

**CITY OF DOVER**

## CITY OF DOVER – ORDINANCE

Posted February, 09 2021

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 170-6 “Word Usage and Definitions” by revising the definition of Accessory Structure as follows:

“**ACCESSORY STRUCTURE** means a **STRUCTURE** with a minimum **FLOOR AREA** of ~~400~~ 200 square feet which exists on the same **LOT** and within the same zoning district as the **PRINCIPAL BUILDING** and which shall be customarily incident and subordinate to the **PRINCIPAL BUILDING** subject to the provisions of Chapter 170-10 E.”

### 3. AMENDMENT

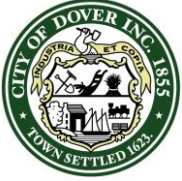
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-6 of said Chapter as follows:

“The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from “Rural Residential District” (R-40) to “Low Density Residential” (R-20) District an area of approximately 42 acres located along Bellamy Road and Cold Springs Road, consisting of Map H lots 4-A, 4-C, 4-D, 4-E, 4-F, 4-U, 6-L, 45-A, 45-B, 45-C, 46, 47-A, 48, 49, 50, 50-A, 55 and the portion of Map H lot 53 that is zoned R-40”

### 4. 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 Medium Density Residential District (R-12) footnote [6] as follows:

“Any dwelling unit ~~existing on or before May 27, 1964,~~ may be converted, not replaced, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.



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2 family dwellings shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents.”

AND

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 Medium Density Residential District (R-12) footnote [7] as follows:

“Two family dwellings are permitted in the R-12 Districts when incorporated in an open space subdivision and comply with all regulations specified in Chapter 157, Subdivision of Land, Article IV, Open Space Subdivisions, of the Code of the City of Dover, 1983 on lots with a density of nine thousand (9,000) square feet per dwelling unit. The structures shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents. Single family density shall be used for TDR. If two family density is used, a two family unit shall be built.”

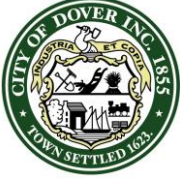
AND

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 Medium Density Residential District (R-20) footnote [6] as follows:

“Any dwelling unit existing on or before May 27, 1964, may be converted, not replaced, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.

2 family dwellings shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents.”

AND



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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 Medium Density Residential District (R-20) footnote [7] as follows:

~~“Use is allowed when included within an Open Space Subdivision with commercial components. (See 157.21 section 7). Two family dwellings are permitted on lots with a density of twelve thousand (12,000) square feet per dwelling unit. The structures shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents. Single family density shall be used for TDR. If two family density is used, a two family unit shall be built.”~~

AND

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 Medium Density Residential District (R-40) footnote [6] as follows:

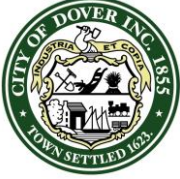
~~“Any dwelling unit existing on or before May 27, 1964, may be converted, not replaced, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.~~

2 family dwellings shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents.”

AND

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 Medium Density Residential District (R-40) footnote [8] as follows:

“3-4 family dwellings Use is are allowed when included within an Open Space Subdivision with commercial components. (See 157.21 section 7). 2 family dwellings are permitted by right. In either case, the density on lots shall be twenty five thousand (25,000) square feet per dwelling unit. The structures shall be designed to look like single



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family dwellings (i.e. the 2, 3 or 4 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents. Single family density shall be used for TDR. If more than a single family density is used, that style of unit shall be built.”

AND

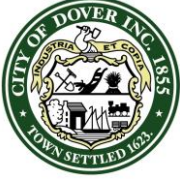
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District” by revising the Dimensional Regulations Table in the Urban Density Multi-family Residential District (RM-U) Conditional Use Criteria for Conversion to, or creation of Dwelling, 3-4 Family as follows:

“Conversion to, or creation of Dwelling, 3-4 Family.[Added 3-25-87 by Ord. No. 6-87]: Three- or four-family dwellings and conversions of existing dwellings to three (3) or four (4) units shall be subject to the following regulations:

- A. The specific site must have an amount of open space, either landscaped or left natural, at least equal to the average amount of open space on all developed lots in the RM-U District that are wholly or partly within two hundred (200) feet of the subject parcel. Existing parking areas, either gravel, paved or unpaved, shall not be considered to be open space.
- B. Off-street parking, in accordance with Chapter 153, Site Review, shall be provided as to avoid vehicles backing into the street. Two (2) parking spaces per unit shall be required.
- C. Parking lots shall be at least five (5) feet from a side property line and ten (10) feet from a front property line.
- D. Parking areas shall be screened from the street and from abutting lots.
- E. Structures shall be at least twenty (20) feet from a front property line, fifteen (15) feet from a rear property line and fifteen (15) from a side property line unless abutting a street, in which case, the distance from the side property line shall be twenty (20) feet.
- F. If the units generated are restricted to the HUD Fair Market Rent rates, for Dover, criteria A and E do not apply.

### 5. 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 footnote [2] in the Dimensional Regulations Table in the Medium Density Residential District (R-12), Low Density Residential District (R-20)], and Rural Residential District (R-40) as follows:



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“[2] Refer to 170-13, ~~and~~ 170-14 and 170-27D for exceptions to lot size, frontage and setback requirements.”

AND

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 Urban Density Multi-Residential District (RM-U) footnote [1] on the Suburban Density Multi- Residential District (RM-SU), Heritage Residential, (HR), Commercial (C), Commercial Manufacturing (CM), Innovative Technology (IT), Little Bay Waterfront (LB), Office (O), and Hospital (H) districts as follows:

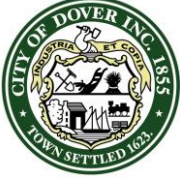
“[1] Refer to 170-13, ~~and~~ 170-14 and 170-27D for exceptions to lot size, frontage and setback requirements.”

### 6. AMENDMENT

Chapter 151 of the Code of the City of Dover, entitled Zoning, is hereby amended by consolidating Chapter 170-14 “Nonconforming Lots” and Chapter 170-39 “Nonconforming Lots” to read as follows:

170-14. Nonconforming LOTS. [Amended on 6-10-87 by Ord. No. 13-87; Amended on 08-01-90 by Ord. No. 8-90; **Amended on 08-22-2018 by Ord. No. 2018.08.08-009.**] “In any district, structures which are allowed by right, but not structures that are allowed by special exception, may be erected on any nonconforming lot of record even though such lot fails to meet the requirements for area width or frontage provided that:

- a. The lot has been duly recorded at the Strafford County Registry of Deeds on or before the effective date of adoption of this Chapter.
- b. Should the lot be less than five thousand (5,000) square feet and not have a minimum width of fifty (50) feet, it may be developed as long as the home constructed is no larger than one thousand (1,000) square feet in total living space.
- c. If the lot has a land area of at least five thousand (5,000) square feet and a minimum width of fifty (50) feet, a home constructed may be larger than one thousand (1,001) square feet in in total living space.
- d. In either case, the following side yard restrictions shall apply:
  - i. A lot with a width of one hundred ten (110) feet or less and greater than seventy-five (75) feet, shall have a minimum side yard of ten (10) feet.
  - ii. A lot with a width of less than seventy-five (75) feet shall have a minimum side yard of six (6) feet.”



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~~The erection of a BUILDING or STRUCTURE shall be permitted on any LOT which has been duly recorded at the Strafford County Registry of Deeds on or before the effective date of adoption of this Chapter, provided that:~~

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

~~(1) A LOT with a width of one hundred ten (110) feet or less and greater than seventy five (75) feet, shall have a minimum SIDE YARD of ten (10) feet.~~

~~(2) A LOT with a width of seventy five (75) feet or less and fifty (50) feet or more shall have a minimum SIDE YARD of six (6) feet.~~

~~B. Refer to Article XI of this Chapter for provisions regulating nonconforming LOTS that are adjacent or of continuous FRONTAGE and NONCONFORMING USES and STRUCTURES.~~

~~170-39. Nonconforming LOTS. Reserved~~

~~In any district, structures which are allowed by right, but not structures that are allowed by special exception, may be erected on any nonconforming lot of record even though such lot fails to meet the requirements for area width or frontage. See 170-14 for exceptions to the dimensional regulations. Further, yard dimensions and requirements other than those applying to area, width and FRONTAGE shall conform to the regulations for the district in which the LOT is located.~~

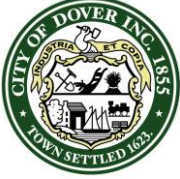
### 7. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-16 “Swimming Pools” by revising to exclude small temporary wading pools to read as follows:

“Chapter 170-16. Swimming Pools. [Amended 12-09-2009 by Ord. No. 2009.09.09-15, Amended on 07-22-2020 by Ord. No. 2020.07.08.006.]

In Districts allowing one (1) Family Dwellings, two (2) Family Dwellings, and three to four (3 –4) 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 (4) feet in HEIGHT, which shall be so constructed as not to have openings, holes or gaps larger than four (4) inches in any dimension, except for doors and gates, and if a FENCE is erected or maintained, the horizontal dimension shall



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- not exceed four (4) inches. A primary dwelling or accessory BUILDING or STRUCTURE may be used as part of the enclosure.
- B. Gates. All gates or door openings through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gates or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
- C. Applicability. The requirements of this Chapter shall be applicable to all new swimming pools hereafter constructed, other than indoor pools and temporary wading pools less than twenty-two inches (22") deep or eight feet (8') in diameter (whichever is more restrictive), and shall apply to all existing pools which have a minimum depth of eighteen (18) twenty-two (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 (18) twenty-two (22) inches shall fail to provide and maintain such FENCE or wall as herein provided.

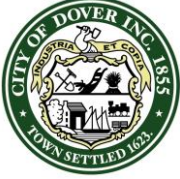
### 8. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-18 "Customary Home Occupations" subsection D (1) to allow residential uses in any part of a building, so long as non-residential uses meet the read as follows:

"170-18. CUSTOMARY HOME OCCUPATIONs.

A CUSTOMARY HOME OCCUPATION is a permitted use in all Residential Districts. The following conditions apply:

- A. "Home occupation" shall include not more than one (1) of the following uses, provided that such uses are clearly incidental and secondary residential purposes; dressmaker, artist, arts and crafts, writer, teacher, provided that not more than eight (8) pupils simultaneously occupy the BUILDING, musician, antique dealer, hairdresser, HOME BASED AGRICULTRUAL 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 (1) nonresident shall be employed therein.
- C. The use is carried on strictly by the occupant of the PRINCIPAL BUILDING.
- D. No more than twenty-five percent (25%) of the existing net FLOOR AREA of the principal and any ACCESSORY STRUCTURE not to exceed six hundred (600) square feet is devoted to such use.



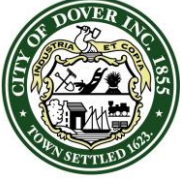
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- E. There shall be no display of goods or wares visible from the STREET.
- F. No advertising on the premises other than a small no-illuminated SIGN not to exceed two (2) square feet in area and carrying only the occupant's name and his occupation.
- 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.
  - a. No rallying of employees for offsite work shall be conducted.
  - b. 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. Onsite 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 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.
- I. A minimum of two (2) OFF-STREET PARKING SPACEs shall be provided. All driveways to be used in connection with such occupations shall conform to Chapter 153 Site Plan Review or Chapter 157 Land Subdivision Regulations, as appropriate.
- J. Not more than one (1) 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





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January 1st following the date of approval of the certificate of use and then by every January 1st 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.

- 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 (i) deliveries or pickup of supplies or materials in excess of normal residential use, or (ii) clients coming to the property.

### **9. AMENDMENT**

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-20 “Central Business District” subsection D (1) to allow residential uses in any part of a building, so long as non-residential uses meet the read as follows:

- (1) General Guiding Principles for BUILDING Placement
  - (a) The goal of the BUILDING HEIGHT and BUILD TO LINE standards is the creation of a healthy and vital public realm through good STREET space.
  - (b) BUILDINGs are aligned and close to the STREET.
  - (c) The STREET is a coherent space, with consistent BUILDING forms on both sides of the STREET, creating a clear PUBLIC SPACE and community identity.
  - (d) BUILDINGs oversee the STREET (and SQUARE) with active fronts contributing to a vital and safe PUBLIC SPACE.
  - (e) Property lines are physically defined by BUILDINGs or STREET WALLs.
  - (f) BUILDINGs are designed for an urban feel and situation. Views are directed to the STREET and the garden/courtyard, not toward the neighbors. However within the STREET wall alcoves or small courtyards are permitted to allow for seating and public access



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- (g) Vehicle storage, garbage and mechanical equipment are kept away from the STREET.
- (h) Within the General, and Mixed Use, ~~and TOD~~ sub-districts, new non-residential retail and commercial activities must make up at least 20 percent of the structure are located on the GROUND FLOOR. Residential activity is not permitted, except as follows:
  - 1. ~~Where a BUILDING does not front directly onto a STREET or municipal parking lot, residential activity may be located on the GROUND FLOOR.~~
  - 2. If retail and commercial activities are located on the GROUND FLOOR of BUILDINGs not fronting directly onto a STREET or municipal parking lot, the HEIGHT of the BUILDING may be increased by one (1) story.
    - i. Any additional stories shall be setback to create a terrace, and approved via a Conditional Use Permit.
- (i) In the ~~Gateway~~ TOD residential may be located on the GROUND FLOOR, however new retail and commercial activities are encouraged to be developed.
- (j) Parking (not including on-street parking) should be away from the STREETS and shared by multiple owners/users.
- (k) Historic character should be preserved and enhanced by context sensitive construction.

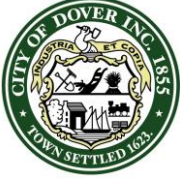
### 10. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-24 “Accessory Dwelling Units” by revising the requirements to allow two ADUs per single family home, if the second unit meets the HUD Fair Market Rental Rates to read as follows:

*“170-24. ACCESSORY DWELLING UNITS. [Amended on 11-28-2012 by Ord. No. 2012.11.14-24; Amended on 06-22-2016 by Ord. No. 2016.06.08-010.]*

Where permitted, an ACCESSORY DWELLING UNIT shall comply with the following:

- A. A maximum of one (1) ACCESSORY DWELLING UNIT (ADU) per property is permitted, unless the second unit meets HUD Fair Market Rent rates, for Dover,



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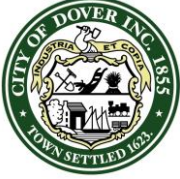
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published annually by the New Hampshire Housing Finance Authority. An ADU shall not be permitted on property where more than one DWELLING UNIT currently exists.

- 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 multi-family STRUCTURE (i.e., the house should not look like it was designed to occupy more than one family). The construction of any access ways into the house and/or detached garage 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 three hundred (300) square feet and no greater than eight hundred (800) square feet. If located in a detached ACCESSORY STRUCTURE, the ACCESSORY DWELLING UNIT shall be located entirely on the second floor of the STRUCTURE.
- D. A minimum of one dedicated OFF-STREET PARKING space shall be provided for the ADU.
- E. The SINGLE-FAMILY DWELLING (and detached ACCESSORY STRUCURE, 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, water and sewer utilities shall be metered on a single bill.
- G. Where municipal sewer service is not provided, the septic system shall meet NH Department of Environmental Services, Water Division requirements for the combined system demand for total occupancy of the premises.



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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<sup>st</sup> following the date of approval of the certificate of use and then by every January 1<sup>st</sup> 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.

### 11. 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 the location to read as follows:

#### “C. Location

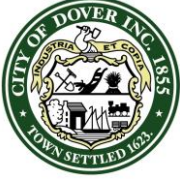
The Residential-Commercial Mixed Use Overlay District shall include any parcel located within the CM, IT or R-40 zone, which is greater than ~~50-25~~ acres, and ~~within five hundred (500) feet of a road maintained by the State of New Hampshire served by public water and sanitary sewer.~~”

AND

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 the Procedural Concepts section to read as follows:

#### “E. Procedural Concepts

(1) The developer shall prepare a Development Plan, which locates the proposed types of non-residential and residential development, utilities, access roads, and public ways. The parcels comprising the development may be under separate ownership, but shall be treated as one development and shall be bound by the approval granted for the entire Development Plan. If approval is granted, individual LOTs must be developed as part of the larger Development Plan and phasing outlined below, and not separately. The Development Plan must identify the percentage of the non-residential uses, residential uses and OPEN SPACE. Non-residential and/or mixed use uses must comprise at least fifty-five percent (55%) of the total proposed FLOOR AREA for the development (~~outdoor display areas may be counted towards the minimum required FLOOR AREA~~); residential uses must not exceed forty-five percent (45%) of the



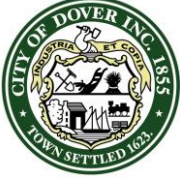
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- total proposed FLOOR AREA for the development. Nonresidential uses within projects located in the CM district must be 90% manufacturing and assembly in nature. A BUILDING shall be considered “mixed use” provided that at least 50% of the FLOOR AREA of the first floor is reserved as commercial space and provided that such commercial space is located roughly in the front half of the BUILDING and extends the length of the BUILDING façade. Residential ACCESSORY USES (e.g. mechanical, storage, laundry, etc.) are permitted to be located within the back half of the first floor of any mixed use BUILDING.
- (2) A minimum of twenty percent (20%) of the area of the original tract shall be reserved as OPEN SPACE and identified as such on the Development Plan. Fifty percent (50%) of the required OPEN SPACE (as defined in Chapter 155-60) must be usable uplands and reasonably accessible to all property owners in the project. Any OPEN SPACE provided above twenty percent (20%) may be mixed wetlands and upland.
  - (3) Residential uses require that the calculation of permitted density shall be completed through the submission of a yield plan (as defined in Chapter 155-60, Subdivision of Land) applied to the Development LOT and not individually to the Internal Dwelling LOTS.
  - (4) For residential development that includes single family homes over 1,001 square feet of total living area, or three (3) to four (4) family ~~or MULTI-FAMILY DWELLINGS~~, density shall be based upon calculating one (1) unit per forty thousand (40,000) square feet of CONTIGUOUS upland, and using one hundred fifty (150) feet of FRONTAGE on a public roadway.
  - (5) For single family residential homes 1,000 or less square feet of total living area, development, ~~or~~ two family dwellings, or MULTI-FAMILY DWELLINGS-density shall be based upon calculating one unit per ten thousand (10,000) square feet of CONTIGUOUS upland, and using one hundred (100) feet of FRONTAGE on public a roadway.
    - a. If units are restricted so that the rent of said units conforms to the HUD Fair Market Rent rates, for Dover, published annually by the New Hampshire Housing Finance Authority, there shall be no density for said unit(s).
  - (6) The Development Plan may be phased for a term of five (5) years. The phasing plan shall contain provisions which promote the mixed use of the site consistent with Section 170-28.2.A. For the purposes of this section, development shall include:
    - (a) construction of STRUCTURES;
    - (b) environmental remediation;
    - (c) site preparation or demolition;



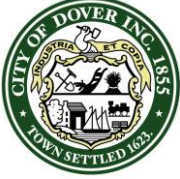
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- (d) roadway utility or recreation and common area design and construction; and
- (e) bonding or other security for site development.
- (7) The phasing plan shall provide that no more than fifty percent (50%) of the residential development may be occupied prior to completion of between twenty-five percent (25%) and fifty percent (50%) of the non-residential STRUCTURES as negotiated between the PLANNING BOARD and the Developer, and included in the Conditional Use Approval.
- (8) Provided that the developer is making reasonable efforts to develop the site, the PLANNING BOARD may extend the initial five (5) year phasing period provided a request for extension is submitted before the expiration of the initial five (5) year phasing term.
- (9) Residential Development Plan Guidelines
  - (a) The developer shall be permitted to allocate permitted density among Internal Dwelling LOTS in a flexible and creative manner. The sum total of the permitted density shall not exceed the permitted density of the Development LOT or Legal LOT, unless the additional density is derived from the Transfer of Development Rights Ordinance. Layouts may include individual LOTS or a cluster of units without LOT LINES.
  - (b) Dwelling layouts shall be so designed that parking is screened from external roadways by garages, BUILDING locations, grading or screening. Major topographical changes or removal of existing trees shall be avoided wherever possible, and water, wetlands, and other scenic views from the external STREETS shall be preserved as much as possible.
  - (c) Where possible, it is desirable and encouraged to mix residential and non-residential uses. This may be achieved through situating the BUILDINGS close to each other, or though allowing STRUCTURES to house residential – preferably on the second or above floor, with non-residential on the first floor. Creativity and flexibility is encouraged and the development plan may offer another option for mixing uses.
  - (d) All residential development must adhere to architectural design guidelines. Said standards will reflect a New England village motif and include STRUCTURES with peaked roofs, and architectural shingles. The guidelines for this development are included in Chapter 149, Section 14.2, Site Review Regulations.
  - (e) All MANUFACTURED HOMES shall adhere to the standards outlined in Chapter 126, MANUFACTURED HOME PARKS, with the exception of Sections 126-3, 126-4, 126-5, 126-6, and 126-7.H which shall be controlled by the provisions



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hereof and unless noted below. Where there is a difference in the requirements between this Overlay District and the provisions of Chapter 126, “MANUFACTURED HOME PARKS”, the provisions of the Overlay District shall apply.

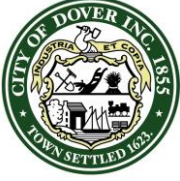
- (10) Nonresidential Development Plan Guidelines
- (a) The general character of the nonresidential STRUCTUREs within the development LOT is intended to be a pedestrian friendly setting, with emphasis on the natural characteristics of the site. The site design should create a sense of character and cohesiveness through landscaping, façade treatment, and SIGNAGE.
  - (b) The guidelines for this development are included in Chapter 149, section 14.2, Site Review Regulations”

### 12. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-41 “Nonconforming Structures” adding new subsection F to clarify setbacks allowed for accessory structures to read as follows:

Where a lawful STRUCTURE exists at the effective date of adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, LOT COVERAGE, HEIGHT or yards, its location on the LOT or other requirements concerning the STRUCTURE may be continued so long as it remains otherwise lawful, subject to the following:

- A. Except as provided for in 170-40.A and 170-41.D, no such nonconforming STRUCTURE may be enlarged or ALTERed in a way which increases its nonconformity, but any STRUCTURE or portion thereof may be ALTERed to decrease its nonconformity.
- B. A BUILDING or STRUCTURE nonconforming either in terms of use or BULK may be restored to its former BULK if destroyed by fire, other hazard or if it is determined by the BUILDING OFFICIAL to be a hazard to persons or BUILDINGS abutting it, provided that restoration of the STRUCTURE is begun within twelve (12) months after the act of destruction. All such STRUCTURES in use at the time of destruction for agricultural purposes shall be exempt from the provisions of this subsection, provided that such reconstruction, ALTERATIONs or repairs are in compliance with the provisions of subsection A.



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- C. Should such STRUCTURE be intentionally moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. Additions to nonconforming single-family STRUCTUREs, that were made nonconforming by a zoning amendment that changed the front, side or REAR SETBACK requirements, shall be permitted within the front, side or REAR SETBACK areas provided that the addition is no closer to the LOT LINE than the existing nonconforming STRUCTURE, and no closer than ten (10) feet from the LOT LINE.
- E. For nonconforming single-family STRUCTUREs, that were made nonconforming by a zoning amendment that changed the front, side or REAR SETBACK requirements, Accessory Structures that are less than one story in height, shall be permitted within the front, side or REAR SETBACK areas provided that the accessory structure is no closer to the LOT LINE than the existing nonconforming Principal STRUCTURE, and no closer than five (5) feet from the LOT LINE, and has no windows on the side of the building facing that encroached area.

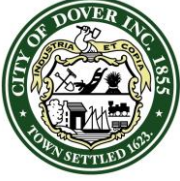
### 13. TAKES EFFECT

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 Dennis Ciotti City Council Planning Board Representative
Approved as to Legal Form and Compliance:	Joshua M. Wyatt City Attorney		
Recorded by:	Susan Mistretta City Clerk		





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### 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 Ciotti, Ward 2		
Councilor Michelle Moffet Lipinski, Ward 1		
Councilor Deborah Thibodeaux, Ward 3		
Councilor Joshua Manley, Ward 4		
Councilor Dennis Shanahan, Ward 5		
Councilor Fergus Cullen, Ward 6		
Councilor Lindsey Williams, At Large		
Councilor John O'Connor, At Large		
Total Votes:		
Resolution does   does not pass.		

### ORDINANCE BACKGROUND MATERIAL: