

# ZONING BYLAW

## Town of Dover, Vermont

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ZONING BYLAW  
TOWN OF DOVER, VERMONT

ARTICLE 1: GENERAL PROVISIONS

Section 100: ENACTMENT

In accordance with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117 (hereinafter referred to as the "Act"), Section 4401, there is hereby established a Zoning Bylaw for the Town of Dover which is set forth in the text and maps that constitute this bylaw. This Bylaw shall be known as the "Town of Dover Zoning Bylaw".

Section 110: PURPOSE

It is the intent of this Bylaw to provide for orderly community growth and to further the purposes established in the Act, Section 4302, and to provide for the public health, safety and welfare. Special reference is made to the provision of the Dover Town Plan, Adopted January 1985 and amended July 1985, December 3, 1986, May 19, 1987, December 22, 1987, and October 12, 1988, and renewed and adopted October 15, 1991, and again renewed and adopted on March 28, 1998 and on December 4, 2001, October 25, 2005, and October 7, 2008 which this bylaw is designed to implement.

Section 120: APPLICATION OF REGULATIONS

Except as hereinafter provided, no land development as defined herein may occur unless in conformity with the regulations herein specified for the district in which it is located.

Any use not permitted by this Bylaw shall be deemed prohibited, except as provided in Section 490.

Section 130: INTERPRETATION

This Bylaw is not intended to repeal, annul or in any way impair any State or local regulations, valid permits (including Act 250 and existing subdivisions as defined in 10 V.S.A., Section 6081) previously adopted or issued. Where the Bylaw imposes a greater restriction upon use of a structure or land than is required by any other statute, ordinance, rule, or regulation, the provisions of this Bylaw shall control. In any case, where the restrictions of this Zoning Bylaw overlap or conflict in their application to a particular structure, use or parcel of land, those provision which would impose the greater restrictions shall control.

Section 140: AMENDMENTS

This Bylaw may be amended according to the requirements and procedures established in Section 4441 and 4442 of the Act.

Section 170: SEVERABILITY

The invalidity of any article or section of this Bylaw shall not invalidate any other article or section thereof.

## ARTICLE 2: DEFINITIONS

For the purpose of these Regulations, certain terms or words shall be defined as below. Any doubt as to the precise meaning of any word used in these Regulations shall be clarified by the Zoning Administrator with the Right of Appeal as outlined in Article V, Section 506. Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense shall include the future; the singular includes the plural; the word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied"; "person" includes individual, partnership, association, cooperative, corporation, company, organization or any governmental body.

**ACCESSORY APARTMENT:** A new efficiency or apartment that is located within or appurtenant to a single family dwelling and has provisions for independent living, including sleeping, food preparation, and sanitation while meeting the requirements of Section 835 of the Town of Dover Zoning Bylaw.

**ACCESSORY DWELLING UNIT:** A new efficiency or one bedroom apartment that is located within or appurtenant to an *owner-occupied* single family dwelling and has provisions for independent living, including sleeping, food preparation, and sanitation while meeting the requirements of Section 830 of the Town of Dover Zoning Bylaw. For the purposes of an accessory dwelling unit, *owner-occupied* means a single family dwelling that is declared a homestead in accordance with the filing made with the Vermont Department of Taxes.

**ACCESSORY USE:** A use subordinate to and incident to the principal use of land or building.

**ACCESSORY BUILDINGS:** Any building which is subordinate to and which use is incidental and accessory to the use of the principal building on the same lot.

**AFFORDABLE HOUSING:** Affordable Housing means either of the following:

Housing that is owned by its inhabitants, whose gross annual household income does not exceed eighty (80) percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, and condominium association fees is not more than thirty (30) percent of the household's gross annual income.

Housing that is rented by its inhabitants whose gross annual household income does not exceed sixty-five (65) percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than thirty (30) percent of the household's gross annual income.

**AFFORDABLE HOUSING DEVELOPMENT:** A housing development of which at least fifty (50) percent of the units are affordable housing units.

**AFFORDABLE HOUSING, PERMANENT:** Housing is permanently affordable when the units remain affordable for at least ninety-nine years through land covenants or other legally binding instruments.

**AGRICULTURE:** Land or structures used for the growing or harvesting of crops; raising of livestock; operation of orchards, including maple sugar orchards; the sale of agricultural produce on the premises where raised; the processing or storage of products raised on the premises, as defined by the Commissioner of Agriculture, Food and Markets and the use of agricultural structures and the storage of agricultural equipment incidental to the above.

**AIRPORT:** Any area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft, as well as control towers and facilities for passengers.

**ALTERATION:** Structural change, re-arrangement, change of location, or addition to a building, other than repair and maintenance to the building and modification of equipment in the building.

**APPURTENANT STRUCTURE:** Secondary structure either attached to a primary or accessory building or free standing including but not limited to towers, antenna, flag poles, chimneys, and residential swimming pools and tennis courts.

**BAR OR LOUNGE:** A room or establishment where the sale of alcoholic beverages is the primary activity (see Nightclub).

**BED & BREAKFAST:** A dwelling in which up to six (6) bedrooms are rented on a daily or weekly basis to transients. Distinguished from a hotel/motel in that the owner lives in the Bed & Breakfast and the use does not change the residential character of the neighborhood or area, and the food service is for guests only.

