

**CITY OF DOVER**

## CITY OF DOVER – ORDINANCE

Posted \_\_\_\_, 2023

Ordinance Number: **O – yyyy.mm.dd -**  
Ordinance Title: Updating the Dover Zoning Ordinance  
Chapter: 170

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, Table of Contents, by revising the ordinance to read as follows:

“170-6. Word ~~Uses~~ **Usage** and Definitions.”

**3. AMENDMENT**

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170, Table of Contents, by revising the ordinance to read as follows:

“170-15. ~~OPEN SPACE requirements~~ **Recreation Space and Separation between Use Requirements**.”

**4. AMENDMENT**

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6.B., “Word Usage and Definitions”, by revising the ordinance to read as follows:

“**DEVELOPMENT IDENTIFICATION SIGN** means a SIGN attached to a screening wall or landscape planter designed and intended to identify an approved multi-lot residential subdivision or multi-tenant site plan, located at the principal vehicular entry points. **Also includes a construction sign as a TEMPORARY SIGN, for this purpose.**”

**5. AMENDMENT**

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6.B., “Word Usage and Definitions”, by revising the ordinance to read as follows:

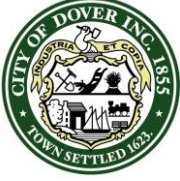
“**GROUND MOUNTED SOLAR** means a system installed on the ground rather than on the roof of a building. This allows the solar panels to be placed anywhere on the property and mounted at any height, from a few inches to many feet off the ground. Ground mounted solar may include motorized ground-mounts that track the sun throughout the day, ensuring the panels are facing the sun at all times, **as well as panels attached to stand-alone carports.**”

**5A. AMENDMENT**

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6.B., “Word Usage and Definitions”, by revising the ordinance to read as follows:

“**ROOFTOP SOLAR** mean a photovoltaic system that generates electricity by capturing solar ~~thermal~~ energy and is mounted on the rooftop of a residential or commercial building or structure.”

**6. AMENDMENT**



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Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6.B., “Word Usage and Definitions”, by revising the ordinance to read as follows:

“**JUNKYARD, MOTOR VEHICLE** means **includes** any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer operable or in condition for legal use on the public highways or used parts of motor vehicles or old iron, metal, glass, paper, cordage or other waste or discarded or secondhand material which has been a part or intended to be a part of any motor vehicles, the sum of which parts or materials shall be equal in BULK to two (2) or more motor vehicles. "MOTOR VEHICLE JUNKYARD" shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn materials which are parts of a motor vehicle or cut up the parts thereof.”

### 7. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6.B., “Word Usage and Definitions”, by revising the ordinance to read as follows:

“**UNSUITABLE DEVELOPMENT AREA** means the area of a site that includes wetlands, water bodies, slopes exceeding a grade of 20% and totaling more than 2,000 square feet of contiguous area, land used for septic systems, floodways, and floodway fringe within the 100-year FLOODPLAIN as shown on the latest FEMA maps accepted by the City, and public utility easements.”

### 8. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6.B., “Word Usage and Definitions”, by revising the ordinance to create a new definition, to read as follows:

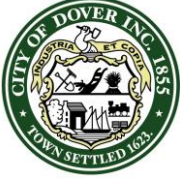
“**WINDOW SIGN** means a sign affixed to, or within one foot of a window, intended to be visible and readable from the RIGHT OF WAY or from adjacent property.”

### 9. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12.A., “Applicability of Tables of Use and Dimensional Regulations by District”, by revising the Dimensional Regulations Table in the Cochecho Waterfront District (CWD), to add footnote 8 next to “Permitted Uses”, to read as follows:

“[8]:

- Shall follow Solar/Green Roof Standard:
  - All buildings must be solar ready.
  - 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.
- Architecture shall complement the Design Guidelines for the Cochecho Waterfront Development.
- Approved public art is encouraged.”



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### 10. 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 revising the Dimensional Regulations Table in the Gateway District (G), to read as follows:

“~~Lot coverage~~ **COVERAGE: 50% max**”

### 11. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12., “Applicability of Tables of Use and Dimensional Regulations by District”, by revising the Dimensional Regulations Table in the Gateway District (G), to add footnote 1 next to “Permitted Uses” to read as follows:

“*[1] If a 4-story building is proposed, screening (year-round landscaping or solid fence) is required near property lines shared with adjacent properties where the building height is less than 4 stories, in order to create a visual buffer.*”

### 12. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-20.E.(3)., “Central Business District Regulations”, by revising the minimum standards criteria to read as follows:

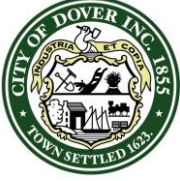
“(d) Lighting

- ~~(a)~~ (i) Materials and equipment chosen for lighting fixtures should be durable, energy efficient, and weather well. Appropriate lighting is desirable for nighttime visibility, crime deterrence, and decoration. However, lighting that is too bright or intense creates glare, hinders night vision, and creates light pollution.
- (ii) At the front of the BUILDING, exterior lights shall be mounted between six (6) feet and fourteen (14) feet above the adjacent grade.
- (iii) Floodlights or directional lights may be used to illuminate parking garages and working (maintenance) areas but must be shielded or aimed in such a way that they do not shine into other LOTS, or the STREET. Floodlighting shall not be used to illuminate BUILDING walls (i.e. no up-lighting), except in the TOD sub-district.
- ~~(v)~~ (iv) Site lighting shall be of a design and HEIGHT so as to illuminate only the LOT. **General site lighting shall conform with NH Dark Sky Policy, as applicable by RSA 9-E:3.**
- (v) No flashing, traveling, animated, or intermittent lighting shall be visible from the STREET on the exterior of any BUILDING, whether such lighting is of temporary or long-term duration.”

### 13. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-20.B.(1), “Central Business District Regulations”, Conditional Use Permit criteria by revising the ordinance to amend the following section as follows:

“~~(1)~~ See Section 170-19 for Conditional Use Permit Criteria.



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- ~~(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.~~
  - ~~(f) That CIVIC BUILDINGs and public gathering places shall 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.<sup>2</sup>~~

## 14. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by adding Chapter 170-19 (which is Reserved to “Non-Environmental Conditional Use Permit Criteria”) by revising the ordinance to add a new section, to read as follows:

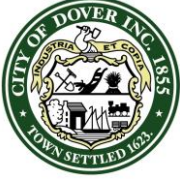
“170-19 Non-Environmental Conditional Use Permit Criteria.

A. Purpose and Intent

- (1) Where a Conditional Use Permit is being requested for relief by use or standards as allowed by this ordinance, the following criteria in Section B shall be met.

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, floorplan, public, and private space.**



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- (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.
- (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.
- (3) Conditional use approval shall be subject to a formal agreement between the PLANNING BOARD and the APPLICANT. Said agreement shall be recorded at the Strafford County Registry of Deeds

### 15. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-27.1.B.(2)., “Wetland Protection District”, by revising the purpose and intent criteria to read as follows:

“(2) Prevent the destruction of, or significant changes to, wetlands which provide critical functions and values including but not limited to: flood protection, habitat for wildlife dependent on wetlands, enhance water quality (nutrient trapping/retention/transformation and sediment trapping), protect ecological integrity, recharge the groundwater supply and augment stream flow during dry periods and filtration of water flowing into ponds and streams.

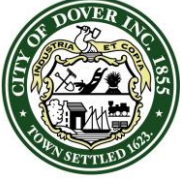
### 16. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-27.1.F., “Wetland Protection District”, by revising the conditional use approval criteria to read as follows:

“A. Conditional use approval.

- (1) Conditional use approval may be granted by the PLANNING BOARD (RSA 674:21II) after proper public notice and public hearing, for construction within the Wetland Protection District or buffer. Said construction may include, but is not limited to a road or other accessway, utility right-of-way, communication lines, power lines and pipelines, STRUCTUREs, and parking LOTs provided that the proposed construction complies with the following standards:





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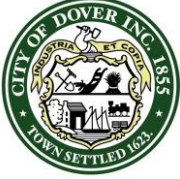
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- (a) *Practicable Alternative:* There is no practicable alternative that would have a less adverse impact on the area.
  - (b) *Avoidance:* The potential impacts have been avoided to the maximum extent practicable. The APPLICANT will demonstrate by plan and example that the proposed construction represents the least impacting alternative.
  - (c) *Minimization:* Any unavoidable impacts have been minimized. No reasonable Alternative to the proposed construction exists which does not impact a wetland or which has less detrimental impact on a wetland. Design, construction and maintenance methods will be prepared by a registered engineer to minimize detrimental impacts to the wetlands and will include restoration of the site as nearly as possible to its original grade.
  - (d) *Mitigation:* If the APPLICANT is required by State rules to prepare a compensatory mitigation plan, the APPLICANT shall provide the Conservation Commission and PLANNING BOARD with one copy each of said plan for their review.
  - (e) Approval for the wetlands impact has been received from the NHDES Wetlands Bureau pursuant to Section G (3), below.
  - (f) **To assess and summarize the wetlands' functions and values as denoted in the NH Method and Section 170.27.1(B)(2).**
- (2) The burden of proof that the conditions specified in Subsection F (1) and/or (2) above have been met shall be the responsibility of the person(s) requesting the conditional use approval, except as herein provided.
  - (3) The conditional use approval shall apply only to the project specified at the time of approval and shall not be transferable to a different project.
  - (4) If deemed necessary by the PLANNING BOARD, prior to the granting of a conditional use approval, the APPLICANT shall agree to submit a performance security to ensure that all operations are carried out in accordance with an approved design. This security shall be submitted in an amount sufficient to complete all specified work and repair damage to any wetland area in which no work has been authorized. The security shall be submitted in an amount, with surety and conditions satisfactory to the PLANNING BOARD. The security shall be submitted and approved prior to issuance of any permit authorizing construction.
  - (5) The PLANNING BOARD may assess the APPLICANT reasonable fees to cover the costs of special investigative studies and for the review of documents required by applications.
  - (6) **A narrative be provided indicated criteria of a-f above have been met.”**

### 17. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-27.2.E.(4)., “TRANSFER OF DEVELOPMENT RIGHTS.”, by revising the procedural requirements criteria to read as follows:

“(4) A sketch plan estimating layout of the development site and identifying the OPEN SPACE associated with the plan shall be submitted to the PLANNING BOARD for review at a regularly scheduled meeting. The PLANNING BOARD, within thirty (30) days of its review of the sketch plan, shall determine if waivers will be granted as allowed in Subsections G and H below. **Waivers shall be reviewed using the same criteria as are used for Site Plan Waivers.** Following this decision, a final application is prepared. The final application for development approval shall be reviewed in



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accordance with the standard plan review process and subjected to all applicable development regulations, except as provided in this section.

### 18. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-27.2.G(8)., “TRANSFER OF DEVELOPMENT RIGHTS.”, by revising the criteria to read as follows:

- (8) 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 a narrative is submitted indicating how those criteria are met:** ~~A narrative shall be submitted indicating how the following criteria are met.~~
- (a) Is consistent with the Master Plan
  - (b) Is not incompatible with the land uses on neighboring LOTs (eg a multifamily building **fits in with** in a single family neighborhood). **The applicant shall provide in their narrative an explanation of their neighborhood analysis.**
  - (c) Is created on property served by public water and sanitary sewer.
  - (d) **Any relief sought should not be caused by the additional density**

### 19. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-32.C.(7)., “SIGN Review and Regulations”, by revising the general provisions criteria to read as follows:

- “(7) No SIGN shall be painted or affixed with adhesive directly on the surface of a BUILDING.
- (a) **Window decals (such as: adhesive; labels; placards) are not permissible when affixed on the outside of a window, but are, generally, allowed when affixed to the inside.”**

### 20. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-32.C.16., “SIGN Review and Regulations”, by revising the general provisions criteria to read as follows:

- “(16) On a BUILDING or project under construction, or on a property currently for sale or rent, one additional SIGN is permitted and shall conform to the following additional regulations:
- (a) One (1) SIGN not exceeding thirty-two (32) square feet is permitted on a BUILDING or project under construction. Such SIGN shall be removed upon the receipt of a CERTIFICATE OF OCCUPANCY or upon the expiration of the BUILDING permit. **An additional one (1) SIGN not exceeding thirty-two (32) square feet is also permitted as a temporary DEVELOPMENT IDENTIFICATION SIGN at the principal vehicular entry point.** Said SIGN shall not be subject to the permitting requirements of this Section.
  - (b) One (1) SIGN not to exceed four (4) square feet may be erected on a property currently for sale or rent. Said SIGN shall not be subject to the permit requirements of this Section.”

### 21. AMENDMENT



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Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-53.D, “Amendment Procedure: Public Notice and Hearing Requirements”, by revising the ordinance to read as follows:

“D. Public Notice and Hearing Requirements.

- (1) Public Notice. Public notice shall be given for the time and place of the public hearing at least ten (10) days before the hearing, not including the day the notice is posted or published or the day of the public hearing. ~~In accordance with the requirements of RSA 675:7, I(a) and RSA 675:1(b)(3), notice of the public hearing shall be placed in a newspaper of general circulation in the city and~~ shall be posted in at least three (3) public places, including the City web-site. ~~In accordance with RSA 675:7, I(b), the posting on the City website shall appear prominently on the City’s homepage (or a link directly to the notice appearing prominently on the City’s homepage), shall be posted at least ten (10) days before the hearing, and shall remain posted on the website until the conclusion of the hearing.~~
- (2) Notice to Landowners and ABUTTERS. Except as hereinafter provided, a letter of notification shall be sent to landowners whose property lies within that area affected by ~~the a rezoning boundary change, change in permitted minimum lot sizes, or change in permitted use to their zone. Otherwise, notices will be sent per RSA 675:7. proposed amendment and to landowners whose property lies within one hundred (100) feet of the subject area.~~ All such notices shall be ~~sent to the address used for mailing local property tax bills, shall be~~ by first class mail, and shall be sent at least ten (10) days prior to the scheduled public hearing date. ~~In accordance with RSA 675:7, I-a, good faith effort and substantial compliance shall satisfy the notice requirements set forth in this subparagraph. In accordance with RSA 675:7, I-b, in the event of petitioned zoning amendments, the petitioners shall be responsible for the full cost of notice by mail as set forth in this subparagraph. The requirements of RSA 675:7 shall apply if and to the extent RSA 675:7 (as may be amended from time to time) provides other or more stringent requirements than the notice and other requirements stated in this subparagraph.~~
- (3) Text of Notice. All letters of notification and public notices shall state the time and place of the public hearing, the nature of the amendment, a general description of the property involved, where applicable, and designating a place where the full text of the amendment is on file for public inspection.”

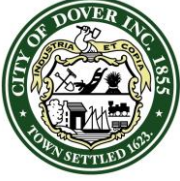
### 22. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12.A., “Applicability of Tables of Use and Dimensional Regulations by District”, by revising the Dimensional Regulations Table in the Commercial Manufacturing District (CM), to remove “Hotel/Motel” from permitted uses with a CUP as it is already listed as a Permitted Use.

### 23. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12.A., “Applicability of Tables of Use and Dimensional Regulations by District”, by revising the Dimensional Regulations Table in the Commercial Manufacturing District (CM), to remove “Educational Institution, Post Secondary” from permitted uses with a CUP as no CUP specific criteria are listed on the CM table.





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## 24. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-28.2 “Residential-Commercial Mixed Use (RCM) Overlay District” by revising subsection C. Location to read as follows:

“The Residential-Commercial Mixed Use Overlay District shall include any parcel located within the CM, IT or R-40 zone, which is greater than 20 ~~25~~ acres, and served by public water and sanitary sewer.”

## 25. TAKES EFFECT

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

## AUTHORIZATION

Approved as to Funding: Daniel R. Lynch  
Finance Director

Sponsored by: Councilor Fergus Cullen  
City Council Planning Board  
Representative

Approved as to Legal Form and Compliance: Joshua M. Wyatt  
City Attorney

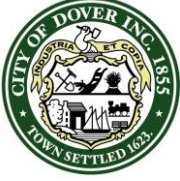
Recorded by: Susan Mistretta  
City Clerk

## DOCUMENT HISTORY:

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

## DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
Mayor, Robert Carrier		
Deputy Mayor Dennis Shanahan, Ward 5		
Councilor Michelle Moffet Lipinski, Ward 1		
Councilor, Robert Hinckle, Ward 2		
Councilor Deborah Thibodeaux, Ward 3		
Councilor Debra Hacket, Ward 4		
Councilor Fergus Cullen, Ward 6		
Councilor Lindsey Williams, At Large		



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Councilor Linea Nemeth, At Large		
Total Votes:		
Resolution does   does not pass.		

### ORDINANCE BACKGROUND MATERIAL: