$25.00) dollars to the City of Dover to cover advertising and notification costs.