**BUILDABLE SITE AREA:** The buildable site area is the area of the site that may be altered, disturbed, or re-graded for development purposes. The buildable site area could contain buildings, roads, parking areas, sewage systems, and stormwater management facilities. The buildable site area shall not contain required open space, recreation, or natural resource protection areas.

**BUILDING:** Any roofed structure for the shelter or enclosure of persons, animals, chattels or property of any kind.

**BUILDING ENVELOPE:** The building envelope is that area of a lot within which a principal building or its accessory buildings may be located. The building envelope shall not include the area of any required setbacks, buffer yards, natural features with 100 percent protection standard and the portion of those natural features that may not be developed or intruded upon as specified in Section 400 Natural Resource Protection Standards.

**BUILDING FRONT LINE:** The line or arc parallel to the road or right-of-way providing frontage that intersects the closest point of the building to the road or right-of-way.

**BUILDING HEIGHT:** The vertical distance from the average finished grade surrounding the building to the highest point on the roof. This shall not exceed the maximum established for the Zoning District.

**BUSINESS AND/OR COMMERCE:** The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, or the ownership or management of office buildings, office, recreation enterprises or the maintenance and use of offices or professions and trades rendering service.

**CAMP:** A single structure which will have no plumbing and shall have no running water that must meet all other standards for residential development in the District.

**CAMPGROUND:** A parcel of land upon which two or more sites are located for occupancy by a tent, cabin, lean-to, recreational vehicle, or similar structure by the general public as temporary living quarters for recreation, education, or vacation purposes.

**CAR RENTAL:** A facility for renting or leasing automobiles for a specified period of time which includes on-site parking and no maintenance or related facilities, except those for washing/cleaning vehicles.

**CARWASH:** A facility for washing automobiles, including but not limited to user-operated and automated.

**CEMETERY:** Property used for interring the dead except for private burial plots as defined in 18 V.S.A. 5319.

**CHANGE OF USE:** To alter or vary the function, service or purpose of a building, structure or parcel of land. Any change of use from one category to another (i.e. residential to commercial) or within a category of use (i.e. one conditional use to another), one manufacturing use to another, or from a single family use to a two family use or multi-family use. A change of use shall also include a change of character of the business activity (i.e. retail to wholesale).

**CHURCH:** A structure or group of structures, which by design and construction are primarily intended for religious exercise, as defined in 20 USCA Chapter 21C, the Religious Land Use and Institutionalized Persons Act of 2000.

**CLUBHOUSE:** A building occupied in support of recreational facilities, which may contain locker rooms, a restaurant, a pro shop, swimming pool, gym equipment, or other recreation equipment.

**CLUSTER DEVELOPMENT:** A development design technique that concentrates buildings in specific areas of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

**COMMERCIAL ANIMALS:** Animals housed, used or rented out for profit including riding and boarding stables.

**COMMON LAND:** Land owned and used in common and restricted in purpose by covenant for residents or users of cluster buildings.

**COMMUNITY STRUCTURE:** A public building used by nonprofit and public agencies for community-wide programs for which no charge or a very small charge is required. These programs are open to all members of the community.

**CONDITIONAL USE:** A use or occupancy of a structure or use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified therein.

**CONFERENCE/CONVENTION CENTER:** A structure used as a public or private center for the purposes of holding meetings, conferences, conventions, educational or professional seminars.

**CONTIGUOUS LAND:** A parcel of land contained within a single, unbroken boundary. Any parcel of land held in one ownership that is divided by a public or private right-of-way or any non-agricultural or non-residential use shall be rendered non-contiguous.

**CONTRACTOR:** General contractors and builders engaged in the construction of buildings, whether residences or commercial structures, including those contractors who undertake trades of a type that are specialized to assist building construction and remodeling (i.e. heating, plumbing, painting, etc.). This definition also includes those contractors who assist with the maintenance of a property including but not limited to landscaping and snowplowing.

**CONTRACTOR'S YARD:** A portion of the lot upon which a contractor maintains a principal office or a permanent business office and stores and maintains construction equipment and other materials customarily used in the trade carried on by the contractor.

**COUNTRY/GENERAL STORE:** A retail establishment selling general merchandise including food and drink with possible living quarters or office space on the second floor (see Dwelling, Mixed Use).

**COVERAGE:** The percent of the area of a lot which is covered by buildings, structures and other improvements, including parking and loading areas, access roads, driveways and service areas.

**DATES:**

- **Effective Date:** A zoning permit is in effect fifteen (15) days after the Zoning Administrator has posted it unless appealed according to law.
- **Issuance Date:** Date zoning permit is signed by the Zoning Administrator.
- **Posting Date:** Date Zoning Administrator posts a permit in a public place. Officer has three days to post a zoning permit once the zoning permit has been signed (Issuance Date).
- **Receipt Date:** Date the completed application is received by the Zoning Administrator for any permitted or conditional use found in these Regulations.

**DENSITY:** Density is a measure of the number of dwelling units or other uses per unit of area. It shall be expressed as a ratio of dwelling units or other uses per necessary acreage.



**DEVELOPMENT RIGHTS:** Those rights to develop, expressed as the maximum number of units per acre, that could be permitted on a designated sending parcel under the applicable zoning regulations in effect on the date of the transfer of development rights.

**DISTRICT:** A geographic unit established by the provisions of Article III of these Regulations.

**DWELLING:** A building used as living quarters, with the exclusion of porches, garages, decks, and other accessory structures.

**DWELLING UNIT:** A dwelling or part of a dwelling occupied or intended to be occupied by one family as its residence, with cooking, sleeping, and sanitary facilities within the unit.

**DWELLING, SINGLE-FAMILY:** A detached building designated for or occupied solely as a dwelling by one family.

**DWELLING, TWO-FAMILY:** A building used as living quarters by two families living independently of each other.

**DWELLING, MIXED USE:** A single structure wholly containing within the structure a separate single-family residence and a separate permitted commercial operation.

**DWELLING MULTIFAMILY:** A building containing separate dwelling units for three (3) or more families having separate or joint entrances, services, or facilities.

**EARTH AND MINERAL EXTRACTION:** The activity and location of extraction of soil, sand or other materials. These activities usually involve heavy equipment and may cause high levels of noise and dust.

**EDUCATIONAL OR INSTITUTIONAL FACILITY:** A facility for the overnight boarding of students for education and training.

**EMPLOYEE:** A person over the age of sixteen (16) who is employed for more than twenty (20) hours a week. For the purposes of home occupations and home businesses, an employee shall be considered an unrelated person.

**EMPLOYEE HOUSING:** Employer provided housing for employees, which includes more than six (6) bedrooms and includes at least one (1) common onsite cooking facility. Employee housing must meet the State requirements for the health, safety and welfare of all occupants.

**ENTERTAINMENT/CULTURAL FACILITY:** A museum, theater, concert hall, or other establishment offering programs, performances, or exhibits of cultural, educational, historical or scientific interest.

**ERECT:** Shall mean to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of wall signs and/or window signs.

**FAMILY:** One (1) or more persons related by blood, marriage, civil union, or adoption, or a group of not more than five (5) persons unrelated by blood or marriage, living together as a household.

**FARMSTAND:** A structure over 100 square feet used primarily for the sale of farm produce.

**FOOTPRINT:** The ground area enclosed by any permanent foundation, wall, footings, and piers, excluding those under a deck.

**FRONTAGE:** The length of a lot along its front, bordering on and parallel with a public or private right-of-way. A corner lot has two (2) fronts.

**GALLERY:** A building or part of a building that displays for sale artwork or crafts by a variety of artists.

**GARDEN, FARM SUPPLY OR NURSERY:** A retail business or commercial activity concerned with the sale of tools, small equipment, plants, shrubbery, and related goods used in gardening or farming. Related goods are defined as only those used on the plant or in its soil to preserve the life and health of the plants sold (e.g., fungicides, peat moss and mulches).

**GUEST BEDROOM:** Rooms used to provide sleeping quarters to transients in a hotel/motel, lodge/inn, or bed and breakfast.

**GOLF COURSE:** Substantially undeveloped land, including amenities such as landscaping, irrigation systems, paths and golf greens and tees and clubhouse and associate buildings, such as pro-shop and maintenance facilities, that may be used for golfing or golfing practice by the public or by members and guests of a private club.

**GROUP HOME:** Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

**HISTORIC SITE:** Any site, building, structure, district or archeological landmark which has been officially included in the National or State Register of Historic Places or which is established by testimony of the Vermont Advisory Committee on Historic Preservation as being historically significant (10 V.S.A. 600 (9)).

**HOME BUSINESS:** An expanded home-based occupation conducted by a resident of a dwelling unit which is carried on within the dwelling unit and/or accessory structures, has no more than three non-resident employees working on the premises, and complies with Sections 610 and 612 of this Bylaw.

**HOME OCCUPATION:** An occupation conducted solely within a minor portion of a dwelling unit which is conducted by resident occupants, which is clearly incidental and secondary to the use of the dwelling, which does not change the character thereof and which complies with Sections 610 and 611 of this Bylaw

**HOTEL:** A public building or group of associated buildings, containing more than ten (10) guest bedrooms, which provide lodging to transients on a short term basis, may provide for food preparation and meals in a central dining area and may have a management entity operating the building(s) and may provide maid service and a central switchboard operation. Rooms in the building(s) may be under separate, common or cooperative ownership.

**IMPERVIOUS SURFACE:** Any surface on a lot that cannot effectively absorb or infiltrate rainfall, including but not limited to, building roofs, paved and graveled areas, parking lots and sidewalks.

**JUNKED VEHICLE:** a junked vehicle shall be considered to be any vehicle that is both (1) without a valid vehicle registration in any state, and (2) unable to be started and operated as the vehicle is intended to operate.

**KENNEL:** A commercial operation for the breeding or boarding of domestic animals, such as dogs or cats.

**LAND DEVELOPMENT:** The division of a parcel into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; or of any mining, excavation or landfill, or any change in the use of any building or other structure, or land, or extension of use of land.

**LIGHT INDUSTRY:** Research and development activities, the manufacture, fabrication, processing or warehousing of previously prepared materials, which activities are conducted wholly within an enclosed structure employing not more than twenty (20) employees and occupying not more than six thousand (6,000) square feet of area including floor area and outdoor storage .

**LIVESTOCK:** Generally accepted outdoor farm animals (i.e. cows, goats, horses, pigs, barnyard fowl, etc.) not to include cats, dogs, and other house pets.

**LODGE/INN:** A public building or group of associated buildings containing up to ten (10) guest bedrooms of occupancy by transients on a short term basis, which may offer central dining facilities to the guests of the lodge or the public.

**LOT:** A plot or parcel of land occupied or capable of being occupied by one (1) principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by the Bylaw.

**LOT AREA:** The lot area is contained within the property lines of the individual parcels of land shown on a subdivision plan or required by this ordinance, excluding any area within an existing or designated future street right-of-way, or the area of any easement that would interfere with the proposed use.

**LOT COVERAGE:** A measure of intensity of land use that represents the portion of a site that is impervious (i.e. does not absorb water). This portion includes, but is not limited to, all areas covered by buildings, parked structures, driveways, roads, sidewalks, and any area of concrete asphalt.

**LOT DEPTH:** The mean horizontal distance from the property line nearest the road to its opposite rear line measured at right angles to the building or proposed building front line.

**LOT FRONTAGE:** The distance of the portion of a lot line abutting a road right-of-way.

**LOT WIDTH:** The distance measured across a lot perpendicular to the side lot lines, or if the lot is not rectangular in shape, the average distance between the sides of the lot.

**MAINTENANCE FACILITY:** A facility used for maintenance of commercial activity, machinery or property.

**MANUFACTURING, PACKAGING, OR PROCESSING:** Shall include fabricating, assembling, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of this Bylaw.

**MEDICAL/DENTAL FACILITY:** A building or office used by one or more members of the medical or dental profession and support personnel for the conduct of that profession.

**MOBILE HOME:** A structure or type of manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is:

- transportable in one or more sections; and
- at least eight feet wide or 40 feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or
- any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. 10 V.S.A. § 6201(1).

**MOBILE HOME PARK:** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile Home Park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four mobile homes used by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2).

**MODULAR (or PREFABRICATED HOUSING):** A dwelling unit constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MOTEL:** A building or group of buildings providing lodging for persons, intended primarily for the accommodation of transients on a short term basis of less than thirty (30) consecutive days, having a private outside entrance for each room or suite of rooms. A motel is not a dwelling unit.

**MOTOR VEHICLE BODY SHOP:** A facility for the body repair and/or painting of a vehicle.

**MOTOR VEHICLE SERVICE STATION:** An area of land, including the structure thereon, used for the sale of motor fuel, oil and motor vehicle accessories and which may include facilities for lubricating, washing, servicing and repairing motor vehicles exclusive of body work.

**MULTI-BUSINESS CENTER:** A group of businesses sharing a common building or buildings, and a common parking area.

**MUNICIPAL TRANSFER STATION:** An area where solid waste is disposed or prepared or stored for transfer in a controlled, managed manner, owned and operated, or under contract by the Town of Dover, and may contain a recycling facility.

**NIGHTCLUB:** A place of entertainment open at night usually serving food and/or liquor and/or having a floorshow and/or providing music and/or space for dancing.

**NON-CONFORMING LOTS OR PARCELS:** Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Administrative Officer.

**NON-CONFORMING STRUCTURE:** A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulation prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Administrative Officer.

**NON-CONFORMING USE:** Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Administrative Officer.

**NURSING HOME/ASSISTED LIVING FACILITY:** An extended or intermediate care facility licensed by the State of Vermont to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**OFFICE:** A building used primarily for conducting the affairs of one (1) or more businesses, professions, services, studios or governmental agencies and shall include off-street parking and other facilities necessary to conduct routine daily business.

**OFFICE, PROFESSIONAL:** A professional office shall be for the conduct of business and shall be limited to one (1) profession. Employee(s) may or may not be permitted depending on the location of the professional office.

**OPEN SPACE:** Land and water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state. Open space does not include street rights-of-way or off street parking areas.

**OPEN SPACE RATIO:** The open space ratio is a measure of the intensity of land use. It is calculated by dividing the total amount of open space within the lot by the amount of buildable site area.

**OVERLAY DISTRICT:** A zoning district which encompasses one (1) or more underlying zoning districts that imposes additional requirements above that of the required underlying zoning district.

**PARKING SPACE:** Off-street space used for the temporary location of one licensed motor vehicle, which is at least nine (9) feet wide and twenty-two (22) feet long, not including access driveway and having direct access to a street or alley.

**PERMANENTLY AFFORDABLE HOUSING:** Housing is permanently affordable when the units remain affordable for at least ninety-nine years through land covenants or other legally binding instruments.

**PERMITTED USE:** Any use permitted in a particular zoning district subject to restrictions applicable to that zoning district.

**PERSON:** An individual, a corporation, a partnership, an association and any other incorporated or unincorporated organization or group.

**PLANNED UNIT DEVELOPMENT:** An area of land controlled by a landowner, to be developed as a single entity for a number of dwelling units and/or mixed commercial and industrial uses, if any; the plan for which does not correspond in lot size, bulk or type of dwelling, commercial or industrial use, lot coverage and required space to the regulations established in any one or more districts created, from time to time, under the provisions of a municipal zoning ordinance adopted under the authority of the "Act."

**PRINCIPAL BUILDING:** The building on the lot containing the principal permitted use or uses.

**PRIVATE CLUB:** Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not necessarily operated for profit nor to render a service that is customarily carried on as a business.

**PUBLIC WAY:** The entire area legally open for public use within the boundary lines of any government or municipally owned or maintained road, street, alley, sidewalk, walkway, parking lot, park, river, or piece of land.

**RECEIVING AREA:** Land to which development rights are transferred, from a sending area, which results in an increase in allowable density for the receiving area.

**RECREATION, INDOOR:** Any recreation facility enclosed in a building for use such as billiards, bowling, indoor shooting range, arcade, pool halls, ice skating and similar facilities.

**RECREATION, OUTDOOR:** Includes a trap, skeet and/or archery range, swimming pool, amusement park, outdoor concert area, tennis court, recreational trail or similar place of outdoor recreation.

- Commercial Outdoor Recreation: When operated on a for-profit basis.
- Private Outdoor Recreation: when operated in such a manner as to restrict entrance to members and their guests.
- Public Outdoor Recreation: When operated by a public agency.
- Residential Outdoor Recreation: Comprises leisure activities taking place primarily outdoors and considered incidental to the primary use of the property. Participation is restricted to the property owners and their guests and is further limited to the hours of sunrise to 9 PM.

**RECREATIONAL VEHICLE/TRAVEL TRAILER:** Includes any vehicle used for sleeping or camping or living quarters mounted on wheels, or a camper body, freestanding, mounted on a truck, or towed by a motor vehicle.

**REPAIR GARAGE:** Land or structures used for the maintenance, servicing, washing, and repairing of vehicles, exclusive of bodywork.

**RESCUE FACILITY:** Structure used to store rescue equipment. Also used to dispatch personnel providing emergency services, usually associated with recreational activity.

**DOVER RESIDENT:** As defined by the State of Vermont.

**RESIDENTIAL CARE HOME:** A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator. 33 V.S.A. § 7102(1).

**RESTAURANT:** An establishment, the primary function of which is to serve food and beverages to the public.

**RETAIL BUSINESS:** A business wholly contained within a building selling or delivering goods, in small quantities or providing services directly to the customer.

**RIVERINE:** Relating to, formed by, or resembling a river (including tributaries, streams, brooks, etc.)

**SAFETY SERVICE FACILITY:** A facility for the conduct of public safety and emergency services, including police and fire protection and emergency medical and ambulance service.

**SCHOOL:** Parochial, public or private, educational facility including public nursery school, colleges and universities, and technical schools, but not to include overnight boarding schools, as certified by the Vermont Department of Education.

**SENDING AREA:** Land from which development rights are removed for the purpose of transferring those rights to a receiving area.

**SERVICE BUSINESS:** A business providing personal service including, but not limited to, hairdressing, barber, seamstress, masseuse, shoe repair, dry cleaning, laundromat. May include a business which provides equipment service such as repair to small machinery, sewing machines, lawn mowers, televisions, electronics and small engines.

**SETBACK:** The space on a lot required to be left open and unoccupied by buildings or structures, either by the front, side or rear yard requirements of this by-law, or by delineation on a recorded subdivision map. The front setback shall be the distance measured perpendicularly from the center line of the road. The rear and side setbacks shall be the distance perpendicularly from the property lines.

**SHALL:** "Shall" means that any requirement stated herein is mandated.

**SILVICULTURE:** The use and management of woodlands for purposes of timber production and harvesting for commercial, wildlife and/or conservation purposes. This definition specifically excludes permanent sawmills, lumber yards or similar facilities used for the processing and/or manufacturing of wood and wood products; but may include, as accessory uses, portable sawmills and equipment used on-site in association with timber harvesting operations.

**SKI AREA:** An area developed for cross-country and/or alpine skiing and snowboarding including, but not limited to, chairlifts, trails, warming huts, and supporting services.

**SKI CHAIRLIFTS:** See definition of "Ski Area."

**SKI LODGE FACILITY:** A building used for skier support services.

**SKI TRAILS:** See definition of "Ski Area."

**SNOWMAKING FACILITY:** Any installation for snowmaking to include pump house, valve stations, maintenance building, or snowmaking pond/reservoir.

**STATE OR MUNICIPAL OWNED OR OPERATED FACILITY:** Structure(s) and/or land which is owned and/or operated by the State of Vermont or the town of Dover or other municipal organization.

**STORAGE FACILITY:** Property or structures used for the storage of materials, vehicles, machinery or other goods in the conduct of business.

**STREAM:** Perennial watercourses as identified by US Geological Survey (USGS) topographical maps.

**STREET:** A town or state highway, a street of an incorporated village or a street shown on a subdivision plan approved by the Development Review Board or the Zoning Administrator. The word "street" shall include the entire right-of-way thereof. If a boundary of the right-of-way has not been surveyed and so recorded and is not marked by fence line or other physical

feature, the boundary shall be deemed to be twenty-five (25) feet from the center line of the traveled way. The term "street" includes also the terms highway, route, thoroughfare, road, avenue and boulevard.

**STRUCTURE:** An assembly of materials for occupancy or use, including and not limited to, a building, manufactured home, mobile home or trailer, sign, wall or fence, except a wall or fence on an operating farm. Structures also include, without limitation, decks, swimming pools, tennis courts, towers, and windmills.

**SUBDIVISION:** The division of a parcel of land into two or more parcels for the purposes of sale, conveyance, lease, or development. The term "subdivision" includes the re-subdivision involving the adjustment of boundaries between two or more existing parcels. Any transfer, conveyance, or sale, of land held in one ownership, but already divided into lots by an existing public or private right-of-way shall not be considered a subdivision for the purposes of these regulations.

**SUBSTANTIALLY COMPLETED –** The stage in the progress of the structure when the work or designated portion thereof is sufficiently completed in accordance with the Zoning Permit so that the applicant can occupy or utilize the permitted structure or area for its intended use. For the purpose of this Bylaw, substantially completed shall also mean that the exterior of the structure has been completed with siding, windows, doors, and a completed roof and any excavation has been covered or filled to the normal grade of the land.

**TEMPORARY STRUCTURE:** Any structure placed or erected without any permanent foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was placed or erected has ceased.

**TIMESHARE:** Any project involving real property containing five or more timeshare estates or licenses, as referenced in 24 V.S.A. §4414(10).

**TRANSFER OF DEVELOPMENT RIGHTS (TDR):** The removal of the right to develop or build, expressed in units per acre, from land in one zoning district to land in another zoning district where such transfer is permitted.

**USE:** The purpose for which a building, structure or parcel of land is designed, intended, occupied or used.

**VALID PERMIT:** Any permit issued not having reached its expiration date. For the purpose of this Bylaw any Zoning Permit issued by the Town of Dover prior to 12/31/79, is hereby deemed null and void and expired.

**VETERINARY CLINIC:** The use of buildings and the property on which they are located for the care of animals, including the boarding of animals.

**WETLANDS:** Wetlands areas are shown on the Vermont Significant Wetland Inventory (VSWI) maps and/or are determined in the field by a state wetlands ecologist.

**WHOLESALE BUSINESS:** A business wholly contained within a building selling or delivering goods to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers.

## ARTICLE 3: PERMITS AND APPROVALS

### Section 300: ZONING PERMIT

No land development may commence, (except as provided in Sections 305, and 315) unless a Zoning Permit has been duly issued by the Zoning Administrator, as provided for in Section 4449 of the Act. The fee for such Zoning Permit shall be established by the Board of Selectmen.

### Section 305: EXISTING USE OF BUILDING, STRUCTURE AND LAND

Any lawful building, structure, or use of a building or structure or of the land to the extent to which it was used at the time of the adoption of this Bylaw may continue even though such building, structure or use does not conform to the provisions of the district in which it is located.

### Section 315: PERMIT EXEMPTIONS

The following shall not require a Zoning Permit:

1. The interior repair, alteration or renovation of any building or structure, so long as the activity does not change the lawful use of the building or structure.
2. Any combination of accessory buildings of less than or equal to a total of one hundred (100) square feet in area and less than ten (10) feet in height provided that such accessory buildings comply with the area, dimensional, and coverage standards of the District.
3. Excavation or fill incidental and accessory to a use of land that is lawful under these Bylaws, provided that the excavation or fill does not violate any provisions of these Bylaws or constitute a change in the use of the land.
4. Customary and incidental gardening and other yard improvements. Cutting associated with site development shall be regulated in accordance with site plan review if one is required.
5. The repair and/or renovation of ski lifts and snowmaking equipment.
6. The construction, repairs and maintenance of fences and chimneys.
7. Any exterior repairs, renovations or maintenance which does not change the existing footprint, change the lawful use of the building or change the height of the building.
8. The non-commercial keeping of livestock on residential properties.

### Section 320: EXISTING LOTS

Any lot in existence whether or not it is an individual and separate and non-affiliated ownership from surrounding properties and evidenced by a recorded deed or recorded survey in the Dover Land Records in or before April 26, 1988, or a Land Use Permit under Act 250 or a State Subdivision Permit under Act 249 issued prior to April 26, 1988, or any lot lawfully created thereafter, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty (40) feet.



#### Section 325: REDUCTION OF SETBACK AND/OR ROAD FRONTAGE REQUIREMENTS

The Zoning Administrator may grant a zoning permit to erect a structure on an existing undersized, individually owned lot that does not meet the setback and/or road frontage requirements of the district in which it is located, provided that all of the following criteria are met:

1. The lot is located in a zoning district where zoning densities are one acre or less for a single dwelling unit.
2. Structure must be a single dwelling unit, an addition to a single dwelling unit, garage, or shed.
3. The reduction in road frontages and setbacks meet the following minimum requirements:

The road frontage and/or setback requirements may be reduced by the same percentage that the lot is undersized from the minimum lot size of the district the lot is in. In no case shall the setback be reduced to less than ten (10) feet from side boundaries or less than forty five (45) feet from the center line of the road. Under no circumstances will required setbacks from surface waters be reduced.

FOR EXAMPLE: 1 acre district - Lot size is 0.44 of an acre, multiply requirements by .44.

4. All other requirements of the Zoning Bylaw are complied with.

#### Section 327: EXEMPTIONS TO THE SETBACK REQUIREMENTS

1. Setbacks are not applicable to stone walls and fences.
2. The donation of land, right-of-way(s), and/or easement(s) for the Valley Trail shall not recalculate or reconfigure the zoning setbacks in any district.

#### Section 328: EXEMPTIONS to the BUILDING HEIGHT REQUIREMENT

In the Resort District, the Development Review Board may allow building heights in excess of 36 feet so long as fire protection and safety are adequately addressed taking into consideration the guidelines of the East and West Dover Fire Departments. Under no circumstances shall the building exceed 75 feet of height. Also refer to sections 720 and 725.

#### Section 330: NON-CONFORMING USES

All pre-existing non-conforming uses shall be subject to the following regulations:

1. Types of non-conforming uses
  - a. A use of a property that is listed in the bylaws but is not allowed in the district in which the specific property is located.
  - b. A use of a property that is listed in the bylaws but does not meet the applicable density, off street parking or off-street loading requirements.
  - c. A use of property that is not listed in the bylaws and has not been approved by the Development Review Board under Section 490.
  - d. A use of property that is conducted entirely or partially in a structure that does not comply with applicable dimensional requirements.
2. Changes in a non-conforming use:

- a. Change to another use: A non-conforming use shall not be changed to another non-conforming use except with the approval of the Development Review Board, and provided that the changed use, in the opinion of the Board, is equal to or less than the degree of non-conformity with these Bylaws.
- b. Change in the character or operation of a non-conforming use:
  - 1) A change in the character or operation of a non-conforming use occurs when some aspect of the use is altered such as a non-conforming retail operation substituting sale of beer/wine/liquor and snack items for general grocery sales or a non-conforming manufacturing operation substituting manufacture of aluminum products for manufacture of plastic products.
  - 2) The Development Review Board may approve a change in the character of operation of a non-conforming use that is of the type specified in subsection 1.a and d above. The Board shall review a request to make such change under the standards and following the process applicable to conditional uses.
  - 3) The Development Review Board may approve a change in the character or operation of a non-conforming use that is of the type specified in subsection 1.b above provided that the change does not increase the non-compliance with off-street parking or loading requirements. The Board shall review a request to make such change under the standards and following the process applicable to conditional uses
  - 4) The character or operation of a non-conforming use that is of the type specified in subsection 1.c above may not be changed.
- 3. Extension or enlargement of a non-conforming use:
 

An extension or enlargement of a non-conforming use occurs when the portion of a structure or lot actively used in the conduct of the non-conforming use is increased, when the total floor area of any structure occupied by the non-conforming use is increased, when the range of goods and/or services provided by the use is broadened, when the customary hours and/or days of operation are increased, when the density of residential use is increased or when any change results in an increase in applicable off-street parking and loading requirements.

  - 1) The Development Review Board may approve an extension or enlargement of a non-conforming use that is of the type specified in subsection 1.a above and is occurring on a lot that meets the smallest minimum lot size required in the district in which it is located. The Board shall review a request to make such extension or enlargement under the standards and following the process applicable to conditional uses.
  - 2) The Development Review Board may approve an extension or enlargement of a non-conforming use that is of the type specified in subsection 1.a above and is occurring on a lot that does not meet the smallest minimum lot size required in the district in which it is located only to allow the range of goods and/or services provided by the use to be broadened or the customary hours and/or days of operation to be increased. The Board shall review a request to make such extension or enlargement under the standards and following the process applicable to conditional uses.
  - 3) The Development Review Board may not approve an extension or enlargement of a non-conforming use that is of the type specified in subsection 1.b and d above that increases the non-compliance with applicable provisions regarding dimensional requirements, density, off-street parking or off-street loading.

- 4) A non-conforming use that is of the type specified in subsection 1.c above may not be extended or enlarged.
4. A non-conforming use shall not be re-established if it is abandoned for a period of two years. Intent to resume the use does not create a right to re-establish the use after expiration of the two year period. A non-conforming use shall be considered abandoned when any one of the following occurs:
  - a. The intent of the owner to discontinue the use is apparent; or
  - b. The characteristic equipment and furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment; or
  - c. It has been replaced by a non-conforming use; or
  - d. It has been changed to another use under a proper permit.
5. Any structure used in connection with a non-conforming use that is damaged or destroyed by any cause may be rebuilt or replaced if such reconstruction is commenced within two years of loss of use of the structure and completed within three years.
6. Any structure used in connection with a non-conforming use may be moved or relocated on the lot on which the use occurs if such movement or relocation complies with the applicable dimensional requirements.
7. Any structure used in connection with a non-conforming use that is also a non-conforming structure shall also be subject to applicable provisions regarding non-conforming structures. If there is a conflict between provisions, the most restrictive provision shall control.

#### Section 332: NON-CONFORMING STRUCTURES

All non-conforming structure and shall be subject to the following regulations:

1. Any exterior length or width dimension of a non-conforming structure may be increased provided the increase does not occur in a required setback and does not exceed applicable bulk or coverage requirements.
2. Any exterior height dimension of a non-conforming structure may be increased provided the increase does not exceed applicable height requirements.
3. Any non-conforming structure that is damaged or destroyed may be repaired within two (2) years of the damage or destruction, however, if the non-conforming structure is destroyed or damaged to a degree equal to or greater than seventy-five percent (75%) of its equalized assessed valuation, it shall thereafter conform to the provisions of the Bylaw when rebuilt.
4. Within two (2) years of the damage or destruction, the Development Review Board may allow a structure that is damaged or destroyed to a degree equal or greater than seventy-five percent (75%) of its equalized assessed valuation to be rebuilt in its footprint prior to the damage or destruction. In the event that the applicant wishes to proceed under this section, the Zoning Administrator shall forward the site map to the Development Review Board for review. In order to approve reconstruction, the Development Review Board shall make the following findings:
  - a. The project consists of the reconstruction of a previously existing structure that was damaged or destroyed no more than two (2) years prior to the application;

- b. The reconstruction will not result in the increase or expansion of the non-conformity that existed prior to the damage or destruction;
  - c. The granting of this waiver will not have an undue adverse effect on the neighborhood; and
  - d. There will be no nuisance or serious hazard to vehicles or pedestrians as a result of granting this waiver.
- 5. Nothing in this Section shall be deemed to prevent normal maintenance and repair of a non-conforming structure.
- 6. A non-conforming structure may be moved on a lot provided the relocation does not result in a reduction of required setback area.

#### Section 335: PERMIT APPLICATION and REQUIREMENTS

All applications for a Zoning Permit shall be submitted on forms provided by the Town of Dover and shall include the following:

- 1. A site map signed and dated by the applicant indicating the following:
  - a. dimension of the lot to be built on;
  - b. location and dimension of the proposed building and accessory structures;
  - c. proposed extensions or changes to existing buildings;
  - d. existing structures, driveways, roads, right-of-ways, streams, rivers or lakes, wells and septic systems;
  - e. E-911 number for all lots and/or units.
- 2. If the application is for the subdivision of land, a copy of the deed as recorded in the Dover Land Records must be included. If a parcel is divided into two (2) parcels, the smaller of the two must be surveyed and a plat filed with the Zoning Permit application and subdivision plat recorded with the Town Clerk, a paper copy of which shall be filed with the Zoning Administrator when recording with the Town Clerk. If a parcel is divided into two (2) equal parcels, then both parcels must be surveyed. If a parcel is divided into three (3) or more parcels, a survey of each parcel is required. Any survey must be conducted by a state registered engineer or land surveyor with an official stamp affixed.
- 3. Nothing shall prohibit the Zoning Administrator or Development Review Board from requesting additional information as part of their review or approval process.

Any development started without the filing of an application is a violation and shall be subject to a fine.

#### Section 340: ISSUANCE OF PERMIT

The Zoning Administrator shall not issue a Zoning permit unless the applicant has complied with the requirements of these Bylaws. The Zoning Administrator shall within thirty (30) days of the submission and acceptance of a fully completed application either issue or deny a Zoning Permit or refer the application to the Development Review Board and/or other State Agencies as required under the terms of this Bylaw. If the Zoning Administrator fails to act on the application for a Zoning Permit within thirty (30) days, the Permit shall be deemed issued commencing on the thirty-first (31) day. If an application for a Zoning Permit is denied, the Zoning Administrator shall notify the applicant in writing stating the reason for such denial. If the application is approved, all development authorized by the permit shall be completed within two (2) years of the date of issue, unless the Permit states otherwise. If a permit has expired, then reapplication and re-approval shall be required.

Within three (3) days following the issuance of a Zoning Permit, the Zoning Administrator shall:

- 1. Deliver a copy of the permit to the Town's Listers

2. Post a copy of the permit in at least one (1) public place in the Town until the expiration of fifteen (15) days from the date of issuance of the permit.

Each Zoning Permit issued under this Section shall contain a statement of the period of time within which an appeal may be undertaken in accordance with Section 4465 of the Act and shall require posting of a notice of permit, on a form prescribed by the Town of Dover, within view from the nearest public right-of-way until the time of the appeal has expired. No Zoning Permit herein issued may take effect until the required time limit for an appeal has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of such appeal.

#### Section 342: EFFECT OF A PENDING BYLAW

Once a public notice is issued by the Select board with respect to an amendment to these Bylaws, the Zoning Administrator shall, for a period of 150 days following that notice, review any new application filed after the date of the notice under the proposed new bylaw or amendment and existing applicable bylaws and ordinances. If the new bylaw or amendment has not been adopted by the conclusion of the 150-day period, or if the proposed bylaw or amendment is rejected, then the permit shall be reviewed under the existing bylaw. An application that has been denied under a proposed bylaw or amendment that has been rejected, or that has not been adopted within the 150-day period, shall be reviewed again, at no cost, under the existing bylaws, upon the request of the applicant.

#### