

**DOVER CODE**

**ZONING**

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**[HISTORY: Adopted by the City Council of the City of Dover 5- 23-79 as Ord. No. 15-79. Amendments noted where applicable.]**

**GENERAL REFERENCES**

- Planning Board - See Ch. 41.**
- Site review - See Ch. 149.**
- Streets and Sidewalks - See Ch. 152.**
- Subdivision of land - See Ch. 155.**

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### ARTICLE I GENERAL PROVISIONS

#### 170-1. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the City of Dover, New Hampshire."

#### 170-2. Authority. [Amended 6-10-87 by Ord. No. 13-87]

This chapter is adopted pursuant to the authority granted by RSA 674:16, as amended.

#### 170-3. Purpose.

This chapter 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.

#### 170-4. Interpretation.

The provisions of this chapter 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 chapter are not intended to repeal or in any way impair or negate any other lawfully adopted ordinance, regulation 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.

#### 170-5. Applicability. [Amended 6-10-87 by Ord. No. 13-87]

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 chapter. This chapter 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 chapter. Furthermore, if the Planning Board has formally accepted an application for development prior to the first legal notice of a proposed change to this chapter, the Building Inspector shall not withhold a building permit, and the proposed regulation shall not affect the accepted application.

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**ARTICLE II  
WORD USAGE**

**170-6. Definitions.**

- A. For the purposes of this chapter, 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:
- B. For the purposes of this chapter, the following terms shall have the meanings indicated:

**ABUTTER** - Any person whose property is located in New Hampshire and which adjoins or is directly across the street or stream from the land under consideration by the Board. For purposes of receiving testimony only and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his or her land will be directly affected by the proposal under consideration. For the purpose of receipt of notification for a public hearing by the Board, the term of "abutting property owner for a condominium or other collective form of ownership" means the officers of the collective or association as defined in RSA 356-B:3, XXIII. [Added 6-10-87 by Ord. No. 13-87]

**ACCESSORY STRUCTURE** - A structure with a minimum floor area of thirty-six (36) square feet which exists 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 to the provisions of Chapter 170-10 E. [Amended 08-01-90 by Ord. No. 8-90]

**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 170-10E.

**ADULT BOOKSTORE AND/OR VIDEO STORE** - A place of business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, for the display and sale of the following: [Added 10-20-93 by Ord. No. 28-93]

1. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMS or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571- B:1; or
2. Instruments, devices or paraphernalia which are designed for use in connection with "sexual conduct" as defined in RSA 571-B:1, other than birth control devices.

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An Adult Bookstore and/or Video Store does not include an establishment that sells books, periodicals or videos as an incidental or accessory part of its principal stock and trade and does not devote more than 15% of the total floor area of the establishment to the sale of books, periodicals or videos.

ADULT CABARET - A night club, bar, restaurant or similar establishment which during a substantial portion of the total presentation time, features live performances that meet the definition of "harmful to minors" and/or "a sexual conduct" as set forth in RSA 571-B:1, and/or shows films, motion pictures, video cassettes, slides or other photographic reproductions, which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1. [Added 10-20-93 by Ord. No. 28-93]

ADULT DAY CARE - A facility used for the care of adults for less than 24 hours per day who are in need of supervision or assistance. The facility may provide for dining, recreation activities, education and counseling services, and accessory uses related to the care of adults in need. [Added 09-15-93 by Ord. No. 19-93]

ALTER or ALTERATIONS - Any change involving the structural frame of a building or 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.

BED and BREAKFAST - A residential structure consisting of nine (9) or less bedrooms rented on a temporary short term basis for overnight sleeping purposes. Said facility shall have common eating and living areas and provide on-site management on a twenty-four hour basis. Breakfast shall be the only meal served and shall be served to registered guests only. [Added 08-01-90 by Ord. No. 8-90]

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 roofed areas. This in no way is to be construed to include a trailer, mobile home or any other like product. For the purposes of measuring setbacks, eaves and uncovered decks, porches and steps may encroach into the side, rear and front setbacks for a distance of up to three (3) feet. [Amended 6-10-87 by Ord. No. 13-87]

BULK - A term used to indicate the physical size, setbacks, and location of a building upon a lot. [Amended 08-01-90 by Ord. No. 8-90]

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**CERTIFIED SOIL SCIENTIST** - A person who, by reason of special knowledge of pedological principles acquired by professional education and practical experience as specified by RSA 310-A:84, is qualified to practice soil science and who has been duly certified by the Board of Natural Scientists. [Added 9-14-88 by Ord. No.5-88]

**CHILD CARE FACILITY** - A facility used for the care of children for periods of less than twenty-four (24) hours per day, and/or the provision of educational services commonly associated with preschool, nursery schools or kindergartens. [Added 08-01-90 by Ord. No. 8-90]

**COMMENCEMENT OF CONSTRUCTION** - The beginning of the physical construction of an approved structure. Said construction shall include the erection of any portion of a structure above or below grade level. [Added 08- 01-90 by Ord. No. 8-90]

**COMMERCIAL PARKING FACILITY** - An area of off-street parking, where, for a fee, or permit, motor vehicles may be stored for the purpose of temporary, daily, weekly, or overnight off-street parking. Said facility may provide shuttle or park-n-ride services. [Added 08- 01-90 by Ord. No. 8-90]

**COMMERCIAL RECREATION** - Leisure time activities conducted at prescribed places, sites, or fields as a principal use, in order to obtain profit for a private group, organization, or individual. For the purpose of this ordinance, Commercial Recreation may include but not be limited to: (a) mechanical and/or electronic operating games (b) animated mechanical devices and/or rides (c) live entertainment; and (d) food concessions will be allowed by permit. [Added 08-01-90 by Ord. No. 8-90]

**CONGREGATE CARE FACILITY** - A residential facility for elderly persons containing efficiency units, one (1) and two (2) bedroom units and units without kitchen facilities. The facility contains common dining facilities and accessory uses typically needed by elderly housing facilities. This facility may be combined with a nursing home. [Added 09-15-93 by Ord. No. 19-93]

**COUNTRY CLUB** - A nonprofit 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.

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COVER CROP - Vegetation designed to prevent erosion of the soil.

**CUSTOMARY HOME OCCUPATION** - An 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 that such uses are clearly incidental and secondary residential purposes; dressmaker, artist, arts and crafts, writer, teacher, provided that not more than eight (8) pupils simultaneously occupy the building, musician, antique dealer, lawyer, doctor, photo- grapher, 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 (1) nonresident shall be employed therein.
- (3) The use is carried on strictly by the occupant of the principal building. [Amended 08-01-90 by Ord. No. 8-90]
- (4) No more than twenty-five percent (25%) of the existing net floor area of the principal and any accessory buildings not to exceed six hundred (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 nonelectric sign not to exceed two (2) 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 the 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 multifamily 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, tearooms, 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.

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\* Editor's Note: See Ch. 92, Driveways.

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(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, MULTIFAMILY - A building containing more than four (4) dwelling units.

DWELLING, SINGLE-FAMILY - A detached building containing one (1) dwelling unit only.

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.

EDUCATIONAL INSTITUTION, POST SECONDARY – An institute of higher education that provides a curriculum of academic instruction beyond the high school level, is licensed by the State of New Hampshire, and is accredited by an approved agency. [Amended 02-17-99 by Ord. No. 25-98]

EDUCATIONAL INSTITUTION, K-12 – A facility, licensed by the State of New Hampshire, that provides curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools. [Added 02-17-99 by Ord. No. 25-98]

ELDERLY ASSISTED CARE HOME - A residential facility permanently housing six (6) to twelve (12) elderly residents with common dining facilities and accessory uses typically needed by elderly persons. The Zoning Board of Appeals may increase the number of residents through the granting of a special exception. (see 170-25.3.C) [Added 09-15-93 by Ord. No. 19-93; amended 01-22-03 by Ord. No. 35-02]

EXTENSION, BUILDING - Any action which shall cause the floor area or volume of a structure to be increased.

EXTENSION, USE - The enlargement of a business, industrial or residential activity beyond the limits in use at the time this chapter was passed.

FAMILY - [Repealed 08-01-90 by Ord. No. 8-90]

FENCE - A freestanding structure of metal, masonry, composition of wood or any combination thereof resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes. [Added 08-01-90 by Ord. No. 8-90]

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**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 (7) feet. 17011 09-15-93

**FLOOR RATIO** - [Repealed 08-01-90 by Ord. No. 8-90]

**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 at the appropriate front yard building set back depth from the front lot line between the points of intersection with the side lot lines. For the purpose of measurement, lot "frontage" shall be continuous and measured along the joining boundary of the front lot line and a public right-of-way. [Amended 9-24-80 by Ord. No. 15-80; Amended 08-01-90 by Ord. No. 8-90]

**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 those activities normally associated with the raising of a crop or the care of animals for agricultural purposes.

**GROUP HOME FOR MINORS** - A group boarding home for minor children and others attending Grades K - 12 which is issued a general or intermediate license by and operated in accordance with standards promulgated by the State of New Hampshire Department of Health and Welfare. Such use may include accessory uses such as educational and counselling programs which are directly related to the primary purpose of the home. [Added 09-01-93 by Ord. No. 20-93]

**HAZARDOUS WASTE/MATERIAL** - A material, waste or combination of materials or wastes which, because of the quantity, concentration or infectious characteristics, may cause or significantly contribute to illness or present a substantial hazard to health, safety or welfare or to the environment [Added 11-30-88 by Ord. No. 24-88]

**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.

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INTERMITTENT STREAM - A stream that flows for sufficient times of the year to develop and maintain defined channels but which may not flow during dry portions of the year [Added 9-14-88 by Ord. No. 15-88]

JUNKYARD - An open area where waste, used or secondhand materials are brought, sold, exchanged, stores, baled, packed, dissembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. The term "junkyard" shall not include uses established entirely within enclosed buildings.

JUNKYARD, MOTOR VEHICLE - Includes any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) 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 (2) or more motor vehicles. "Motor vehicle junkyard" 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 materials which are parts of a motor vehicle or cut up the parts thereof.

HEIGHT RATIO - [Repealed 08-01-90 by Ord. No. 8-90]

HIGH INTENSITY SOIL MAP (HIS) - A map prepared using the methods prescribed by the Society of Soil Scientists of Northern New England, in the publication High Intensity Soil Maps for New Hampshire, January 1987, as amended. [Added 9-14-88 by Ord. No. 15-88]

HOTEL - A building consisting of ten (10) or more rooms accessed by a common hallway and designed for, or used commercially as temporary living quarters for persons who are lodged with or without meals. [Amended 08-01-90 by Ord. No. 8-90]

KENNEL - Any building(s) or land operated as a business for the boarding, breeding, training, or selling of five or more dogs, cats or other household pets. [Added 02-17-99 by Ord. No. 25-98]

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**LIGHT INDUSTRY** - Includes all manufacturing and assembly processes carried on completely within a structure, and involving no permanent outside storage of equipment or materials (except as a customary accessory use in connection with the permitted activities with the structures), unless such storage is approved by the Dover Planning Board. This term shall not be interpreted to include any industry, the operations of which shall result in significant objectionable noise, glare, vibration or odor which would constitute a nuisance in an industrial district and

which exceed the maximum levels of adjacent activities. [Amended 04-03-91 by Ord. No. 01-91]

**LOADING BERTH** - A berth designed for the on-loading and off-loading of trucks and other commercial vehicles.

**LOT** - A parcel of land which fronts on and has ingress and egress by means of a right-of-way and is intended to be occupied by one (1) principal building together with such open spaces and yards as are required by this chapter. More than one (1) principal building may be placed on a lot for non-residential, multi-family, and Open Space subdivisions as approved by the Planning Board. [Amended 08-01-90 by Ord. No. 8-90]

**LOT WIDTH** - The width of a lot along a straight line parallel to the front street line and lying at a distance from said street line equal to the required minimum front yard setback for said lot. [Added 08-01-90 by Ord. No. 8-90]

**MARINA** - A facility for storing, servicing, fueling, berthing, securing and launching of private pleasure marine craft that may include the sale of fuel and incidental supplies for boat owners, crews and guests. [Added 03-19-03 by Ord. No. 05-03]

**MOBILE HOME** - 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 (1) or more persons and provided with a toilet and bathtub or shower. A prefabricated residential unit shall not be construed as a trailer or "mobile home" if said unit is supported by a permanent foundation.

**MOBILE HOME PARK or TRAILER PARK** - Any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located.

**MOBILE HOME SUBDIVISION** - Any subdivision involving a division of land into two (2) or more lots, designed to accommodate one (1) or more individual mobile homes [Added 6-22-83 by Ord. No. 19-83]

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MOTEL - A building consisting of ten (10) or more rooms having direct outside access and designed for, or used commercially as temporary living quarters for persons who are lodged with or without meals. [Amended 08-01-90 by Ord. No. 8-90]

NEIGHBORHOOD - A grouping of structures with more clearly evident relationship to one another than to other structures in the community.

NONCONFORMING BULK - A building or use of land is nonconforming as to bulk if it does not conform to the prescribed bulk regulations of the district in which it is located.

NONCONFORMING USE - A lawful use that does not conform as to bulk if it does not conform to the prescribed bulk regulations of the district in which it is located.

NUISANCE - A factor generally recognized to be undesirable, such as odor, noise, glare or vibration.

NURSING HOME - A residential facility for elderly persons that is licensed by the State, containing a common dining facility and accessory uses typically needed by elderly residents. [Added 09-15-93 by Ord. No. 19-93]

ORDINARY HIGH WATER MARK - The line on shore, running parallel to the main stem of the river, established by the fluctuations of the water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristic of the surrounding areas. [Added 03-19-03 by Ord. No. 05-03]

PARKING SPACE - An off-street area available with paved surface, accessible and suitable for parking one (1) motor vehicle.

PERSONAL SERVICE ESTABLISHMENT - 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 fifty percent (50%) of the revenues from such commercial use shall be gained from the sale of products. A "personal service establishment" shall not be construed to include a gasoline service station.

PLANNING BOARD - The Planning Board of the City of Dover, as provided in the New Hampshire Revised Statutes Annotated 36:15.

PLAT - A professionally rendered plan for the subdivision of land illustrating all provisions as outlined in this Chapter and Chapter 155, entitled "Subdivision of Land, of the Code of the City of Dover." [Added 08-01-90 by Ord. No. 8-90]

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**PUBLIC RECREATION** - Leisure time activities open to the public, subject to reasonable limitations as to participation, and conducted at prescribed places, sites or fields by non-profit corporations or charitable organizations. The non-profit organization or charitable organization may either rent or own the site. Food concessions will be allowed by permit. [Added 08-01-90 by Ord. No. 8-90]

**PUBLISHING FACILITY** - A structure or part of a structure, with office space and production facilities, which is used for producing newspapers, magazines, books and/or other related published materials. For the purpose of this definition, production facilities shall include a printing press and/or similar equipment. [Added 08-24-94 by Ord. No. 09-94]

**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 (5) rooms are rented to not more than ten (10) persons, said rooms being for a sleeping purpose for compensation.

**SERVICE CLUB** - 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 DEVELOPMENT PLAN** - Professionally rendered drawings which delineate a proposed non-residential, multi-family or mobile home development. Said plan shall include: property lines, location of buildings, means of ingress and egress, access to off-site parking and all provisions as outlined in this Chapter and Chapter 149, entitled Site Review, of the Code of the City of Dover. [Amended 08-01-90 by Ord. No. 8-90]

**STRUCTURE** - A framework of support.

**TELECOMMUNICATION FACILITY** - Any structure, antenna, tower or other device which provides licensed commercial mobile wireless services, cellular telephone services, specialized mobile radio communications (SMR), enhanced specialized mobilized radio (ESMR), and personal communications service (PCS), paging services, and similar services that are marketed to the general public. [Added 03-18-98 by Ord. No. 02-98]

**TOURIST HOME** - [Repealed 08-01-90 by Ord. No. 8-90]

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USED CAR LOT - An unenclosed space on which three (3) or more used cars are stored or offered for sale.

WAREHOUSING - Only includes the activity of storing wares or goods by the occupant in his own behalf or for the benefit of others.

WATERBORNE PASSENGER TRANSPORTATION FACILITY – a facility designed for storing, servicing, fueling, berthing, securing and launching of excursion boats and water shuttles for the purpose of transporting passengers.

[Added 03-19-03 by Ord. No. 05-03]

WATER DEPENDENT- Those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore, cannot be located inland. [Added 03-19-03 by Ord. No. 05-03]

WATER RELATED EDUCATIONAL/RESOURCE CENTER – A facility devoted to the provision of educational resources and materials and/or displays. Such a facility may include but not be limited to a museum, aquarium, and aquaculture facility. [Added 03-19-03 by Ord. No. 05-03]

WETLAND EVALUATION HANDBOOK FOR DOVER - The manual used to conduct a functional evaluation of the wetland in order to obtain a conditional use permit as required by the Wetland Protection District Ordinance\*. This handbook shall be adopted and amended, as required, by the Planning Board after a public hearing. Notice for said public hearing shall be published in a newspaper of general circulation and posted in three (3) places at least fifteen (15) days prior to the hearing. [Added 9-14-88 by Ord. No. 15-88]

WHOLESALE - Only includes 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.

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\* Editor's Note: See 170-27.1, Wetland Protection District, of this Chapter.

**ZONING**

**170-6**

**170-6**

ZONING BOARD OF ADJUSTMENT - The Zoning Board of Adjustment of the City of Dover, as provided in the New Hampshire Revised Statutes Annotated 36-6:6.

**170-18**

*DOVER CODE*

170-7

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**ARTICLE III  
DISTRICTS AND DISTRICT BOUNDARIES**

**170-7. Establishment of districts.** [Amended 3-30-83 by Ord. No. 5-83; 4-27-83 by Ord. No. 12-83; 10-26-88 by Ord. No. 18-88; 04-03-91 by Ord. No. 01-91; 09-16-92 by Ord. No. 23-92; 11-22-95 by Ord. No. 19-95]

The City of Dover is hereby divided into the following districts:

**Residential**

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

**Nonresidential**

- O Office District
- B-1 Neighborhood Business District
- B-2 Central Business District
- B-3 Thoroughfare Business District
- B-4 Hotel/Retail District
- B-5 Rural Commercial/Retail District  
[Added 11-22-95 by Ord. No. 19-95]
- I-1 Restricted Industrial District
- I-2 Rural Restricted Industrial District
- I-4 Assembly and Office
- ETP Executive and Technology Park
- UMUD Urban Multiple Use District
- CWD Coheco Waterfront District

**Overriding**

- CD Conservation District
- URD Urban Renewal District
- GWP Groundwater Protection District
- HWD Hazardous Waste Landfill District
- RCM Residential-Commercial Commercial Mixed Use  
[Added 105-18-06 by Ord. 03-2006]
- TDR Transfer of Development Rights  
[Added 04-03-91 by Ord. No. 01-91]
- WPD Wetland Protection District

## ZONING

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170-10

### 170-8. 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 May 25, 1979, which accompanies and is hereby declared to be part of this chapter.

### 170-9. Amendments to Zoning Map.

Any change in the location of boundaries of a zoning district hereafter made through the amendment of this chapter shall be noted on the Zoning Map.

### 170-10. 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 center 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 center line or, in the case of a curved center line, at right angles to the tangent of the curve at the point of intersection.
- E. Where a district boundary divides one (1) lot and more than fifty percent (50%) of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter 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.

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\* Editor's Note: Said Zoning Map is on file in the office of the Planning Department, where it may be examined during regular business hours.

*DOVER CODE*

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170-11

**ARTICLE IV  
USES; TABLES**

**170-11. 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.

- A. 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 Chapter and other sections of the Code of the City of Dover.
- B. 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.)
- C. 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 Article VI and 170-52 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.
- D. Uses not permitted. A use designated as "-" in the Table of Use Regulations shall not be permitted in the district.
- E. Planning Board Site Review Approval. The following development/redevelopment shall be subject to the rules and regulations contained in the Site Review Ordinance of the City of Dover\* : [Amended 08-01-90 by Ord. No. 8-90]
  - (a) All non-residential development or redevelopment.
  - (b) All multi-family residential uses wherein more than five (5) units are proposed for development.
  - (c) All mobile home parks.
  - (d) Any Change of Use as defined in Chapter 149, Site Review Ordinance.
- F. Overriding district regulations. All uses are subject to the regulations of the overriding districts as listed and defined in this Chapter. (Refer to Article VII.)

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\* Editor's Note: See Ch. 149, Site Review.

## ZONING

170-12

170-14

### 170-12. Applicability of Table of Use Regulations.

Uses permitted in those zoning districts identified in 170-7 shall be as set forth in the following Tables of Use Regulations: Table I, Principal Uses, and Table II, Accessory Uses.\*\*

## ARTICLE V DIMENSIONAL REGULATIONS

### 170-13. Availability of utilities and services. [Amended 6- 10-87 by Ord. No. 13-87]

In instances where municipal sewer and water facilities are not provided, no residential structure shall be built on a lot with less than thirty thousand (30,000) square feet in area. Where municipal water is available and sewer is not, the minimum lot size shall be twenty thousand (20,000) square feet in area. In no instance, however, shall the above requirements be more permissive than those required by the New Hampshire Water Supply and Pollution Control Commission or required elsewhere in this chapter. Furthermore, the above requirement shall not be substituted for mandatory hookups required by other chapters of the Code of the City of Dover.

### 170-14. Nonconforming lots.

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 chapter, provided that:

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

(1) A lot with a width of one hundred ten (110) feet or less and greater than seventy-five (75) feet, shall have a minimum side yard of ten (10) feet.

[Amended 08-01-90 by Ord. No. 8-90]

(2) A lot with a width of seventy-five (75) feet or less and fifty (50) feet or more shall have a minimum side yard of six (6) feet.[Amended 08-01-90 by Ord. No. 8-90]

B. Refer to Article X of this chapter for provisions regulating nonconforming lots that are adjacent or of continuous frontage and nonconforming uses and structures.

[Amended 6-10-87 by Ord. No. 13-87]

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\*\* Editor's Note: The Table of Use Regulations, consisting of Table I, Permitted Uses, and Table II, Accessory Uses, is included at the end of this chapter.

*DOVER CODE*

170-15

170-17

**170-15. Open space requirements.**

A. For each bedroom of a multifamily [greater than four (4) dwelling units] residential structure, there shall be provided at least one hundred (100) square feet of usable 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 fifty (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 chapter shall be included as part of a yard or other open space similarly required for another building.

D. All open space requirements pursuant to this section shall not be binding in the B-2, UMUD, and CWD Zoning Districts. [Added 08-01-90 by Ord. No. 8-90]

**170-16. Applicability of Table of Dimensional Regulations.**

[Amended 8-27-80 by Ord. No. 14-80; Amended 08-01-90 by Ord. No. 8-90]

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 170-17 of this chapter.

**170-17. Dimensional regulations for accessory structures.** [Added 8-27-80 by Ord. No. 14-80; Amended 08-01-90 by Ord. No. 8-90]

In all residential zoning districts accessory structures shall maintain a minimum side and rear yard setback of ten (10) feet. Front yard setbacks shall conform with standards established for principal buildings as specified in the Table of Dimensional Regulations.

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\* Editor's Note: The Table of Dimensional Regulations is included at the end of this chapter.

## ZONING

170-17.1

170-19

### **170-17.1. Dimensional Regulations for Handicapped Accessible Additions.**

Upon the discretion of the Building Inspector, in all zoning districts a structure constructed for the express purpose of improving and/or providing accessibility to an existing building for physical and/or mentally challenged individuals may be erected within the building setbacks (front, side and/or rear) as specified in the Table of Dimension Regulations provided that: (1) the structure cannot feasibly and practicably be constructed on the lot in compliance with the Table of Dimensional Regulations; (2) abutters to the property on which the proposed structure will be erected shall be notified by the Building Inspector prior to the issuance of the Building Permit; and (3) the structure must not create a hazard or detrimental impact to surrounding properties. [Added 08/14/93 by Ord. No. 17-93]

### **170-18. Grant of special exceptions; conditions.**

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 XII and the other sections of this chapter, as applicable. A special exception shall expire one (1) year after site plan approval has been granted by the Dover Planning Board if no building permit has been obtained pursuant to the special exception and site plan approval. [Amended 08-01-90 by Ord. No. 8-90]

### **170-19. Uses in Thoroughfare Business District, B-3.**

Multifamily 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 ensure the proper operation of the proposed use or structure.
- E. The proposed use shall be consistent with the spirit and intent of this chapter.

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170-20

170-23

**170-20. Mobile home parks.**

Mobile home parks shall be subject to the following regulations:

- A. The proposed park must conform to the Mobile Home 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.

**170-21. 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) square feet per animal and shall be located not less than one hundred fifty (150) feet from any property line. In addition, there shall be two thousand five hundred (2,500) square feet of pasture area per animal kept or raised.

**170-22. Barber- and beauty shops.**

Barber- and beauty shops shall be subject to the following regulations:

- A. No 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 in 170-6.

**170-23. Gasoline and auto service stations.**

- A. 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 a 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.

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\* Editor's Note: See Ch. 126, Mobile Home Parks

## ZONING

170-23

170-25.1

- B. The minimum lot size shall be sixty thousand (60,000) square feet, the minimum lot width shall be one hundred fifty (150) feet. Twenty-five percent (25%) of the subject parcel shall be open/green space. The total permitted sign area shall not exceed one hundred (100) square feet.

### 170-24. Junkyard.

In a R-40 Zoning District, a junkyard 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.

### 170-25. Roadside stands.

Roadside stands or sales facilities, where agriculture products raised on site are sold, shall be set back a minimum of forty feet from all abutting vehicular rights-of-way. 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.

### 170-25.1. Three- and four-family dwellings. [Added 3-25-87 by Ord. No. 6-87]

Three- or four-family dwellings and conversions of existing dwellings to three (3) or four (4) units shall be subject to the following regulations:

- A. The specific site must have an amount of open space, either landscaped or left natural, at least equal to the average amount of open space on all developed lots in the RM-10 District that are wholly or partly within two hundred (200) feet of the subject parcel. Existing parking areas, either gravel, paved or unpaved, shall not be considered to be open space.
- B. Off-street parking, in accordance with Chapter 149, Site Review, shall be provided as to avoid vehicles backing into the street. Two (2) parking spaces per unit shall be required.
- C. Parking lots shall be at least five (5) feet from a side property line and ten (10) feet from a front property line.
- D. Parking areas shall be screened from the street and from abutting lots.
- E. Structures shall be at least twenty (20) feet from a front property line, fifteen (15) feet from a rear property line and fifteen (15) from a side property line unless abutting a street, in which case, the distance from the side property line shall be twenty (20) feet.

**DOVER CODE**

170-25.2

170-25.3

**170-25.2. Industrial Building Heights.** [Added 02-20-91 by Ord. No. 02-91]

The maximum building heights may be increased to seventy- five (75') feet in the Industrial Districts provided the following conditions are met:

- A. The additional building height above fifty (50') feet is necessary to meet an industrial function;
- B. The building is located a minimum of 150 feet from a Residential District, and;
- C. The Planning Board has granted preliminary approval to the development proposal containing the taller building.
- D. The building is for a use permitted in the I-1, I-2 or I-4 Zones. [Amended 09-16-92 by Ord. No. 23-92]

**170-25.3. Elderly Assisted Care Home.** [Added 09-15-93 by Ord. No. 19-93]

Elderly Assisted Care Home is allowed by Special Exception in accordance with the densities and provisions stated below:

- A. Elderly Assisted Care Homes larger than 6 bedrooms shall meet the following density requirements.

In the R-40 District in areas not serviced by City water and sewer utilities at a density of one bedroom per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one bedroom per 7,500 sq. ft.; in the R-20 at one bedroom per 5,000 sq. ft. on land; in the R-12 at one bedroom per 3,000 sq. ft. of land; in the RM-20 at one bedroom per 5,000 sq. ft. of land; in the RM-12 at one bedroom per 5,000 sq. ft. of land; in the RM-10 at one bedroom per 2,500 sq. ft. of land; in the Office at one bedroom per 2,500 sq. ft. of land; in the RM-8 at one bedroom per 2,000 sq. ft. of land; and in the RM-6 at one bedroom per 1,500 sq. ft. of land.

- B. Provided that parking and service areas are screened from abutting residential uses.
- C. Notwithstanding the above requirements, the maximum number of bedrooms and residents allowed in a facility may be increased provided the increase is found not to be detrimental to the surrounding properties and conforms with parking standards in Chapter 170-44 (Off Street Parking). Furthermore, any increase to an existing structure must be contained within or contiguous to the original structure. [Added 01-22-03 by Ord. No. 35-02]

## ZONING

170-25.4

170-25.6

### **170-25.4. Congregate Care Facility. [Added 09-15-93 by Ord. No. 19-93]**

Congregate Care Facility is allowed as a Special Exception in accordance with the density and provisions stated below:

- A. In the R-40 District in areas not serviced by City water and sewer utilities at a density of one unit per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one unit per 7,500 sq. ft. of land; in the R-20 District at one unit per 5,000 sq. ft. of land; in the RM-10 District at one unit per 2,500 sq. ft. of land; in the RM-8 District at one unit per 2,000 sq. ft. of land; and in the RM-6 District at one unit per 1,500 sq. ft. of land. [Amended 02-17-99 by Ord. No. 25-98]
- B. Provided that parking and service areas are screened from abutting residential uses.

### **170-25.5. Nursing Home. [Added 09-15-93 by Ord. No. 19-93]**

Nursing Home is allowed as a Special Exception in accordance with the density and provisions stated below:

- A. In the R-40 District in areas not serviced by City water and sewer utilities at a density of one bedroom per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one bedroom per 7,500 sq. ft. of land; in the R-20 District at one bedroom per 5,000 sq. ft. of land; in the RM-8 District at a density of one bedroom per 2,000 sq. ft. of land; and in the RM-6 District at a density of one bedroom per 1,500 sq. ft. of land.
- B. Provided that parking and service areas are screened from abutting residential uses.

### **170-25.6. Group Home for Minors. [Added 09-01-93 by Ord. No. 20-93]**

Group Home for Minors shall be subject to the following conditions:

- A. The group home site shall be compatible with abutting uses.
- B. The group home shall be located in areas of transitional land use or mixed land uses.
- C. Parking and service areas shall be screened from abutting residential uses, unless the abutter chooses to not want said screening.
- D. Open space shall be maintained on the property in an amount comparable to the neighborhood.
- E. The planned occupancy of the group home shall be compatible with the permitted density of the surrounding neighborhood.

## *DOVER CODE*

170-25.7

170-26

### **170-25.7 Adult Bookstore and/or Video Store, Adult Cabaret [Added 10-20-93 by Ord. No. 28-93]**

Adult Bookstore and/or Video Store and Adult Cabaret shall be subject to the following conditions:

- A. An Adult Bookstore, Video Store or Cabaret shall be at least 500 feet from a parcel of land containing an existing residential use.
- B. An Adult Bookstore, Video Store or Cabaret shall be at least 1000 feet from a parcel of land containing a school, church, community park or public recreational area.
- C. No adult Bookstore, Video Store or Cabaret shall be permitted within 1000 ft. of an existing similar use.
- D. The proposed use shall comply with all other state statutes, and city ordinances and codes.

### **170-25.8. Helicopter Take Offs and Landings [Added 02-17-99 by Ord. No. 25-98]**

Helicopter take offs and landings are allowed as a special exception subject to the following conditions:

- A. There shall be a distance of one thousand (1,000) feet between any existing residential structure and any proposed helicopter landing pad.
- B. Except in the case of an emergency, no helicopter take offs or landings shall occur between the hours of 9:00 p.m. and 7:00 a.m.
- C. The facility shall be accessory to the principal use located on the lot.
- D. All facilities shall be located and designed so that the operation thereof will not adversely affect adjacent residential areas, particularly with respect to noise levels.
- E. The conditions for granting a Special Exception, contained in Chapter 170-52-C(3), must also be satisfied.

## **ARTICLE VII OVERRIDING DISTRICTS**

### **170-26. Additional regulations.**

All overriding districts shall be superimposed upon other zoning districts established in this chapter. The regulations stipulated by the overriding districts shall be in addition to the regulations of the underlying zoning districts and other applicable city ordinances.

## ZONING

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### 170-27. 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 as follows:
- (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 groundwater 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.
  - (7) To preserve and enhance those aesthetic values associated with waterways and the natural shoreline. [Added 5-13-87 by Ord. No. 11-87]
- B\*. Location. The conservation District is hereby determined to consist of the following:
- (1)\*Those areas within a minimum of one hundred (100) feet of the mean high water of any water body, river, stream, swamp or marsh subject to tidal action and those areas within a minimum of one hundred (100) feet of the mean high water of any freshwater river or natural pond. [Amended 5-13-87 by Ord. No. 11-87]

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\* Editor's Note: Former Subsection B(1), which listed areas are delineated on portions of the Soil Survey of Strafford County, was repealed 9-14-88 by Ord. No. 15-88, which ordinance also redesigned former Subsection B(2) through (5) as Subsection B(1) through (4), respectively.

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(2) Those areas within a minimum of fifty (50) feet of the mean high water of any stream, brook or other freshwater body. [Amended 5-13-87 by Ord. No. 11-87; 9-14-88 by Ord. No. 15-88]

(3) Those areas owned by and situated in the City of Dover and known as lots:

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

(4) Those areas with slopes in excess of twenty percent (20%) [Added 5-13-87 by Ord. No. 11-87]

C\*. Conditional Use Permits. Conditional Use Permits may be granted by the Planning Board for the following uses within the Conservation District: [Amended 08-01-90 by Ord. No. 8-90; Amended 02-17-99 by Ord. No. 25-98]

(1) Streets, roads and other accessways 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.

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\* Editor's Note: Former Subsection C(3), which provided that a special exception may be granted if the proposed development has received preliminary site approval from the Planning Board, added 4-27-83 by Ord. No. 12-83, was repealed 1-28-87 by Ord. No. 1-87.

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- (2) [Amended 5-13-87 by Ord. No. 11-87] 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, provided that:
- (a) A soil erosion and sedimentation control plan is submitted to verify the planned avoidance of erosion along bodies of water.
  - (b) Necessary state and federal approvals have been received.
  - (c) A written review by the Conservation Commission of the environmental effects of the proposed use upon the area in question has been submitted.  
[Amended 08-01-90 by Ord. No. 8-90]

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 (1) 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)\* 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.

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\* Editor's Note: Former Subsection E(3), which provided that, in the event of incorrect designation of an area on the Conservation District map, and presentation of evidence to that effect, the appropriate uses would be permitted and/or prohibited, was repealed 9-14-88 by Ord. No. 15-88, which ordinance also renumbered former Subsection E(4) through (10) as Subsection E(3) through (9), respectively.

*DOVER CODE*

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- (4) In areas herein defined as the "Conservation District," the cutting of trees shall be limited to no more than fifty percent (50%) of the basal area within a ten-year period. A continuous area of tree cover shall be maintained. [Added 5-13-87 by Ord. No. 11-87]
  - (5) Upon the discretion of the Building Inspector, a structure may be erected within the Conservation District as described in Subsection B(1) up to but never closer than seventy-five (75) feet of the mean high water mark, provided that: [Added 5-13-87 by Ord. No. 11-87; amended 9-14-88 by Ord. No. 15-88]
    - (a) The lot existed within the Conservation District, as recorded in the Stafford County Registry of Deeds, prior to the effective date of this subsection.
    - (b) The structure cannot feasibly be constructed on a portion or portions of the lot which are outside the one-hundred-foot setback of the Conservation District.
  - (6) Upon the discretion of the Building Inspector, a structure located within the Conservation District, as described in Subsection B(1) and (2) and existing prior to the effective date of this subsection, may be increased up to twenty percent (20%) in area, provided that the enlarged structure at no point falls within seventy-five (75) feet of the mean high water mark. [Added 5-13-87 by Ord. No. 11-87; amended 9-14-88 by Ord. No. 15-88]
  - (7) Customary accessory structures shall be allowed within the Conservation District as described in Subsection B(1) but in no case closer than seventy-five (75) feet to the mean high water [Added 5-13-87 by Ord. No. 11-87; amended 9-14-88 by Ord. No. 15-88]
  - (8) Projects which have been officially accepted by the Planning Board prior to the October 10, 1986, amendment posting date shall be exempt of all revisions herein. [Added 5-13-87 by Ord. No. 11-87]
  - (9) Land area contained within the Conservation District can be counted in determining the gross land area of a tract, lot or parcel. [Added 5-13-87 by Ord. No. 11-87]
- F. The provisions of the Conservation District adopted herein shall not be binding on Cocheco waterfront lots located in the B-2, UMUD and CWD Zoning Districts, provided that any proposed development actively integrates and makes use of the Cocheco River waterfront resource. [Added 1-28-87 by Ord. No. 1-87]

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### G. Boat Docks. [Added 02-17-99 by Ord. No. 25-98]

- (1) A boat dock may be allowed on a residential lot, provided that the following provisions are met:
  - (a) The dock is for recreational and accessory use only.
  - (b) One (1) dock is allowed per lot.
  - (c) The beneficiary of an easement or right-of-way, recorded at the Strafford County Registry of Deeds prior to the October 10, 1986 amendment posting date for the purpose of providing water access to nonwaterfront lots, shall be entitled to one (1) boat dock within the prescribed easement or right-of-way.
  - (d) All applicable state and federal approvals have been received.
  - (e) A dock may be provided a maximum space for two (2) slips. Joint use or private docks by adjoining waterfront residents, not to exceed two (2) slips per lot, shall be encouraged when appropriate.

### 170-27.1. Wetland Protection district. [Added 9-14-88 by Ord. No. 15-88; amended 01-22-03 by Ord. No. 35-02]

A. Authority. By the authority granted under RSA 674:16 and 17, this section is designed to protect the wetland areas and surface waters within the City of Dover from certain activities, the impact of which results in the alteration or destruction of wetland areas.

B. Purpose and intent. It is intended that this section shall:

- (1) Prevent the development of structures and land uses on wetlands, which will contribute to pollution of surface and ground water by sewerage, toxic substances or sedimentation.
- (2) Prevent the destruction of, or significant changes to, wetlands which provide flood protection, recharge the groundwater supply and augment stream flow during dry periods and filtration of water flowing into ponds and streams.
- (3) Protect unique and unusual natural areas and rare and endangered species.
- (4) Protect wildlife habitats, maintain ecological balances and enhance ecological values such as those cited in RSA 483-A-1-B.
- (5) Protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas.
- (6) Prevent unnecessary or excessive expense to the city for the purpose of providing and/or maintaining essential services and utilities, which might be required as a result of misuse or abuse of wetlands.

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- (7) Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in wetlands.
- (8) Preserve and enhance the aesthetic values associated with wetlands in the City of Dover.
- (9) Avoid the high costs of constructing heavy structures and prevent damage to structures and abutting properties caused by inappropriate development in wetland areas.

### C. District boundaries.

- (1) The Wetlands Protection District is hereby determined to be all areas of wetlands as defined by New Hampshire Administrative Rule Wt 101.88, which states a "Wetland" means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and areas where the tide ebbs and flows."
  - (a) The Wetlands Map, which is on file at the Planning Department and the City Clerk's office at City Hall, illustrates the general location of these soils for informational purposes but does not depict the exact boundaries of Wetland Protection Districts for the purpose of this section.
- (2) For the purpose of this section, the delineation of wetland protection district boundaries shall be consistent with NHDES Wetlands Bureau Rules Wt. 301.01 or successor regulations.
- (3) "Hydrophytic (water-loving) vegetation" is defined as those plants identified in the "1986 Wetland Plant List Northeast Region" of the United States Fish and Wildlife Service. The more common names associated with these vegetative communities are "bogs," "swamps," "marshes," (saltwater and freshwater) and "tidal wetlands."

### D. Procedural requirements.

- (1) Presence of Wetland Protection District on site.
  - (a) Where maps or field investigation indicate that a Wetland Protection District is present on a proposed development site, those wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology in accordance with the techniques outlined in the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, (January, 1987) or successor document. The hydric soils component of wetlands delineations shall be determined in accordance with the manual Field Indicators for Identifying Hydric Soils in New England

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(Version 2, July 1998, published by the New England Interstate Water Pollution Control Commission) or successor document A certified wetlands scientist shall conduct this delineation.

- (1) A certified wetland scientist is defined as: "a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified by RSA 310-A:84, II-a and II-b, is qualified to delineate wetland boundaries and prepare wetland maps in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or its successor, and who has been duly certified by the board." (RSA 310-A:76) If necessary, a botanist shall be used in conjunction with the wetlands scientist to identify wetland vegetation where required. The botanist shall have equivalent and practical experience to that of the wetlands scientist.
- (b) Applications for a building permit, subdivision and site plan approval shall locate and depict on the survey/subdivision plat/site plan all Wetland Protection Districts on the subject parcel. Any applicant seeking said approval(s) will be responsible for providing this information before the appropriate approval or permit can be granted.
- (c) Upon detection, all areas of wetlands on a lot shall be delineated via marker flags and documented in the parcel's deed.
- (2) The Planning Department shall notify the Conservation Commission of all projects and construction proposed in wetland districts for the purpose of allowing the Commission to make recommendations prior to approval.
- (3) In the event that the accuracy of the boundaries submitted by the applicant is suspect, the Planning Board may call upon the services of a certified wetland scientist and/or botanist to reexamine said area and report the findings to the Planning Board for a boundary determination. The applicant shall pay the cost of said services.
- (4) The Building Inspector shall not issue a building permit for construction and the Planning Board shall not approve a site plan or subdivision plat unless such construction activity or proposal conforms to the provisions of this ordinance.
- (5) Standards established herein shall constitute the rules of overlay zones and shall be superimposed over other zoning districts or portions thereof. The provisions herein shall apply in addition to all other applicable ordinances and regulations. In the event of a conflict between any provision herein and any other regulation, the more- restrictive requirement shall control.

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- (6) The city shall have the power to enforce this section, and violations may be punishable by fines as provided by RSA 676:17.

E. Permitted uses.

- (1) Any use otherwise permitted by the City Zoning Ordinance, except on-site sewage disposal systems, may be permitted in a Wetland Protection District. Any use permitted under Section E(1) must first receive conditional use approval as provided for in Section F before any building permit or subdivision/site plan can be approved.

(a) Crossing of a Wetland Protection District as provided for in Section F(1).

(b) The construction or reconstruction of fences, footbridges, catwalks, boat docks and wharves does not require a conditional use permit, provided that:

[1] Said structures are constructed on posts or pilings so as to permit unobstructed flow of water and are designed in compliance with the New Hampshire Wetlands Board Code of Administrative Rules (WT 400 and 600).

[2] The natural contour of the wetland is preserved.

[3] All other applicable provisions of the city's Zoning Ordinance have been met.

F. Conditional use approval.

- (1) Conditional use approval may be granted by the Planning Board (RSA 674:21II) after proper public notice and public hearing, for the crossing of the Wetland Protection District by a road or other accessway, utility right-of-way, communication lines, power lines and pipelines, provided that the proposed construction complies with the following standards:

(a) The proposed construction is essential to the productive use of land or water outside the Wetlands Protection District.

(b) Design, construction and maintenance methods will be prepared by a registered engineer to minimize detrimental impacts to the wetlands and will include restoration of the site as nearly as possible to its original grade.

(c) No reasonable alternative to the proposed construction exists which does not cross or alter a wetland or which has less detrimental impact on a wetland.

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- (d) Approval for the wetlands impact has been received from the NHDES Wetlands Bureau pursuant to Section G(3), below.
- (2) Conditional use approval also may be granted by the Planning Board for development in the Wetlands Protection District. To obtain such an approval, the applicant shall perform or cause to have performed a functional evaluation of the wetlands on which development is proposed. Said functional evaluation shall examine the wetland in terms of the four (4) following criteria: flood control value; ecological integrity; nutrient retention and sediment trapping value; and groundwater use potential. The functional evaluation shall be performed in accordance with the procedures outlined in the "Wetland Evaluation Handbook for the City of Dover" which is on file in the office of the City Clerk and Planning Department in City Hall. If three (3) or more of the criteria being evaluated for a particular wetland have a functional value index (FVI) below five-tenths (0.5), the proposed use may be permitted by the Planning Board, provided that all other provisions of this section have been satisfied. If the wetland has an FVI of five-tenths (0.5) or greater for two (2) or more of the criteria, the proposed use shall not be permitted.
- (3) The burden of proof that the conditions specified in Subsection F(1) and/or (2) above have been met shall be the responsibility of the person(s) requesting the conditional use approval, except as herein provided. Regarding a development proposed for a parcel of land smaller than ten (10) acres, the applicant shall provide a Site Specific Soil Map, and the City of Dover shall conduct the evaluation in accordance with the Wetland Evaluation Handbook.
- (4) The conditional use approval shall apply only to the project specified at the time of approval and shall not be transferable to a different project.
- (5) For the purposes of evaluating wetlands and granting conditional use permits, the Planning Board may divide a Wetland Protection District into smaller study areas, allowing different evaluations to be assigned to the various study areas and allowing a conditional use permit to be approved for certain study areas and not for others.
- (6) If deemed necessary by the Planning Board, prior to the granting of a conditional use approval, the applicant shall agree to submit a performance security to ensure that all operations are carried out in accordance with an approved design. This security shall be submitted in an amount sufficient to complete all specified work and repair damage to any wetland area in which no work has been authorized. The security shall be submitted in an amount, with surety and conditions satisfactory to the Planning Board. The security shall be submitted and approved prior to issuance of any permit authorizing construction.

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- (7) The Planning Board may assess the applicant reasonable fees to cover the costs of special investigative studies and for the review of documents required by applications.

G. Specific provisions.

- (1) Any construction altering the surface configuration of the land, shall be set back at least fifty (50) feet from a Wetland Protection District. The Planning Board may approve construction within this fifty (50) setback area in accordance with Section E(1), above. [Amended 08-01-90 by Ord. No. 8-90]
- (2) No septic tank or leach field may be constructed or enlarged closer than seventy-five (75) feet to any Wetland Protection District. In new subdivisions approved subsequent to adoption of this section, there must be sufficient lot size to place a house, a state-approved septic system, where applicable, and a state-approved well, where applicable, without locating them in a wetland. This provision can be waived if a conditional use approval is obtained from the Planning Board.
- (3) A state dredge and fill application shall be submitted for any proposed change to a wetland (RSA 483-A).

H. Filled lands and preexisting uses.

- (1) Lands which may have been wetlands but were filled under properly issued federal, state and local permits granted prior to the adoption of this section will be judged according to the soils and flora existing at the time the application for building permit or subdivision is made.
- (2) Structures and uses existing at the time of the adoption of this section that do not comply with the rules stated herein shall be regulated in accordance with 170-40 and 170-41 of this chapter.

I. Exemption for one- and two-family residential structures, existing lots, impoundments and maintenance dredging.

- (1) Notwithstanding other provisions of this chapter, the construction of additions and/or extensions to one- and two-family dwellings shall be permitted within the Wetlands Protection District or set back, provided that:
  - (a) The dwelling(s) lawfully existed prior to the effective date of this section;
  - (b) The proposed construction conforms to all other applicable ordinances and regulations of the City of Dover; and

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- (c) The design and construction of the proposed use will be done in a manner which minimizes the impacts on the affected wetland, including storage of excavation and construction material outside the wetland and installation of siltation fence and/or hay bales to contain erosion of the construction site.
- (2) Notwithstanding other provisions of the ordinance, a new one- or two-family dwelling shall be permitted in the Wetlands Protection District or set back, on an existing lot, provided that all of the following conditions are found to exist:
- (a) The lot for which an approval/permit is sought was an official lot of record, as recorded in the Strafford County Registry of Deeds, prior to the date on which this amendment was posted and published in the city.
  - (b) The structure for which the approval/permit is sought cannot be feasibly built on a portion or portions of the lot, which are outside the Wetlands Protection District.
  - (c) Due to the provisions of the Wetlands Protection District, no reasonable and economically viable use of the lot can be made without the exemption.
  - (d) The design and construction of the proposed structure will, to the extent practical, be consistent with the purpose and intent of this ordinance.
  - (e) The proposed structure will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater or other reason.
  - (f) The design and construction of the proposed structure will be done in a manner which minimizes the impacts on the affected wetland, including storage of excavation and construction material outside the wetland and installation of siltation fence and/or hay bales to contain erosion of the construction site.
- (3) Water impoundments with related structures and maintenance dredging for navigational purposes (where a dredge spoil site has been approved by the Planning Board) are exempt from the regulations stated herein. Notwithstanding, copies of permits where required by the New Hampshire Wetlands Board, New Hampshire Water Supply and Pollution Control Division and the United States Army Corp. of Engineers shall be submitted to the Planning Board prior to construction.
- (4) The burden of proof that the conditions specified in Subsection I(1) and/or (2) above have been met shall be the responsibility of the person(s) requesting the approval/permit.

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J. Separability. Should any provision of this section be declared invalid by a final court decision, the same shall not affect the validity of this section as a whole or part thereof, other than the part declared to be invalid.

**170-27.2. Transfer of Development Rights.** [Added 10-31-90 by Ord. No. 16-90; amended 01-22-03 by Ord. 35-02]

- A. Authority. By the authority granted under NH RSA 674:21, this section creates overlay district(s) for the purpose of transferring development rights (TDR) within said districts.
- B. Purpose and Intent. Within the City of Dover there are certain lands that possess significant conservation features, including but not limited to wetlands, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic viewsheds, historic landmarks, and linkages to other such areas. Because of their unique assemblages of flora and fauna and their significant contribution to the ecological system and/or the cultural identity of our community, these lands are worthy of special protection. The City of Dover furthermore, has a limited supply of land suitable for development. The purpose of this overriding district is to promote intensive development on the developable land possessing the least conservation value and to permanently protect lands possessing significant conservation features that provide unique values in their undisturbed condition.
- C. Applicability. Upon request by an applicant for development approval and at the discretion of the Planning Board, the provisions of this subsection may apply to the district(s) defined in this subsection E below.

D. Definitions.

Development Rights - The legal claim to construct or develop specified land uses within specified densities and/or dimensional limits as granted by the City of Dover Zoning Ordinance.

Landscaped area - An area unoccupied by pavement or structures and open to the sky in either a landscaped or grassed condition. May include recreational fields, lawns, and public parks that do not possess significant conservation features.

Open Space – Land that is not built upon or substantially altered by human activity including open fields, such as meadows and farmland, and forest as well as undeveloped shorelands and waterbodies.

Receiving Area - A defined area within a TDR district to which development rights are transferred resulting in more efficient and intense use of suitable development sites.

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**Sending Area** - A defined area within a TDR district from which development rights are transferred, resulting in the permanent preservation of lands possessing significant conservation features.

**Transfer of Development Rights** - The conveyance of the development rights of a parcel of land by deed or other legal instrument approved by the Planning Board to the developer of another parcel. Said legal instrument shall be recorded at the Strafford County Registry of Deeds.

**TDR District** - An area defined as a zoning overlay district, which includes a sending area and a receiving area for the purpose of transferring development rights from a parcel within the sending area to a parcel within the receiving area.

### E. Districts Defined.

- (1) The Industrial TDR District is hereby determined to be any I-4 or B-4 Zoning districts as shown on the Zoning Map for the City of Dover, New Hampshire, adopted May 25, 1979. The sending Area is defined to be open space and related setbacks as defined by the City of Dover Wetland Protection District, Chapter 170-27.1, which are located in be any I-4 or B-4 Zoning districts. The receiving area is defined to be all remaining land in be any I-4 or B-4 Zoning districts.
- (2) The Residential TDR Districts are hereby determined to be Residential districts as shown on the Zoning Map for the City of Dover, New Hampshire, adopted May 25, 1979. The sending area is defined to be all R-40 or R-20 residential zoning districts. The receiving area is defined to be all non-R-40 or R-20 zoning districts East of the Spaulding Turnpike which allow residential development.

### F. Procedural Requirements.

- (1) At the discretion of the Planning Board, an applicant for development approval within the receiving area of the defined Industrial TDR district may apply the performance standards specified in subsection G below in return for the acquisition of land or development rights from the sending area within the same TDR district. The performance standards for the Residential TDR district are outlined in subsection H below.
- (2) A certified boundary survey of the associated land in the sending area shall be submitted as a supplement to the site plan or subdivision plan for development within the receiving area.

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- (3) The owner of the subject open space within the sending area of the TDR district shall sign all application materials as a co-applicant of the development application.
- (4) A sketch plan estimating layout of the development site and identifying the open space associated with the plan shall be submitted to the Planning Board for review at a regularly scheduled meeting. The Planning Board, within thirty (30) days of its review of the sketch plan, shall determine if waivers will be granted as allowed in Subsections G and H below. Following this decision, a final application is prepared. The final application for development approval shall be reviewed in accordance with the standard plan review process and subjected to all applicable development regulations, except as provided in this section.
- (5) A perpetual easement or restrictive covenant shall be recorded at the Strafford County Registry of Deeds that preserves the designated open space within the sending area. Said easement or covenant may allow for the continuance of existing residential and agricultural activities, and may allow for utility and access crossings in accordance with subsection I below. The designation of the land protection agency to hold the easement shall be approved by the Planning Board.

### G. Industrial Performance Standards.

- (1) Land within a sending area, when surveyed, approved by the Planning Board and preserved by easement or covenant as specified in subsection F above, may be counted for the open space requirement for a development site in a receiving area. The amount of land preserved in a sending area shall equal or exceed the open space requirement for the development site, but in no case be less than one (1) acre. Notwithstanding, development sites within the I-4 and B-4 zoning districts shall maintain open space or landscaped area on at least ten (10) percent of the site. The design of the development site shall locate the open space or landscaped area to maximize the aesthetic value of the site.
- (2) The minimum lot size requirement may be waived by the Planning Board for land subjected to the transfer of development rights.
- (3) The minimum frontage requirement may be waived by the Planning Board for land subjected to the transfer of development rights provided that paved access to all developed areas suitable for emergency vehicles is approved by the Planning Board.

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- (4) Setbacks for parking, paved areas, and buildings may be waived by the Planning Board, and be consistent with the intent to promote intensive development of suitable development sites. Notwithstanding, buildings shall be at least 150 feet from residential structures that exist on the date of enactment of the I-4 and B-4 Zoning districts, and 75 feet from the lot line of a disagreeing residential abutter.
- (5) The developer shall record covenants that address architectural considerations for structures, signage and lighting, that are designed to promote the highest possible aesthetic quality of the development site.
- (6) A landscaping plan shall be submitted with a development application that depicts landscaping or open space around the perimeter of the site, near the proposed buildings, and within the parking lot that promotes the highest possible aesthetic quality of the development.

