

ZONING
ORDINANCE



CITY of DOVER
New Hampshire

ADOPTED
JULY
1978

ORDINANCE NO. 3

TITLE: ZONING ORDINANCE

The City of Dover Ordains;

In the year of our Lord one thousand nine hundred and forty-eight (1948). An ordinance creating zoning districts and regulations in the City of Dover, pursuant to the provisions of Chapter 51, section 50, of the Revised Laws of New Hampshire of 1942.

SECTION I—ESTABLISHMENT OF DISTRICTS

A. SEVEN CLASSES OF DISTRICTS

The City of Dover is hereby divided as shown on the zoning map dated July 8, 1948 and filed with the City Clerk, into seven classes of districts: *MIDDLE PARK DISTRICT*

- Single residence districts
- General residence districts
- Agricultural districts
- Apartment house districts
- Local business districts
- Commercial districts
- Industrial districts

TOURIST BUSINESS DISTRICTS

B. Boundaries of districts. The boundaries between districts are, unless otherwise shown, either the center lines of streets, alleys, rivers or railroads, or lines parallel to and one hundred (100) feet distant from the less restricted side of the block, provided that within blocks less than two hundred (200) feet wide boundary lines are median lines between the street lines.

C. Cases of lots in two districts. Where a district boundary line divides a lot in a single or

joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

D. Definitions.

1. Lot shall be construed to mean that parcel of land on which a principal building and its accessories are placed, or may be placed, together with the required open space.

2. A semi-detached one family dwelling is a one family house having one party wall in common with an adjacent house, the two houses together, however, accommodating but two families, one family living on either side of the party wall.

3. A detached two family dwelling is a house accommodating altogether but two families. Such dwelling has, moreover, no party wall or walls in common with an adjacent house or houses.

SECTION II — USE REGULATIONS

A. SINGLE RESIDENCE DISTRICTS.

(In a single residence district no building or premises shall be erected, altered or used for any purpose except

1. Detached dwelling for one family or housekeeping unit;

2. Club, except a club the chief activity of which is a service customarily carried on as a business, or a club with more than five (5) sleeping rooms;

3. Church;
4. Educational use;
5. Farm or garden, excluding any use injurious, noxious or offensive to the neighborhood;
6. Municipal recreational use;
7. Accessory use customarily incident to any of the above uses. The term "accessory use" in this ordinance shall not include

(a) Any use injurious, noxious or offensive to the neighborhood;

(b) The taking of more than four lodgers;

(c) The sale of produce not raised on the premises;

(d) Garage space for more than two automobiles, provided that one additional automobile may be provided for on a lot with an area exceeding nine thousand (9,000) square feet and two on a lot with an area exceeding twelve thousand (12,000) square feet;

(e) Garage space for or storage of more than one truck or automobile used for public hire;

(f) Signs, except those pertaining to the lease, sale or use of a lot or building on which placed, and not exceeding a total of eight (8) square feet; on a lot occupied by a dwelling there shall not be more than one such sign pertaining to the use thereof or bearing the name or occupation of an occupant for each family housed, and no such sign shall exceed one (1) square foot in area.

8. Any of the following uses, provided the Board of Adjustment shall rule that such use is

not injurious, noxious, offensive or detrimental to the neighborhood;

- a. Cemetery;
- b. Greenhouse or nursery;
- c. Hospital, sanitarium or charitable use;
- d. Governmental use;

B. GENERAL RESIDENCE DISTRICTS

In a general residence district no building or premises shall be erected, altered or used for any purposes except:

1. Any use permitted in a single residence district.
2. A detached two-family dwelling or pair of semi-detached one-family dwellings.
3. Customary home occupation, such as millinery, hairdressing, manicuring, laundering, preserving and home cooking or the office of a doctor, dentist, musician, teacher, architect, artist, or member of some other recognized profession, provided that such occupation shall be carried on by a person only within a dwelling used by him or her as his or her private residence, and provided that no more than one other person is employed, and provided that such occupation shall not occupy more than one-third of the area of such residence, and provided that such occupation shall not be carried on in an accessory building, and provided that there is no display from the street nor advertising except a professional or announcement sign not exceeding four (4) square feet in area;
4. Accessory use customarily incident to any of the above uses.

C. AGRICULTURAL DISTRICTS

In an agricultural district no building or premises shall be erected, altered or used for any purpose except

1. Any use permitted in a general residence district;
2. General farming, including horticulture, dairying, livestock and poultry raising, and other agricultural enterprises or uses;
3. Processing the natural resources of the agricultural district;
4. The sale of produce raised on the farm on which it is sold;
5. Orchard warehouse;
6. Creamery, cannery, or greenhouse;
7. Aircraft landing field, hangar and equipment;
8. Forestry;
9. Telephone, telegraph or power transmission lines;
10. Organized recreational camp;
11. Golf course—public or private, park or playground;
12. One or more signs pertaining to the lease, sale or use of the premises on which placed and not exceeding a total area of thirty square feet;
13. Accessory use customarily incident to any of the above uses;
14. Farm operated for the disposal of garbage, rubbish or offal, or rendering plant, provided the Board of Adjustment shall rule that such use, under such conditions, and in such a building as it may prescribe, will not be detrimental or injurious to the neighborhood.

D. APARTMENT HOUSE DISTRICTS

1. In an apartment house district no building or premises shall be erected, altered, or used for any purpose except:

a. Any use permitted in a general residence district;

b. Dwelling or dormitory;

c. Hotel;

d. Telephone exchange, without service or storage yard;

e. Accessory use customarily incident to any of the above uses;

2. The term "accessory use" shall not include:

a. Any use injurious, noxious or offensive to the neighborhood.

b. Any use not on the same lot with the building to which it is accessory.

c. Signs, except those pertaining to the lease, sale or use of the lot or building on which it is placed and not exceeding a total area of eight (8) square feet.

E. LOCAL BUSINESS DISTRICTS

In a local business district no building or premises shall be erected, altered or used for any purpose prohibited or restricted in a commercial district; for any purpose injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or any other cause; or for any purpose except:

1. Any use permitted in an apartment house district;

2. Fire station;

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3. Office or bank;

4. Place of amusement or assembly;

5. Any other retail business or service not involving manufacture on the premises except of products the major portion of which are to be sold at retail by the manufacturer to the consumer, and provided further that not more than five operatives shall be engaged in such manufacture;

6. One or more signs pertaining to the lease, sale or use of the premises on which placed and not exceeding a total area of twenty (20) square feet.

F. COMMERCIAL DISTRICTS

1. In a commercial district no building or premises shall be erected, altered or used for any of the following specified trades or uses:

(1) Ammonia, bleaching powder or chlorine manufacture or refining;

(2) Asphalt manufacture or refining;

(3) Blast furnace;

(4) Cement, gypsum, lime or plaster of paris manufacture;

(5) Coke manufacture;

(6) Creosote manufacture;

(7) Dextrin, glucose, or starch manufacture;

(8) Distillation of bones, coal or wood or manufacture of any of their by-products;

(9) Dye manufacture;

(10) Explosives or fireworks manufacture, or storage in excess of five hundred (500) pounds;

(11) Fat, grease, lard or tallow manufacture, refining or rendering;

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- (12) Fertilizer manufacture;
- (13) Gas (fuel or illuminating) manufacture in excess of one thousand (1,000) cubic feet per day or storage in excess of ten thousand (10,000) cubic feet, except in a municipal or public service plant;
- (14) Gelatin, glue or size manufacture from fish, animal refuse or offal;
- (15) Hair manufacture;
- (16) Hot rolling mill;
- (17) Hydrochloric, nitric, picric, sulphuric or sulphurous acid manufacture;
- (18) Incineration, reduction or dumping of dead animals, garbage, offal or refuse except by the city or its agents or when accumulated and consumed on the same premises without the emission of odor;
- (19) Lamp black manufacture;
- (20) Linoleum or oilcloth manufacture;
- (21) Match manufacture;
- (22) Petroleum or other inflammable liquids: Production or refining;
- (23) Pyroxylin manufacture, manufacture of articles thereof, or storage in excess of five hundred (500) pounds;
- (24) Rubber manufacture, or treatment involving offensive odor;
- (25) Slaughtering except as permitted by the Board of Health or stock yard except as appurtenant thereto;
- (26) Tanning, curing or storage of raw hides or skins;
- (27) Tar distillation or manufacture;
- (28) Turpentine or varnish manufacture;
- (29) Metal or ore reduction or smelting;

(30) Junk yard or place where junk is collected or stored. The word "junk" in this ordinance shall mean any old metals, old bottles, cotton or woolen mill waste, unfinished cloth, unfinished cotton or woolen mill yarns, old rags, old paper products, old rubber products, two or more unregistered motor vehicles which are unfit for reconditioning for use on the highways, used parts and materials of motor vehicles the quantity of which shall be equal in bulk to two (2) or more motor vehicles, and any other second hand articles the accumulation of which is detrimental or injurious to the neighborhood.

(31) Any other trade, industry or use that is injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause, but not including places of amusement; provided, however, that a building or use otherwise excluded but distinctly incidental and essential to a use of a building or plant with a series of buildings permitted in a commercial district may be erected, altered and used if not more than ten per cent of the total floor area of the building or plant is to be so occupied, if not more than ten (10) per cent of all of the employees are to be engaged therein, if it is not located within fifty (50) feet of any street line or lot line, and if it is not detrimental or injurious to the neighborhood.

2. Restricted Uses. No building or premises shall be erected, altered or used for any of the following specific uses unless the Board of Adjustment shall rule that such use under such conditions and in such a building as it may pre-

scribe will not be detrimental or injurious to the neighborhood:

- (1) Blacksmith shop;
- (2) Coal yard;
- (3) Lumber yard;
- (4) Public garage or stable;
- (5) Commercialized amusements.

G. INDUSTRIAL DISTRICTS

No building or premises shall be erected, altered or used for any use prohibited in a Commercial District unless the Board of Adjustment shall rule that such use under such conditions and in such a building as the Board may prescribe, will not be detrimental or injurious to the neighborhood.

SECTION III — NON-CONFORMING USES

A. CONTINUATION OF NON-CONFORMING USES.

Any lawful building or use of a building or premises or part thereof in existence previous to July 8, 1948, may be continued although such building or use does not conform to the above provisions hereof.

B. CONVERSION OF EXISTING DWELLINGS —SINGLE RESIDENCE DISTRICT

In a single residence district nothing herein shall prevent any dwelling, existing at the time this ordinance is adopted and having an area above the first story floor, exclusive of porches and attics, exceeding seven hundred and fifty (750) square feet, being altered to provide for and being used for two families, provided it is not enlarged in volume.

C. CONVERSION OF EXISTING DWELLINGS —GENERAL RESIDENCE DISTRICT

In a general residence district nothing herein shall prevent any dwelling, existing at the time this ordinance is adopted, being altered to provide for, and being used by, not more than four (4) families, provided it is not enlarged in volume, and provided that each apartment has a minimum of five hundred (500) square feet of floor area and three thousand (3,000) square feet of lot area.

D. TEMPORARY USES:

The Board of Adjustment may order the issuance of a permit for a quarry or gravel or sand pit or for a non-conforming temporary building or use incidental to the development of a neighborhood, such permit to be issued for an initial period of not more than two years and only upon application accompanied by a bond payable to the City of Dover in such amount and in such form as the Board of Adjustment may order, to become effective in case the building is not removed prior to the expiration of the permit. Such permits may be ordered renewed by the Board for successive periods of not more than one year each.

E. RESTORATION AFTER FIRE.

Nothing herein shall prevent the substantial restoration within one year and continued use of a building damaged by fire or other casualty, provided that, in case of damage to a building non-conforming in use, location or structure, to an extent that the estimated cost of such restoration exceeds three-quarters ($\frac{3}{4}$) of its fair val-

uation immediately prior to such damage, authorization of the Board of Adjustment must be obtained for such restoration.

SECTION IV — HEIGHT REGULATIONS

A. SINGLE RESIDENCE DISTRICTS.

In a single residence district no building shall exceed two and one-half stories or thirty five (35) feet in height.

B. GENERAL RESIDENCE DISTRICTS.

In a general residence district no dwelling shall exceed two and one-half stories or thirty five (35) feet in height unless it sets back from each street and lot line ten (10) feet in addition to the requirements of Section V. No building shall exceed three (3) stories or forty five (45) feet in height.

C. AGRICULTURAL DISTRICTS.

In an agricultural district height regulations for dwellings shall be the same as those permitted in a general residence district.

D. APARTMENT HOUSE DISTRICTS.

In an apartment house district no building shall exceed four (4) stories or fifty five (55) feet in height.

E. LOCAL BUSINESS DISTRICTS.

In a local business district contiguous to a single family or general residence district, no building shall exceed two and one half stories or thirty five (35) feet in height. In a local business district contiguous to an apartment house or commercial district, no building shall

exceed four (4) stories or fifty five (55) feet in height.

F. COMMERCIAL DISTRICTS.

In a commercial district no part of a building shall exceed six (6) stories or seventy five (75) feet in height. No building shall exceed in volume its lot area multiplied by sixty five (65) feet.

G. INDUSTRIAL DISTRICTS.

In an industrial district, buildings other than dwellings shall not exceed the height regulations in commercial districts: No dwelling shall exceed four (4) stories or fifty five (55) feet in height.

H. MEASUREMENT OF HEIGHT.

The height of a building abutting on a street shall be measured from the average curb grade, and if not on a street from the average ground level along its front, to the average height of that portion of the roof above the highest floor.

I. HEIGHT EXCEPTIONS.

Chimneys, elevators, tanks, poles, spires and towers not used for human occupancy may extend above the height limits herein fixed, and parapet walls and other unused projections and bulkheads may so extend not more than five (5) feet.

SECTION V — AREA REGULATIONS

A. LOT SIZE.

1. In a single residence district no dwelling shall be erected on a lot containing less than

seventy five hundred (7500) square feet and having less than seventy five (75) feet of street frontage, unless such lot is of record at the time it is placed in a single residence district.

2. In a general residence district no dwelling shall be erected or altered to accommodate more than one family for each four thousand (4,000) square feet of the area of the lot and no building shall be erected on any lot containing less than six thousand (6,000) square feet, unless such lot is of record at the time it is placed in a general residence district.

3. In an agricultural district the lot size regulations shall be the same as those applicable in a general residence district.

4. In an apartment house district no building shall be erected or altered to accommodate more than one family for each five hundred (500) square feet of the area of the lot and no building shall be erected on any lot containing less than six thousand (6,000) square feet unless such lot is of record at the time it is placed in an apartment house district.

5. In any district no dwelling shall occupy more than seventy per cent (70%) of the area of its lot.

B. REAR YARDS.

1. In a single residence district no building shall be erected within a distance from the rear lot line equal to one quarter of the depth of the lot or twenty five (25) feet, whichever is the less.

2. In a general residence district no building shall be erected within a distance from the rear lot line equal to one fifth (1/5) of the depth

of the lot or twenty five (25) feet, whichever is the less.

3. In an apartment house district regulations for rear yards shall be the same as those applicable in a general residence district.

C. SIDE YARDS.

1. In a single residence district no building shall be erected within eight (8) feet of a side lot line, provided that the width of one side yard may be reduced by as much as two (2) feet if the other side yard is correspondingly increased.

2. In a general residence district no building or pair of semi-detached buildings shall be erected within six (6) feet of a side lot line.

3. In an apartment house district there shall be on each side of every building, except where there is a party wall, a side yard having a minimum width of six (6) feet which shall be increased two (2) feet if the building is more than three (3) stories in height.

4. In a local business or industrial district no dwelling shall be erected within six (6) feet of a side lot line.

D. FRONT YARDS.

1. In a single residence district no building shall be erected within twenty (20) feet of the street line, provided that no building need be set back more than twenty per cent (20%) of the depth of the lot, nor more than the average of the set backs of the buildings on the lots next thereto on either side.

2. In a general residence district regulations for front yards shall be the same as those applicable in a single residence district.

3. In an apartment house district no building shall be erected within ten (10) feet of the street line, provided that no building need be set back more than ten per cent (10%) of the depth of the lot nor more than the average of the set backs of the buildings on the lots next thereto on either side.

E. CORNER CLEARANCE.

1. In a single residence, general residence, agricultural or apartment house district, between the lines of intersecting streets and a line joining points on such lines twenty (20) feet distant from their point of intersection, or in the case of a rounded corner the point of intersection of their tangents, no building may be erected and no vegetation other than shade trees may be maintained between a height of three (3) feet and a height of eight (8) feet above the plane through their curb grades.

2. In a local business, commercial or industrial district, between the lines of intersecting streets and a line joining points on such lines ten (10) feet distant from their point of intersection, or in the case of a rounded corner the point of intersection of their tangents, no building may be erected and no vegetation other than shade trees may be maintained between a height of three (3) feet and a height of eight (8) feet above the plane through their curb grades.

F. ACCESSORY BUILDINGS.

On a lot occupied by a dwelling other than an apartment house or hotel, a one story building of accessory use thereto and not more than twelve (12) feet in height may be located in and

occupy not more than thirty per cent (30%) of the rear yard of such a dwelling.

G. MEASUREMENT OF REQUIRED OPEN SPACE.

In measuring the open space requirements on a lot, measurement shall be made from the street or lot line to a point located directly beneath the outermost edge of the building.

SECTION VI

ADMINISTRATION AND ENFORCEMENT

A. ADMINISTRATION.

This ordinance shall be administered by the Building Inspector. No building or structure or part thereof shall be erected, altered or moved without a permit from the Building Inspector, issued upon application, stating that the plans and intended use indicate that the building is to conform in all respect to the provisions of this ordinance. Upon written complaint of the Building Inspector, the City Marshal shall enforce this ordinance.

B. BUILDING PERMITS.

1. No permit shall be required for repairs and/or maintenance necessitated by ordinary wear and tear.

2. No permit shall be required for remodeling, where the total cost of such work, including materials, will not exceed four hundred dollars (\$400) and the purpose for which the building is to be used is not changed.

3. No permit for erecting or remodeling any building or other structure will be issued

until one copy of the plans and specifications and an estimate of the cost of such work have been submitted to and approved by the Building Inspector. Specification requirements may be waived by the Building Inspector. Permits may be issued for dwelling houses designed for not over two family occupancy, and appurtenances thereto, upon submission of a floor plan in lieu of complete plans and specifications.

4. The fee for a building permit, to be paid by the applicant, shall be determined as follows:

A minimum fee of one dollar (\$1) plus one dollar (\$1) for each one thousand dollars (\$1,000) of the estimated cost of the construction or alteration.

C. CERTIFICATE OF OCCUPANCY.

No premises or structure or part thereof hereafter erected or altered wholly or partly in use or structure, or moved, or the open spaces of which are in any way reduced, shall be used until the Building Inspector shall have certified on the building permit, or in case none is issued shall have issued a certificate of occupancy, specifying the use to which the premises, or building upon being sufficiently completed to comply with the provisions and regulations relating thereto, may be put.

D. BOARD OF ADJUSTMENT.

1. **Members.** The Board of Adjustment shall consist of five (5) members appointed by an appointive authority to be determined by the City Council. When the Board is first organized, one member shall be appointed to serve for one

year; one for two years; one for three years; one for four years and one for five years. Thereafter the appointive authority shall annually appoint one member for a term of five years.

2. **Appeals.** Appeals may be made to the Board of Adjustment from decision of the Building Inspector. Such appeal shall be taken by filing with the Building Inspector and with the Board, a notice of appeal specifying the grounds thereof. An appeal stays all proceedings under the action appealed from, unless the authority from whom the appeal is taken certifies to the Board of Adjustment after notice of appeal that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order granted by the Superior Court.

3. **Procedure.** The Board of Adjustment shall adopt rules in accordance with the provisions of the ordinance, including a time limit for the filing of an appeal. The Board shall fix a reasonable time for the hearing of the appeal and give public notice thereof, as well as notice to the parties in interest and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent, or attorney.

4. **Powers of the Board.** The Board of Adjustment shall have the following:

a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement hereof or of any ordinance adopted pursuant thereto.

b. To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

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

d. In exercising the above-mentioned powers such board may, in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, or decision, as ought to be made, and to that end shall have all the powers of the officer from whose decision the appeal is taken.

The concurring vote of three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such ordinance, or to effect any variation in such ordinance.

e. **Disqualification.** No member of the Board of Adjustment shall sit upon the hearing of any question which the board is to decide in a judicial capacity who would be disqualified from any cause, except exemption from service and knowledge of the facts involved gained in the performance of his official duties, to act as a juror upon the trial of the same matter in any

action at law. If a member shall be disqualified or unable to act in any particular case pending before the board the appointing authority, upon application of the board, shall appoint a member to act in his place upon said case.

E. PENALTY.

Failure to comply with the provisions of this ordinance shall be punishable by a fine against the owner of the property and/or the person obtaining the permit, said fine to be not less than one dollar (\$1) per day, nor more than ten dollars (\$10) per day, for each day the violation continues. No fine shall be assessed unless the owner fails to comply with any provisions of this ordinance within ten (10) days after having been notified in writing by the Building Inspector.

F. INTERFERENCE. *ADOPTED AUG. 5TH 1952*

This ordinance shall not interfere or annul any ordinance regulation or permit, provided that unless specifically excepted where this ordinance is more stringent it shall control.

G. VALIDITY.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision hereof.

H. EFFECTIVE DATE.

This ordinance shall take effect upon its passage.