

 CITY OF DOVER	CITY OF DOVER – ORDINANCE Ordinance Number: O – yyyy.mm.dd - Ordinance Title: Updating the Dover Zoning Ordinance Chapter: 170
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The City of Dover Ordains:

1. PURPOSE

The purpose of this ordinance is to amend Chapter 170 of the Code of the City of Dover, entitled Zoning, by updating the Code to reflect changes in the community and in land use regulations.

2. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6, Word usage and definitions, by amending the definition of “Personal Service Establishment”:

“PERSONAL SERVICE ESTABLISHMENT — A commercial establishment rendering services including accessory retail sales of products related to the services offered. Examples include beauty and barber shops, nail salons, tanning salons, tailors, shoe repair, and NH OPLC licensed massage therapists. A personal service establishment shall not be construed to include a gasoline service station.
~~the primary concern of which is the rendering of services rather than the sale of products. "Primary concern" shall mean less than 50% of the revenues from such commercial use shall be gained from the sale of products.~~ A personal service establishment shall not be construed to include a gasoline service station.”

3. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6, Word usage and definitions, by amending the definition of “Conversion to a Duplex”, to clarify ordinance intent and to differentiate the redevelopment of single-family homes into to accommodate more than one dwelling unit from the creation of new structures designed to house two dwelling units:

“CONVERSION TO A 2 Family Dwelling - A conversion to a 2 Family Dwelling is the reconfiguration of an existing single-family dwelling which has been occupied for at least 5 years, into a two-unit residential structure through primarily interior modification with limited exterior alteration. A conversion largely maintains the original building’s overall massing, footprint, and structural framework, allowing a second dwelling unit to be created primarily within the existing envelope. Physical expansion of the single-family home shall be limited to no more than 25% of the existing structure’s footprint.”

4. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6, Word usage and definitions, by amending the definition of “Flood Insurance Rate Map (FIRM)” to refer to the most current FIRM Map approved and issued by FEMA:

“FLOOD INSURANCE RATE MAP (FIRM) — ~~An~~ The official map incorporated within this chapter on which FEMA, as amended by FEMA, has delineated both the areas of special flood hazard and the risk premium zones that are applicable to the City of Dover.”

5. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6, Word usage and definitions, by amending the definition of “Transfer of Development Rights (TDR)” to reflect the TDR Subcommittee’s revisions:

“TRANSFER OF DEVELOPMENT RIGHTS (TDR) — 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



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another parcel. Said legal instrument shall be recorded at the Strafford County Registry of Deeds A mutually beneficial regulatory program whereby there is either a conveyance of the development rights of a parcel of land by deed or other legal instrument approved by the Planning Board and/or the contribution of funds with which the City may acquire and manage conservation land, provided by an owner in exchange for alternative beneficial land use requirements. Said legal instrument, be it a deed, development agreement, approved plan, and/or other enforceable instrument, shall be recorded at the Strafford County Registry of Deeds.”

6. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6, Word usage and definitions, by adding the definition of “Undeveloped area” to reflect the TDR Subcommittee’s revisions:

“UNDEVELOPED AREA – See definition of OPEN SPACE. Not intended to be subject to any percentage cap on land within a protected overlay zone.”

7. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12.B, Applicability of Tables of Use and Dimensional Regulations by District, by amending the Gateway Table of Uses to allow flexibility to existing residential-only property owners units from the Gateway’s underlying Build-to Line requirements:

“Dimensional Regulations*

Principal Building	
Lot Size	N/A
Lot coverage	50% max
Frontage build-out	60% min
Front primary build-to line	5 ft. min – 20 ft. max
Front secondary build-to line	5 ft. min – 20 ft. max
Side setback	10 ft. min
Rear setback	15 ft. min
Outbuilding	
Front setback	20 ft. min + bldg. setback
Side setback	10 ft. min
Rear setback	15 ft. min
Private Frontages	
Common yard	Permitted
Porch and fence	Permitted
Terrace/lightwell	Permitted
Stoop	Permitted
Shopfront/awning	Permitted
Gallery	Not permitted
Height of Building	
Principal building	4 story max, 2 story min#
Outbuilding/accessory	2 story max



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*CUP (§170-20B) may be used to adjust standards.

*Build-out percentage min is waived for residential properties with two (2) or less dwelling units.

*Residential properties with two (2) or less dwelling units have 10' front setback in lieu of build-to line."

8. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Gateway District (G) Table of Uses, by amending the solar/green roof standards under Required Building Standards, to eliminate forced installation of solar or green roofs while upholding the solar readiness standard:

"Solar/Green Roof Standard:

- All buildings ~~must~~ shall be constructed to be solar ready, ensuring that future installation of solar energy systems can be easily and effectively accommodated.
- ~~Commercial and mixed use buildings that are 25,000 sq ft or more must also incorporate solar panels and/or a green roof on at least 30 percent of the roof area."~~

9. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Cochecho Waterfront District (CWD) Table of Uses, by amending the solar/green roof standards under Required Building Standards, to eliminate forced installation of solar or green roofs while upholding the solar readiness standard:

"Solar/Green Roof Standard:

- All buildings ~~must~~ shall be constructed to be solar ready, ensuring that future installation of solar energy systems can be easily and effectively accommodated.
- ~~Commercial and mixed use buildings that are 25,000 sq ft or more must also incorporate solar panels and/or a green roof on at least 30 percent of the roof area.~~
- Solar shall not affect the view of the river for nearby properties or rights-of-way."

10. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Rural Residential (R-40) Table of Uses, by adding the Transfer of Development Rights as an approved use with footnote specifying compliance with TDR-specific regulations detailed within the table:

"Transfer of Development Rights [13]

[13] Use permitted subject to conditions specified below in addition to Planning Board approval.

Transfer of Development Rights: Projects utilizing TDR within this zoning district are subject to the following conditions.

<u>*</u>	<u>Underlying</u>	<u>TDR (Fee Simple)</u>	<u>TDR (Common Area)</u>
<u>Lot Size</u>	<u>40K</u>	<u>20K per unit</u>	<u>20K per unit</u>



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<u>Frontage</u>	<u>150</u>	<u>75 per lot</u>	<u>100 for parent parcel, or, 80% of neighboring parcel frontages within 100' radius, whichever is less</u>
<u>Front Setback</u>	<u>40</u>	<u>40</u>	<u>20</u>
<u>2nd/Street Setback</u>	<u>40</u>	<u>40</u>	<u>20</u>
<u>Side Setback</u>	<u>25</u>	<u>25</u>	<u>12' separation between structures</u>
<u>Rear Setback</u>	<u>30</u>	<u>30</u>	<u>30' to abutting parcels</u>
<u>Height</u>	<u>35</u>	<u>35</u>	<u>35</u>
<u>Subject to Planning Board approval, visual screening, whether fencing, vegetation, or a combination thereof, shall be required to provide separation between the TDR development and abutting parcels</u>			
<u>All TDR projects shall provide an amount of Undeveloped Area which is no less than 10 percentage points below of the district's average (R-40 = 95%), or which is no less than 10 percentage points below the average amount of Undeveloped Area on neighboring lots within 200' in both directions from the subject parcel).</u>			
<u>If the site does not have immediate access, water and Sewer infrastructure may be extended, at the applicant's cost, up to a distance not to exceed 75 linear feet from the existing service to the nearest point of lot frontage. Extensions on the applicant's own property and frontage shall not be included in the 75' maximum.</u>			
<u>The architectural style of any proposals shall maintain similar facade and vernacular style as befits buildings of similar or better build quality to adjoining properties both on the same and opposite sides of the street.</u>			

TDR CUP (170-29K) may be used to adjust standards

11.

AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Low Density Residential (R-20) Table of Uses, by adding the Transfer of Development Rights as an approved use with footnote specifying compliance with TDR-specific regulations detailed within the table:

“Transfer of Development Rights [14]

[14] Use permitted subject to conditions specified below in addition to Planning Board approval.

Transfer of Development Rights: Projects utilizing TDR within this zoning district are subject to the following conditions.

<u>*</u>	<u>Underlying</u>	<u>TDR (Fee Simple)</u>	<u>TDR (Common Area)</u>
<u>Lot Size</u>	<u>20K</u>	<u>10K per unit</u>	<u>10K per unit</u>
<u>Frontage</u>	<u>125</u>	<u>60 per lot</u>	<u>85 for parent parcel, or, 80% of neighboring parcel frontages within 100' radius, whichever is less</u>
<u>Front Setback</u>	<u>20</u>	<u>20</u>	<u>10</u>
<u>2nd/Street Setback</u>	<u>20</u>	<u>20</u>	<u>10</u>
<u>Side Setback</u>	<u>20</u>	<u>20</u>	<u>12' separation between structures</u>
<u>Rear Setback</u>	<u>30</u>	<u>30</u>	<u>30</u>
<u>Height</u>	<u>35</u>	<u>35</u>	<u>35</u>



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Subject to Planning Board approval, visual screening, whether fencing, vegetation, or a combination thereof, shall be required to provide separation between the TDR development and abutting parcels

All TDR projects shall provide an amount of Undeveloped Area which is no less than 10 percentage points below of the district's average (R-20 = 90%), or which is no less than 10 percentage points below the average amount of Undeveloped Area on neighboring lots within 200' in both directions from the subject parcel).

If the site does not have immediate access, water and Sewer infrastructure may be extended, at the applicant's cost, up to a distance not to exceed 50 linear feet from the existing service to the nearest point of lot frontage. Extensions on the applicant's own property and frontage shall not be included in the 50' maximum.

The architectural style of any proposals shall maintain similar facade and vernacular style as befits buildings of similar or better build quality to adjoining properties both on the same and opposite sides of the street.

**TDR CUP (170-29K) may be used to adjust standards"*

12. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Medium Density Residential (R-12) Table of Uses, by adding the Transfer of Development Rights as an approved use with footnote specifying compliance with TDR-specific regulations detailed within the table:

"Transfer of Development Rights [13]

[13] Use permitted subject to conditions specified below in addition to Planning Board approval.

Transfer of Development Rights: Projects utilizing TDR within this zoning district are subject to the following conditions.

<u>*</u>	<u>Underlying</u>	<u>TDR (Fee Simple)</u>	<u>TDR (Common Area)</u>
<u>Lot Size</u>	<u>12K</u>	<u>6K per unit</u>	<u>6K per unit</u>
<u>Frontage</u>	<u>100</u>	<u>50 per lot</u>	<u>60 for parent parcel, or 80% of neighboring parcel frontages within 100' radius, whichever is less</u>
<u>Front Setback</u>	<u>15</u>	<u>10</u>	<u>10</u>
<u>2nd/Street Setback</u>	<u>15</u>	<u>10</u>	<u>10</u>
<u>Side Setback</u>	<u>15</u>	<u>15</u>	<u>12' separation between structures</u>
<u>Rear Setback</u>	<u>30</u>	<u>30</u>	<u>20</u>
<u>Height</u>	<u>35</u>	<u>35</u>	<u>35</u>
<u>Subject to Planning Board approval, visual screening, whether fencing, vegetation, or a combination thereof, shall be required to provide separation between the TDR development and abutting parcels.</u>			
<u>All TDR projects shall provide an amount of Undeveloped Area which is no less than 10 percentage points below of the district's average (R-12 = 85%), or which is no less than 10 percentage points below the average amount of Undeveloped Area on neighboring lots within 200' in both directions from the subject parcel).</u>			



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If the site does not have immediate access, water and Sewer infrastructure may be extended, at the applicant's cost, up to a distance not to exceed 30 linear feet from the existing service to the nearest point of lot frontage. Extensions on the applicant's own property and frontage shall not be included in the 30' maximum.

The architectural style of any proposals shall maintain similar facade and vernacular style as befits buildings of similar or better build quality to adjoining properties both on the same and opposite sides of the street.

TDR CUP (170-29K) may be used to adjust standards

13. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Suburban Density Multi-Residential (RM-SU) Table of Uses, by adding the Transfer of Development Rights as an approved use with footnote specifying compliance with TDR-specific regulations detailed within the table:

“Transfer of Development Rights [10]

[10] Use permitted subject to conditions specified below in addition to Planning Board approval.

Transfer of Development Rights: Projects utilizing TDR within this zoning district are subject to the following conditions.

<u>*</u>	<u>Underlying</u>	<u>TDR (Fee Simple)</u>	<u>TDR (Common Area)</u>
<u>Lot Size</u>	<u>12K</u>	<u>6K per unit</u>	<u>6K per unit</u>
<u>Frontage</u>	<u>100</u>	<u>50 per lot</u>	<u>60 for parent parcel, or 80% of neighboring parcel frontages within 100' radius, whichever is less</u>
<u>Front Setback</u>	<u>15</u>	<u>10</u>	<u>10</u>
<u>2nd/Street Setback</u>	<u>15</u>	<u>10</u>	<u>10</u>
<u>Side Setback</u>	<u>15</u>	<u>15</u>	<u>12' separation between structures</u>
<u>Rear Setback</u>	<u>30</u>	<u>30</u>	<u>20</u>
<u>Height</u>	<u>35</u>	<u>35</u>	<u>35</u>

Subject to Planning Board approval, visual screening, whether fencing, vegetation, or a combination thereof, shall be required to provide separation between the TDR development and abutting parcels.

All TDR projects shall provide an amount of Undeveloped Area which is no less than 10 percentage points below of the district's average (R-12 = 85%), or which is no less than 10 percentage points below the average amount of Undeveloped Area on neighboring lots within 200' in both directions from the subject parcel).

If the site does not have immediate access, water and Sewer infrastructure may be extended, at the applicant's cost, up to a distance not to exceed 30 linear feet from the existing service to the nearest point of lot frontage. Extensions on the applicant's own property and frontage shall not be included in the 30' maximum.

The architectural style of any proposals shall maintain similar facade and vernacular style as befits buildings of similar or better build quality to adjoining properties both on the same and opposite sides of the street.



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TDR CUP (170-29K) may be used to adjust standards

14. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Urban Density Multi-Residential (RM-U) Table of Uses, by adding the Transfer of Development Rights as an approved use with footnote specifying compliance with TDR-specific regulations detailed within the table:

“Transfer of Development Rights [8]

[8] Use permitted subject to conditions specified below in addition to Planning Board approval.

Transfer of Development Rights: Projects utilizing TDR within this zoning district are subject to the following conditions.

<u>*</u>	<u>Underlying</u>	<u>TDR (Fee Simple)</u>	<u>TDR (Common Area)</u>
<u>Lot Size</u>	<u>10K</u>	<u>5K per unit</u>	<u>5K per unit</u>
<u>Frontage</u>	<u>80</u>	<u>40 per lot</u>	<u>60 for parent parcel, or 80% of neighboring parcel frontages within 100' radius, whichever is less</u>
<u>Front Setback</u>	<u>[3]</u>	<u>[3]</u>	<u>10</u>
<u>2nd/Street Setback</u>	<u>[3]</u>	<u>[3]</u>	<u>10</u>
<u>Side Setback</u>	<u>10</u>	<u>10</u>	<u>12' separation between structures</u>
<u>Rear Setback</u>	<u>10</u>	<u>10</u>	<u>10</u>
<u>Height</u>	<u>40</u>	<u>40</u>	<u>40</u>
<u>Subject to Planning Board approval, visual screening, whether fencing, vegetation, or a combination thereof, shall be required to provide separation between the TDR development and abutting parcels.</u>			
<u>All TDR projects shall provide an amount of Undeveloped Area which is no less than 10 percentage points below of the district's average (RM-U = 70%), or which is no less than 10 percentage points below the average amount of Undeveloped Area on neighboring lots within 200' in both directions from the subject parcel).</u>			
<u>If the site does not have immediate access, water and Sewer infrastructure may be extended, at the applicant's cost, up to a distance not to exceed 30 linear feet from the existing service to the nearest point of lot frontage. Extensions on the applicant's own property and frontage shall not be included in the 30' maximum.</u>			
<u>The architectural style of any proposals shall maintain similar facade and vernacular style as befits buildings of similar or better build quality to adjoining properties both on the same and opposite sides of the street.</u>			

TDR CUP (170-29K) may be used to adjust standards

15. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Hospital (H) Table of Uses, by adding the Transfer of Development Rights as an approved use with footnote specifying compliance with TDR-specific regulations detailed within the table:

“Transfer of Development Rights [7]



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[7] Use permitted subject to conditions specified below in addition to Planning Board approval.

Transfer of Development Rights: Projects utilizing TDR within this zoning district are subject to the following conditions.

<u>*</u>	<u>Underlying</u>	<u>TDR (Fee Simple)</u>	<u>TDR (Common Area)</u>
<u>Lot Size</u>	<u>10K</u>	<u>5K per unit</u>	<u>5K per unit</u>
<u>Frontage</u>	<u>100</u>	<u>50 per lot</u>	<u>75 for parent parcel, or 80% of neighboring parcel frontages within 100' radius, whichever is less</u>
<u>Front Setback</u>	<u>12</u>	<u>12</u>	<u>12</u>
<u>2nd/Street Setback</u>	<u>12</u>	<u>12</u>	<u>12</u>
<u>Side Setback</u>	<u>10</u>	<u>10</u>	<u>12' separation between structures</u>
<u>Rear Setback</u>	<u>15</u>	<u>15</u>	<u>10</u>
<u>Height</u>	<u>65</u>	<u>65</u>	<u>65</u>
<u>Subject to Planning Board approval, visual screening, whether fencing, vegetation, or a combination thereof, shall be required to provide separation between the TDR development and abutting parcels.</u>			
<u>All TDR projects shall provide an amount of Undeveloped Area which is no less than 10 percentage points below of the district's average (H = 90%), or which is no less than 10 percentage points below the average amount of Undeveloped Area on neighboring lots within 200' in both directions from the subject parcel).</u>			
<u>If the site does not have immediate access, water and Sewer infrastructure may be extended, at the applicant's cost, up to a distance not to exceed 50 linear feet from the existing service to the nearest point of lot frontage. Extensions on the applicant's own property and frontage shall not be included in the 50' maximum.</u>			
<u>The architectural style of any proposals shall maintain similar facade and vernacular style as befits buildings of similar or better build quality to adjoining properties both on the same and opposite sides of the street.</u>			

*TDR CUP (170-29K) may be used to adjust standards"

16. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12, Office (O) Table of Uses, by adding the Transfer of Development Rights as an approved use with footnote specifying compliance with TDR-specific regulations detailed within the table:

"Transfer of Development Rights [7]

[7] Use permitted subject to conditions specified below in addition to Planning Board approval.

Transfer of Development Rights: Projects utilizing TDR within this zoning district are subject to the following conditions.

<u>*</u>	<u>Underlying</u>	<u>TDR (Fee Simple)</u>	<u>TDR (Common Area)</u>
<u>Lot Size</u>	<u>10K</u>	<u>5K per unit</u>	<u>5K per unit</u>



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<u>Frontage</u>	<u>100</u>	<u>50 per lot</u>	<u>70 for parent parcel, or 80% of neighboring parcel frontages within 100' radius, whichever is less</u>
<u>Front Setback</u>	<u>12</u>	<u>12</u>	<u>10</u>
<u>2nd/Street Setback</u>	<u>12</u>	<u>12</u>	<u>10</u>
<u>Side Setback</u>	<u>12</u>	<u>12</u>	<u>12' separation between structures</u>
<u>Rear Setback</u>	<u>15</u>	<u>15</u>	<u>10</u>
<u>Height</u>	<u>40</u>	<u>40</u>	<u>40</u>
<u>Subject to Planning Board approval, visual screening, whether fencing, vegetation, or a combination thereof, shall be required to provide separation between the TDR development and abutting parcels.</u>			
<u>All TDR projects shall provide an amount of Undeveloped Area which is no less than 10 percentage points below of the district's average (O = 82%), or which is no less than 10 percentage points below the average amount of Undeveloped Area on neighboring lots within 200' in both directions from the subject parcel).</u>			
<u>If the site does not have immediate access, water and Sewer infrastructure may be extended, at the applicant's cost, up to a distance not to exceed 30 linear feet from the existing service to the nearest point of lot frontage. Extensions on the applicant's own property and frontage shall not be included in the 30' maximum.</u>			
<u>The architectural style of any proposals shall maintain similar facade and vernacular style as befits buildings of similar or better build quality to adjoining properties both on the same and opposite sides of the street.</u>			

TDR CUP (170-29K) may be used to adjust standards

17. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-15, Recreation space and separation between use requirements, by extending the requirement to mixed-use developments requiring site plan approval:

“§ 170-15. Recreation space and separation between use requirements.

- A. For each bedroom of any development which cumulatively contains ten (10) or more dwelling units ~~a multifamily (greater than four dwelling units) residential structure~~, there shall be provided at least 100 square feet of usable recreation space. Half of this required recreation 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 recreation 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.
 - (1) Efficiency apartments shall be counted on the basis of 50 square feet per unit.
 - (2) A payment in lieu of providing the recreation space on site, for an identified recreation area, may be agreed to by the Planning Board.
- B. The minimum distance between any main building and any accessory building not structurally attached to such main building shall comply with any and all applicable regulations as specified in the currently-adopted Fire Code.
- C. No part of a yard or other recreation space required for any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other recreation space similarly required for another building.



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- D. Nonresidential uses requiring site plan review shall be at least 150 feet from all existing residential structures located within residential zones.
- E. A continuous and year-round visual buffer of either vegetation or fencing shall separate nonresidential structures or parking areas from existing residential structures located to the rear and side of any proposal.
- F. All screening and setback requirements pursuant to this section shall not be binding in the IT or any mixed-use zoning district.
- G. All recreation space requirements pursuant to this section shall not be binding in the CBD–General, TOD and CWD districts.”

18. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-16, Swimming pools, by including alternative security methods approved by state building code:

“§ 170-16 Swimming pools.

In districts allowing one-family dwellings, two-family dwellings, and three- to four-family dwellings, 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 feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four inches in any dimension, except for doors and gates, and if a fence is erected or maintained, the horizontal dimension shall not exceed four inches. A primary dwelling or accessory building or structure may be used as part of the enclosure.~~
Every outdoor swimming pool shall be protected by either a fence or wall not less than four feet in height, constructed so as not to have openings, holes, or gaps larger than four inches in any dimension, except for doors and gates. A primary dwelling or accessory building or structure may be used as part of the enclosure; or

A powered safety cover complying with ASTM F1346, installed and operated in accordance with the NH Swimming Pool and Spa Code as adopted by the State Building Code.
- 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 temporary wading pools less than 22 inches deep or eight feet in diameter (whichever is more restrictive), and shall apply to all existing pools which have a minimum depth of 22 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 22 inches shall fail to provide and maintain ~~such fence or wall as herein provided~~ either a compliant fence or wall, or a powered safety cover meeting ASTM F1346, as provided in Subsection A.



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- 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 Human Services.
- 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.
- G. Consistency with State Building Code. This section shall be interpreted consistent with the NH Swimming Pool and Spa Code and the State Building Code. In the event of a conflict, the State Building Code shall govern.

19. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-18, Customary home occupations, by amending the section to remove ambiguity and to come into compliance with recent state legislation:

“§ 170-18 **Customary home occupations.**

A customary home occupation is a permitted as an accessory use wherever a legally-established primary residential use exists, ~~in all residential districts.~~ The following conditions apply:

- A. "Home occupation" shall include not more than one of the following uses, provided that such uses are clearly incidental and secondary to residential purposes: dressmaker, artist, arts and crafts, writer, teacher, provided that not more than eight pupils simultaneously occupy the building, musician, antique dealer, hairdresser, home-based agricultural activities, lawyer, doctor, photographer, dentist, architect, engineer or practitioner of any other profession or similar occupation which may be unobtrusively pursued in a residential area.
- B. No more than one nonresident shall be employed therein.
- C. The use is carried on strictly by the ~~occupant~~ resident of the principal building.
- D. No more than 25% of the existing net floor area of the principal and any accessory structure not to exceed 600 square feet is devoted to such use.
- E. ~~There shall be no display of goods or wares visible from the street.~~ Street displays of goods or wares shall be restricted to one 10 square foot area and be located outside of the public right-of-way.



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- F. There shall be no advertising on the premises other than a small, nonilluminated sign not to exceed two square feet in area ~~and carrying only the occupant's name and his occupation.~~
- G. 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, light emissions, or in any other way. In a multifamily dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.
- (1) No rallying of employees for off-site work shall be conducted.
- (2) If the home is occupied by a tradesman, craftsman or contractor, there may be incidental storage. Said storage shall be screened from abutters and the right-of-way, with either a solid fence or vegetation, and must be fully enclosed and limited to 400 s.f. or less. On-site storage of construction equipment or vehicles is not permitted.
- H. Any such building shall include no feature of design not customary in buildings for residential use. The following uses, by nature of the investment or operation, have a potential to rapidly increase beyond the limits specified above for home occupations and impair the use, value and quiet enjoyment of adjacent residential properties. Therefore, uses such as ~~retail~~, clinic, landscaping, freight, trucking or shipping, painting of vehicles, trailers ~~and or~~ boats, restaurants, caterers ~~or bakeries~~, taxi service, tool or equipment rental, veterinary hospital or kennel and others of a similar nature shall not be considered as home occupations. Only food operations producing non-potentially hazardous as defined in RSA 143-A:12, I(b) may be permitted as home occupations. Such food-producing uses must not generate traffic or food use in excess of normal residential use.
- I. ~~A minimum of two off-street parking spaces shall be provided.~~ Adequate provision shall be made for off-street parking for any commercial vehicle, employee, or client visits to the site under normal business operations. All driveways to be used in connection with such occupations shall conform to Chapter **153**, Site Review Regulations, or Chapter **157**, Land Subdivision Regulations, as appropriate.
- J. Not more than one commercial vehicle in connection with such home occupation shall be stored on the premises.
- K. A certificate of use for the proposed home occupation is issued by the Zoning Administrator, verifying conformance with the preceding standards. Said certificate shall be renewed annually. Applications to renew the certificate of use shall be due by January 1 following the date of approval of the certificate of use and then by every January 1 thereafter for so long as the customary home occupation continues. Fees shall be levied as set forth in the City of Dover adopted Schedule of Fees, as amended annually, for customary home occupation certificates of use and renewals.



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- L. The use of a room in a dwelling or accessory building as a home office by a resident/occupant is a permitted use and does not require a certificate of use, provided that the use does not generate any traffic, such as deliveries or pickup of supplies or materials in excess of normal residential use or clients coming to the property. The use of one personal vehicle by a transportation network company (TNC) driver, as those terms are defined by RSA 359:U, shall not be regulated under this section.

20. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-19, Non-environmental conditional use permit criteria, by amending the criteria to meet more empiric standards and to remove ambiguity around intent:

“§ 170-19 Non-environmental conditional use permit criteria.

A. Purpose and intent.

- (1) Where a conditional use permit is being requested for relief by use or standards as allowed by this chapter, the following criteria in Subsection B shall be met.
- (2) Notwithstanding any other language herein, the relief granted in Chapter 153, Site Review Regulations, § 153-17C, shall apply to any use as defined in § 170-11B of this chapter.

B. Conditional use criteria.

- (1) Conditional use approval for relief from the standards herein 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) That both public and private buildings and landscaping shall contribute to the physical definition of rights of way as civic spaces.~~
 - ~~(b) That development shall adequately accommodate automobiles, while respecting the pedestrian and the spatial form of public areas.~~
 - ~~(c) That the design of streets and buildings shall reinforce safe environments, but not at the expense of accessibility.~~
 - ~~(d) That architecture and landscape design shall grow from local climate, topography, history, and building practice.~~
 - ~~(e) That buildings shall provide their inhabitants with a clear sense of geography and climate through energy efficient methods via a mixture of elements including windows, floor plan, and public and private space.~~
 - ~~(f) That encourage civic buildings and other public gathering places be provided as locations that reinforce community identity and activity.~~
 - ~~(g) That civic buildings shall be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the City.~~
 - ~~(h) That the preservation and renewal of historic buildings shall be facilitated.~~
 - ~~(i) That the harmonious and orderly evolution of urban areas shall be advanced by the proposed building and/or use.~~
 - ~~(j) That if the relief is granted, the surrounding neighborhood is not negatively impacted.~~

(a) Character and Neighborhood Compatibility



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1. Any use permitted via this section shall be consistent with the intended character of the zoning district in which it resides. At a minimum, this shall mean that the proposed use shall not generate any major impacts on the neighborhood as a whole, when compared to conforming uses which surround the site, or uses which are permitted by-right.
2. Compatibility shall be evaluated through the following:
 - a. Building scale and massing;
 - b. Proposed dwelling units compared to surrounding area;
 - c. Site size and layout;
 - d. Structure and parking setbacks;
 - e. Landscaping and existing tree preservation;
 - f. Visual buffer of adjacent properties.

(b) Proportion and Balance of Uses

1. For sites that are a part of a residential neighborhood, which shall mean any property which directly abuts a residential zoning district, or, directly abuts two conforming residential properties, the proposed use and/or structure must not significantly reduce the residential appearance and function of the area.
2. Evaluation shall include:
 - a. Ratio of residential vs. non-residential uses in the immediate area;
 - b. Scale of the proposed structure relative to surrounding properties;

(c) Livability Impacts

1. The proposal must avoid significant adverse impact on nearby residential properties.
2. Impacts to be evaluated shall include:
 - a. Noise;
 - b. Odors;
 - c. Generation of traffic;
 - d. Lighting/Glare;
 - e. Hours of operation (if commercial use is proposed)

(d) Transportation and Parking Adequacy

1. The proposed development must not adversely impact available parking or transportation systems.
2. Evaluation of the available parking and transportation system shall include the following:
 - a. Number of on-site parking spaces provided;
 - b. Street capacity;
 - c. Site access safety and compatibility with the supporting street;
 - d. Connectivity with neighboring streets;



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- e. Available public transportation;
- f. Available pedestrian and bicycle networks;
- g. Neighborhood traffic impacts
- 3. If transportation-related impacts occur due to the proposal, the applicant must propose proportional mitigation, such as:
 - a. Intersection or signal improvements;
 - b. Pedestrian/bicycle network improvements;
 - c. Transit-related improvements;
 - d. Connectivity improvements.
- 4. Required transportation improvements must be already available or made available by the time of the development (or phase) is completed.

(e) Public Services Adequacy

- 1. Existing public or private utility services must be capable of serving the proposed use/development.
- 2. Utility capacity evaluation shall include:
 - a. Water supply;
 - b. Sanitary sewer;
 - c. Police and fire protection;
 - d. Stormwater disposal.

~~(2) Conditional use approval for relief from the use standards herein 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 requested use shall be compatible with abutting uses and the surrounding neighborhood.~~
- ~~(b) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.~~
- ~~(c) The requested use will not result in objectionable noise or odor which would constitute a nuisance.~~

- 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.”
- 3. Where specific standards or criteria are set forth in this ordinance for the particular use permitted by Conditional Use Permit, those standards and criteria shall apply in lieu of the general standards set forth in 170-19.B.

21. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-24, Accessory dwelling units, by including a definition for how the size of ADUs are to be measured and by permitting discrete electric services, per state legislation:



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“§ 170-24. Accessory dwelling units.

Where permitted, an accessory dwelling unit shall comply with the following:

- A. A maximum of one accessory dwelling unit (ADU) per property is permitted. In residential districts other than the R-40, more than one ADU may be allowed provided the second unit meets HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority. An ADU shall not be permitted on property where more than one dwelling unit currently exists.
- B. Exterior alterations, enlargements, or extensions of the single-family dwelling or detached accessory structure are permitted in order to accommodate the accessory dwelling unit. However, no such change is permitted which would alter the appearance of the single-family dwelling to look like a duplex or any other multifamily structure (i.e., the house should not look like it was designed to occupy more than one family). The construction of any accessways into the house and/or detached structure which are required for access to the accessory dwelling unit shall be located to the side or rear of the building whenever possible.
- C. An ADU shall have an area of no less than 300 square feet and no greater than 950 square feet. If located in a detached accessory structure, the accessory dwelling unit may be located on either floor of the structure. The area of an ADU shall mean the size of the unit based upon the exterior dimensions of the unit itself, excluding unconditioned spaces such as stairwells and utility rooms. Bathrooms, laundry rooms, and kitchens all count towards the cumulative area of an ADU.
- D. A minimum of one dedicated off-street parking space shall be provided for the ADU.
- E. The single-family dwelling (and detached accessory structure, when applicable) and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the single-family dwelling. In order to ensure compliance with this requirement, the property owners at the time the ADU is established shall be required to execute a restrictive covenant running in favor of the City, which shall be recorded in the Strafford County Registry of Deeds, and a copy of which shall be provided to the Planning and Community Development Department and the City Assessor prior to the issuance of a certificate of occupancy.
- F. The property owner must occupy one of the two dwelling units. ~~Electric~~, ~~w~~-Water and sewer utilities shall be metered on a single bill.
- G. Where municipal sewer service is not provided, the septic system shall meet New Hampshire Department of Environmental Services, Water Division, requirements for the combined system demand for total occupancy of the premises.
- H. A certificate of use issued by the Zoning Administrator is required to verify conformance with the preceding standards. Said certificate shall be renewed annually. Applications to renew the certificate of use shall be due by January 1 following the date of approval of the certificate of use and then by every January 1 thereafter for so long as the accessory dwelling unit continues. Fees shall be levied as set forth in the City of Dover Fee Schedule, as amended annually, for accessory dwelling unit certificates of use and renewals.”



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Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-29, Transfer of Development Rights (TDR), by amending the section to resolve issues highlighted by the public and to reflect the TDR Subcommittee's revisions:

"§ 170-29. Transfer of development rights. [Amended 8-22-2018 by Ord. No. 2018.08.08-009; 9-11-2019 by Ord. No. **2019.08.28-012**; 7-22-2020 by Ord. No. **2020.07.08-007**; **10-13-2021** by Ord. No. **2021.09.08-006**; 8-9-2023 by Ord. No. **2023.07.12-008**; **10-8-2025** by Ord. No. **2025.09.24-2**]

~~[a]~~**A.** Authority. By the authority granted under RSA 674:21, this section is an innovative land use control that creates overlay district(s) for the purpose of transferring development rights (TDR) within said districts. This ordinance is a voluntary, opt-in form of regulation and any applicant seeking and obtaining relief under this ordinance will be conclusively deemed to have accepted the provisions, conditions, and limitations set forth in this ordinance.

B. Purpose and intent. Within the City of Dover, there are certain lands that possess significant conservation features, including but not limited to unsuitable development areas, groundwater recharge zones, forested areas, wildlife habitat, farmland, scenic view sheds, 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 finite inventory of land suitable for development. The Master Plan identifies the need to balance expanding housing diversity, including units that are affordable and attainable to a broad range of Dover residents, supporting the workforce needs of local industry and businesses, and preservation of open spaces.

~~[b]~~**(1)** 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. Additionally, it is recognized that the City of Dover has an Open Lands Committee and Conservation Commission which is active in protecting and preserving open space. Applicants are strongly cautioned against attempted use of this ordinance for the sole or primary purpose of evading normal zoning requirements, rather than for the intended purposes of this ordinance as stated above. [Amended 10-13-2021 by Ord. 2021.09.08-006]

~~[c]~~**C.** Applicability. Upon request by an applicant for development approval and as prescribed in Subsection J, at the discretion of the Planning Board, the provisions of this section may apply to the district(s) defined in Subsection D below.

~~[d]~~**D.** Districts ~~defined.~~ **2019.08.28-012]**
~~The Industrial TDR District is hereby determined to be any IT or CM Zoning District as shown on~~ The districts defined below refer to the Zoning Map for the City of Dover, New Hampshire, adopted September 11, 2019.

(1) The Industrial TDR District is permitted where noted on the non-residential/mixed use Zoning District Tables of Uses and Dimensions.

~~a-~~**(a)** The "sending area" is defined to be open space and related setbacks as defined by the City of Dover Wetland Protection District, §Dover Code Section 170-28, which are located in any C, IT or CM Zoning District. ~~The "receiving area" is defined to be all remaining land in be any IT or CM Zoning District.~~

(b) The "receiving area" is defined to be permitted as listed per the Zoning Districts' Tables of Uses and Dimensions. [Amended 7-22-2020 by Ord. 2020.07.08-007]

(2) The Residential TDR District is hereby determined to be residential districts permitted where noted or displayed on the residential Zoning Map for the City Districts' Tables of Dover, New Hampshire, adopted September 11, 2019. Uses and Dimensions.



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~~b.(a)~~ The "sending area" is defined to be any land preserved by the City of Dover through conservation programs primarily in the R-40 or R-20 residential zoning districts. ~~The "receiving area" is defined but may extend to be all non-R-40 or R-20 any other zoning districts east of the Spaulding Turnpike which allow residential development district.~~

~~(b)~~ If the units created are purchased, the "receiving area may" is defined to be any all zoning district that allows districts which allow residential development and which meet the criteria of Subsection J (9) and all criteria detailed within the TDR section of the Zoning District Tables of Uses and Dimensions.

~~i.[1]~~ The "receiving area" excludes any parcel(s) within 250 feet of a tidal river and the Heritage Residential District.

~~[e]E.~~ Procedural requirements.

~~(1)~~ At the discretion of the Planning Board, an An applicant for seeking development approval within the receiving area of the defined Industrial TDR district may shall apply the performance standards specified as follows:

~~a.(a)~~ Additional performance standards for Industrial TDR districts are outlined in Subsection F below in return for the acquisition of land or development rights from the sending area within the same TDR district. The,

~~(b)~~ Additional performance standards for the Residential TDR district are outlined in Subsection G below.

~~b.(2)~~ AFor proposals requiring the preservation of land, 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. [Amended 8-22-2018 by Ord. 2018.08.08-009]

~~e.(a)~~ 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. For residential application, proofProof of an agreement to sell development rights must be provided by the Conservation Commission.

~~d.(3)~~ A sketch plan estimating layout of the development site and identifying the open space associated with the plan may be submitted to the Planning Board for review at a regularly scheduled meeting. The Planning Board, within 30 days of its review of the sketch plan, shall determine if waivers will be granted as allowed in Subsections F and G below. Waivers shall be reviewed using the same criteria as are used for site plan waivers. Following this decision, a final application is prepared. The finalThe 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. [Amended 8-22-2018 by Ord. No. 2018.08.08-009; 7-22-2020 by Ord. No. 2020.07.08-007; 8-9-2023 by Ord. No. 2023.07.12-008]

~~(a)~~ The determination of whether a proposed TDR project requires a sketch plan review shall be made by the Director of Planning and Community Development based on initial discussions with the applicant. The determination, made in writing, shall be made prior to the submittal of any plans and shall specify the Director's reasoning, including a review of known conditions, including: traffic, existing layout/topography, environmental. This determination shall be included in the staff report to the Board. If the applicant does not agree with the Director's determination, they may appeal the decision to the Board at its next meeting.

~~(a)~~ Applicants may choose to first seek Planning Board preliminary endorsement of TDR maximum density. They shall submit application materials including but not limited to:

~~[1]~~ A boundary plan indicating approximate location of existing buildings, lot lines, or limited common area lines, parking areas, driveway, wetlands, wetland buffers, conservation districts, burial grounds, drainage infrastructure areas, buffers, and natural features.



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[2] A sketch plan estimating layout of the development site and identifying the open space associated with the plan. This may be submitted to the Planning Board for review at a regularly scheduled meeting by following normal submission deadlines.

~~i.(i)~~ If the sketch plan requires an environmental conditional use permit ~~to~~ develop homes per other sections of Zoning Ordinance in the creation of additional dwelling units, the applicant must appear before the Conservation Commission for review and endorsement prior to ~~the~~any Planning Board's review. Such endorsement by the Conservation Commission requires a finding that the applicable Conditional Use Permit criteria have been met.

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[3] The Planning Board, within 60 days of its review of the sketch plan, shall determine if relief, in the form of a TDR Conditional Use Permit, will be granted as allowed in Subsections F and G below. Relief requests shall be reviewed using the criteria set forth in Subsection K. Although the Planning Board may grant relief from specific requirements of this section, including provisions related to project intensity or density, the fundamental purpose and intent of the Zoning Ordinance, Site Review Regulations, and Subdivision Regulations—particularly those governing open space subdivisions—shall be preserved. Any such relief shall remain consistent with the spirit and intent of the Master Plan, protect public health and safety, and be consistent with the neighborhood context.

____ [4] Once preliminary endorsement has been granted, full Planning Board review of the development plan following procedures set forth in Dover Code Section 153 and/or 157 shall be completed as well as Section 170-29.

[5] Preliminary endorsement of the use of TDR in no way guarantees subsequent Planning Board approval of the preliminarily endorsed TDR site, layout, or dwelling unit count. The TDR preliminary endorsement merely allows for use of TDR in a subsequent site or subdivision plan, pursuant to Dover Code Chapters 153 or 157.

[6] If no formal site plan or subdivision is submitted to and voted upon by the Planning Board pursuant to Dover Code Chapters 153 and 157, respectively, within four (4) years, then the Planning Board TDR endorsement shall be null and void.

(b) Applicants may elect to submit applications for site plan review or subdivision plat approval concurrently with a Transfer of Development Rights (TDR) request. In such cases, the review and approval procedures set forth in Dover Code Sections 153 and/or 157 shall govern. As part of the staff memo for the Planning Board's review of a TDR request, the Planning Department should discuss traffic, existing layout/topography, environmental, and neighborhood context.

(c) Review by the Technical Review Committee (TRC) shall occur for all projects.

[1] For projects resulting in four (4) or fewer new dwelling units, Planning Board review and approval shall not be required unless relief is necessary or the TRC determines that such review is necessary.

[2] For five (5) or more new dwelling units, applicants must obtain TDR endorsement by the Planning Board, TRC review and approval, and Planning Board review and approval per Dover Code Sections 153 or 157. Only once all three approvals are in place, may an applicant apply for building permits.

e.(4) If not utilizing the purchase option (as noted in Section 170-29.G), 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



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existing residential and agricultural activities, and may allow for utility and access crossings in accordance with Subsection H below. The designation of the land protection agency to hold the easement shall be approved by the Planning Board.

(5) The development plan shall be laid out in a design that meets the requirements for block length and cul-de-sac length unless relief per Chapters 153 and/or 157 is granted. Private driveways serving four (4) or fewer units are exempt from this provision but need to meet the current fire and building codes.

F. Industrial performance standards.

- a.(1)** Land within a sending area, when surveyed, approved by the Planning Board and preserved by easement or covenant as specified in Subsection E, 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 acre. ~~Notwithstanding;~~
- (a)** ~~Notwithstanding the above,~~ development sites within the IT and CM Zoning Districts shall maintain open space or landscaped area on at least 10% 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. **[Amended 7-22-2020 by Ord. No. 2020.07.08-007]**
- b.(2)** The minimum lot size requirement may be ~~waived~~ **relieved by Conditional Use Permit pursuant to Subsection K below granted** by the Planning Board for land subjected to the transfer of development rights.
- c.(3)** The minimum frontage requirement may be ~~waived~~ **relieved by Conditional Use Permit pursuant to Subsection K below granted** 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.
- d.(4)** Setbacks for parking, paved areas, and buildings may be ~~waived~~ **relieved by Conditional Use Permit pursuant to Subsection K below granted** 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 IT and CM Zoning Districts, and 75 feet from the lot line of a disagreeing residential abutter. **[Amended 7-22-2020 by Ord. No. 2020.07.08-007]**
- e.(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.
- f.(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.

G. Residential performance standards. **[Amended 8-22-2018 by Ord. No. 2018.08.08-009]**

- (1)** ~~Annually~~ **A residential transfer of development rights applicant may either pursue a request to purchase density credits or conserve an acre of land per credit transferring development rights or follow the industrial option for residential density as outlined in 170-29. H(4).**
- (2)** ~~Each January,~~ the City shall ~~update a document identifying~~ **calculate** the ~~cost~~ **value** per acre ~~spent~~ to preserve open space within the City of Dover ~~within a reasonable historic timeframe and factor in an inflation rate to the cost of land.~~ This list shall be kept on file in the Department of Planning and Community Development and ~~coordinated with~~ **reported to** the Conservation Commission.
- a.(a)** This cost shall ~~become the value at which development rights may be purchased~~ **included in the proposed Schedule of Fees approved by the City Council.**



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- ~~b.(3)~~ Proceeds from the purchase of development rights shall be placed into the Conservation Fund to be used to reimburse the City for previous conservation efforts, purchase future property or easements, or monitor and/or maintain easements on other conserved land, and not into the general fund for general expenditures outside of conservation purposes.
- ~~(2)~~ A residential transfer of development rights applicant may pursue one of the following methods for transferring development rights:
- ~~(a)~~ Single family detached method:
- ~~(4)~~ An applicant shall develop a Baseline density calculations are determined based upon the underlying zone. In all cases, any unsuitable areas and any areas within 250' of a tidal river, shall be subtracted from the original parent lot size.
- ~~(a)~~ Regardless of the calculation method used below, if the base yield plan requires an environmental conditional use permit per other sections of Zoning Ordinance for the creation of additional dwelling units, the applicant must appear before the Conservation Commission for review and endorsement prior to any Planning Board's review.
- ~~(b)~~ For applications proposed on mixed-use or non-residential zoned lots, the base density shall be calculated utilizing the density as set forth in the current zoning table, and not density gained for a specific property by Special Exceptions or Conditional Use Permits or Variances.
- ~~[1]~~ A realistic yield plan, as defined in Dover Code Chapter 157, shall set the baseline density. The dwelling type used in the calculation shall be the type of structure constructed (i.e., if using two-family density, two family structures shall be constructed, if proposing HUD Fair Market rent restricted units for the density, then perpetual HUD Fair Market rent restricted units shall be constructed).
- ~~[2]~~ If converting a single-family to a two-family in an existing building is allowed by right and intended to count towards future density, then the conversion shall occur prior to the additional units being calculated in the transfer request and shall be included in the yield plan or calculation.
- ~~A.(c)~~ For applications proposed in primarily residential zoned areas, the baseline yield for the lot to be developed through the following formula: __
- ~~[a]~~ The square footage of the parent lot minus unsuitable areas is the base lot size.
- ~~(1)~~~~[1]~~ The base lot size is then reduced by 15% to account for roadway; this creates the net area.
- ~~(2)~~~~[2]~~ The net area is then multiplied by a factor determined by the amount of unsuitable development area over the parent lot. This is the developable area.

Percentage of Parcel That Is Unsuitable Development Area	Factor
0% to < 10%	0.85
10% to < 20%	0.8
20% to < 30%	0.75
30% <u>or greater</u>	0.7

- ~~(3)~~~~[3]~~ The developable area is then divided by the minimum lot size, and the whole number value is the base number, with no rounding decimals and no rounding.
[Amended 7-22-2020 by Ord. No. 2020.07.08-007]



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~~[i] This base number is not required to be restricted by the requirements in Subsection G(3)(a)[3], unless the formula defined in Subsection G[2][a] is utilized.~~

~~[b] The development plan shall be laid out in a design that meets the requirements for block length and cul-de-sac length.~~

~~(d) If a TDR is requested for a lot located within the RCM Overlay District, the yield plan shall be prepared using the density permitted under the RCM regulations, inclusive of the required non-residential components. A revised Conditional Use Permit (CUP) application shall be submitted pursuant to Subsection K below for review, and the Planning Board must determine, by majority vote, that the applicable criteria have been satisfied. In addition, an agreement pursuant to Section 170-32 (2)B shall be executed to ensure continued compliance with the required non-residential proportions. Open space shall be provided in accordance with the applicable provisions of Chapter 153, 157, or 170, as determined by the nature of the application.~~

~~(e) Where a subject lot contains land within more than one zoning district, also referred to as being split-zoned, the density of the most restrictive district shall apply to the entire site. Alternatively, density may be calculated separately for each zoning district, provided that such density is confined to the portion of the lot within each respective district boundary and does not rely on the provisions of Section 170-10.E.~~

~~[1] The Planning Board may, by majority vote, grant a TDR Conditional Use Permit to allow density to be distributed across zoning district boundaries upon a finding that the proposed layout is appropriate to the context of the project.~~

~~B-H.~~ The allowed transfer of development rights granted to an applicant shall equate to one of the following calculations:

~~[c] For construction of units no larger than 600 square feet of total living area, including the base-calculated units, there shall be no density limit. The monthly cost of said units shall conform to the HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority, and there shall be no TDR fee collected for said One unit(s).~~

~~[d] For construction of units no larger than 1,000 square feet of total living area, two units per development right purchased shall be allowed.~~

~~[e] For construction of units no larger than 1,400 square feet of total living area, one unit per development right purchased shall be allowed. The unit count shall be the whole number value and not rounded up.~~

~~[i] Total living area shall mean the size of the home (in square feet) based upon the exterior dimensions, excluding unconditioned spaces.~~

~~[2] The units created through the one acre conserved is the result of a transfer must be:~~

~~[a] Limited to the square footage originally constructed.~~

~~[3] A note shall be placed on the approved plan, and any building permit shall note the adherence to this section of the Code.~~

~~C.(1)~~ A note shall be placed in the property/unit deed citing the restrictions listed above.

~~[4] The plan shall be considered a subdivision application. Prior to submission, a determination by the Director of Planning and Community Development shall be made whether to follow the minor or major subdivision regulations.~~

~~(b) Single-family, two-family, three-family, and four or more method.~~

~~1 The transfer may be made through the purchase of development rights, as described in Subsection G_(1), or through the protection of land via a permanent conservation easement as per Subsection E_(5); or~~



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~~[a] In mixed-use or multifamily zones, the base density shall be derived from the underlying zoning, and not through a formula.~~

~~(2) One market rate or for sale unit per one density credit paid into the Conservation Fund.~~

~~a If the additional unit(s) resulting from TDR is restricted so that the monthly rent of said for any unit(s) conforms created through the TDR process shall perpetually conform to the HUD Fair Market Rent rates, for Dover, as published annually by the New Hampshire Housing Finance Authority, there no TDR fee shall be no fee collected assessed for said any such restricted unit(s); or~~

~~[2](3) The If development plan is a village-themed residential/non-residential project, whereby 35% of the total square footage being created is non-residential and which fosters a more compact, walkable development, the transfer shall equate to one unit per are 4,000 square feet preserved or purchased. If the end result is a village-themed residential/nonresidential project, whereby 35% of the square footage being created is nonresidential, the transfer shall equate to one unit per 2,500 square feet preserved or purchased; or~~

~~(4) Any non-residential development approved by the Planning Board after July 1, 2020, which will create a manufacturing or assembly facility over 40,000 square feet may create and transfer one unit per 2,000 square feet of building approved, above the 40,000 square foot base.~~

~~[3](a) The transfer shall not be completed prior to the issuance of the certificate of occupancy for the additional space manufacturing or assembly space. If the units are to be placed upon the same lot, the layout must be shown on the site plan for the development.~~

~~I. Amendments to previous projects that had a size restriction require an application and amendment that is reviewed and approved by the Planning Board, with necessary updates to any association documents, plan sets, or deeds.~~

~~J. The grant of special permission, at the discretion of the Planning Board, to allow additional density through a transfer of development rights requires that the applicant and any successors or assigns comply with the following additional, applicable conditions and restrictions associated with such approval:~~

~~(1) A note shall be placed on the approved development plan, and any building permit certifying the adherence to this section of the Code.~~

~~D.(2) A note shall be placed in the property/unit deed citing the restrictions listed above.~~

~~[b] If the units are to be placed upon the same lot, the layout must be shown on the site plan for the development.~~

~~(3) The plan shall be treated as considered a subdivision application if fee simple lot lines are to be used. The plan shall be considered a site plan application, unless otherwise determined if a condominium or multiple principal buildings are placed on a lot.~~

~~[4](a) Prior to submission, a determination, in writing, by the Director of Planning and Community Development, prior to final submission, shall be made whether to follow the minor or major subdivision regulations.~~

~~(4) Any Transfer of Development Rights approval with size or HUD Fair Market rent restrictions before XX, 2026 shall follow said restriction unless a subsequent TDR application is approved by the Planning Board. HUD Fair Market and size restrictions shall follow the intent of the application including but not limited to: presentation to Planning Board, notes on plan, development agreements, and/or deed restrictions.~~

~~e.(5) Regardless of the method utilized, the minimum lot size requirement may be waived/relieved by the Planning Board for land subjected to the transfer of development rights.~~



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~~d.~~(6) Regardless of the method utilized, the setbacks shall be as stated on the TDR Criteria section of the Zoning District Tables of Uses and Dimensions or if none are listed, then a minimum of: [Amended 7-22-2020 by Ord. No. 2020.07.08-007]

Minimum Building Setbacks for Subdivision Lots

Abutting a Street	Abutting a Side Lot Line	Abutting a Rear Lot Line
20 feet	10 feet	30 feet

- ~~(3)~~ Regardless of the method utilized, the minimum frontage requirement may be ~~waived~~ relieved by the Planning Board, to no less than 40 feet. ~~Paved access~~ Access to all developed areas shall be suitable for emergency vehicles. [Amended 7-22-2020 by Ord. No. 2020.07.08-007]
- ~~(4)~~ ~~A continuous visual buffer shall be created along the perimeter of the parent parcel, which shall include a thirty-foot no cut, no disturb buffer.~~
- ~~(8)~~ The development shall provide adequate screening from abutting side and rear properties through fencing, no-cut/no-disturb buffers of existing vegetation, supplemental landscaping, or a combination thereof, as approved by the Planning Board. Screening shall be consistent with the requirements set forth in the TDR section of the Zoning District Tables of Uses and Dimensions and shall reflect the prevailing character of neighborhood lots within 250 feet in each direction, or within a 500-foot radius, as applicable based on the lot's location. This requirement may be relieved by the Planning Board in part or whole. [Amended 7-22-2020 by Ord. No. 2020.07.08-007]
- ~~(a)~~ A note shall be added to any/all deeds regarding the nature of the screening and need to perpetually maintain it.
- ~~e.~~(9) Regardless of the method utilized, 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 meets the following criteria and ~~any TDR criteria listed on the Zoning District Tables of Uses and Dimensions. A~~ narrative ~~is~~ shall be submitted indicating how ~~those~~ the following criteria are met: [Amended 7-22-2020 by Ord. No. 2020.07.08-007; 8-9-2023 by Ord. No. 2023.07.12-008]
- ~~i.~~(a) ~~The request is~~ consistent with the Vision Chapter of the Master Plan regarding housing diversity in the city or conservation of natural areas.
- ~~ii.~~(b) ~~The request is~~ compatible with the aesthetic and functional character of land uses on neighboring lots (e.g., a ~~multifamily~~ multi-family building ~~fits~~ /parking areas blending in within a single-family neighborhood). The applicant shall provide in their narrative an explanation of their neighborhood analysis.
- ~~(a)~~ ~~Is created on property served by public water and sanitary sewer.~~
- ~~(b)~~ ~~Any relief sought should not be caused by the additional density.~~ 1
- ~~(c)~~ 1. Editor's Note: Original § 170-27.2H of the 2013 Code, Conditional uses, which immediately followed this subsection, was repealed 8-22-2018 by Ord. The proposed development shall be located on property currently served by public drinking water and sanitary sewer, or shall connect to such public utilities within the maximum extension distance measured from the original subject property line as specified in the applicable Zoning District Tables of Uses and Dimensions. The Planning Board may authorize but is not obligated to authorize a greater extension distance upon granting a TDR Conditional Use Permit pursuant to Subsection K below. For avoidance of doubt, however:
- [1] Water and sewer investment fees will still be assessed, unless the applicant obtains relief as set forth below.



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- [2] If a waiver or payment (or services) tendered in lieu of either water or sewer investment fees is requested, the Dover Utilities Commission must review and endorse followed by the City Council's review and approval, prior to Planning Board review.
- (d) Adequate parking shall be provided, averaging one parking space per unit with more or less allowed at the discretion of the Planning Board or Director of Planning and Community Development if no Planning Board review is required. Walkability, proximity to transit, market studies, or intended residents would be reviewed in increases or decreases in amount of parking provided.
- (e) Any other criteria noted on the Zoning District's Table of Use and Dimensions.
- (f) Regardless of the method utilized, a note will be added to the plan set stating and requiring that any conversions to a duplex requires Planning Board review and approval.
- K. Where a conditional use permit is being requested for relief of standards set forth in §170-29, the following criteria shall be met.
- A. Notwithstanding any other language herein, the relief granted in Chapter 153, Site Review Regulations, § 153-17C, shall apply to any use as defined in § 170-11B of this chapter.
- 1) Neighborhood Compatibility
- (a) The scale, massing, and height of the proposed development, as increased through TDR, does not substantially deviate from the established character of the surrounding neighborhood;
- (b) Adequate transitions, screening, or step-downs are provided where the project abuts lower-intensity residential areas; and
- (c) Development impacts, including traffic, lighting, noise, and service functions, are mitigated to avoid adverse effects on nearby properties.
- 2) Architectural and Site Design
- (a) The project incorporates architectural design features, including materials, façade articulation and roofline variation to fit in with the surrounding neighborhood;
- (b) Service areas, mechanical equipment, and parking are effectively screened from public view and adjacent properties;
- (c) The development advances pedestrian walkability.
- 3) Site Characteristics and Environmental Response
- (a) The development respects the site's natural and built features, including topography, mature vegetation, stone walls, wetlands, wetland buffers, conservation districts, and historic elements;
- (b) Stormwater management, grading, and drainage are designed to avoid off-site impacts and incorporate low-impact development practices where feasible.
- (c) Building placement and massing avoid unreasonable shadowing or loss of solar access on adjacent properties.
- 4) Consistency with TDR Ordinance Intent
- (a) The development is consistent with the Master Plan and future neighborhood or corridor plans;



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- (b) The development advances goals of housing diversity, housing availability, and attainable housing; and
- (c) The development advances the ability to conserve in areas of environmental importance and provide density in areas that are more urban and have the capacity for the density.

5) Compliance with Applicable Regulations

- (a) The project complies with all other applicable zoning, site plan, and overlay district requirements, except where expressly modified by the TDR provisions or received a Conditional Use Permit or applicable relief to satisfy **No. 2018-08-08-009.**

23. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-32.F, Residential-Commercial Mixed-Use (RCM) Overlay District, §F, Standards and regulations, by amending parking regulations to reflect recent state legislation:

“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 Code.
 - (a) Minimum internal right-of-way.
 - 1. Maximum residential: 35 feet.
 - 2. Maximum nonresidential: 50 feet.
 - (b) Minimum pavement width.
 - 1. Minimum residential: 20 feet.
 - 2. Minimum nonresidential: 28 feet.
 - 3. Minimum sidewalk pavement width: five feet.
 - 4. Minimum bike/Segway®/golf cart path width: five feet.
 - (c) Minimum tangent length at intersections: 75 feet.
 - (d) Maximum street angle at intersections: 60°.
 - (e) Minimum center-line radius: 100 feet.
 - (f) Minimum tangent length between reverse curves: 50 feet.
- (2) Dimensional requirements.
 - (a) Nonresidential/mixed-use buildings.
 - 1. Minimum structure setback from external lot line: 50 feet. Expanding existing nonresidential uses are not held to this setback.
 - 2. Minimum structure setback from external right-of-way: 50 feet.
 - 3. Maximum nonresidential building height: 55 feet.



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4. For all other dimensional requirements for nonresidential structures and parking setbacks refer to the underlying zone.
- (b) Residential dwellings.
 1. Minimum structure and parking setback from external lot line: 50 feet.
 2. Minimum structure and parking setback from external row: 100 feet.
 3. Maximum residential building height: 35 feet.
 4. Minimum frontage on internal road: 40 feet.
 5. Minimum setbacks:
 - a. Front yard setbacks: 20 feet.
 - b. Distance between buildings: 24 feet.
 - c. There shall be no minimum lot size or frontage for internal lots created.
- (3) Parking.
 - (a) All dwelling units shall require ~~two~~ one independently accessible parking spaces per unit, except that the congregate-care and nursing-home requirements shall be as otherwise defined by this chapter. Nonresidential uses shall comply with parking requirements defined by this chapter.
 - (b) Overnight parking shall not be permitted on internal roadways.
 - (c) Parking shall be utilized and available to all components of the development plan, through the recording of access and parking easements.”

24. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-33, Groundwater protection, §D(5), Standards and regulations, by restricting Conditional Use Standards to commercial developments, or developments resulting in three (3) or more units:

“(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 20% of the area of said soils except as provided for below. Any commercial/mixed-use development, or any development which proposes three (3) or more dwelling units in the secondary groundwater protection zone that proposes a total impervious surface greater than 20% shall only be permitted if the Planning Board grants a conditional use permit per Subsection 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.”

25. AMENDMENT



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Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-46, Waivers, an ordinance which governs relief granted to excavation sites, by changing the need for a “waiver” to that of a non-environmental CUP:

“§ 170-46 ~~Waivers~~ Relief.

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 Planning Board may, upon application and following a duly noticed hearing, may grant ~~any waiver~~ a Conditional Use Permit in relief of, ~~in writing, to~~ the standards contained in §§ 170-42, 170-43, 170-44 and 170-45 for good cause shown. The ~~written decision shall state specifically what requirements are being waived and include any reasonable alternatives~~ conditional use permit application shall include all relief being sought, the site’s physical attributes which make the relief necessary, and any actionable alternatives available.”

26. TAKES EFFECT

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



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AUTHORIZATION

Approved as to Funding: Daniel R. Lynch Sponsored by: TBD
Finance Director

Approved as to Legal
Form and Compliance: Josh Wyatt
City Attorney

Recorded by: Jerrica Vansylvong-
Bizier
City Clerk

DOCUMENT HISTORY:

First Reading Date:	Public Hearing Date:
Approved Date:	Effective Date:

DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
Mayor, Dennis Shanahan		
Deputy Mayor Lindsey Williams		
Councilor S. April Richer, Ward 1		
Councilor Lucas Veitch, Ward 2		
Councilor Anthony Retrosi, Ward 3		
Councilor Timothy Granfield, Ward 4		
Councilor Richard Robison, Ward 5		
Councilor Fergus Cullen, Ward 6		
Councilor Bret Carmichael, At Large		
Total Votes:		
Resolution does does not pass.		