### H. Residential Performance Standards.

- (1) For land in the sending district to be eligible to transfer development rights, it must be a parcel of at least 5 acres, and developable under the existing land use regulations.
- (2) Land within a sending area, when surveyed, approved by the Planning Board and preserved by easement or covenant as specified in subsection F above, may be counted for the minimum lot size requirement for a development site in a receiving area. The amount of land preserved in a sending area shall equal or exceed the minimum lot size requirement for the sending site.
- (3) The square footage being transferred shall be divided by the minimum lot size needed in the receiving zone, or by 5000 square feet, whichever is larger to determine the transferred right.
- (4) The minimum lot size requirement may be waived by the Planning Board for land subjected to the transfer of development rights.
- (5) The minimum frontage requirement may be waived by the Planning Board for land subjected to the transfer of development rights provided that paved access to all developed areas suitable for emergency vehicles is approved by the Planning Board.
- (6) Any other provision in this chapter to the contrary, the density or intensity of development of a receiving parcel may be increased by the transfer of development rights so long as the increase in density or intensity:

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- a. Is consistent with the Master Plan
- b. Is not incompatible with the land uses on neighboring lots

I. Conditional Uses.

- (1) The Planning Board may grant conditional use permits to allow streets, roads, utilities, or other infrastructure improvements to cross wetlands within the receiving area of the TDR District, provided said infrastructure is essential to the productive use of land within the receiving area of a TDR District, and further provided that no possible location exists for said infrastructure in non-wetland areas.

**170-28. Urban Renewal District.**

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

**170-28.1. Riverfront Residential Overlay District. [Added 02-17-99 by Ord. No. 25-98]**

- A. Purpose. The purpose of this section is to promote the public health, safety and general welfare by protecting the shorelands which are valuable and fragile natural resources essential to maintain the integrity of public waters. By adopting this section, the City is striving to avoid uncoordinated, unplanned and piecemeal development of shorelands which could significantly impact public waters.
- B. Location of District. The Riverfront Residential Overlay District is an overlay district that includes all land located within two hundred and fifty (250) feet of the reference line (as defined by RSA 483-B:4 – XVII) of any tidal water body or tidal river in a Single Family Residential District (R-12, R-20, and R-40).
- C. Minimum Lot Size Requirement. The minimum lot size for a lot within the Riverfront Residential Overlay District shall be three times the minimum lot size required by Article 170-16 – Applicability of Table of Dimensional Regulations for the underlying zoning district, but land classified as wetlands can be included for up to fifty percent of the minimum lot area required in this district.
- D. Minimum Shoreland Frontage Requirement. Any new lot created within the district shall provide a minimum of 150 feet of river shoreland frontage per dwelling unit for lots dependent on septic systems and a minimum of 100 feet of river shoreland frontage per dwelling unit for lots served by municipal sewer.
- E. Existing Lots. Existing lots of record are exempt from the provisions of this ordinance. Only lots subdivided after the posting of this ordinance shall be subject to its provisions.

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F. Other Provisions. Reference is hereby made to RSA 483-B, as amended, the Comprehensive Shoreland Protection Act, the provisions of which apply. It is intended that the more restrictive law shall apply. In all cases where the Riverfront Residential Overlay District is overlain other local zoning districts, the more restrictive regulations shall apply.

### **170-28.2 Residential-Commercial Mixed Use (RCM) Overlay District**

[Added 05-17-06 by Ord. No. 03-2006

#### **A. Purpose and Intent**

The Residential-Commercial Mixed Use Overlay District is designed as an overlay district that allows a mixture of residential use and commercial uses on one parcel. In order for a developer to utilize these regulations, the Planning Board shall have granted a Conditional Use permit. The district includes options which enable and encourage greater flexibility in the design of residential housing for older persons with commercial projects. The overlay permits development of large tracts of land on a Development Plan basis which allows flexibility in internal road design, with reduced dwelling lot sizes and modified dimensional requirements.

The mixed residential and commercial uses are intended to be complementary of one another and to create a sense of community between the mixed uses. Housing and commercial uses can be developed to provide appropriate use of land, facilitate the economical and efficient provision of public services, promote open space conservation, protect the natural and scenic attributes of the land, and expand opportunities for the development of housing for older persons, as defined under RSA 354-A:15, outside the traditional residential developments.

#### **B. Conditional Use Permit**

1. Conditional use approval may be granted by the Planning Board (RSA 674:21 II) after proper public notice and public hearing provided that the proposed project complies with the following standards:
  - a. The applicant demonstrates that the development complies with the design guidelines that are outlined in Chapter 149 14.2. These guidelines encourage a context sensitive development, which encourages components that act as one project and not as two adjacent projects
  - b. The applicant demonstrates that the development poses no detrimental effects on surrounding properties. Potential areas of impact that need to be analyzed include, but are not limited to, vehicular traffic, noise, property value, visual blight, natural resources degradation, light pollution, and offensive emissions such as dust, odor, or smoke.

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- c. The applicant shall submit a Fiscal Impact Analysis as defined in Chapter 155.22 C 1 (b). The Analysis shall demonstrate that the project is at least a cost neutral project for the City at present and ten years from the occupation.
2. Conditional use approval shall be subject to a formal agreement between the Planning Board and the applicant. Said agreement shall be recorded at the Strafford County Registry of Deeds.

### **C. Location**

The Residential-Commercial Mixed Use Overlay District shall include any parcel located within the B-4, I-4 or ETP zone, which is greater than fifty (50) acres, and within 500 feet of a road maintained by the State of New Hampshire.

### **D. Permitted Uses**

The following uses are permitted:

#### **1. Principal Uses**

- a. Housing for older persons as that term is defined under RSA 354-A:15 and 42 USCA §3607(b)(2) and the regulations adopted there under in the following settings:
  - i. Single-family dwelling
  - ii. Two-family dwelling
  - iii. Three to Four family dwelling
  - iv. Multi-family dwelling
  - v. Mobile home parks (permitted outright without a special exception)
- b. Nursing Homes
- c. Congregate care facilities
- d. Public and private utilities
- e. Non-Residential uses as allowed as follows:
  - i. Any use allowed in the underlying zone that is compatible with housing for older persons
  - ii. Barber or Beauty Shop
  - iii. Bank
  - iv. Eating/Drinking Establishments (no Drive thru Service)
  - v. Bed and Breakfast
  - vi. Office
  - vii. Retail store
  - viii. Theater
  - ix. Adult Day Care
  - x. Other uses compatible with housing for older persons
  - xi. Non-residential uses in existence at the adoption of this ordinance on adjacent parcels shall be allowed to expand within the development if conceptually shown on the approved plan.

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### 2. Accessory Uses

- a. Recreational facilities
- b. Community building
  - i. Defined as "A building used as a place of meeting, recreation or social activity typically for use by the residents of a particular development".
- c. Maintenance buildings
- d. Rental and sales offices

### E. Procedural Concepts

The developer shall prepare a Development Plan, which locates the proposed types of non-residential and residential development, utilities, access roads, and public ways. The parcels comprising the development may be under separate ownership, but shall be treated as one development and shall be bound by the approval granted for the entire Development Plan. If approval is granted, individual lots must be developed as part of the larger Development Plan and phasing outlined below, and not separately. The Development Plan must identify the percentage of the non-residential uses, residential uses and open space. Non-residential uses must exceed 40% of the original tract, residential uses must not exceed 35% of the original tract, and a minimum of 20% of the original tract shall be open space. 50% of the required open space (as defined in Chapter 155-60) must be usable uplands and reasonably accessible to all property owners in the project. Any open space provided above 20% may be mixed wetlands and upland.

Residential uses require that the calculation of permitted density shall be completed through the submission of a yield plan (as defined in Chapter 155-60) applied to the Development Lot and not individually to the Internal Dwelling Lots.

For residential development that includes single family, two family, three to four family or multi-family dwellings, density shall be based upon calculating one unit per 40,000 square feet of contiguous upland, and using 150 feet of frontage on a public roadway.

For mobile home residential development, density shall be based upon calculating one unit per 10,000 square feet of contiguous upland, and using 100 feet of frontage on public a roadway.

The Development Plan may be phased for a term of five (5) years. The phasing plan shall contain provisions which promote the mixed use of the site consistent with Section 170-28.2 A. For the purposes of this section, development shall include: (1) construction of structures; (2) environmental remediation; (3) site preparation or demolition; (4) roadway utility or recreation and common area design and construction; and (5) bonding or other security for site development.

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The phasing plan shall provide that no more than fifty percent (50%) of the residential development may be occupied prior to completion of between twenty-five percent (25%) and fifty percent (50%) of the non-residential structures as negotiated between the Planning Board and the Developer.

Provided that the developer is making reasonable efforts to develop the site, the Planning Board may extend the initial five-year phasing period provided a request for extension is submitted before the expiration of the initial five-year phasing term.

### 1. Residential Development Plan Guidelines

The developer shall be permitted to allocate permitted density among Internal Dwelling Lots in a flexible and creative manner. The sum total of the permitted density shall not exceed the permitted density of the Development Lot or Legal Lot. Layouts may include individual lots or a cluster of units without lot lines.

Dwelling layouts shall be so designed that parking is screened from external roadways by garages, building locations, grading or screening. Major topographical changes or removal of existing trees shall be avoided wherever possible, and water, wetlands, and other scenic views from the external streets shall be preserved as much as possible.

All residential development must adhere to architectural design guidelines. Said standards will reflect a New England village motif and include structures with peaked roofs, and architectural shingles. The guidelines for this development are included in Chapter 149, section 14.2.

All mobile homes shall adhere to the standards outlined in Chapter 126, Mobile Home Parks, with the exception of Sections 126-3, 126-4, 126-5, 126-6, and 126-7.H which shall be controlled by the provisions hereof and unless noted below. Where there is a difference in the requirements between this Overlay District and the provisions of Chapter 126, "Mobile Home Parks", the provisions of the Overlay District shall apply.

### 2. Nonresidential Development Plan Guidelines

The general character of the nonresidential structures within the Development Lot is intended to be a pedestrian friendly setting, with emphasis on the natural characteristics of the site. The site design should create a sense of character and cohesiveness through landscaping, façade treatment, and signage.

The guidelines for this development are included in Chapter 149, section 14.2.

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### F. Standards and Regulations

#### 1. Internal Roads

As part of the approval of the Conditional Use permit, the Planning Board shall determine whether internal roads shall be public or private. If a road is determined to be private, no municipal services shall be provided other than public safety, utilities maintenance, and regulatory services. Unless noted below roadways shall conform to the street design criteria laid out in the City of Dover Code:

- a) Minimum Internal R.O.W.
  - i) Maximum residential: 35 feet
  - ii) Maximum non- residential: 50 feet
- b) Minimum Pavement Width
  - i) Minimum residential: 20 feet
  - ii) Minimum non- residential: 28 feet
  - iii) Minimum sidewalk pavement width: 5 feet
  - iv) Minimum bike/Segway/golfcart path width: 5 feet
- c) Minimum Tangent Length at Intersections = 75 feet
- d) Maximum street angle at Intersections = 60 degrees
- e) Minimum centerline radius = 100 feet
- f) Minimum Tangent Length between reverse curves = 50 feet

#### 2. Dimensional Requirements

##### A. Non-residential/Mixed-Use Buildings

- i. Minimum structure setback from external lot line: 50 feet
  - 1. Expanding existing non-residential uses are not held to this setback.
- ii. Minimum structure setback from external ROW: 50 feet
- iii. Maximum non-residential building height: 55 feet
- iv. For all other dimensional requirements for non-residential structures and parking setbacks refer to the underlying zone.

##### B. Residential Dwellings:

- i. Minimum structure and parking setback from external lot line: 50 feet
- ii. Minimum structure and parking setback from external ROW: 100 feet
- iii. Maximum residential building height: 35 feet
- iv. Minimum frontage on internal road:  
40 feet
- v. Minimum Setbacks:
  - 1. Front Yard Setbacks: 20 feet
  - 2. Distance between buildings: 24 feet

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3. Parking

- a) All dwelling units shall require two independently accessible parking spaces per unit, except that the congregate care and nursing home requirements shall be as otherwise defined by the zoning ordinance. Non-residential uses shall comply with parking requirements defined by the zoning ordinance.
- b) Overnight parking shall not be permitted on internal roadways.

**170-28.3. Groundwater protection.** [Added 6-12-85 by Ord. No. 7-85; amended 1-30-88 by Ord. No. 24-88; amended 01-22-03 by Ord. No. 35-02]

- A. Purpose. The purpose of this section is to promote the public health, safety and general welfare by protecting and preserving the quality of existing and future groundwater supplies from adverse or detrimental land use, development or activities.
- B. Location. These regulations shall apply to all lands within the Primary and Secondary Groundwater Protection Zones. The boundaries of the Primary and Secondary Groundwater Protection Zones are depicted on maps entitled "Groundwater Protection Zones," dated October 6, 1998. These maps shall be on file at the Planning Department and the City Clerk's Office. [Amended 02-17-99 by Ord. No. 25-98]
- C. Applicability.
  - (1) All land use activities and development conducted within the Primary or Secondary Groundwater Protection Zones shall be regulated by the standards established herein.
  - (2) The standards established herein shall constitute the rules of an overlay zone and shall be superimposed over other zoning districts or portions thereof. The provisions herein shall apply in addition to all other applicable ordinances and regulations. In the event of a conflict between any provision herein and any other ordinance or regulation, the more restrictive requirement shall control.
  - (3) Pursuant to New Hampshire Code of Administration Rules Env-Ws 421, land use activities within a four-hundred-foot radius of a municipal well, the Primary Groundwater Protection Zone, shall be subjected to more restrictive standards than the balance of the Groundwater Protection Zones.
  - (4) Any nonconforming use may continue, and may be maintained and repaired, unless such use is determined to be an imminent hazard to public health and safety by the City Council or the Health Officer.

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### D. Standards and regulations.

(1) The following land uses are allowed in the Primary Groundwater Protection Zones. All other land uses are prohibited:

- (a) Construction, operation, and maintenance of wells, dams and water conservation apparatus.
- (b) Conservation, education and recreational activities which do not cause erosion or necessitate the application of chemicals.
- (c) Forestry and agricultural uses, provided that fertilizers, herbicides, pesticides, manure and other leachables are not used or stored within said zone.
- (d) Maintenance and repair of any existing structure, provided that there is no increase in the area of impermeable surfaces.

(2) The following land uses are expressly prohibited from the Secondary Groundwater Protection Zones:

- (a) Disposal or storage of solid waste that contains leachable toxic substances, except for temporary storage awaiting removal, provided that it is stored in a manner that avoids leaching and runoff.
- (b) Disposal or storage of liquid waste, except for normal sanitary waste disposal from a domestic septic system approved in compliance with New Hampshire Department of Environmental Services (NHDES) Regulations, which may require a groundwater discharge permit under RSA 485-A:13. Land application of wastewater residuals (sewage sludge) subject to regulation under NHDES Rules Env-800-811 is prohibited.
- (c) All on-site handling, disposal, storage or recycling of solid or liquid waste and hazardous or toxic materials, as defined in RSA 174A, except for the temporary storage of such materials when they are incidental to or byproducts of a manufacturing process. Such materials are to be stored and removed in accordance with City of Dover Site Review Regulations and other applicable state and federal regulations.
- (d) Junk- or salvage yards.
- (e) Motor vehicle service or repair shops, except as a customary accessory use designed to provide routine service to the vehicles operated by the principal use.

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- (f) Storage of petroleum or related products, exempting such products when they are a part of Subsection D(2)(c) or (e) above and exempting normal heating oil. Notwithstanding, the facilities for storing and handling such products shall be designed to avoid groundwater contamination and shall be proposed for review and approval prior to construction.
  - (g) Storage of road salt and other deicers, except in a shelter constructed to avoid leaching and runoff for use on-site.
  - (h) The dumping of snow containing road salt or other deicers brought in from outside the Groundwater Protection Zone.
  - (i) Industrial uses that discharge contaminated wastewater on-site.
  - (j) Animal feedlots.
  - (k) Commercial storage of manure, fertilizers, herbicides, pesticides or other leachables, except for the temporary storage of such material when it is incidental to the principal use and stored in a manner that avoids leaching and runoff.
  - (l) The use of wood piling treated with creosote or other preservative.
- (3) The following land uses are allowed in the Secondary Groundwater Protection Zones only if the Planning Board approves a Conditional Use Permit for the specific use per Chapter 170-28., E-4:
- (a) General service and repair shops, including but not limited to: furniture stripping, painting, and refinishing; photographic processing; printing; appliance and small engine repair; boat repair, service and refinishing; refrigeration, heating, ventilating and air conditioning shops.
  - (b) Metalworking shops, including, but not limited to: machine shops; metal plating shops; heat treating shops; smelting shops; and jewelry making shops.
  - (c) Manufacturing facilities, including but not limited to: electronics and chemical manufacturing, processing, and reclamation; paper, leather, plastic, fiberglass, rubber, silicon and glass making; pharmaceutical production; pesticide manufacturing; and chemical preservation of wood and wood products.
  - (d) Laboratories and professional medical offices, including but not limited to: medical, dental, and veterinary offices; and research and analytical laboratories.

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- (e) Cleaning services, including but not limited to: dry cleaner; laundromats; beauty salons; and car washes.
- (4) The following land uses are allowed in the Secondary Groundwater Protection Zones:
- (a) Construction, operation and maintenance of wells, dams, and water conservation apparatus
  - (b) Conservation, education and recreational activities which do not cause erosion or necessitate the application of chemicals.
  - (c) Forestry and agricultural uses, provided that fertilizers, herbicides, pesticides, manure and other leachables are not commercially stored within said zone.
  - (d) All land use permitted in the applicable underlying zoning district, provided that they are not expressly prohibited in Subsection D(2) or (3) above.
- (5) In soils that are excessively drained, well-drained, moderately well-drained or somewhat poorly drained, as defined by a site specific soil survey completed in accordance with the standards of the Society of Soil Scientists of Northern New England, the development shall not make impervious to water more than twenty percent (20%) of the area of said soils except as provided for below. Any development in the Secondary Groundwater Protection Zone that proposes a total impervious surface greater than twenty percent (20%) shall only be permitted if the Planning Board grants a Conditional Use Permit, per Chapter 170-28., E-4. In reviewing a Conditional Use Permit application filed under this provision, the Planning Board shall require that the proposed development plan incorporates a stormwater drainage plan, approved by the Planning Board and prepared by a professional engineer certified to practice in the State of New Hampshire. The plan shall provide for the retention and percolation within the Secondary Groundwater Protection Zone of all development-generated stormwater runoff from a ten-year storm. Furthermore, the stormwater drainage plan shall provide for the removal of oil and gasoline from parking lot runoff by use of treatment swales, oil/gas separators or other device, prior to retention and percolation of the runoff.
- (6) In addition to standards and requirements contained in other ordinances and regulations, a proposed site plan and building permit application shall be accompanied by a report that specifies the amount and composition of industrial or commercial waste that will be generated on-site and details the proposed method for disposal of such waste outside of the Groundwater Protection Zones.

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- (7) A hydrogeologic study may be required by the Planning Board to investigate the impacts a proposed development or land use activity will have on an existing or future groundwater supply. A qualified professional hydrologist or geologist shall be chosen from a list of such professionals provided by the City of Dover, and the applicant shall pay any costs incurred.

E. Administration.

- (1) Development or land use activities proposed within the Groundwater Protection Zones that require subdivision or site plan approval from the Planning Board also shall be reviewed by the Dover Conservation Commission. The Planning Board and Conservation Commission shall verify that the proposed activity will comply with this chapter before the Planning Board grants approval.
- (2) The Building Inspector shall not issue a building permit for development or land use activities until such time as he verifies that the proposed development will comply with the provisions and standards established herein. The Building Inspector may consult with the Conservation Commission or Planning Department as he deems necessary.
- (3) Land use activities that do not require Planning Board approval or building permits are also subject to the requirements and standards established herein.
- (4) Conditional use permits. The Planning Board, after receiving a recommendation from the Conservation Commission, may vary the provisions herein by granting a conditional use permit in accordance with RSA 674:21. Along with the conditional use permit application, the applicant shall submit expert technical information from a professional engineer, hydrologist or geologist that documents that the requested relief is consistent with the stated purpose and intent of this chapter. Such technical information shall include an environmental protection plan consistent with the regulated substance management requirements of the NHDES's, "Best Management Practices for Groundwater Source Protection" (Env-Ws 421). Said plan shall also include provisions for routine monitoring and reporting of environmental protection activities to be reported to the City of Dover. Any cost incurred by the city in reviewing the groundwater protection information shall be paid by the applicant for the conditional use application.

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### F. Performance Standards

- (1) **Applicability.** Within the Primary and Secondary Groundwater Protection Zones, the following performance standards shall apply to (a) all new non-residential and multi-family development, (b) expansion of pre-existing non-residential and multi-family developments that expands the lot coverage of the existing structure(s) by more than twenty percent (20%), and (3) all subdivisions of four or more new lots:
  - (a) Post-development infiltration volumes shall be no greater than pre-development volumes as determined by use of the Development Review Model described in Section G, below.
  - (b) Stormwater shall be treated by use of a stormwater treatment system designed to remove no less than eighty percent (80%) of the annual load of total suspended solids. The removal rate shall be accomplished using best management practices installed in advance of the final infiltration system.
  - (c) No stormwater infiltration system shall be located within the 200-day travel time of an existing or proposed municipal well as depicted on the map referenced in Section 170-28.3 (B), above. In absence of a defined 200-day travel time radius, the applicant shall submit a technical evaluation from a professional engineer, hydrologist or geologist that documents that the proposed discharge is consistent with the stated purpose and intent of this requirement.
- (2) **Specific Requirements.** Within the Primary and Secondary Groundwater Protection Zones, the following performance standards shall apply to specific activities which may impact the groundwater quality:
  - (a) Sand and gravel extraction operations shall not excavate below an elevation four (4) feet above the seasonal high water table observed when the associated water supply well has not been operating for at least two weeks prior to the date of measurement. The operator of the sand and gravel extraction operation shall prepare for the City an annual report documenting compliance with the requirements of this section. Pursuant to RSA 155-E:11, II the requirements of this section may be waived if the applicant demonstrates that such excavation will not adversely affect water quality and that written notice of such exception shall be recorded in the Registry of Deeds, and one copy filed with the NH Department of Environmental Services.
  - (b) Pursuant to Dover Code Chapter 109-27 and RSA 146-E:4, on-premise use heating oil tank facilities shall comply with the provisions of the

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National Fire Protection Association Standard NFPA 31, "Installation of Oil-Burning Equipment".

**G. Development Review**

All developments to which Section F Performance Standards, above, applies shall complete the calculations as specified in the Development Review Model, or a performance equivalent, incorporated herein by reference. A copy of this model shall be on file at the Planning Department and the City Clerk's Office. The Building Inspector shall withhold a building permit until such time as he/she verifies that the proposed development will comply with the infiltration and nitrogen maximums set forth in Table 1, Sections A and B of said Review Model.

**170-28.4 Scenic Road Overlay District [Added 01-22-03 by Ord. No. 35-02]**

- A. Purpose. The purpose of this section is to promote the protection of natural woodlands located adjacent to the public right-of-ways of scenic roads as designated by the Dover City Council per the authority granted by Chapter 143. By adopting this section, the City is striving to maintain the scenic qualities of scenic roads both within the public right-of-way and in the privately-owned land adjacent to the scenic roads.
- B. Location of District. The Scenic Road Overlay District is an overlay district that includes all land located within twenty-five (25) feet of the right-of-way of a scenic road, as designated by the City Council. At present the following roads have been designated as scenic roads: Old Garrison Road, David Tuttle Road and Rochester Neck Road.
- C. Buffer Requirements. Within the Scenic Road Overlay District, the natural vegetative buffer, existing at the time of the adoption of this section, shall be maintained and preserved in its natural state, except as provided below:
  - 1. The removal of damaged, diseased or unsafe vegetation is permitted within the overlay district upon the approval of the City Arborist.
  - 2. The clearing of vegetation necessary for the construction of a driveway for access to a lot is permitted. Such driveway shall be designed to minimize the amount of clearing of vegetation necessary.
  - 3. The clearing of vegetation for agricultural uses, as defined by RSA 21:34-is permitted.
- D. Compliance With Other Requirements. Nothing in this section shall relieve the property owner from complying with the provisions of the Code of the City of Dover, Chapter 143 – Scenic Roads.

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### **170-28.5. Hazardous Waste Landfill District I. [Added 5-13-87 by Ord. No. 9-87]**

- A. Purpose. In the interest of responsible planning, public safety and concern for the general welfare of the citizens of Dover, the regulations of this district are designed to alert the public and prohibit development activities in areas potentially affected by the storage of hazardous waste until such time as a final cleanup and proper closure of the site can be completed.
- B. Location. The Hazardous Waste Landfill District I is hereby to consist of those city owned lots shown on the City of Dover's Assessor's Map C, Lot Nos. 16, 18 and 24.
- C. Hazardous Waste District I criteria. All applications for further development, residential or commercial or industrial, in areas heretofore specified must contain a notation on the plat, site plan and application stating that the development site is within the Hazardous Waste District.

### **170-28.6. Telecommunication Facilities. [Added 03-18-98 by Ord. No. 02-98]\***

- A. Authority. By the authority granted under NH RSA 674:16 and 674:21 and procedurally under the guidance of 675:1, II, this section creates an ordinance establishing a telecommunications program and amending the zoning code to add regulations pertaining to wireless communications facilities.
- B. Purpose and Intent. This ordinance is enacted in order to establish general guidelines for the siting of telecommunication towers and antennas and to enhance and fulfill the following goals:
  - 1. Preserve the authority of the City to regulate and to provide for reasonable opportunities for the siting of telecommunications facilities while ensuring that telecommunications providers service remains effective and efficient.
  - 2. Reduce or eliminate adverse impacts such facilities may create. Adverse impacts may include, but are not limited to, impacts on aesthetics, impacts on environmentally sensitive areas, impacts to historically significant locations, impacts on flight corridors, reduction in property values, and health and safety concerns.
  - 3. Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future location availability, innovative siting techniques, and siting possibilities beyond the geographic boundaries of the City.

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\* Editor's Note: Former 170-28.6, Interim Growth Management District IV - Aquifer Recharge Areas, added 6-24-87 by Ord. No. 14-87, as amended, was repealed 11-30-88 by Ord. No. 24-88.

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4. Permit the construction of new towers only where all other reasonable alternatives have been exhausted, and to encourage the owners and users of towers and antennas to configure them in a manner that minimizes visual impacts of said structures.
  5. Require antenna co-location on existing tower structures through cooperation and agreements between providers.
  6. Provide for documentation of scheduling of recurring maintenance and safety inspections for all telecommunications facilities and appurtenances.
  7. Provide for the demolition and removal of abandoned facilities. Provide a procedure for the City to remove abandoned towers to provide for the health and safety of citizens.
  8. Provide for the removal or upgrade of technologically outmoded facilities.
- C. Location. Telecommunication Facilities shall be allowed in accordance with the following:
1. On parcels situated in the City of Dover known as:

<u>General Location</u>	<u>Map-Lot Number</u>
Spur Road	K-35A
Middle Road	M-57
Blackwater Road	A-29 A-1
Parsons Lane	A-36
Venture Drive	D-7 D-5A
Glen Hill Road	C-12 C-7 C-8 C-20 C-19 C-22
Tolend Road	C-27
French Cross Road	F-14

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2. In other areas within the City of Dover only as a co-location on Existing Towers, Antennas, and Alternative Tower Structures.

### D. Definitions.

**Alternative Tower Structure** – The use of structures such as man-made trees, clock towers, bell steeples, rooftops on buildings 5 stories or more, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers and their appurtenances.

**Antenna** – Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, repeater, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

**FAA**- An acronym meaning Federal Aviation Administration.

**FCC** – An acronym meaning Federal Communications Commission.

**Height** – Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure or appurtenance, even if said highest point is an antenna or other appurtenance.

**Planning Board (Board)** – The City of Dover Planning Board, and the regulatory body of this ordinance.

**Existing Towers and Antennas** – Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Additionally, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Board.

**Telecommunications Facilities** – Any structure, antenna, tower, or other device which provides licensed commercial mobile wireless services, cellular telephone services, specialized mobile radio communications (SMR), enhanced specialized mobile radio communications (ESMR), personal communications service (PCS), paging, and similar services marketed to the general public.

**Tower** – Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The terms also includes commercial radio and television transmission towers, microwave towers, common carriers towers, cellular telephone towers, alternative tower structures, and similar structures.

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E. Telecommunication Facilities Procedural Requirements.

- a. Location or replacement of Telecommunication Facilities on existing towers or Towers or Antennas or Alternative Tower Structures.

The location or replacement of telecommunication facilities on existing towers or antennas or alternative tower structures may be approved by the Planning Department provided the following information is submitted in an application:

1. A scaled plan detailing exact size and location of the telecommunication device including a scaled elevation view.
2. Submission of proof that the telecommunication device is needed to service City of Dover residents.
3. Proof that the device meets all other technical requirements of this ordinance.

Any application denied by the Planning Department may be appealed to the Planning Board.

- b. Proposed construction of New Telecommunications Facilities.

An application for construction of any new telecommunications facilities shall be approved by the Planning Board. Public hearing requirements as outlined in the Site Review Regulations shall apply. The following application requirements shall be provided:

1. A scaled plan in accordance with Site Review Regulations shall be submitted including the following additional information; a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent land uses (up to 200 ft. away), and any other information deemed necessary by the Planning Director.
2. Written proof that the proposed use/facility complies with FCC regulations on radio frequency (RFD) exposure guidelines, and FAA regulations on tower lighting requirements.

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3. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEAP) further referenced in applicable FCC rules. If an Environmental Assessment (EA.) or an Environmental Impact Statement (IS) is required under the FC rules and NEAP, submission of the EA. or IS to the Board prior to the beginning of the federal 30 day comment period, and the City's site review process, shall become part of the application requirements.
4. Each applicant for an antenna and/or tower shall provide to the Planning Board an inventory of its existing towers that are within the jurisdiction of the City and those within two miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or special exception permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

The applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence shall consist of one or more of the following:

- a. Adequate evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.
- b. Adequate evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
- c. Adequate evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. Adequate evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. Adequate evidence that fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

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- f. Adequate evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
5. The applicant proposing to build a new tower shall submit an agreement with the City that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunication providers. All agreements shall outline a procedure requiring all disputes on terms and conditions of co-location be submitted to a recognized commercial arbitration board for their review. The arbitration board's decision shall become final and binding. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the (City), and grounds for a Denial.
6. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with NH RSA 676:4(g).
7. Each applicant for a tower, monopole, or alternative structure shall submit a design certified by a competent engineer that the structure has been engineered to accommodate the maximum number and type of all compatible telecommunication media antennae, but in no event shall the applicant provide fewer than three additional co-locations from three additional providers. This provision may be modified based on visual or aesthetic impacts.

### F. Performance Standards.

The uses listed in this section are deemed to be permitted uses, and at the discretion of the Planning Board, may require further review under this ordinance in accordance with Chapter 149, Site Review Regulations, and all other applicable ordinances and regulations of the City of Dover.

1. **Principal or Secondary Use.** Subject to this ordinance, an applicant who obtains site review approval to site under this ordinance as a secondary and permitted use, may construct telecommunications facilities in addition to the existing principal use. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure shall not preclude the installation of an antenna or tower on such lot.

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For purposes of determining whether siting of an antenna or tower complies with zoning district development regulations, including, but not limited to area, setback, lot coverage, frontage, and other dimensional requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed in accordance with the provisions of this ordinance, shall not be deemed the expansion of a non-conforming use or structure. Further, said facilities shall not be considered an accessory use.

### 2. Height Requirements.

New Tower Construction – 180 feet maximum.

Co-location on Existing Tower and Antennas – current height plus 15% (not to exceed 200 feet)

Co-location on Alternative Tower Structures – current height plus 12 feet

The height requirements and limitations outlined above shall preempt all other height regulations as required by the City of Dover Zoning Ordinance, and shall apply only to telecommunications facilities. A Conditional Use Permit may be granted by the Planning Board to waive the height limitations only if the intent of the Ordinance is preserved (e.g. when it can be shown that there would be no increase in adverse impact) and the increased height would provide a greater opportunity for co-location provided that:

- a) The granting of the permit will not be detrimental to the public safety, health or welfare or injurious to other property, and will promote the public interest.
  - b) A written narrative identifying a particular hardship or special circumstance that warrants granting the permit. Factors to be considered, but not limited to, in determining a hardship or special circumstance shall include:
    1. topography and other site features
    2. availability of alternative site locations
    3. property location as relates to required coverage area
    4. size/magnitude of project and availability of co-location
  - c) Necessary federal approvals and/or recommendations have been received.
- ### 3. Setbacks and Separation.
- The following setbacks and separation requirements shall apply only to telecommunications facilities, and shall supersede all other such standards found elsewhere in the Ordinance or other applicable City Ordinances and Regulations.

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- a) Towers shall be set back a distance equal to 100% of the height of the tower from any boundary line, or other principal use structure located on the property the tower is sited upon. This provision may be waived by the Planning Board provided the intent of the ordinance remains intact.
  - b) Tower guys, and all other accessory facilities shall conform with the minimum setback requirement of the zoning district in which said facilities and appurtenances are located.
4. Security Fencing. Towers shall be enclosed by appropriate security fencing not less than 6 ft. in height, and shall be equipped with an appropriate anti-climbing device.
5. Landscaping.
- a) Towers shall be landscaped with a buffer of suitable vegetation that effectively screens the view of the tower compound from abutting residential property. The minimum standard buffer shall consist of a landscaped strip ten (10) feet wide outside the perimeter of the tower compound. Existing (natural) vegetation is preferred.
  - b) The requirement for landscaped screening may be reduced or waived entirely by the Planning Board in locations where the visual impact of the tower compound to abutting residential uses is deemed to be minimal.
  - c) Existing mature tree growth and natural land forms present on the site shall be preserved to the maximum extent possible. Natural growth on the site may be deemed a sufficient buffer on large, remote, wooded lots.
6. Aesthetics and Lighting. The guidelines in this subsection shall govern the location of all towers, and the installation of all antennas. However, the Planning Board may waive those requirements, via Conditional Use Permit, only if it determines that the goals of this ordinance are served thereby.
- a) Towers shall either maintain a galvanized steel finisher, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness.
  - b) At a tower site, the design of buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and previously developed environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements.

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- c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - d) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
  - e) Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.
7. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal, in accordance with Chapter 170-28.6, Subsection (J), of the tower or antenna, as abandoned, at the owners expense through the execution of the posted security.
8. Building Codes – Safety Standards. To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Chapter 170-28.6, Subsection (J), of the tower or antenna, as abandoned, at the owners expense through execution of the posted security.

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9. Certification of safety standards and continued need. The owner of a tower or antenna shall provide an annual certification to the Planning Department verifying compliance with building codes and safety standards. The certification shall also verify that the structure is still needed for the operation of the owners network. Said certification shall be submitted to the Planning Department prior to December 31<sup>st</sup> of each year. Any owner who has failed to submit an annual certification shall be notified of the violation. A 30 day extension for submission of a certification may be approved at the discretion of the Planning Department. After notification of a violation by the Planning Department subsequent failure to submit an annual certification shall constitute abandonment and be ground for removal in accordance with 170-28.6, Subsection (J).

G. Exemptions.

1. City Use. Antennas or towers owned, performing City functions, or otherwise controlled by the City shall be exempt from the requirements of this Telecommunications Facility Ordinance. This exemption shall only be available if a license or lease authorizing such antenna or tower has been approved by the City Council, and the City Council elects, subject to NH RSA's, to seek said exemption.
2. Amateur Radio. This section shall not govern any tower, or the installation of any antenna that is owned and operated by a federally-licensed amateur radio station operator and the tower or antenna is used for the exclusive purpose of amateur radio operations. This application adopts the provisions and limitations as referenced in RSA 674:16,IV.
3. Citizen Band Radios. This section shall not govern the installation of any antenna that is used for the exclusive purpose of facilitating the use of a Citizen Band Radio, except any towers in this section shall be limited to seventy (70) feet in height.
4. Receive-Only Antennas. This section shall not govern any tower, or the installation of any antenna that is used exclusively for receive-only antennas, except any towers in this section shall be limited to seventy (70) feet in height.
5. Essential Services and Public Utilities. Henceforth, from the date of adoption of this ordinance, telecommunications facilities shall not be considered as infrastructure, essential services, or public utilities, as defined or used elsewhere in the City's ordinances and regulations.

Siting for telecommunications facilities shall be considered a use of land, and is addressed by this ordinance.

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### H. Restrictions for Siting on Garrison Hill.

Notwithstanding the provisions outlined in Subsection C, the siting of additional towers, monopoles, or use of alternative structures shall be prohibited on Garrison Hill in the City of Dover. Placement of new antennae media on the existing towers on Garrison Hill shall be allowed only after obtaining a Conditional Use Permit from the Planning Board. However, the replacement and/or repair of existing antennae media on towers on Garrison Hill is allowed by the Building Inspector, provided that there is no increase in the size or visual impact of the antennae. Performance standards to ensure that vistas, view sheds and view corridors are protected shall include the following elements: [Amended 10-20-1999 by Ord. No. 13-99]

- a) The applicant has demonstrated that the appearance, form or shape, color, and size of any antenna media to be attached to preexisting towers or monopole structures is concealed or camouflaged or otherwise is harmonious with the immediately surrounding environment at Garrison Hill;
- b) Any equipment shelters supporting such additional antenna shall be designed consistent with one of the following design standards:
  1. Equipment shelter shall be located in underground vaults; or
  2. Equipment shelter shall be designed consistent with Northern New England architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard, red brick or shingle siding; or
  3. Equipment shelters shall be camouflaged behind an effective year round landscaped buffer, equal to the height of the proposed building and/or wooden fence. Planning Board shall determine the style of fencing and/or landscaped buffer that is compatible with the neighborhood.
- c) Any antenna located on an existing structure shall be concealed, to the extent technologically and commercially practicable, behind existing architectural features to limit the visibility of the antenna from public ways.

### I. Bonding and Security and Insurance.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with Subsection (J) below.

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Bonding and surety shall be consistent with the provisions in the Chapter 155, Subdivision Regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

J. Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of 12 months, or is no longer needed for the operation of the network, shall be considered abandoned and hazardous to the public health and safety. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Building Official notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing notice per City regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days, the City may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

**170-28.7 Impact Fee Ordinance.** [Added 01-22-03 by Ord. No. 35-02]

A. Purpose: This ordinance is enacted pursuant to RSA 674:16 and 674:21, and in order to:

Promote public health, safety, convenience, welfare, and prosperity;  
Insure that adequate and appropriate public facilities are available; and  
Provide for the harmonious development of the City and its environs.

B. Authority

1. Impact fees may be assessed to new development to compensate the City of Dover and the School District for the proportional share of capital facilities generated by new development in the City of Dover. Any person who seeks a building permit for new development may be required to pay an impact fee in the manner set forth herein.
2. The Planning Board may, as a condition of approval of any subdivision, site plan, or change of use, and when consistent with applicable Board regulations, require an applicant to pay an impact fee for the applicant's proportional share of off-site improvements to public facilities affected by the development.
3. Nothing in this section shall be construed to limit the existing authority of the Planning Board to disapprove proposed development which is scattered or premature, or which would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations. Nothing in this section shall be construed to limit the Planning Board's authority to require off-site work to be performed by the applicant, in lieu of paying an impact fee, or the board's authority to impose other types of conditions of approval. Nothing in

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this section shall be construed to affect types of fees governed by other statutes, ordinances or regulations.

### C. Definitions

For the purposes of this chapter, the following terms shall have the meanings indicated:

1. **IMPACT FEE** – A fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the City of Dover, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.
2. **NEW DEVELOPMENT** - An activity that results in:
  - a. The creation of a new dwelling unit or units; or
  - b. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or
  - c. Construction resulting in a new non-residential building or a net increase in the floor area of any non-residential building; or
  - d. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessments.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on public capital facilities.

### D. Assessment Methodology

1. **Proportionality**: The amount of the impact fee shall be calculated by the Planning Board to be a proportional share of municipal capital improvement costs which is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee. The Planning Board may prepare, adopt, or amend studies or reports that are consistent with the above standards, and

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which define a methodology for impact fee assessment for public capital facilities, and impact fee assessment schedules therefore.

2. Existing Deficiencies: Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

### E. Administration

1. Accounting: In accord with RSA 673:16, II and RSA 674:21, V(c), impact fees shall be accounted for separately, shall be segregated from the City's general fund, may be spent upon order of the City Council, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet. In the event that bonds or similar debt instruments have been or will be issued by the City of Dover or the Dover School District for the funding of capital improvements that are the subject of impact fee assessment, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.
2. Assessment: All impact fees imposed pursuant to this section shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development, as determined by the Building Inspector.
3. Security: In the interim between assessment and collection, the Building Inspector may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of assessed impact fees.
4. Collection: Impact fees shall be collected as a condition for the issuance of a certificate of occupancy; provided, however, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the City has appropriated the necessary funds to cover such portions of the work for which it will be responsible, the City may advance the time of collection of the impact fee to the issuance of a building permit. Nothing in this section shall prevent the Building Inspector, with the approval of the Planning Board, and the assessed party from establishing an alternate, mutually acceptable schedule of payment.
5. Refund of Fees Paid: The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest under the following circumstances:

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- a. When either the full or partial portion of the impact fee, whichever is applicable, has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
- b. When the City of Dover, or in the case of school impact fees, the Dover School District, has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate their proportionate non-impact fee share of related capital improvement costs.

### F. Appeals

A party aggrieved by a decision made by the Building Inspector regarding the assessment or collection of impact fees authorized by this Section may appeal such decision to the Planning Board.

In accord with RSA 676:5, III, appeals of the decision of the Planning Board in administering this ordinance may be made to Superior Court, as provided in RSA 676:5, III and RSA 677:15, as amended.

### G. Waivers

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed:

- a. An applicant may request a full or partial waiver of school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over in a development that is also maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on such age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy by senior citizens age 62 or over for a period of at least 20 years.
- b. A person may request a full or partial waiver of impact fees for construction within a subdivision or site plan approved by the Planning Board prior to the effective date of this ordinance. Prior to granting such a waiver, the Planning Board must find that the proposed construction is entitled to the four year exemption provided by RSA 674:39, pursuant to that statute. This waiver shall not be applicable to phases of a phased development project where active and substantial development, building and construction has not yet occurred in the phase in which construction is proposed.

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- c. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the City Council for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. The applicant shall pay all costs incurred by the City for the review of such proposal, including consultant and counsel fees.

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### ARTICLE VIII EXTRACTION INDUSTRIES

[Amended 6-10-87 by Ord. No. 13-87; amended 09-17-03 by Ord. No. 18-2003]

#### 170-29. Authority

Chapter 155-E of the New Hampshire Revised Statutes Annotated stipulates that, with some exceptions, all earth excavations in the State are subject to regulation from the local municipality in which the operation occurs. Pursuant to the authority vested in the Planning Board by the Code of the City of Dover and NH RSA 155-E, the City adopts the following regulations to govern the excavation of earth materials in the City of Dover.

#### 170-29.1. Purpose and Intent

The goals of this regulation are to: provide for reasonable opportunities for excavation; minimize safety hazards which can be created by open excavations; ensure that the public health and welfare will be safeguarded; protect natural resources and the environment; and maintain the aesthetic features of the City. For the purpose of achieving these goals, no earth materials in the City shall be removed except in conformance with these regulations.

#### 170-29.2. Definitions

**Abutter** means: (1) any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. (2) For the purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. (3) In the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. B. (4) For purposes of notification and receiving testimony, abutter means all affected towns and the regional planning commission in the case of a development having regional impact, as determined by the Board.

**Applicant** means the owner of the property to be excavated or the owner's agent, so designated in writing as part of the excavation application.

**Berm** means a mound of earth that may contain stumps of sufficient height to serve as sight, sound, sand and dust screening of operations in an excavation site.

**Board** means the Dover Planning Board.

**Commercial Excavation** means excavation of earth intended for commerce, excluding excavation that is strictly conducted for the purpose of alteration, renovation, improvement or construction to the property on which the excavation takes place. Any material leaving the property for whatever reason is considered to be a commercial operation, except agricultural activities, as defined by NH RSA 21:34-a.

**Contiguous** means land whose perimeter can be circumscribed without interruption in common ownership except for roads or other easements, wholly within the City, except in the case of stationary manufacturing plants, whose perimeter is not defined by the City's boundaries.

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**Dimension Stone** means rock that is cut, shaped or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and is used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined below.

**Earth** means sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.

**Excavation** means a land area that is used, or has been used, for the commercial taking of earth, including all slopes.

**Excavation Area** means the area within an excavation site where excavation has occurred or is eligible to occur under the provisions of RSA 155-E. This is also known as the pit area.

**Excavation Site** means any area of contiguous land in common ownership upon which excavation takes place.

**Existing Excavation** means any excavation that lawfully existed as of August 24, 1979, from which earth material of sufficient weight or volume to be commercially useful had been removed during the 2-year period before August 24, 1979.

**Expansion:** (a) of existing excavations means excavation beyond the limits of the City and the area which on 8/24/79 had been contiguous to and in common ownership with the excavation site and has been appraised and inventoried for tax purposes as part of the same tract as the excavation site. (b) of stationary manufacturing plants means to any contiguous lands which were in common ownership with the site of the plant on 8/4/89.

**Nuisance** as defined in the Code of the City of Dover, Zoning, Chapter 170, Article II, Definitions.

**Reclamation** means the restoring of an excavation site to a standard at least equal to those outlined in Section 170-29.8.

**Revocation** means the revoking of the approved extraction permit by the Planning Board. The revocation requires ceasing operations until such time as the owner or operator can bring the operation into compliance, and subsequently reapply for permitted status with the Planning Board at a regular meeting using standard application steps as outlined in this article.

**Stationary Manufacturing and/or Processing Plants** means facilities that are placed on a site for the purposes of sorting, washing, screening, crushing, classifying, drying or processing excavated earth materials.

**Suspension** means the ordered cessation of that portion of an extraction operation that is in violation of this Article until such time as the owner or operator can demonstrate compliance to the Code Enforcement Officer.

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### 170-29.3. Applicability

#### A. Projects Requiring a Permit

1. Those that commenced operations since August 24, 1979 without first obtaining a permit, unless specifically exempted by Section 170-29.3. B. below.
2. Any excavation proposing to begin operation after the effective date of these regulations.
3. Those that have lawfully operated prior to August 24, 1979 and wish to expand the excavation area.
4. Those excavations from an area that on August 4, 1989 was contiguous to or was contiguous land in common ownership with stationary manufacturing and processing plants that were in operation as of August 24, 1979 and wish to expand.

#### B. Projects Exempt From a Permit

(1) **The following projects do not require a permit**, but are nevertheless subject to Sections 170-29.7, 170-29.8, and 170-29.9. In the event of a question regarding compliance, the Board may require the owner/operator to come before the Board and submit such information as may be necessary to demonstrate compliance with said standards.

- a) Existing Excavations that lawfully existed as of August 24, 1979 from which earth materials of sufficient weight and volume to be commercially useful has been removed during the 2-year period before August 24, 1979, provided that:
  - 1) At the time operation began it was in compliance with any local ordinances that may have been in effect;
  - 2) The owner or operator of such an excavation area shall have filed an excavation report per RSA 155-E: I (d) with the Board no later than August 4, 1991. Any existing excavation that failed to file this report shall no longer be considered to be grandfathered and must obtain a permit from the Board before continuing excavation of the site.

(2) **The following projects do not require a permit**, but are nevertheless subject to Sections 170-29.7, 170-29.8, and 170-29.9 of these regulations. Compliance with these standards is mandatory in order to retain the non-permit status. Loss of such non-permit status can occur only after the Board has given written notice that the excavation is not in compliance and the owner has failed to bring it into compliance within 30 days of receipt of such notice.

- a) Excavations from a site that on August 4, 1989 was contiguous to or was contiguous land in common ownership with stationary manufacturing and processing plants which were in operation as of August 24, 1979 and which use earth obtained from such excavation site.

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- b) Excavations from a site that on August 4, 1989 was contiguous to, or was contiguous land in common ownership with stationary manufacturing and processing plants for which local or state permits have been granted since August 24, 1979 and before August 4, 1989, which used earth obtained from such site.
- c) An excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a Class I, II, III, IV, or V highway. A copy of the pit agreement executed between the pit owner, the agent, and the governmental unit shall be filed with the Board prior to the start of excavation. In addition, the provisions of Section 170-29.5 of this regulation and the provisions of NH RSA 155E:2, IV, (b) and (c) shall be complied with.

**(3) The following projects are exempt from a permit** and are not subject to regulation by the Board:

- a) Excavation that is exclusively incidental to the lawful construction or alteration of a building or structure, a parking lot or way including a driveway on a portion of the premises where removal occurs. This excavation cannot be started, however, until all required state and local permits have been issued.
- b) Excavation that is incidental to agricultural or silvicultural activities, normal landscaping or minor topographical adjustment. In the event of questions, the Code Enforcement Officer shall determine what is incidental in accordance with NH RSA 21:34-a.
- c) Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E (Mining and Reclamation).

**(4)** A person owning land abutting a site that was taken by eminent domain or by any other governmental taking upon which construction is taking place may stockpile earth taken from the construction site and may remove the earth at a later date after written notification to the City Engineer and Code Enforcement Officer.

### 170-29.4. Abandoned Excavations

**A.** Any excavation, except for those associated with stationary manufacturing plants, whether subject to a permit under these regulations or not, for which the affected area has not yet been brought into complete compliance with the reclamation standards of this regulation shall be considered abandoned if:

- 1) No material of sufficient weight or volume to be commercially useful has been removed from the site during any 2-year period either before, on, or after August 4, 1989. The time period may be extended if, prior to the end of the time period, the Board approves a reclamation timetable, and a bond or other surety is posted in a form and amount prescribed by the City Engineer sufficient to cover the costs of reclaiming the entire site, however, in no case shall the incremental bond amount be less than \$2500.00/acre.

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- 2) The excavation site is in use and is not an excavation associated with stationary manufacturing plants, but either has not been brought into compliance with the incremental reclamation standards of this regulation, or a bond has not been posted and the Board has not approved a reclamation timetable.
- 3) The owner or operator of the excavation has neither secured a permit pursuant to these regulations nor filed an excavation report with the Planning Board within the prescribed period.

**B.** In the event the Code Enforcement Officer determines that any abandoned excavation presents a hazard to the public health, safety or welfare, the owner may be required, following a public hearing, to comply with the timetable and bonding requirements outlined above, or to complete reclamation within a reasonable period of time. Should reclamation not be completed, the Board may request the City to authorize reclamation at the City's expense. The City's costs shall constitute an assessment against the owner, and shall create a lien against the property on which the excavation is located. Such assessment and lien may be enforced and collected in the same manner as provided for real estate taxes.

**C.** The provisions of 170-29.4 B above also apply to any excavation that ceased commercially useful operation prior to August 24, 1977, but for which the affected area has not been brought into compliance with the reclamation standards, if the Code Enforcement Officer determines in writing that specified reclamation measures are necessary to eliminate or mitigate an identified hazard to public health or safety.

### 170-29.5. Prohibited Projects

The Planning Board shall not grant a permit:

- A.** Where the project cannot comply with the requirements of Sections 170-29.7, 170-29.8 and 170-29.9.
- B.** For excavations within 50 feet of the boundary of a disapproving abutter or within 10 feet of an approving abutter unless approval is requested by said abutter.
- C.** Where the excavation is not permitted by zoning or other applicable ordinances, provided, however, that reasonable opportunities for excavation exist in the City, as described in RSA 155-E: 4, III.
- D.** Where the issuance of the permit would be unduly hazardous or injurious to the public welfare. The Board shall give particular consideration to such factors as noise, traffic, dust, fumes, or danger from operation.
- E.** Where existing visual barriers would be removed, except to provide access to the excavation.
- F.** Where the excavation would substantially damage a known aquifer, as designated by the United States Geological Survey.
- G.** When the excavation cannot receive required necessary approvals from state or federal agencies, such as Alteration of Terrain or Wetlands permits.

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### **170-29.6. Criteria For Non-conforming Expansions**

Expansion of existing excavations located in an area in which excavations are no longer permitted by zoning that was in effect on August 4, 1989 may be restricted or modified with conditions by the Board, if after notice to the owner and a public hearing, the Board finds that the expansion will have a substantially different and adverse impact on the neighborhood. Impacts will vary depending upon the particular neighborhood; nevertheless, the following criteria will be taken into consideration:

- 1) The excavation will not cause a diminution in area property values or unreasonably change the character of the neighborhood.
- 2) The excavation will not create any nuisance or create health or safety hazards.
- 3) The excavation will not unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof.

### **170-29.7. Operational Standards**

A. For excavations not requiring a permit, the following standards apply. For those excavations requiring a permit, these standards as considered to be the minimum; more stringent standards such as are consistent with the purpose of these regulations may be applied, as deemed necessary by the Board.

1. No excavation shall be permitted within 50 feet of the boundary of a disapproving abutter, within 150 feet of a dwelling that either existed or for which a building permit has been issued at the time the excavation is commenced.
2. No excavation shall be permitted below road level within 50 feet of the right-of-way of any public highway as defined in RSA 229:1 unless such excavation is for the purpose of said highway.
3. Vegetation or suitable berm or combination of both shall be maintained or provided within the peripheral areas of Items 1 and 2 of this section.
4. No fuels, lubricants or other toxic or polluting chemicals shall be stored on-site unless in compliance with State laws or rules pertaining to the storage of such materials.
5. Where temporary slopes will exceed a 1:1 grade, a fence or other suitable barricade shall be erected to warn of danger and/or to limit access to the site.
6. Appropriate drainage shall be provided to prevent the accumulation of freestanding water for prolonged periods.
7. Excavation practices that result in continued siltation of surface waters or any degradation of water quality of any public or private water supplies are prohibited.
8. No excavation shall be permitted within 100 feet of any great pond, navigable river, or any other standing body of water 10 acres or more in area, or within 50 feet of any other stream, river or brook which normally flows throughout the year, or any naturally-occurring standing body of water less than 10 acres, prime wetland as designated in accordance with RSA 482-A: 15,I or any other wetland area as defined by the Department of Environmental Services (DES) and the City of Dover Code, Chapter 170, Zoning, Article VII, 170-27.1. C.

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9. Sand and gravel extraction operations shall not excavate below an elevation four (4) feet above the seasonal high water table observed when the associated water supply well has not been operating for at least two weeks prior to the date of measurement. Refer to Zoning Section 170-28.3, Groundwater Protection, for monitoring report requirements.

### 170-29.8. Site Reclamation Standards

A. For excavations not requiring a permit, the following standards apply. For excavations requiring a permit, these standards are considered to be the minimum; more stringent standards such as are consistent with the purpose of these regulations may be applied, as deemed necessary by the Board.

B. Within 12 months following the expiration date of a permit issued under these regulations, or the completion of any excavation with the exception of agricultural activities, whichever occurs first, the excavated area shall be reclaimed in accordance with the following standards:

1. Except for exposed rock ledge, all disturbed areas shall be spread with topsoil or any other soil capable of maintaining vegetation, and shall be planted with seedlings or grass suitable to prevent erosion. Areas visible from a public way, from which trees have been removed, shall be replanted with tree seedlings, set out in accordance with acceptable horticultural practices.
2. All earth and vegetative debris resulting from the excavation shall be removed or otherwise lawfully disposed of.
3. All slopes, except for exposed ledge, shall be graded to natural repose for the type of soil of which they are composed so as to control erosion or at a ratio of horizontal to vertical proposed by the owner and approved by the Board. Changes of slope shall not be abrupt, but shall blend with the surrounding terrain.
4. Any standing bodies of water created by the excavation that is judged to constitute a hazard to health and safety shall be eliminated.
5. The topography of the land shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural proportions of flow. For excavation projects requiring a permit from the Division of Water Supply and Pollution Control, the provisions of RSA 485-A: 17 shall supersede this regulation. Copies of all local, state and federal required permits shall be filed with the Planning Office.

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### **170-29.9. Incremental Reclamation**

Except for excavation sites of operating stationary manufacturing plants, any excavated area of 5 contiguous acres or more which is depleted of commercial earth materials, excluding bedrock, or any excavation operation from which earth materials of sufficient weight or volume to be commercially useful have not been removed for a 2-year period, shall be reclaimed in accordance with Section 170-29.8. within 12 months following such depletion or non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership. A reclamation plan, including a reclamation timetable for the depleted areas within the reclamation site, shall be submitted to the Board for review and approval by each operator, other than the operators of stationary manufacturing plants that are exempt from permit requirements.

### **170-30. Performance Guarantee**

- A. Prior to the granting of any permit or to the removal of topsoil or other overburden material from a new area within an existing excavation site, the applicant shall submit to the Planning Department a bond with sufficient surety as determined by the City Engineer. In no case shall the incremental bond amount be less than \$2500.00/acre. The purposes of the bond are to guarantee reclamation of the area, compliance with the permit, and to defray costs of any inspections. Off-site improvements for potential damage of City streets or facilities caused by the transportation of earth materials shall be discussed at this stage.
- B. The surety may be in the form of a performance bond, property escrow, irrevocable letter of credit, or any other form approved by the Board. The surety may be phased to coincide with the phasing of work, in an amount sufficient to guarantee reclamation of the applicable section, to be released as sections are completed. Prior to a new section being opened, new securities shall be posted. The surety shall not be released until the City Engineer is satisfied that all conditions of the site reclamation plan have been complied with.

### **170-30.1. Waivers**

Due to the diverse nature of excavation operations that vary in scale and scope, and due to the varying conditions of the land to be excavated, the Board may, upon application and following a duly-noticed hearing, grant any waiver in writing to the standards contained in Sections 170-29.7, 170-29.8, 170-29.9, and 170-30. for good cause shown. The written decision shall state specifically what requirements are being waived and include any reasonable alternatives.

### **170-30.2. Application Procedures**

Prior to the Board rendering a decision for an excavation permit, a public hearing shall be held, with due notification of all abutters and the public. The procedure for holding these public hearings is as follows:

#### **A. Filing of the Application**

1. Applications for excavation permits shall be filed with the Planning Office by April 1<sup>st</sup> annually.

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2. The application will be reviewed with the applicant upon submittal to the Planning Office, and will be accepted only if it is found to meet all submission requirements for a completed application. The application must be accepted as complete no later than April 15<sup>th</sup> in order to be scheduled for a public hearing. If the application is not completed by the deadline, then another meeting may be scheduled, but may not be later than the expiration date of the permit. All operations shall cease upon permit expiration until a new hearing is scheduled and a completed application is approved.

### **B. Board Action on Application**

1. At the Board's first meeting date in May, the Board may vote to accept the application, and if accepted, will schedule a public hearing to be held within 30 days.
2. Within 20 days of the close of the hearing on the application, or any continuation thereof, the Board shall make a decision. The Board may for good cause with proper notice, accept the application, hold the public hearing, and make a decision during the same meeting. Notice of this decision shall be recorded in the minutes of the meeting and placed on file in the Planning Office within 72 hours.
3. The applicant shall receive a written copy of the minutes along with the decision. In the event the application is disapproved, the reasons for the disapproval shall be given.

### **C. Notices Required for Public Hearing**

1. All abutters will be notified by certified mail, not less than 14 days prior to the meeting at which the application will be submitted for acceptance. Names and addresses of abutters must be taken from City records not more than 5 days before filing the application.
2. Public notice will appear in a newspaper of general circulation and in at least three public places not less than 14 days prior to the meeting.
3. The notice must include the location and general description of the proposal, as well as the date, time and place of the meeting.

### **D. Fees**

1. A filing fee of \$50.00 plus abutter notification postage shall be paid upon submission of an application, to defray the costs of posting notice for the public hearing. Failure to pay such cost shall constitute grounds for the Board to not accept the application.
2. A permit fee of \$75.00 shall be paid upon the issuance of a permit, to defray the costs of permit compliance.
3. A fee payable to the Strafford County Register of Deeds (SCRD) shall be paid upon approval, for the filing of any new plan, if so required by the Planning Board.
4. Additional reasonable fees shall be charged should the Board require the advice of an engineer or other expert to review plans or inspect the site to determine permit compliance.

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### **170-30.3. Application Submission Items**

The applicant shall submit at least 15 copies of an Excavation and a Reclamation Plan; one additional copy shall be sent to the Conservation Commission. The plans shall be at a scale appropriate for the land area involved. The Board may, upon good cause shown, waive any of the items in Paragraphs A or B below.

#### **A. Excavation Plan**

The excavation plan shall address specific actions to be taken on the site relative to fuel and chemical handling and storage, dust control, traffic, noise control and abatement, and comprehensive site safety of unauthorized persons. The plan shall show or be accompanied by the following items:

1. Name and address of the owner, the excavator (if different) and all abutters.
2. Name, address, and signature with professional stamp of the person preparing the plan; date, bar scale and north arrow.
3. Zoning district boundaries of the proposed area and within 200 feet of the boundary of the project.
4. Sketch and description of the location and boundaries of the proposed and any existing excavations; including the area in square feet and acre.
5. The location of existing buildings, structures, septic systems and wells within 200 feet of the boundary.
6. Public streets, driveways, intersections, rights-of-way, and all easements within 200 feet; road network to be affected; intended transportation routes to be used.
7. Topography at contour intervals of five feet or less.
8. All surface drainage patterns including wetlands and standing water.
9. Sketch and description of existing and proposed access roads, including width and surface materials.
10. The breadth, depth and slope of the proposed excavation and the estimated duration of the project.
11. The elevation of the highest annual average ground water table within or next to the proposed excavation. Refer to Zoning Section 170-28.3., Groundwater Protection, for requirements of the annual report documenting compliance with the four (4) foot buffer rule.
12. Test pits that extend to either the seasonal high water table, ledge, or a minimum of six feet below the maximum proposed excavation depth, including location and soils data; boring logs may be submitted separately.
13. Proposed fencing, buffers or other visual barriers, including height and materials.
14. All measures to control erosion, sedimentation, water pollution, air pollution, and any hazards to human safety.
15. Plans for storm water management.
16. Plans for storage, use, and disposal of petroleum products and other regulated materials.
17. Methods to prevent materials from the site from being tracked onto public roadways.
18. Copies of all necessary state and federal permits.

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### **B. Reclamation Plan**

The reclamation plan shall address the effects of the proposed excavation on soil, surface and groundwater, vegetation, overburden, topography, and fill material, and should address future land use consistent with the City's Master Plan. The plan shall show or be accompanied by the following items:

1. Name, address, and signature with professional stamp of the person preparing the plan; date, bar scale and north arrow.
2. All boundaries of the area proposed for reclamation and the land within 200 feet of the boundary of this site.
3. Final topography of the area proposed for reclamation, at contour intervals of five feet or less.
4. Final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities.
5. Timetable as to fully depleted sites within the excavation area.
6. Schedule of final reclamation activities including seeding mixtures, cover vegetation, fertilizer types, and application rates.

### **C. Other Information**

The Board reserves the right, per RSA 155-E: 3, VII to request any other information it deems necessary to make an informed decision, or to have plans reviewed by an outside agency. According to the authority vested in the Board by RSA 676:4,I (g), any reasonable expenses incurred for such information or reviews shall be charged to the applicant. Failure to pay such costs constitutes valid grounds for the Board to deny the application. The following items shall accompany the application:

1. An annual report documenting compliance with the requirements of Zoning Section 170-28.3., Groundwater Protection. Pursuant to RSA 155-E:11, the requirements of this section may be waived if the applicant demonstrates that such exception shall be recorded in the Registry of Deeds, and one copy filed with the NH Department of Environmental Services.
2. A written statement from the Tax Collector of the City of Dover that all current property and excavation taxes levied against all properties in the operation have been paid in full and that there are no unreleased tax liens encumbering said properties.
3. A copy of the Notice of Intent to Excavate filed with the Assessor's Office of the City of Dover.
4. A copy of the surety bond or other form of performance guaranty as approved by the Planning Board.

## **170-30.4. Administration and Enforcement**

### **A. Permits**

1. Permits shall be issued only to the owner or his agent and shall not be transferable without the prior written consent of the Board. A copy of the permit shall be prominently displayed at the site or the principal access to the site.
2. A permit shall be valid for one (1) year and the expiration date shall be May 30th.
3. Failure to file for a permit shall be considered a violation and operators who fail to file will be issued a cease and desist order by the Code Enforcement Officer.

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4. The Board may include in the permit any such reasonable conditions as are consistent with the purpose of these regulations.
5. All permitted sites shall be inspected on a bi-annual basis. Inspections shall be scheduled in April to coincide with annual permit applications and in October each year by the Code Enforcement Officer or his designee. The inspection reports shall be timely submitted to the Board for their review.

### **B. Amendments and Renewals**

Permit holders wishing to alter the size or location of the excavation, the rate of removal or the plan for reclamation shall apply for a renewal or amendment; following the same procedures as those required for the original excavation permit.

### **C. Inspections**

The Code Enforcement Officer or his designee may make periodic inspections of all excavation sites to determine if the operations are in conformance with these regulations and the approved plans.

### **D. Suspensions and Revocations**

The Board may suspend or revoke a permit if the Code Enforcement Officer determines that any provision of the permit has been violated, a material misstatement made in the application upon which a permit was granted, or any unsafe or hazardous conditions are determined by a site inspection to exist. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with these regulations to the Zoning Board of Adjustment.

### **E. Appeals**

Any person affected by the Planning Board's decision to approve or disapprove an application or any amendment thereto or any suspension or revocation of a permit, may appeal to the Zoning Board of Adjustment for a rehearing on such decision or any matter determined thereby. The motion for rehearing shall be filed within ten (10) days of such decision and shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable. The Zoning Board shall either grant or deny the request for rehearing within (10) days, and if the request is granted, a rehearing shall be scheduled within thirty (30) days. Any person affected by the Zoning Board's decision on a motion or rehearing may appeal in accordance with RSA 677:4-15.

### **F. Penalties**

Fines, penalties and remedies for violations of this regulation shall be the same as for violations of RSA 676:15 and 17. Whoever violates any provision of this regulation, a permit or a valid order issued hereunder shall be guilty of a misdemeanor.

**170-31. Reserved.**

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### ARTICLE IX SIGNS AND FENCES

[Amended 3-14-84 by Ord. No. 7-84; amended 01-22-03 by Ord. No. 35-02]

#### 170-32 Sign review and regulations.

- A. Purpose. The purpose of this section is to create a legal framework for signage regulations that is intended to facilitate a flexible and agreeable communication between people. Such an ordinance acknowledges the need to protect the safety and welfare of the public, the need for a well-maintained and attractive appearance throughout the City of Dover and the need for adequate business identification, advertising and communication. While this section recognizes that aesthetics and design quality cannot be satisfactorily legislated, it does, however, operate on the premise that a large percent of that which is unattractive can be eliminated by sensible quality control through adequate maintenance and inspection and by reasonable guidelines formulated to minimize clutter.
- B. Permitted signs. No sign shall be permitted within the City of Dover, except in accordance with the provisions of this section. See table for overview of permitted signs.
- C. Permit required. No sign, other than a directional sign, a residential nameplate or sign advertising a sale or lease of a premise, shall be erected or placed in the City of Dover without a sign permit. Said permit shall be issued by the Building Inspector, provided that the sign meets all the regulations of this section, after the submission of a set of plans to an appropriate scale, showing site location, dimensions, method of illumination, if any, and types of materials to be used in construction. Replacement of existing signs and support structures, where the area, location or materials are being altered, shall require a permit, and such replacement shall conform to the regulations of this section.
- D. General provisions. All signs shall conform to the following regulations:
- (1) All signs shall be located on the same lot as the uses which they identify with the following exceptions: [Amended 08-01-90 by Ord. No. 8-90]
    - (a) Political Signs. Political signs shall be regulated as required in Subsection M.
    - (b) Industrial Park Signs. Industrial Park Signs shall be regulated as required in Subsection J(2)(g).
    - (c) Temporary Real Estate and Yard Sale Signs. Temporary (48 hrs.) real estate and yard sale signs may be located off site with the permission of the property owner of the land on which the sign is to be placed.

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- (2) All signs shall be constructed, erected and maintained so as not to present a hazard to persons and property.
- (3) All signs shall be erected in such a manner so as not to obstruct free and clear vision along or onto a public right-of-way.
- (4) All signs shall be erected in such a manner so as not to obstruct the view of, be confused with or mistaken for any authorized traffic sign, signal or like device.
- (5) The illumination of any sign shall be nonflashing, Spot- or floodlights shall be arranged so that the direct rays of light do not shine or reflect directly into adjacent properties or the line of vision or a motorist. [Amended 03-21-07 by Ord. No. 01-2007]
  - (a) Flashing Signs as defined in Section Q are prohibited. [Added 03-21-07 by Ord. No. 01-2007]
- (6) The top edge of a wall sign shall be at least one (1) foot below the top of the wall or parapet wall. The top edge of a roof sign shall be at least one (1) foot below the roof ridge or the highest point of the roof if no ridgepole exists.\* [Amended 6-10-87 by Ord. No. 13-87]
- (7) No sign shall be painted or affixed with adhesive directly on the surface of a building.
- (8) Rotating signs or beacons, waving pennants or whirling devices are prohibited.
- (9) Temporary A-frame, portable or wheeled sidewalk or curb signs are prohibited, except as otherwise provided in this section. Refer to Subsections F(4) and P(3) and (7).
- (10) All signs are prohibited within the public right- of-way, except as otherwise provided in this section.
- (11) The terms of this section shall not be construed so as to exclude signs being necessary for the public welfare, and as such, are required by the municipal government and historical associations, etc. Display signs pertaining to service clubs and/or civic associations may be erected or displayed within all districts upon approval of the Building Inspector.
- (12) The material and construction of any sign or supporting elements shall be in accordance with the National Building and Electrical Codes (in use by the City at the time of installation) and all other applicable city regulations.

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\* Editor's Note: See Figure 1 of the Sign Diagrams, Part I, included at the end of this chapter

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- (13) On a corner lot, no freestanding sign or support element shall be erected to materially impede vision between a height of 2 1/2' feet and 8 feet above curb grades in the same area bounded by the street lines of such corner lot and a straight line joining points along said street lines 30 feet from point of their intersection except as otherwise provided in this section. [Amended 08-01-90 by Ord. No. 8-90]
- (14) Essential directional signs not exceeding four (4) square feet, in area, are permitted indicating entrance and exit driveways.
- (15) Signs not exceeding two (2) square feet, in area, are permitted in parking lots indicating aisles or reserved areas or spaces.
- (16) One (1) sign not exceeding thirty-two (32) square feet on a building or project under construction, identifying the architect, owner and/or contractor. Such sign shall be removed upon the receipt of a certificate of occupancy.
- (17) Wall signs shall conform to the following additional regulations:
- (a) No wall sign shall be located in such a manner so as to extend above the next floor's window sill or descend below the top of the lower floor's lintel.\*
  - (b) In all nonresidential zoning districts where a business/premises fronts on more than one (1) public street or municipal parking lot, one (1) wall sign shall be permitted for each frontage. The sign area displayed shall not exceed that area permitted by the frontage on that public street or parking lot.\*\*
  - (c) In all nonresidential zoning districts, one (1) informational/directional wall sign shall be permitted for each building entryway. Said sign shall not exceed four (4) square feet in area and shall not be illuminated.
- (18) All freestanding signs shall conform to the following regulations:
- (a) No freestanding signs shall be located in an area designated for parking unless said sign is protected along all sides by curbing. A four-foot clear space is required along all approaches.\*\*\*
  - (b) No freestanding sign shall be placed within fifty (50) feet of a low-density residential district (R-40, R-20) boundary.

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\* Editor's Note: See Figure 2 of the Sign Diagrams, Part I, included at the end of this chapter.

\*\* Editor's Note: See Figure 3 of the Sign Diagrams, Part I, included at the end of this chapter.

\*\*\* Editor's Note: See Figure 4 of the Sign Diagrams, Part I, included at the end of this chapter.

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(19) All projecting signs shall conform to the following additional regulations:

- (a) Projecting signs shall be attached to the main wall of the building.
- (b) Projecting signs shall be prohibited from projecting over a street, alley or other public space beyond four (4) feet eight (8) inches from a building facade or two-thirds (2/3) of the width of the sidewalk, whichever is less.\*  
[Amended 6-10-87 by Ord. No. 13-87]
- (c) A clear space of not less than ten (10) feet shall be provided below all parts of a projecting sign, except for residential nameplates.
- (d) In all nonresidential zoning districts where a business/premise fronts on more than one (1) public street or municipal parking lot, one (1) projecting sign shall be permitted for each frontage. The sign area displayed shall not exceed that area permitted by the frontage on that public street or parking lot.

(20) Awnings may be used in lieu of permitted wall signs provided said letters, insignia or emblems do not exceed the square footage allowed for a wall sign in the applicable zoning district. [Amended 08-01- 90 by Ord. No. 8-90]

E. Signs permitted in residential districts. Any sign permitted in a Residential District shall conform to the following regulations (See table for overview of permitted signs.):

- (1) Customary home occupation signs shall identify only the name of each occupant and the street address. Said sign shall not exceed two (2) square feet and shall not be subject to the permit requirements of this section.
- (2) One (1) sign not to exceed four (4) square feet to announce for sale or rent real property or any part thereof upon which said sign is located. Said sign shall not be subject to the permit requirements of this section.
- (3) One (1) sign not to exceed sixteen (16) square feet may be erected in connection with any legally permitted non-residential use, excepting home occupations and Bed and Breakfasts. [Amended 08- 01-90 by Ord. No. 8-90]
- (4) One (1) sign may be erected in connection with a lawfully maintained nonconforming use.
- (5) All nonresidential signs may only be illuminated by a constant indirect source of lighting. The lighting element shall be shielded and shall illuminate only the sign. No sign shall be so illuminated after 9:00 p.m.

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\* Editor's Note: See Figure 5 of the Sign Diagrams, Part I, included at the end of this chapter.

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- (6) One (1) sign not to exceed four (4) square feet may be erected in connection with a Bed and Breakfast. [Added 08-01-90 by Ord. No. 8-90]
- (7) No sign shall be located greater than eight (8) feet above the ground, whether freestanding or attached to a building,

F. Signs permitted in B-2, UMUD, and CWD Zones. Signs shall relate only to the premises upon which they are located, identifying the occupancy of such premises or advertising the articles or services available within such premises (See table for overview of permitted signs.).

(1) Wall signs\*

- (a) An additional one (1) square foot of sign area per one (1) foot of business frontage shall be permitted, provided that the character of the sign conforms to mill motif design criteria. Refer to Subsection P\*\* for applicable criteria.

(2) Freestanding signs

- (a) Where a principal building fronts on more than one (1) street, one (1) freestanding sign may be erected for each frontage, provided that the building complies with Subsection F(2)(a).

(3) Temporary sidewalk/A-frame signs

- (a) Temporary sidewalk/A-frame sign permits shall remain in effect for a period of (1) year. A fee of fifty dollars (\$50.) shall be assessed for said sign.
- (b) One (1) sidewalk/A-frame sign shall be permitted per each principal building, or portion thereof under separate ownership, regardless of the number of individual tenants within said building. Buildings with an excess of one hundred (100) feet of street frontage shall be permitted one (1) additional sidewalk sign.
- (c) No sign shall be permitted on a city sidewalk or public right-of-way unless a five-foot, clear passageway can be maintained at all times.
- (d) All sidewalk signs shall be assigned a specific geographical location by the Building Inspector.

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\* Editor's Note: See Figure 6 of the Sign Diagrams, Part II, included at the end of this chapter.

\*\* Editor's Note: References to Subsection P (formerly Subsection Q)

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- (e) A certificate of insurance in the amount of one hundred thousand dollars (\$100,000.) (bodily injury/property damage) shall be filed with the Building Inspector to assure sufficient liability coverage of the applicant.
  - (f) A hold-harmless agreement shall be filed with the Building Inspector to relieve the City of Dover from bodily injury and property damage liability.
  - (g) All sidewalk signs shall conform to the mill motif design criteria (Subsection Q).
  - (h) Sidewalk signs shall only be displayed during business hours.
- G. Signs permitted in B-3 Thoroughfare Business District. Signs shall relate only to the premises upon which they are located, identifying the occupancy of such premises or advertising the articles or services available within said premises. (See table for overview of permitted signs.)
- (1) Freestanding signs
    - (a) Where a principal building fronts on more than one (1) street, one (1) freestanding sign may be erected for each frontage, provided that the building complies with applicable setbacks.
    - (b) One (1) freestanding sign shall be permitted for every principal entryway to a shopping center. Such signage shall be a distance of five hundred (500) feet apart.
  - (2) Temporary Signs. Temporary signs may be erected in the B-3 Thoroughfare District to advertise newly located businesses provided that the following guidelines are met: [Added 04-21-93 by Ord. NO. 04-93]
    - (a) Temporary sidewalk/A-frame sign permits shall remain in effect for not more than six (6) months. A fee of \$50 shall be assessed for said sign.
    - (b) Only one temporary sign shall be permitted per new business.
    - (c) The property owner shall be required to execute an indemnification agreement in a form approved by the City Attorney for the purpose of indemnifying and holding the City harmless from any liability due to the use or existence of any such temporary sign. All such agreements shall be kept on file in the Building Inspector's Office.

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H. Signs permitted in B-1 Neighborhood Business Districts. Signs shall relate only to the premises upon which they are located, identifying the occupancy of such premises or advertising the articles or services available within said premises. No sign shall be illuminated after 9:00 p.m. (See table for overview of permitted signs.)

(1) Projecting signs

- (a) All projecting signs shall only be illuminated by a constant indirect source of lighting. The lighting element shall be shielded and shall illuminate only the sign.

I. Signs permitted in O Office District. Signs shall relate only to the premises upon which they are located, identifying the occupancy of such premises or services available within said premises. No sign shall be illuminated after 9:00 p.m. (See table for overview of permitted signs.)

- (1) Signs shall only be illuminated by a constant indirect source of lighting. The lighting element shall be shielded and shall illuminate only the sign.

J. Signs permitted in Industrial Districts I-1, I-2, and I-4. Signs shall relate only to the premises upon which they are located, identifying the occupancy of such premises or advertising the articles or services available within such premises. (See table for overview of permitted signs.) [Amended 10-26-88 by Ord. No. 18-88]

(1) Freestanding signs

- (a) Where a principal building fronts on more than one (1) street, one (1) freestanding sign may be erected for each frontage, provided that the building complies with applicable signage setbacks.
- (b) Two (2) freestanding signs shall be permitted within an approved industrial park, provided that the combined square footage of such signs does not exceed five hundred (500) square feet in area, that they are used solely for the purposes of identifying the park, its occupancies and uses, location and layout, and that, if on a corner lot, such signs shall be set so as to not materially impede vision, subject to the discretion of the Building Inspector and the City Engineer. [Amended 08- 01-90 by Ord. No. 8-90]

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K. Signs permitted in ETP and B-4 Districts. Signs shall relate only to the premises upon which they are located, identifying the occupancy of such premises or advertising the articles or services available within such premises. (See table for overview of permitted signs.) [Added 7-8-87 by Ord. No. 15-87; amended 10-26-88 by Ord. No. 18-88]

(1) Freestanding signs

- (a) Where a development fronts on more than one (1) public street or roadway, one (1) freestanding sign shall be permitted for each frontage.
- (b) Each freestanding sign shall not exceed sixteen (16) feet in height, except as provided for below, and shall be permanently affixed to the ground. Notwithstanding, freestanding signs fronting on the Spaulding Turnpike shall not exceed thirty (30) feet in height.
- (c) Sign area shall not exceed sixty (60) square feet in area. Notwithstanding, a freestanding sign fronting the Spaulding Turnpike shall not exceed one hundred (100) square feet in area.

L. Signs permitted in the B-5, Rural Commercial/Retail District. [Added 11-22-95 per Ord. No. 19-95] Signs shall relate only to the premises upon which they are located, identifying the occupancy of such premises or advertising the articles or services available within such premises. (See table for overview of permitted signs.)

(1) Freestanding Signs.

- (a) Where a development fronts on more than one (1) public street, one (1) freestanding sign shall be permitted for each frontage. Notwithstanding, no freestanding sign shall be allowed on Old Rochester Road.

(2) Temporary Signs. Temporary signs may be erected subject to the following regulations:

- (a) A fee of \$50 shall be assessed for said sign.
- (b) Only one temporary sign shall be permitted per new business.
- (c) The property owner shall be required to execute an indemnification agreement in a form approved by the City Attorney for the purpose of indemnifying and holding the city harmless from any liability due to the use of existence of any such temporary sign. All such agreements shall be kept on file in the Building Inspector's Office.

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M. Political Signs. Political signs are permitted as follows:

- (1) The provisions of this section are in addition to the political sign controls established under Chapter 70 of the New Hampshire Revised Statutes Annotated, as amended.
- (2) Political signs are permitted no sooner than thirty (30) days prior to a primary or regular election and must be removed within ten (10) days of the closing of the polls.
- (3) Political signs shall not be affixed in any manner to public property (city-owned) nor within street rights-of-way, nor to utility poles and fixtures, nor painted, pasted or affixed in any manner that prohibits quick and complete removal.
- (4) The person whose name appears on each political sign as required by Chapter 70 of the New Hampshire Revised Statutes Annotated, as amended, is responsible for the placement, distribution and removal of political signs in conformance with the requirements of this Zoning Ordinance.
- (5) No sign in any district, other than the Central Business District, shall be larger than four (4) feet by four (4) feet or a total square footage of sixteen (16) square feet.
- (6) Any candidate failing to comply with the above requirements shall be subject to a fine not to exceed twenty dollars (\$20.) per sign violation.

N. Obsolete signs. Any sign which is located on property which becomes vacant and unoccupied for a period of more than six (6) months or any sign which pertains to a business, service activity or event which no longer applies because of discontinuance or relocation of said business, service, activity or event shall be deemed to have been abandoned, and the sign shall be considered obsolete. Such obsolete signs are prohibited and shall be removed by the owner of the sign or owner of the premises. In the event that the said sign(s) and support(s) are not removed as requested by the Building Inspector, the City of Dover may remove said structure(s) and assess all costs and expenses incurred in said removal against the structure's owners and/or the owner of the land upon which said structure(s) is located.

O. Nonconforming signs. A sign installed prior to the effective date of this section which meets the applicable requirements of the zoning code then in effect but which is not in conformance with the provisions of this code shall be deemed a permitted nonconforming sign if a permit is obtained for said sign within six (6) months after the effective date of this section. Such nonconforming sign shall, however, be subject to the following regulations.

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- (1) No nonconforming sign shall be altered in any way in structure or material, which makes the sign less in compliance with the requirements of this section than it was before the alteration.
- (2) No nonconforming sign shall be relocated to a position making it less compliant with the requirements of this section.
- (3) If the nonconforming sign is replaced, it shall be replaced with a sign that is in conformance with the provisions of this section.
- (4) Should a nonconforming sign be destroyed by any means to an extent of more than seventy-five percent (75%) of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this section.

P. Mill motif design criteria.

- (1) Intent. A recurring architectural theme exists within the Central Business District, where the use of brick, granite and slate dominates much of the existing commercial building stock. Influenced by the early 19th century mill development, signage was closely integrated with the style and composition of the building, often consisting of handsomely carved and painted wooden signboards. The use of dark background tones, highlighted with bright lettering was dominant. Projecting signs were typically constructed from dark-hued metal, cast iron in particular, and internal lighting or use of plastics, aluminum and vinyl was nonexistent. The use of a mill motif signage theme is an attempt to promote a style or architectural continuity within Dover's urban center. Within the defined mill motif theme, a great amount of flexibility is permitted where design and materials are involved, and all signage should be guided by general design criteria.
- (2) Permit process.
  - (a) The Building Inspector shall be responsible for the issuance of sign permits relative to mill motif accessory signs. Application for said signs shall include the following items:
    - [1] A scaled elevation drawing of the entire building facade(s).
    - [2] Proposed sign clearly delineated on the elevation drawing, plus detailed drawings indicating materials, size, colors and style of lettering, lighting and attachment method.
    - [3] A photograph of the building.
    - [4] A sample color rendering of the intended sign.

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- (b) Upon completion of the review, the Building Inspector will approve or disapprove the application and inform the applicant in writing of the decision.
- (3) Sign location. The physical placement of signage on a building shall be as important in perpetuating the mill motif theme as the sign composition itself. To maximize the effectiveness of signs and a building's architecture, every sign shall be required to be an integral part of its building. Signs shall be located with respect to the basic architectural framework of the building, so as not to obscure the primary elements (door and window openings and decorative facade treatments) of a building's framework. Refer to Subsection O(4)(e) for graphic guidelines.
- (4) Sign composition. The visual style of a sign is determined by the relationship of its lettering, colors, lighting, and material used. Within the defined mill motif theme, a great range of variations exist among these elements. The design standards set forth herein constitute general design criteria to be followed when determining conformity with the mill motif theme. Refer to Subsection P(4)(e) for graphic guidelines.
- (a) Lettering.
- [1] No more than one (1) lettering style shall be permitted per sign.
- [2] Letters may be attached to the building facade.
- [3] Light-colored letters on a dark background are preferred. Dark letters on a light background shall only be permitted if it compliments the building's color composition.
- [4] Lettering and signboards shall be located so as not to obstruct architectural detailing on the building face.
- [5] Product trademarks are discouraged; however, trade signs (e.g., a shoe for a cobbler, a mortar and pestle for a druggist) are preferred.
- [6] Letter styles shall be limited to the classic genre, i.e., copper plate Gothic, Times, Franklin Gothic, Benton, Clarendon, Haas Helvetica, Folio Caravelle Medium, Windsor, and Times Roman.
- [7] The size of the lettering shall be in proportion to both the sign configuration and the building.

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(b) Color.

- [1] No more than three (3) colors are preferred, including black white. Lettering shall preferably be one (1) color.
- [2] Colors used in signage should relate to the color composition of the building material and be compatible with them.
- [3] The determination of sign color must relate to the degree of contrast between the sign lettering and sign background.

(c) Lighting.

- [1] Internally-lit or back-lit signs are prohibited.
- [2] Only shielded indirect light shall be permitted if lighting is used.

(d) Materials.

- [1] Traditional materials, such as wood, glass, brass, bronze or iron, are preferred. The use of plastic, aluminum and vinyl will only be permitted if styled and composed to imitate wood or iron.
- [2] Wooden signs shall be constructed of dense, clear wood that adapts to engraving/carving and paint or stain. Ordinary plywood will not withstand exposure; therefore, only overlay, exterior or marine plywood shall be permitted.
- [3] Projecting signs shall be supported by black, iron attachments to the building. Guy wires shall not be permitted as a principle sign support member.
- [4] No support for a projecting sign shall extend above the cornice line of the building to which it is attached.

- (e) Graphic guidelines. The zoning ordinance regarding signs was developed in an effort to limit the size, clutter and inefficiency of uncontrolled signage, while encouraging more effective signs through better and more appropriate design. The regulations that have been outlined in 170-32 pertain primarily to maximums for height, size and content of business signs. Concern for size alone, however, does not guarantee the effectiveness of a sign or its appropriateness to its location, and both are important for the overall selling power of the sign. In order to help business owners, manufacturers and designers and others with the design of quality mill motif signs, the following notes have been prepared as a brief guide:

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[1] Because it is an old city, Dover's Central Business District (CBD) has evolved from a mill era architectural influence. Almost all of the business structures in this area have an architectural character worth preserving and enhancing. In this district, however, whether an individual building is of great architectural merit does not matter as much as the fact that individual buildings and rows of buildings visually relate to each other. This sense of history and feeling of architectural unity is one of Dover's unique characteristics; it is attractive to both tourists and residents alike. And although nothing in the long run can replace the quality and character of a business concern's services or merchandise in drawing and keeping customers, the architecture of an individual building and the combined impact of groups of adjoining buildings, can be part of the attraction of a shopping district. Ideally, then, to maximize the effectiveness of signs and building architecture, every sign should be an integral, but of course noticeable, part of its building, and each building should have a good visual influence within its block of buildings. As a result, the building and its sign become part of an overall image, each supporting the other and helping to draw customers. This leads to a simple but vital point: A sign on a building should always be thought of as part of the building and not as an unrelated object attached to it. Figures A,B,C and D illustrate this point.\*

[2] Just as a sign should respect a building facade, a row of shops and their signs are most effective when the architecture and rhythm of the street is preserved and even emphasized by the design of all the signs.

The matter of signs becomes a concern for all neighboring businesses; a harmonious and uncluttered row of shops with legible well-designed signs is much more attractive to shoppers than a hodge-podge of signs that confuse the shopper rather than draw him to the area and the individual shops. One of the most common causes of this confusion is the tendency of shop fronts to burst out of their frames in an upward and outward direction until nothing of the original frontage is visible. Figures E, F and G illustrate the effects of this on a typical stretch of street front.\*\*

[3] Letter styles:\*\*\*

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\* Editor's Note: Figures A, B, C and D are included in Sign Diagrams, Part III, at the end of this chapter.

\*\* Editor's Note: Figures E, F AND G are included in Sign Diagrams, Part IV, at the end of this chapter

\*\*\* Editor's Note: Samples of the various letter styles are on file in the office of the City Clerk and are available for inspection during normal business hours.

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Q. Definitions. As used in this section, the following terms shall have the meanings indicated:

**BUSINESS FLOOR AREA** - That area, leased or occupied by a business, excluding hallway(s) or shared building/tenant facilities.

**BUSINESS FRONTAGE** - The length along the ground floor of a building front, having frontage on the street, which is occupied by a separate and distinct principal use; or the length along the ground floor of a building side, having frontage on a street, which is occupied by a separate and distinct principal use or by the same principal use which occupies the front of said building.

**FLASHING SIGN** - Any directly or indirectly illuminated sign which changes the intensity of illumination so as to result in changes in light, color, director or animation. Included in this definition shall be electronic changeable message boards or signs of similar technologies, excluding those deemed necessary for the public safety and welfare by Federal, State or municipal authorities. [Added 03-21-07 by Ord. No. 01-2007]

**FREESTANDING SIGN** - A sign permanently erected on a freestanding frame, mast or pole and not attached to any building. A-frame signs shall not be considered freestanding but rather a temporary portable sign. (See the definition of "temporary portable sign.")

**PROJECTING SIGN** - A sign attached to a building with the plane of the sign at an angle to the plane of the wall of the building.

**SHOPPING CENTER** - Any building containing five (5) or more tenants and containing more than fifty thousand (50,000) square feet of gross floor area.

**SIGN** - Any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, in view of the general public, and which directs attention to a product, place, activity, person, institution or business. A "sign" shall include writing, representation or other figure of similar character within a building only when illuminated and located in a window.

**SIGN AREA** - The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such perimeter which do not form an integral part of the display. For projecting or double-faced signs, only one (1) display space shall be measured in computing total surface area where the sign faces are parallel or where the interior angle formed by the faces is ninety degrees (90) or less.\*

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\* Editor's Note: See Figures 8 and 9 of the Sign Diagrams, Part II, included at the end of this chapter.

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TEMPORARY PORTABLE SIGN - A sign(s) customarily located on a trailer or similar wheeled apparatus, whether self-propelled or pulled by another vehicle, intended for promotional purposes or to convey an advertising message of any kind, which is not permanently affixed to the ground. A-frame, sandwich board and other signs not permanently affixed, directly or indirectly, upon a building, structure or land and not otherwise referenced under the definitions of "freestanding sign," "projecting sign" or "wall sign", shall also be considered as "temporary portable signs".

WALL SIGN - A sign attached to or erected against the wall of a building, with the face in a parallel plane to the plane of the building wall, and projecting no more than fourteen (14) inches from the building wall.\*

- R. Fees. The minimum fee of five dollars (\$5.00) per sign shall be assessed by the Building Inspector for issuance of a sign permit. Any sign in excess of fifty (50) square feet shall be assessed an additional one dollar (\$1.00) per square foot of sign area, in excess of the fifty (50) square feet. A fee of fifty dollars (\$50.00) shall be assessed for all temporary sidewalk/A-frame signs.

### 170-33. Fence review and regulations.

- A. Fence heights. 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.

B. Fence design.

- (1) The finished 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.
- (2) On a corner lot, no fence or vegetal elements shall be erected or placed in such a manner(s) as to materially impede vision between that area bounded by the street lines of such corner lot and a straight line joining points along said street lines thirty (30) feet from the point to the intersection. For corner lots that are located on the inside curve of streets and at intersections that are not perpendicular, adequate and safe sight distances in both directions, as determined by the Building Inspector, shall be provided. Property owners shall maintain vegetation such that it does not grow to limit site distance.  
[Amended 02-17-99 by Ord. No. 25-98]

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\* Editor's Note: See Figure 10 of the Sign Diagrams, Part II, included at the end of this chapter.

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C. Exceptions. The provisions described in Subsection A shall not apply in Industrial (I-2), Restricted Industrial (I-1), Thoroughfare Business (B-3), Central Business (B-2), Office (O), Cocheco Waterfront (CWD) and Urban Multiple Use (UMUD) 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.

**170-34 through 170-38. (Reserved)**

**ARTICLE X  
NONCONFORMING LOTS, USES AND STRUCTURES**

**170-39. Nonconforming lots.** [Amended 6-10-87 by Ord. No. 13-87]

In any district, structures which are allowed by right, but not structures that are allowed by special exception, may be erected on any nonconforming lot of record 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 adjacent or in continuous frontage with other lots in the same ownership. If two (2) or more nonconforming lots that are adjacent or with continuous frontage are in single ownership and are of record at the time of passage of amendment of this chapter, the lots involved shall be considered to be an undivided parcel for the purposes of this chapter. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width, area or frontage requirements established by this chapter, nor shall any division or parcel be made which creates a lot with width, area or frontage below the requirements stated in this chapter. See 170-14 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.

**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 with the exception of a single-family structure. Said single-family structure may be expanded up to twenty (20) percent of its gross habitable floor space provided the addition conforms with all other applicable regulations and ordinances and no additional units are created. [Amended 08-01-90 by Ord. No. 8-90]
- 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.

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- C. If any such nonconforming 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-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 with the exception of accessory structures associated with a single-family house provided they comply with all other applicable City ordinances and regulations. [Amended 08-01-90 by Ord. No. 8-90]

### 170-41. Nonconforming structures. [Amended 08-01-90 by Ord. No. 8-90]

Where a lawful structure exists at the effective date of adoption or amendment of this Chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height or 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:

- A. Except as provided for in 170-40A and 170-41D, no such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. [Amended 02-17-99 by Ord. No. 25-98]
- B. A building or structure nonconforming either in terms of use or bulk may be restored to its former bulk if destroyed by fire or other hazard, provided that 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 are in compliance with the provisions of subsection 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.
- D. Additions to nonconforming single-family structures, that were made nonconforming by a zoning amendment that changed the front, side or rear setback requirements, shall be permitted within the front, side or rear setback areas provided that the addition is no closer to the lot line than the existing nonconforming structure, and no closer than ten (10) feet from the lot line. [Added 02-17-99 by Ord. No. 25-98]

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### **170-42. Repairs and maintenance.**

On any nonconforming structure or portion of a structure containing a nonconforming use, ordinary repairs may be made, subject to the following provisions: if a nonconforming structure or portion of a structure containing a nonconforming 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.

### **170-43. Uses permitted by special exception.**

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

## **ARTICLE XI OFF-STREET PARKING AND LOADING**

### **170-44. Applicability.**

The following conditions shall apply to all parking and loading spaces provided in conformance with this chapter:

- A. Conformity with the Site Review Regulations, Chapter 149, Subsections 149-14 and 149-15, site development criteria. [Amended 6-10-87 by Ord. No. 13-87]
- 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 nonresidential districts, such parking spaces shall be provided within a five-hundred-foot radius of the primary structure.
- D. Where one (1) building is used for more than (1) 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 (2) or more structures, the total number of spaces provided shall be not less than the sum of the individual total numbers of spaces required.

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- F. Where parking spaces are provided for nonresidential structures and this parking area adjoins a residential use, suitable screening at least seven (7) feet in height shall be provided and maintained.
- G. Municipal parking lots shall not be substituted for the requirements of this section.
- H. In the B-2, UMUD and CWD Zoning Districts, all on-site parking standards recorded in Section 170-45 of this chapter shall not be binding except in such cases where new construction is proposed that would create additional building square footage; and conversions or changes of use that result in an increase of residential units.

Parking spaces required in B-2, UMUD, and CWD Zoning Districts may be located off-site within 1000 feet of the proposed use. The spaces may be located in a municipal parking lot and leased from the city, or leased from a private landowner. Lease agreements are subject to Planning Board approval, and must have a minimum duration of five (5) years, and have provisions for renewal at expiration. [Added 9-24-80 by Ord. No. 15-80; amended 3-30-83 by Ord. No. 5-83; 6-10-87 by Ord. No. 13-87; amended 08-01-90 by Ord. No. 8-90]

- I. Conditional Use Approval. [Added 11-13-96 by Ord. No. 19-96]
  - (1) Conditional use approval may be granted by the Planning Board (RSA 674:21 II) after proper public notice and public hearing for the purpose of altering any provisions of Article XI Off-Street Parking and Loading, provided that the proposed project complies with the following standards:
    - (a) The applicant submit an analysis justifying a request for reduced parking requirements.
    - (b) The conditional use application shall describe the limits of any parking area subject to the reduced requirements and the reduction applicable to each use.
    - (c) The applicant submit an analysis and/or a parking study substantiating the availability of nearby alternative parking to be used as a credit towards reducing parking requirements. The applicant must show that the use(s) can be adequately served by a combination of on and off street parking.
    - (d) The applicant submit data and/or a transit study that indicates that existing and planned transit service in the vicinity justifies the reduction requested. The Planning Board shall make the determination.

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- (e) The applicant submit a Traffic Reduction and/or Transportation Management Plan which outlines the measure(s) to be taken to permanently reduce parking demand. The plan may include any/all of the following initiatives:
    - 1. facilitate employee/customer use of mass transit.
    - 2. facilitate employee/customer use of ride share/van pool program.
    - 3. establish alternative work hours/flex time program.
    - 4. provide incentives to encourage non-vehicular trips, i.e. pedestrian and bicycle alternatives.
    - 5. provide preferred parking for ride share/van pool participants.
    - 6. create shuttle bus service to/from train/bus stations.
    - 7. establish an information center to coordinate ride share/van pool efforts among separate uses within a structure or complex.
  - (f) There shall be no detrimental effects on surrounding properties by any proposal.
- (2) Conditional use approval may also be granted by the Planning Board to allow a decrease in the off-street parking requirements for a building or buildings in close proximity serving more than one (1) use. To obtain such an approval, the applicant must conclusively demonstrate that one (1) or more such uses will generate a demand for parking spaces primarily during periods when the other use or uses are not in operation. Calculations for parking reduction shall be consistent with nationally accepted parking publications such as Shared Parking, (Urban Land Institute, Washington, DC, 1990). The location of all shared parking spaces shall conform with the provisions outlined in Subsections 170-44(C) and 170-44(H) unless determined otherwise by the Planning Board.
- (3) Conditional use approval shall be subject to a formal agreement between the Planning Board and the applicant. Said agreement shall be recorded at the Strafford County Registry of Deeds.
- (4) Any conditional use approval shall apply only to the application specified at the time of approval and shall not be transferable to a different application, building expansion, or change of use regardless of size. Any subsequent change(s) to a project or plan that has a shared parking agreement shall be subject to review by the Planning Director. If the proposed parking demand is determined to increase, the project shall be referred to the Planning Board for further review.
- J. Parking spaces for non-residential uses and multifamily dwellings shall have independent access to an aisle or driveway. [Added 01-22-03 by Ord. No. 35-02]

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### 170-45. Required spaces.

The following number of spaces shall be required according to the use of the structure. Each space shall be provided with adequate maneuvering space.

- A. Residential dwellings containing one (1) to four (4) units shall support two (2) parking spaces for each unit. [Amended 2-22-84 by Ord. No. 4-84]
- B. Multifamily dwelling: two (2) spaces for each dwelling unit. [Amended 6-10-87 by Ord. No. 13-87]
- C. Restaurants, excluding fast-food establishments: one (1) space per three (3) seats, plus one (1) per two (2) employees; or one (1) space per one hundred fifty (150) square feet of floor area as used, whichever is greater. Where there is a bar, one (1) space per two (2) stools.
- D. Fast-food establishments: one (1) space per every two (2) seats, plus one (1) space per each employee in the maximum shift; or one (1) space per fifty (50) square feet of gross floor area, plus one (1) space per each employee in the maximum shift, whichever is most applicable as determined by the Planning Board. [Amended 08-01-90 by Ord. No. 8-90]
- E. Wholesale distribution: one (1) space per eight hundred (800) square feet of gross floor space or one (1) space per employee in maximum shift, whichever is most applicable as determined by the Planning Board. [Amended 08-01-90 by Ord. No. 8-90]
- F. Manufacturing: one (1) space per each one and five-tenths (1.5) employees or one (1) space per five hundred (500) square feet of gross floor area, whichever is most applicable as determined by the Planning Board. [Amended 08-01-90 by Ord. No. 8-90]
- G. Hotel, motel, tourist home: one (1) space for each sleeping room, plus one (1) space for each four hundred (400) square feet of public meeting room.
- H. Office (general): one (1) space per three hundred twenty-five (325) square feet of gross floor space.
- I. Office (professional, medical): one (1) space per two hundred fifty (250) square feet of gross floor space or five (5) spaces per professional person keeping office and one (1) per each staff member, whichever is most applicable as determined by the Planning Board. [Amended 08-01-90 by Ord. No. 8-90]
- J. Retail I (service establishment, auto retail, real estate, laundry): one (1) space per three hundred (300) square feet of gross floor area.
- K. Retail II (furniture, hardware, carpets): one (1) space per six hundred (600) square feet of gross floor area.

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- L. Retail III (food retail): one (1) space for two hundred (200) square feet of net floor area.
- M. Retail IV (general, including drugs, clothing): one (1) space for two hundred fifty (250) square feet of net floor area.
- N. Retail V (shopping center): one (1) space for every two hundred (200) square feet of gross leaseable space.
- O. Community facility (city building, recreation): one (1) space for each four hundred (400) square feet of gross floor space.
- P. Hospital and nursing home: one (1) space per each two (2) beds at design capacity.
- Q. Theater, auditorium, church: one (1) space for each four (4) seats of total seating capacity.
- R. Funeral Home: eight (8) spaces for each chapel with a minimum total of ten (10) spaces.
- S. Gasoline service station: three (3) spaces for each service bay, plus one (1) space per employee in the maximum shift.
- T. Mixed use: the sum of various uses computed separately.
- U. Other: closest similar use as shall be determined by the Director of Planning.
- V. Elderly multifamily: one (1) space for every two (2) units. [Added 9-24-80 by Ord. No. 15-80]
- W. Rooming house, Bed and Breakfast: one and one-half (1 1/2) spaces per sleeping room. [Amended 08-01-90 by Ord. No. 8-90]
- X. Adult Day Care: One (1) space per employee and agency vehicle plus five (5) visitor spaces. Said use shall provide adequate drop off and pick up sites in order to facilitate vehicular passage and protect pedestrian safety. [Added 09-15-93 by Ord. No. 19-93]
- AA. Elderly Assisted Care Home: One space per two (2) beds plus one (1) space per employee on the largest shift. [Added 09-15-93 by Ord. No. 19-93]
- BB. Congregate Care Facility: One (1) space per apartment style unit, one (1) space per two nursing home style units and one (1) spacer per employee on the largest shift. [Added 09-15-93 by Ord. No. 19-93]

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- CC. Nursing Home: One (1) space per two (2) bedrooms plus one (1) space per employee on the largest shift. [Added 09-15-93 by Ord. No. 19-93]
- DD. Group Home for Minors: One (1) space per two (2) occupants, plus (1) space per employee on the largest shift. [Added 09-01-93 by Ord. No. 20-93]
- EE. Child Care Facility: One (1) space for each five (5) children at maximum capacity. [Added 02-17-99 by Ord. No. 25-98]
- FF. Educational Institution – Grades K-8: One (1) space per teacher or other employee and one (1) space for each five (5) seats in the largest assembly room, including auditorium and gymnasium. [Added 02-17-99 by Ord. No. 25-98]
- GG. Educational Institution – Grade 9-12 or Private College: One (1) space per six students, at building capacity, plus one (1) space per faculty member. [Added 02-17-99 by Ord. No. 25-98]

### 170-46. Loading spaces.

In all districts, no nonresidential 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 nonresidential district shall be located within one hundred (100) feet of a residential district boundary or within one hundred (100) feet of the lot line of an abutting residential use.
- C. All bays shall be located at the side or rear of the building they are intended to serve.
- D\*. The minimum number of required loading spaces shall be determined by the Planning Board. [Added 02-20-91 by Ord. No. 02-91]

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\* Editor's Note: Previous table illustrating number of loading spaces has been replaced by subsection D, per Ord. No. 02-91

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**ARTICLE XII  
ADMINISTRATION**

**170-47. Administrative officer.**

- A. This chapter 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 chapter.
- 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 chapter.

**170-48. Building permit procedure. [Amended 6-10-87 by Ord. No. 13-87]**

- A. Applicability. It shall be unlawful to construct, enlarge, alter, relocate or demolish a structure; or change the occupancy of a building or structure requiring greater strength, exit or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is regulated by the currently adopted Building Code\* for the City of Dover without first filing an application with the Building Official, in writing, and obtaining the required permit therefor. Building permits are not required for simple and normal maintenance and repairs, provided that such work does not exceed one thousand dollars (\$1,000.).
- B. Prerequisite approvals. An applicant for a 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 and accompanied by the required fee. In addition, all applications for building permits shall be accompanied by the following:
  - (1) Plans and specifications. The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn to scale, with sufficient clarity, detail and dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to the Building Code, specific information shall be given to establish such quality; and the Building Code shall not be cited or the term "legal" or its equivalent be used as a substitute for specific information. The Building Inspector may waive the requirement for filing plans when the work involved is of a minor nature.

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\* Editor's Note: See Ch. 68, Building Construction.

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- (2) Description of work. The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the Building Inspector.
  - (3) 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 chapter shall be provided.
  - (4) Site plan. There may also be required a site plan showing to scale the size and location of all the new construction and all existing structures on the site, the parcel's vehicular access, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.
  - (5) Engineering details. The Building Inspector may require to be filed adequate details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design. Plans for buildings more than two (2) stories in height shall indicate where penetrations will be made for electrical, mechanical, plumbing and communications conduits and pipes and materials and methods for maintaining the required structural integrity, fire-resistance rating and firestopping.
- D. Action of application. Upon the filing of a completed application, the Building Inspector shall approve or deny the application within a reasonable period of time, not to exceed thirty (30) days.
- E. Statute of limitations. Any work for which a building permit has been issued shall commence within the time period specified in the B.O.C.A. Basic National Building Code, as amended. [Amended 08-01-90 by Ord. No. 8-90]
- F. Amendments to application. Amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit sought is issued, upon approval by the Building Inspector. Such amendments shall be deemed part of the original application and shall be filed therewith.
- G. Suspension of permit. Any permit issued shall become invalid if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

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- H. By whom application is made. Applications for a permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by an affidavit of the owner or the qualified applicant or a signed statement of the qualified applicant witnessed by the Building Official or his designee to the effect that the proposed work is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officer, if the owner or lessee is a corporate body, shall be stated in the application.

**170-49. 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 with provisions of this chapter, 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 chapter, the building permit and/or any other requisite approval related thereto.
- D. Action of 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 a sign-off from the Planning Director, Community Services Director, Fire Chief and Police Chief certifying the adequacy of required improvements. [Amended 9-24-80 by Ord. No. 15-80]

**170-50. 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.

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### 170-51. Violations 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 chapter; 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.
- 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 dollars (\$100.). Each day beyond the expiration of the aforementioned notice of violation and order shall constitute a separate offense. [Amended 9-24-80 by Ord. No. 15-80]

### 170-52. 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 chapter.
- B. Authority. The Board shall be duly constituted and shall have such duties and powers as specified under RSA 673:3 and 674:33 and this chapter as set forth herein. [Amended 6-10-87 by Ord. No. 13-87]
- 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, requirements, decision or determination made by the Building Inspector in the enforcement of this chapter (interpretation of ordinance).
- (b) To hear and decide special exceptions to the terms of this chapter upon which such Board is required to pass under this chapter (special exception).

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- (c) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done (variance).

(2) Interpretation of chapter.

- (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 this chapter.

[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 chapter. Upon such appeal, the Board may, in accordance with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify any such order, requirement or 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 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.

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\* **Editor's Note: Said Zoning Map in on file in the office of the City Clerk, where it may be examined during regular business hours.**

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- (c) The requested use will not overload 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. Refer to Article VI of this chapter for additional provisions regarding special exceptions. [Amended 6-10-87 by Ord. No. 13-87]
- (4) Variances. [Amended 9-24-80 by Ord. No. 15-80]
  - (a) The Zoning Board of Adjustment may authorize a variance from the terms of this chapter for:
    - [1] A particular use.
    - [2] A parcel of land.
    - [3] An existing/proposed building.
  - (b) Said variance shall only be granted where unusual difficulty or special hardship would be imposed by the literal application and rigorous enforcement of this chapter.
  - (c) In granting variances, the Board, if it deems it proper to the carrying out of the intent and purpose of this chapter, may impose such reasonable and additional stipulations and conditions as will, in its judgement, better fulfill the purpose of the chapter.
  - (d) Any variance which has not been acted upon in accordance with the approval of the Zoning Board of Adjustment within four (4) years of the date of said approval, shall be considered null and void. [Added 08-01-90 by Ord. No.8-90]
- (5) Other requirements. The granting of any appeal by the Board shall not exempt the applicant from any provision of this chapter not specifically ruled upon by the Board or specifically set forth as excepted in this particular case from a provision of this chapter. 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.

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- (6) Public Hearing. The Board shall fix a reasonable time for the hearing of an appeal in accordance to its By-Laws; and before any hearing is given either on an appeal or an application for variance or special exception of this chapter, notice shall be given to all abutters of any portion of the lot in question. Notice shall be given to abutters by certified mail, and also placed in a newspaper of general circulation, not less than 5 days before the date fixed for the hearing of the appeal. The costs of any notice shall be paid by the appellant or applicant to the Building Inspector's Office. [Amended 08-01-90 by Ord. No. 8-90]

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 therefor; and the Board may grant such rehearing if, in its opinion, good reason therefor 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 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.

**170-53. Amendment procedure.**

- 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 repeal the regulations and provisions of this chapter after public notice and hearing as provided in Subsection 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 chapter prior to transmitting its recommendation to the City Council.

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### C. Public hearing. [Amended 3-5-86 by Ord. No. 17-85]

- (1) Except as hereinafter provided, a letter of notification shall be sent to landowners whose property lies within that area affected by the proposed change or amendment and to landowners whose property lies within one hundred (100) feet of the subject area. All such notices shall be by first class mail and shall be sent at least five (5) working days prior to the scheduled public hearing date.
- (2) 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.
- (3) A notice of said public hearing shall be posted in at least three (3) conspicuous public places in the City of Dover.
- (4) 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.
- (5) In the event that the proposed amendment or change is comprehensive in nature, the aforementioned provisions requiring notice by first class mail to individual landowners may be waived by a majority vote of the full City Council, with respect to the public hearing to be held before it. An amendment or change shall be deemed to be comprehensive in nature if it affects more than one (1) of the zoning districts established by 170-7 of this chapter. Under no circumstances may the provisions for publication of notice in a newspaper or posting of public notice contained in Subsection C(2) and (3) of this section be waived.

### D. Action required.

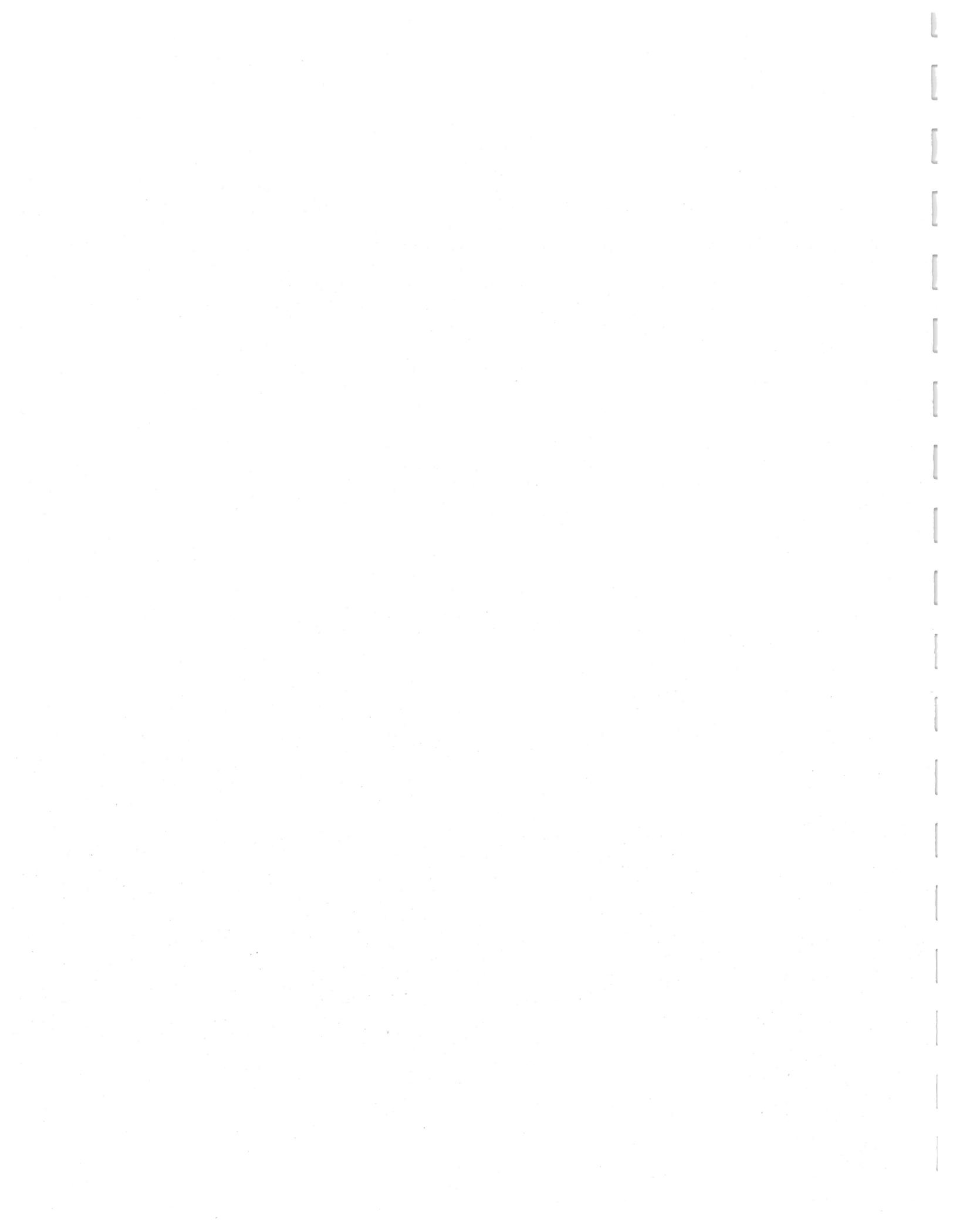
- (1) The Planning Board shall make a report and recommendations on the amendments or changes referred to it by the City Council within thirty- one (31) days after the next regularly scheduled meeting of the Board. In specific instances where circumstances warrant, the City Council may extend the time 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 a 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 Subsection C.

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- (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 (2/3) of its membership present and voting.
- (4) Any party requesting an amendment to this chapter, exclusive of the Planning Board and City Council, shall pay a fee of twenty-five dollars (\$25.) to the City of Dover to cover advertising and notification costs.



**Tables  
Of  
Use  
And  
Dimensional  
Regulations**



**TABLE OF USE REGULATION  
CITY OF DOVER  
TABLE I: PRINCIPAL USES, PART A'  
DISTRICTS**

**A. RESIDENTIAL USES**

NOTES:

USES	R-40	R-20 (14)	R-12	RM-20 [1]	RM-12 (15)	RM-10 (16)	RM-8	RM-6 (19)	O (19)	B-1	B-2	B-3	B-4 (18)	B-5 (21)	I-1	I-2 (20)	I-4 (18)	UMUD (10)	CWD (11)	SPECIAL CONDITIONS	
1 FAMILY DWELLING	P	P	P	P	P	P	P	-	P	P	[5]	-	-	-	-	-	-	-	-	[12]	
2 FAMILY DWELLING	[24]	[24]	[17]	P	P	P	P	-	P	-	[5]	-	-	-	-	-	-	-	-	[13]	
3 TO 4 FAMILY DWELLING	[24]	[24]	-	[1]	[2]	S	[22]	P	[23]	-	[5]	-	-	-	-	-	-	-	-	[13]	170-25.1 & 170-52
MULTIFAMILY DWELLING	-	-	-	[1]	[2]	-	[22]	[4]	-	-	[5]	S [23]	-	-	-	-	-	[9]	-	[13]	170-19 & 170-52
MOBILE HOME UNIT	[6]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
MOBILE HOME PARK	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	170-20 & 170-52
ROOMING HOUSE	-	-	-	-	-	-	[7]	-	-	-	-	-	-	-	-	-	-	-	-	-	
CONVERSION OF EXISTING DWELLING TO ACCOMMODATE NOT MORE THAN 2 UNITS	[8]	[8]	[8]	[1]	P	[3]	[22]	P	-	S	S	S	-	-	-	-	-	-	-	-	170-52
CONVERSION OF EXISTING DWELLING TO ACCOMMODATE NOT MORE THAN 4 UNITS	-	-	-	[1]	[2]	S	[22]	P	-	-	S	-	-	-	-	-	-	-	-	-	170-52
CONVERSION OF EXISTING DWELLING TO ACCOMMODATE 5 OR MORE UNITS	-	-	-	[1]	-	-	[22]	[4]	-	-	[5]	-	-	-	-	-	-	-	-	-	170-19 & 170-52
CONVERSION OF EXISTING DWELLING TO ACCOMMODATE ADDITIONAL RESIDENTIAL UNITS [10]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S[9]	S[13]	-	



**TABLE I: PRINCIPAL USES, PART A\***

Districts

**A. RESIDENTIAL USES**

NOTES:

\* All rights-of-way shall be deleted from the lot area when calculating the maximum permitted number of units.

[1] Provided that the lot upon which such multifamily residence is to be constructed shall contain at least ten thousand (10,000) square feet for each dwelling unit. [Amended 02/17/99 by Ord. No. 25-98]

[2] Provided that the lot upon which a multifamily residence is to be constructed shall contain at least fifteen thousand (15,000) square feet for each dwelling unit.

Structures shall not be erected on topographic slopes in excess of twenty percent (20%) or within the Conservation District as defined in § 170-27 of the Code of Dover.

A maximum of four (4) units per building is allowed [Amended 7-25-85 by Ord. No. 14-86, 9-14-88 by Ord. No. 15-88] [Amended 02/17/99 by Ord. No. 25-98]

[3] Provided that the lot contains at least two thousand (2,000) square feet for each dwelling unit plus an additional five hundred (500) square feet for every bedroom contained in such multiunit residence.

A maximum of four (4) units per lot is allowed.

[4] Provided that the lot contain at least one thousand (1,000) square feet for each dwelling unit [Amended 8-1-90 by Ord. 8-90] [See footnote 22]

[5] Providing that the lot contain at least six hundred (600) square feet for each dwelling unit and that dwelling units are allowed only in the second story or higher of a structure. [Amended 1-22-2003 by Ord. No. 35]

[6] Provided that 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 Department of Housing and Urban Development.

Mobile Home Construction Standards (1976), and the placement of such units shall be on a continuous masonry foundation (frostwall - floating slab). [Amended 6-22-83 by Ord. No. 19-83]

[7] Provided that no more than five (5) rooms are rented to no more than (10) persons.

[8] Any dwelling unit existing on or before May 27, 1964, may be converted, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.

[9] Provided that the lot contain at least six hundred (600) square feet for each dwelling unit and that each dwelling unit contain at least six hundred (600) square feet of gross floor area.

Dwelling units are allowed only in the second story or higher of a structure. [Amended 8/13/08 by Ord. No 2008.07.23-9]

[10] [Added 3-30-83 by Ord. No. 5-83]

[11] [Added 4-27-83 by Ord. No. 12-83]

[12] Single family units are only allowed if adjoined to other residential or non-residential uses in the same structure. Single family detached units are not allowed. [Amended 1-22-2003 by Ord. No. 35].

[13] Provided that the lot contains at least one thousand (1,000) square feet of land area for each dwelling unit and that each dwelling unit contains at least six hundred (600) square feet of gross floor area.

[14] Editor's Note: Footnote No. 6 was removed from this column, where it appeared across from "Mobile home unit" 6-22-83 by Ord. No. 19-83.

[15] [Amended 9-24-86 by Ord. No. 14-86]

[16] [Amended 3-25-87 by Ord. No. 6-87]

[17] Two family dwellings are permitted in the R-12 Districts when incorporated in an open space subdivision and comply with all regulations specified in Chapter 155, Subdivision of Land, Article IV, Open Space Subdivisions, of the Code of the City of Dover, 1983 [Added 9-14-88 by Ord No. 13-88] [Amended 1-15-03 by Ord No. 35-11]

[18] [Added 10-26-88 by Ord. No. 18-88]

[19] [Amended 8-1-90 by Ord. No. 8-90]

[20] [Added 9-16-92 by Ord. No. 23-92]

[21] [Added 11-22-95 by Ord. No. 19-95]

[22] Provided that the lot contain at least four thousand (4,000) square feet for each dwelling unit. [Added 02/17/99 by Ord. No. 25-98]

[23] Provided that the lot contain at least five thousand (5,000) square feet for each dwelling unit. Dwelling units are allowed only in the second story or higher of a newly constructed structure. [Amended 8/13/08 by Ord. No 2008.07.23-9]

[24] Use is allowed when included within an Open Space Subdivision with commercial components. (See 155.22 section 7). [Added 1-22-2003 by Ord. No. 35].



**TABLE OF USE REGULATIONS  
CITY OF DOVER**

**Table I: Principal Uses, Part B  
Districts**

**B. Agricultural Uses.**

USES	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	O	B-1	B-2	B-3	B-4 (7)	B-5 (9)	I-1 (6)	I-2 (8)	I-4 * (7)	UMUD (4)	CWD (5)	SPECIAL CONDITIONS	
AGRICULTURE; HORTICULTURE AND FLORICULTURE	P	P		P	P								-	-	P	P	P				
GREENHOUSE; RETAIL SALE OF AGRICULTURAL OR FARM PRODUCTS RAISED ON SITE	P	S	-	S	-	-	-	-	-	-	-	-	-	-	P	P	P	-			170-25
FARM; LIVESTOCK; POULTRY AND SWINE	[1]	[2]	-	[2]	S	-	-	-	-	-	-	-	P	-	P	-	[1]	-	-	-	170-21
VETERINARY OFFICE, ANIMAL HOSPITAL OR KENNEL	[3,10]	[10]	-	-	-	-	-	-	-	-	-	-	P	-	P	-	[3]	-	-	-	

**NOTES:**

\* Editor's Note: Applies only to the I-4 Districts created by Ord. No. 35 on 1-22-2003

- [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 that the tract upon which such animals are kept shall support a minimum land area of one hundred thousand (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 minimum tract size of one hundred thousand (100,000) square feet. [Amended 8-1-90 by Ord. 8-90]
- [4] [Added 3-30-83 by Ord. No. 5-83]
- [5] [Added 4-27-83 by Ord. No. 12-83]
- [6] [Amended 1-9-85 by Ord. No. 1-85] [Amended 8-1-90 by Ord. 8-90]
- [7] [Added 10-26-88 by Ord. No. 18-88]
- [8] [Added 9-16-92 by Ord. No. 23-92]
- [9] [Added 11-22-95 by Ord. No. 19-95]
- [10] Veterinary Office, Animal Hospital uses are allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7) . [Added 1-22-2003 by Ord. No. 35].



TABLE OF USE REGULATIONS  
CITY OF DOVER

TABLE 1: Principal Uses, Part C1

C. Commercial uses.	USES	Districts																SPECIAL CONDITIONS					
		R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-10	RM-8	RM-6	O	B-1	B-2	B-3 [8][9][11]	B-4 [6]	B-5 [12]	I-1		I-2[10]	I-4 [6]	UMUD [4]	CWD [5]	
	ADULT BOOKSTORE AND/OR VIDEO STORE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	170-25.7
	AUTO CABARET	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	170-25.7
	AUTO SERVICE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	170-23
	BARBER OR BEAUTY SHOP	[13]	[13]	-	-	-	S	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	170-22
	BANK	[13]	[13]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	BED AND BREAKFAST [7]	P	P	P	-	-	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	COMMERCIAL PARKING FACILITY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	COMMERCIAL RECREATION FACILITY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	COUNTRY CLUB	P, [14]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	DRIVE-IN THEATER	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	EATING AND DRINKING ESTABLISHMENTS [15]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	FARM PRODUCE	[2]	[2]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	[1]	[1]	
	FUEL, OIL OR GAS STORAGE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	FUNERAL PARLOR	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	GAS SERVICE STATION	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	170-23
	GRAVEL PIT	P, [14]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	HOTEL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	JUNKYARD	S, [14]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	170-24

NOTES:

- [1] If fully enclosed with no drive-in service.
- [2] Subject to the same conditions as specified in Subsection B of Table I, Footnote[1]
- [3] [Repealed 12-26-91 by Ord. No. 43-91]
- [4] [Added 3-30-83 by Ord. No. 5-83]
- [5] [Added 4-27-83 by Ord. No. 12-83]
- [6] [Added 10-26-88 by Ord. No. 18-88]
- [7] [Added 8-1-90 by Ord. No. 8-90]
- [8] [Amended 8-1-90 by Ord. No. 8-90]
- [9] [Amended 12-26-91 by Ord. No. 43]
- [10] [Added 9-16-92 by Ord. No. 23-92]
- [11] [Added 10-20-93 by Ord. No. 28-93]
- [12] [Added 11-22-95 by Ord. No. 19-95]
- [13] Use is allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7). [Added 1-22-2003 by Ord. No. 35].
- [14] Use is not allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7). [Added 1-22-2003 by Ord. No. 35].
- [15] If the eating and drinking establishment has drive-in services, said service shall be setback either 50' from a residential abutting lot line, or 100' from the abutting residential structure whichever is greater. [Added 1-22-2003 by Ord. No. 35].



**TABLE OF USE REGULATIONS  
CITY OF DOVER**

**Table I: Principal Uses, Part C2**

C. Commercial uses (continued)	Districts														SPECIAL CONDITIONS					
	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	O	B-1	B-2	B-3	B-4 [9]	B-5 (12)		I-1	I-2[11]	I-4 [9]	UMUD [7]	CWD [4]
LIQUOR STORE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MARINA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MOTEL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MOTOR VEHICLE JUNKYARD	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NEW CAR SALES	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
OFFICE	[2,13]	[2,13]	[2]	[2]	[2]	[2]	[2]	-	P	P	P	P	P	P	P	P	P	P	P	P
OPEN STORAGE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
PERSONAL SERVICE ESTABLISHMENT	[13]	[13]	-	-	-	-	-	-	-	P	P	P	P	P	P	[3]	-	-	-	-
RECREATIONAL CAMP	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
RETAIL STORE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SERVICE CLUB	-	-	-	-	-	-	[4]	P	P	P	P	P	P	P	P	-	-	-	-	-
THEATER	[13]	[13]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TRUCKING TERMINAL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
USED CAR SALES PLACE	-	-	-	-	-	-	-	-	-	-	[5]	[5]	-	-	-	-	-	-	-	-
WAREHOUSING	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
WATERBORNE PASSENGER TRANSPORTATION FACILITY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
WATER RELATED EDUCATION/RESOURCE CENTER	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
WHOLESALE	[6,14]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

**NOTES:**

- [1] 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 rights-of-way.
- [2] Permitted only if operated as a customary home occupation (Refer to definition in § 170-6B)
- [3] 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.
- [4] Provided that there is no sale or consumption of alcoholic beverages on the premises.
- [5] If an accessory use to a new car dealership. [Amended 8-1-90 by Ord. 8-90]
- [6] If for the storage of farm products
- [7] [Added 3-30-83 by Ord. No. 5-83]
- [8] [Added 4-27-83 by Ord. No. 12-83]
- [9] [Added 10-26-88 by Ord. No. 18-88]
- [10] [Amended 8-1-90 by Ord. 8-90]
- [11] [Added 9-16-92 by Ord. No. 23-92]
- [12] [Added 11-22-95 by Ord. No. 19-95]
- [13] Use is allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7). [Added 1-22-2003 by Ord. No. 35].
- [14] Use is not allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7). [Added 1-22-2003 by Ord. No. 35].



TABLE OF USE REGULATION  
CITY OF DOVER

TABLE I: PRINCIPAL USES, PARTS D and E

USES	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	O	B-1	B-2	B-3	B-4 [3]	B-5 [5]	I-1	I-2 [10]	I-4 [3]	IUD	CWD [2]
	LIGHT INDUSTRY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-
INDUSTRY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

NOTES:

- [1] [Added 3-30-83 by Ord. No. 5-83]
- [2] [Added 4-27-83 by Ord. No. 12-83]
- [3] [Added 10-26-88 by Ord. No. 18-88]
- [4] [Added 9-16-92 by Ord. No. 23-92]
- [5] [Added 11-22-95 by Ord. No. 19-95]

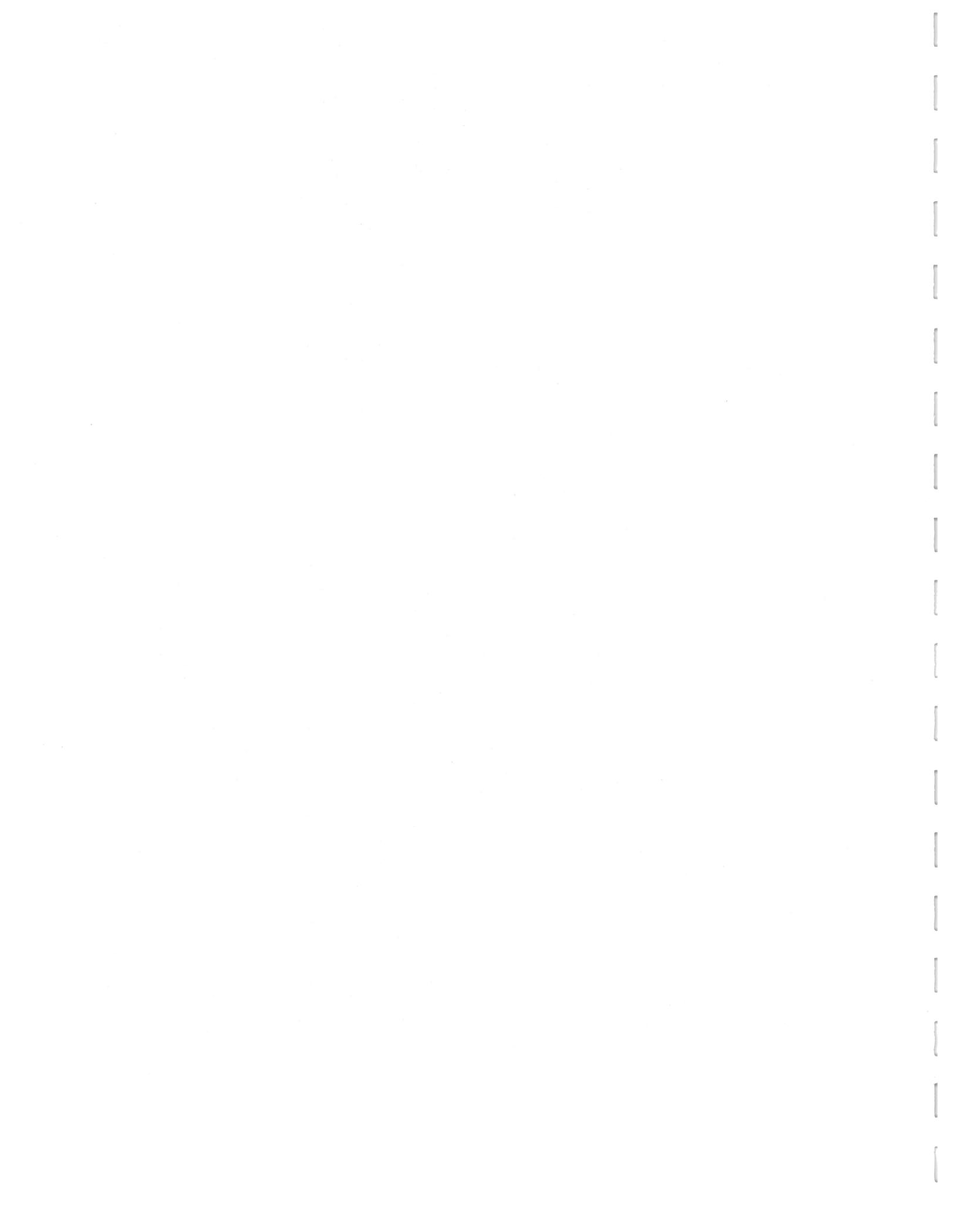
E. Community/public uses.

DISTRICTS

USES	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	O [9]	B-1	B-2 [9]	B-3 [8]	B-4 [5]	B-5 [12]	I-1	I-2 [10]	I-4 [5]	ETP	UMUD [3]	CWD [4]	SPECIAL EXCEP.
	ADULT DAY CARE	[13]	P	P	P	P	P	P	P	P	-	-	-	-	P	-	-	-	-	-	-
CHILD CARE FACILITY [6]	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P
CHURCH	P	P	P	P	P	P	P	P	P	-	P	P	-	P	-	-	-	-	-	-	-
CLINIC	P	-	-	-	-	-	-	-	P	-	P	P	-	P	-	-	-	-	P	-	-
CONGREGATE CARE	S	S	-	-	-	S	S	S	[11]	-	-	-	-	-	-	-	-	-	-	-	170-25.4,170-52
COUNTY BUILDING	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	-	-	-	-	-
EDUCATIONAL INSTITUTION, POST SECONDARY	S	S	P	-	-	-	-	-	P	P	P	P	P	P	-	-	-	P	P	P	-
EDUCATIONAL INSTITUTION, K-12	P	P	P	P	P	P	P	P	P	-	P	-	-	-	-	-	-	-	-	-	-
ELDERLY ASSISTED CARE	S	S	S	S	S	S	S	P	P	-	-	-	-	-	-	-	-	-	-	-	170-25.3,170-52
GROUP HOME FOR MINORS	-	-	-	-	-	-	S	S	S	-	-	-	-	-	-	-	-	-	-	-	170-25.6,170-52
HOSPITAL	P	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-
NURSING HOME	S	S	-	-	-	-	-	S	S	[11]	-	-	-	-	-	-	-	-	-	-	170-25.5,170-52
PUBLIC RECREATION	P	P	P	P	P	P	P	P	P	-	P	-	-	P	P	-	-	-	P	P	-
PUBLIC UTILITY	P	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	P	P	[2]	[2]	[2]	[2]	[2]

NOTES:

- [1] Permitted only if operated as a customary home occupation. (Refer to definition in § 170-6)
- [2] The utility facility shall be appropriately fenced to protect the public. Landscaping materials shall be required to provide a visual screen from any structures and storage within. [Amended 10-28-88 by Ord. No. 18-88]
- [3] [Added 3-30-83 by Ord. No. 5-83]
- [4] [Added 4-27-83 by Ord. No. 12-83]
- [5] [Added 10-26-88 by Ord. No. 18-88]
- [6] Editor's Note: The "Day-care facilities" use category was deleted in its entirety and replaced with "Child Care Facility" [Amended 8-1-90 by Ord. 8-90]
- [7] Editor's Note: The "Nonprofit Educational Institution" and "Profit Educational Institution" were replaced with a single "Educational Institution" use category. [Amended 8-1-90 by Ord. 8-90]
- [8] [Amended 8-1-90 by Ord. 8-90]
- [9] [Amended 12-26-91 by Ord. 43-91]
- [10] [Added 9-16-92 by Ord. No. 23-92]
- [11] A Congregate Care Facility shall require a minimum lot size of 1,000 sq. ft. per unit, and a Nursing Home Facility shall require a minimum lot size of 1,000 sq.ft. per bedroom. [Amended 09-15-93 by Ord. No. 19-93]
- [12] [Added 11-22-95 by Ord. No. 19-95]
- [13] Use is allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7 [Added 1-22-2003 by Ord. No. 35].



**TABLE OF USE REGULATION  
CITY OF DOVER**

**TABLE I: PRINCIPAL USES, PART F**  
[added 7-8-87 by Ord. No. 15-87, amended 10-28-88 by Ord. No. 18-88]

USES	DISTRICTS														Special Exception					
	R-40	R-20	R-12	RM-20	RM-12	RM-8	RM-6	O	B-1	B-2	B-3	B-4	B-5 (11)	I-1		I-2 [9]	I-4	UMUD	CWD	ETP 1-7
Laboratories (scientific, medical chemical) and testing facilities devoted to experimental production, research, product development or similar activity																P				P
Computer and data processing								P	P	P	P	P	P							P
Offices (administrative, financial, professional)																				
Establishments for the manufacture assembly, services and repair of the products listed below:																				
Drugs																				
Office, computing and accounting machines																				P
Radio and television receiving equipment																				P
Communication equipment																				P
Electronic components and accessories																				P
Engineering, laboratory, scientific and research instruments and associated equipment																				P
Measuring and controlling instruments																				P
Optical instruments and lenses																				P
Surgical, medical and dental instruments and supplies																				P
Photographic equipment and supplies																				P
Electrotherapeutic, electro-medical and X-ray apparatus												P								P
Research institutes																				
Child care facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Publishing Facility [10]	-	-	-	-	-	-	-	-	-	P	S	P	P	P	P	P	P	-	-	P



# TABLE OF USE REGULATIONS

## CITY OF DOVER

Table II: Accessory Uses (2)

Amended Feb. 10, 1999 per Ord.No.25

### Districts

USES	R-40	R-20	R-12	RM-20	RM-12	RM-10	RM-8	RM-6	O	B-1	B-2	B-3	B-4	B-5 (5)	I-1	I-2 [4]	I-4	ETP	UMUD	CWD
ACCESSORY	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
SWIMMING POOL	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	[1]	-	[1]	[1]	-	-	[1]	[1]
OPEN STORAGE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-
OTHER	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-	-
HELICOPTER TAKE OFFS & LANDINGS	S	S	-	-	-	-	-	-	S	-	-	S	S	S	P [7]	P [7]	P [7]	P [7]	S	S

### 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 (4) 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 chapter 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 eighteen (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 therefor, provided that 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.

[2] [Amended 7-8-87 by Ord. No. 15-87]

[3] Uses that are accessory and complimentary to the principal use. Such uses and related structures shall be designed and operated to serve only the principal use and not be designed and operated so as to serve the general public.

[4] [Added 9-16-92 by Ord [4] [Added 9-16-92 by Ord. No. 23-92]

[5] [Added 11-22-95 by Ord. No. 19-95]

[6] Helicopter take offs and landings on private land by the owner of such land or by a person who resides on such land shall be permitted as an accessory use or as a special exception, as indicated above. All other aircraft take offs and landings shall not be permitted. Criteria for granting a special exception shall be found in 170-25.8. [Amended 2/17/99 by Ord. No. 25-98]

[7] Must comply with the standards contained in sections A-D of Chapter 170-25.8. [Amended 2/17/99 by Ord. No. 25-98]



TABLE OF DIMENSIONAL REGULATIONS \*126

CITY OF DOVER  
BUILDING SETBACKS

ZONING DISTRICT	MINIMUM LOT SIZE [1][34] (Square Feet)	MINIMUM FRONTAGE [1] (Feet)	FRONT (Feet)	REAR (Feet)	ABUT A LOT (Feet)	ABUT A STREET (Feet)	MAXIMUM COVERAGE OF LOT (Percent)	MAXIMUM HEIGHT [25] (Feet)
Residential:								
R-40 [16]	40,000[5]	150	50	15	25	50	10	35
R-20 [16]	20,000 [5]	125	35	15	20	35	30	35
R-12 [16]	12,000 [5]	100	30	15	15	30	30	35
RM-20	20,000 [3]	150	50	20	20	50	40	40
RM-12 [8]	20,000 [12]	125 [7]	35 [6,13]	20 [13,14]	20 [13,14]	35 [6,13]	40	40 [15]
RM-10	10,000	80	20	15	15	20	40	40
RM-8	8,000	80	15	15	15	15	50	40
RM-6	6,000	60	15	15	15	15	50	60
Nonresidential:								
O	10,000	100	12	15	10	12	50	65
B-1	10,000	100	15	15	10	15	50	40
B-2	-	-	-	12	-	-	70	75
B-3	20,000 [9]	125	50	15	12	50	50	40
B-4 [20,22,23,24]	5 acres	400	75	75	75	75	33	55
B-5 [30,31]	20,000	125	50	15	12	50	50	40
I-1	40,000 [9]	150	50	25	15	50	50	50 [27]
I-2 [28]	20,000	100	35 [29]	10	10	35	50	50 [27]
I-4 [20,22,23,24]	5 acres	400	75	75	75	75	33	40 [27]
UMUD [10]	-	-	-	-	-	-	70	75
CWD [11,36]	0	0	0	0	0	0	75% [35]	55
ETP [17,18,19,20,21]	3 acres	0	50 [33]	50 [32,33]	50 [32,33]	50 [33]	33	55

Footnotes

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

[1] Refer to µ 170-13 and 170-14 for exceptions to lot size, frontage and setback requirements. Refer to µ 170-17 for dimensional requirements for accessory buildings. [Amended 9-24-86 by 14-86; 6-10-87 by Ord. No. 13-87]

[2] Where a nonresidential district abuts a residential district, the minimum side yard requirements shall be twenty (20) feet, unless a greater distance is specified in the Table. [Amended 9-24-86 by Ord. No. 14-86]

[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. [Deleted per Ord. 35 on 1-22-2003]

[5] Refer to Chapter 155, Subdivision of Land, Article IV for the minimum lot size for a major Subdivision. In an R-40 district, any major subdivision must follow the procedures for an Open Space Subdivision (OSS). Any major subdivision in an R-20 or R-12 district, must follow the procedures for an OSS if the original lot meets the minimum lot size required. [Amended 1-22-2003 by Ord. No. 35].

[6] The front yard setbacks shall be as follows: one (1) unit: thirty-five (35) feet; two(2) to four (4) units: fifty (50) feet. Front yards shall be measured from the public way [Amended 9-24-86 by Ord.No. 14-86]

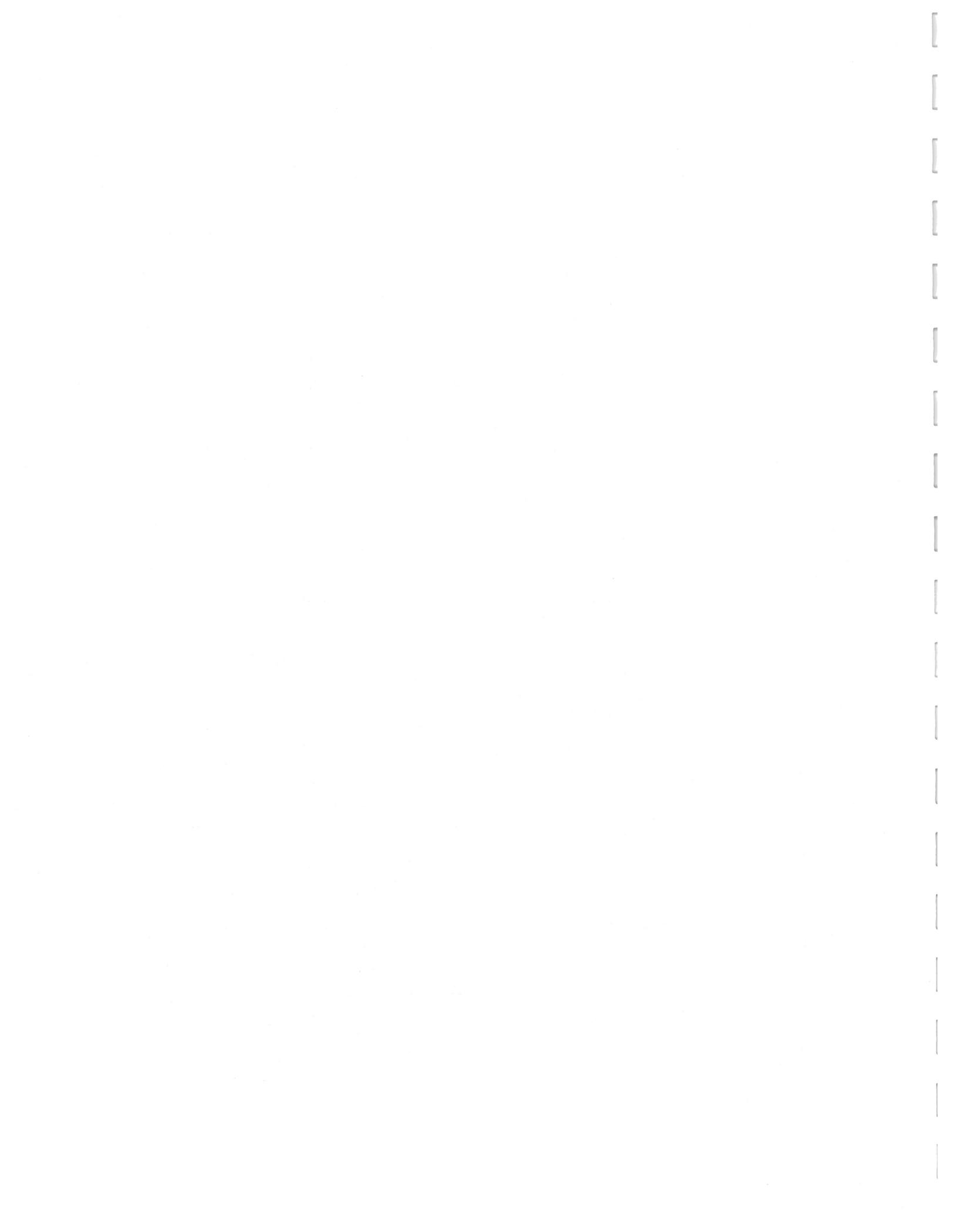
[7] The lot width shall be as follows: one (1) to two (2) units: one hundred twenty-five (125) feet; three (3) to four (4) units: one hundred fifty (150) feet [Amended 9-24-86 by Ord. No. 14-86]

[8] [Amended 7-24-85 by Ord. No. 9-85, 9-24-86 by Ord. No. 14-86]

[9] Refer to Footnote[9] in Table 1, Permitted Uses, Subsection C, Commercial uses.

[10] [Added 3-30-83 by Ord. No. 5-83]

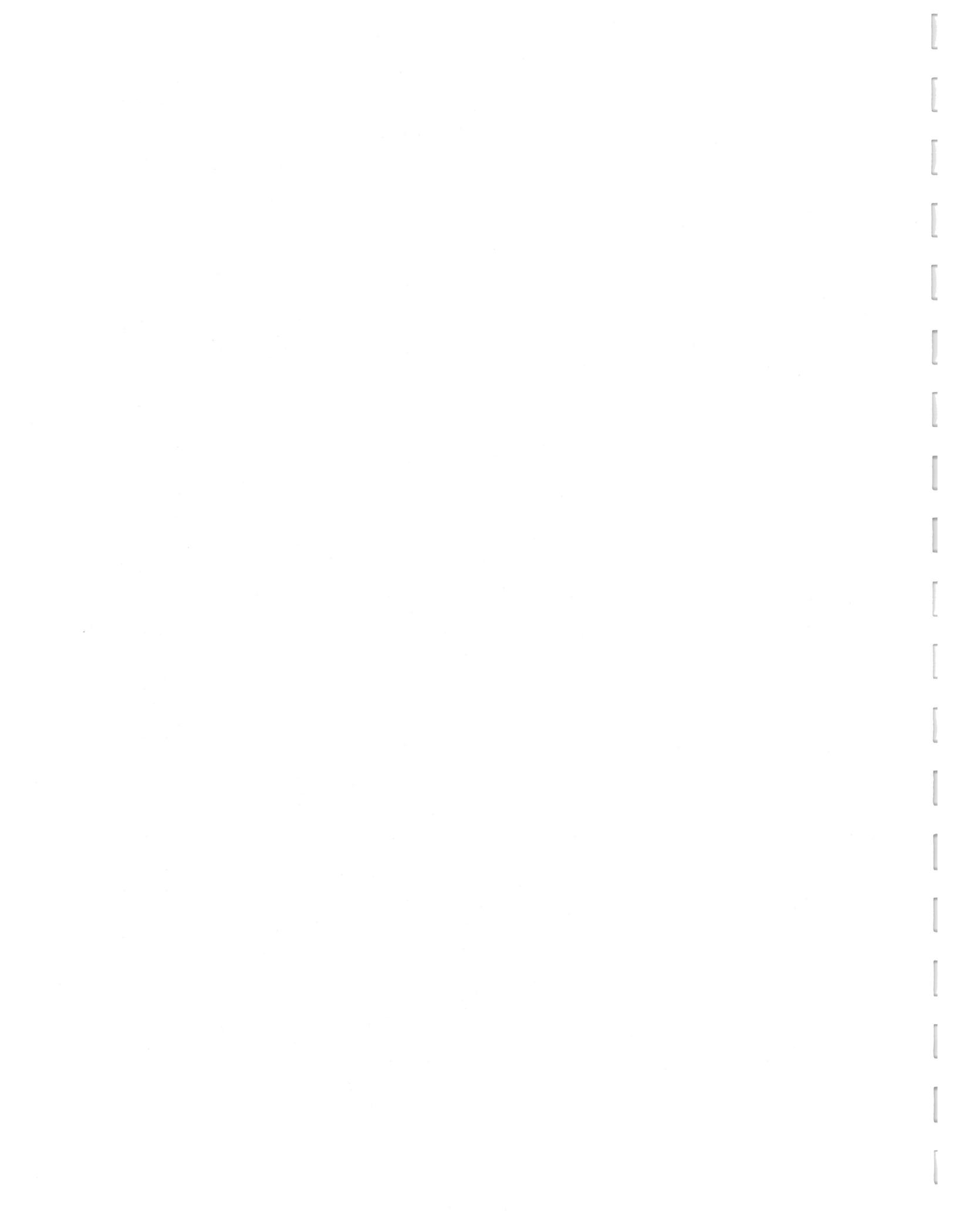
[11] [Added 4-27-83 by Ord. No. 12-83; amended 3-25-87 by Ord. No. 8-87]



## TABLE OF DIMENSIONAL REGULATIONS \* [26]

### Footnotes Continued - Page 2

- [12] The minimum lot size shall be as follows: one (1) or two (2) units shall be supported by at least twenty thousand (20,000) square feet of land area; developments containing three (3) units or more shall be supported by at least twelve thousand (12,000) square feet of land area per dwelling unit. For multiunit development, the surface area of the existing water bodies and those areas which support the federally designated floodway shall be deleted from the tract's gross developable land area. Structures shall not be erected on topographic slopes in excess of twenty percent (20%) or within the Conservation District as defined in 170-27 of the Code of Dover. A maximum of four (4) units per building is allowed. [Amended 9-24-86 by Ord. No. 14-86; 9-14-88 by Ord. No. 15-88]
- [13] The setback between any two (2) structures shall equal the height of the taller structure. [Amended 9-24-86 by Ord. No. 14-86]
- [14] The rear and side yard setbacks shall be as follows: one (1) to two (2) units; twenty (20) feet; three (3) to four (4) units; seventy-five (75) feet. [Amended by Ord. No. 14-86]
- [15] The maximum building height shall be forty (40) feet, provided that at least two (2) parking spaces are enclosed beneath the dwelling unit. If parking is not enclosed beneath the dwelling unit, the maximum building height shall be thirty (30) feet. [Added 9-24-86 by Ord. No. 14-86]
- [16] In the case of an alternative design subdivision, in accordance with Article IV of Chapter 155 of the Code of Dover, the dimensional requirements shall be as specified in  $\mu$  155-22 of the Code of the City of Dover, 1983. [Added 6-10-87 by Ord. No. 13-87]
- [17] Added 7-8-87 by Ord. No. 15-87]
- [18] Structures shall be separated by a distance at least equal to the height of the taller structure. [Added 7-8-87 by Ord. No. 15-87]
- [19] At least thirty-three percent (33%) of the site shall be maintained as open space, either landscaped or left natural. [Added 7-8-87 by Ord. No. 15-87] [Amended by Ord #6-05/13/98]
- [20] Parking areas shall be set back at least twenty-five (25) feet from property lines. [Added 7-8-87 by Ord. No. 15-87]
- [21] Parcels greater than four hundred seventy-five thousand six hundred (475,600) square feet in area that contain a residential structure as of the public hearing posting date of this chapter may be subdivided one (1) time in such a manner as to separate the residential structure from the remaining vacant property. At least forty thousand (40,000) square feet of land area shall remain with the structure [Added 7-8-87 by Ord. No. 15-87]
- [22] At least thirty-three percent (33%) of the site shall be maintained as open space, either landscaped or left natural. A maximum of thirty-three percent (33%) of the site can be covered by buildings. [Added 10-26-88 by Ord. No. 18-88]
- [23] Buildings shall be at least one hundred fifty (150) feet from all residential structures that exist on the date of enactment of the B-4 and I-4 Zoning Districts. A continuous visual buffer of either vegetation or fencing shall separate buildings from these existing residential structures. [Added 10-26-88 by Ord. No. 18-88]
- [24] [Added 10-26-88 by Ord. No. 18-88]
- [25] [Amended 8-1-90 by Ord. 8-90]
- [26] Editors Note - Maximum Floor Ratio was deleted in its entirety. [Amended 8-1-90 by Ord. 8-90]
- [27] The maximum height may be increased to 75 feet in accordance with Section 170-25.2. [Added 02-20-91 by Ord. No. 02-91]
- [28] [Added 9-16-92 by Ord. No. 23-92]
- [29] Except where parcels front Littleworth and Knox Marsh Roads, the front setback shall be 50 feet.
- [30] A continuous visual buffer of either vegetation or fencing shall separate buildings and parking areas from existing residential structures located to the rear and side of any proposal.
- [31] At least fifteen (15%) of the site shall be maintained as open space and shall have a detailed landscape plan approved by the Planning Board.
- [32] The building setback may be reduced to thirty-five (35) feet if a continuous visual buffer of vegetation is installed and maintained within the reduced setback area. [Added by Ord. No. 6-05/13/98]
- [33] All new buildings shall be setback a minimum of one hundred (100) feet from Sixth Street, County Farm Road and Watson Road, and from all residential structures existing at the date of enactment of this amendment. All new parking lots shall be setback a minimum of fifty (50) feet from Sixth Street, County Farm Road and Watson Road, and from all residential structures existing at the date of enactment of this amendment. The building and parking lot setbacks From residential structures shall not apply to existing residential structures located on the same lot as the proposed building. [Added by Ord. No. 6-05/13/98]



## TABLE OF DIMENSIONAL REGULATIONS \* [26]

### Footnotes Continued - Page 3

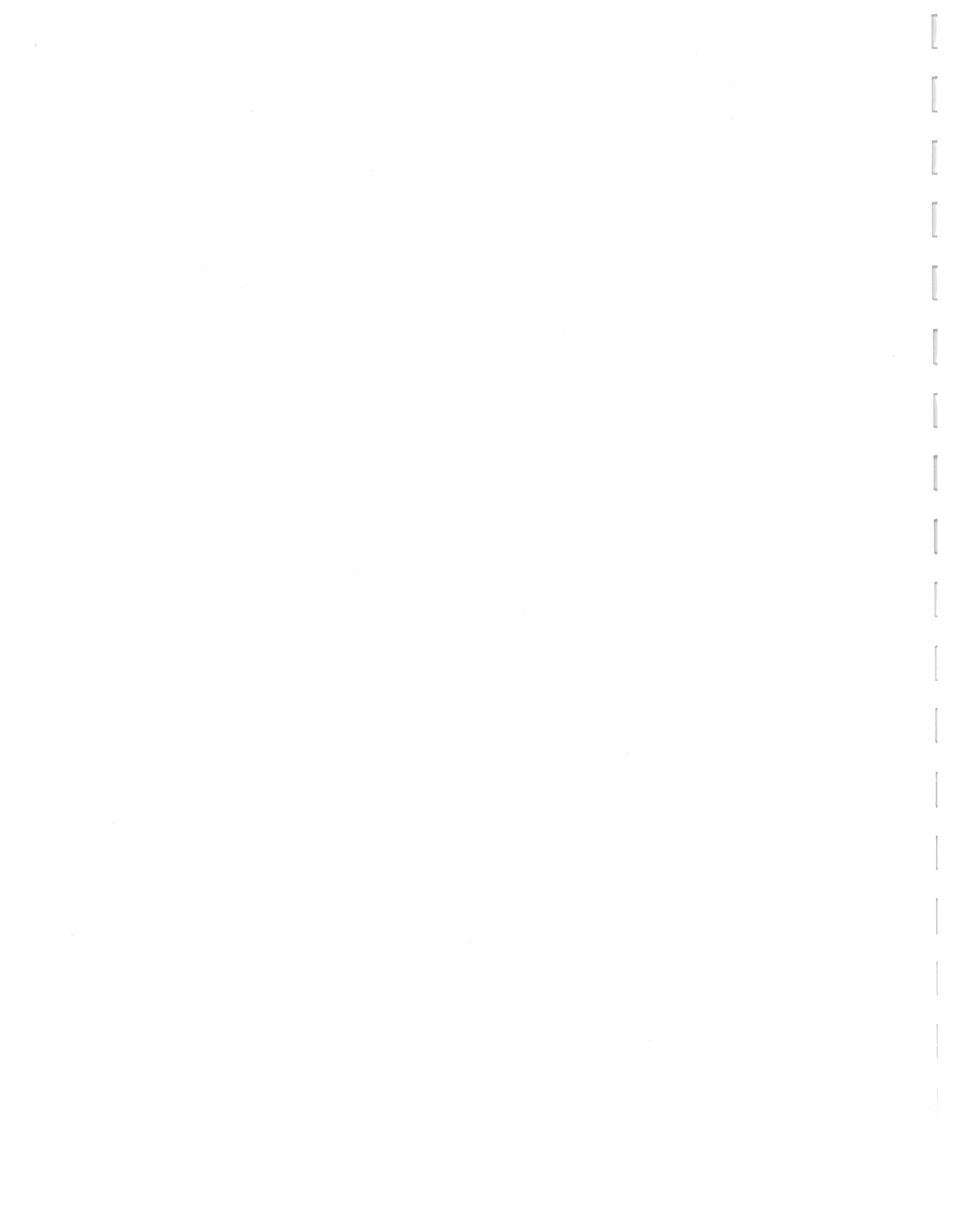
[34] All land containing wetlands shall not be counted in determining the gross land area of a lot for the purposes of minimum lot size or minimum density requirements for residential uses. The minimum non-wetland portion of any newly created lot shall be contiguous. For the purposes of this calculation, wetlands shall include areas that meet the definition of wetland in the NH Code of Administrative Rules – Wt. 101.87 and the 1987 Federal Manual For Identifying Jurisdictional Wetlands. [Amended 1-22-2003 by Ord. No. 35].

[35] Lots located in the Cochecho Waterfront District (CWD) and located South of the Cochecho River may have a maximum lot coverage of 100%. [Added 1-22-2003 by Ord. No. 35].

[36] Any new construction along the existing CWD/R-12 zoning boundary (as described *herein*) shall conform to the following setbacks:

1. Structures and buildings shall be set back a minimum of seventy-five (75) feet from said boundary.
2. Pavement and parking shall be set back a minimum of twenty-five (25) feet from said boundary. [Added 1-22-2003 by Ord. No. 35].

Boundary runs from the northern property line of the Tax Assessor's lot 22-39; thence turning and running westerly along the southern property line of Tax Assessor's lot 22-42 for a distance of approximately 520 feet to the northeast corner of Tax Assessor's lot 22-33, thence running westerly to the northeast corner of Tax Assessor's lot 22-12.



**SIGN REVIEW AND REGULATION TABLE** [Amended 1-22-2003 by Ord. No. 35].

Residential				Zoning Districts															
R-40	R-20	R-12	RM-20	RM-10	RM-8	RM-6	O	B-1	B-2	B-3	B-4	B-5	I-1	I-2	I-4	UMUD	CWD	ETP	
1	1	1	1	1	1	1	1	1	2	3	2	3	2	2	2	2	2	2	2
16sf*	16sf*	16sf*	16sf*	16sf*	16sf*	16sf*	12sf	B	A	C	D	100sf	E	E	E	A	A	A	D
Freestanding Min. Setback:																			
10'	10'	10'	10'	10'	10'	10'	-	-	5'	50'	-	-	-	35'	35'	-	5'	5'	-

NOTE: Total sign # for each tenancy, except in B-3 and I zones, where # is per building. Max. sign area for lot excluding development identification signs.

R-40	R-20	R-12	RM-20	RM-10	RM-8	RM-6	O	B-1	B-2	B-3	B-4	B-5	I-1	I-2	I-4	UMUD	CWD	ETP
P	P	P	P	P	P	P	P12	P10	P3	P6	P3	P14	P13	P13	P13	P3	P3	P3
P	P	P	P	P	P	P	-	P9	P2	P5	-	-	P	P	P	P2	P2	-
-	-	-	-	-	-	-	P11	P8	P1	P6	P	P15	P	P	P	P1	P1	P
-	-	-	-	-	-	-	-	-	P4	P7	-	P7	-	-	-	P4	P4	-

- : Not Permitted

P: Permitted

\* Customary home occupation signs shall not exceed 2sf. Development identification signs may be up to 20 sf.

A: 1sf of sign area for each lineal foot of business frontage. SF may be increased if Mill Motif is adhered to.

[B] 1sf of sign area for each 3' of lineal business frontage. Max. height is 16' or to the bottom of the sills of the first level of windows above the first floor, whichever is lowest.

[C] 2sf of sign area for each lineal foot of business frontage.

[D] 1sf of sign area for each lineal foot of business frontage. See regulations for businesses bordering the Spaulding Tpk

[E] 1sf of sign area for each 100sf of leased space. If less than 700 sf of leased space, then 6sf max.

[1] Max. size: 40sf

[2] Max. size: 24 sf. Min. height is 10' above sidewalk Max. height is 25' above sidewalks

[3] Max. size: 60 sf. Max. height is 16'. One sign per side of frontage

[4] 1 year permits granted. 1 sign allowed per building, any building over 100' of frontage is allowed a second sign. Max. height is 3'. Max. size: 6sf

[5] Max. size: 60 sf. Max. height is 25' above ground elevation, or the bottom of the sills of the first level of windows above the first floor, whichever is lowest.

[6] Max. size: 1sf per lineal foot of business frontage. Max. height is 30'

[7] 6 month permits granted for new businesses. Max. height is 4'. Max. size: 32sf

[8] Max. size: 16sf.

[9] Max. size: 8sf.

[10] Max. height sixteen (16) feet in height or twelve (12) square feet in area, regardless of the number of individual tenants within the building

[11] Max. height is 16' above ground elevation, or to bottom of the sills of the first level of windows above the first floor, whichever is lowest.

[12] If multiple tenants, maximum size: 4sf/tenant. Max. height: 8'

[13] Max. size: 100sf. Max. height 30'

[14] Max. height 20'

[15] Max. size: 1sf of sign per lineal foot of tenancy



**Site**

**Review**

**Regulations**

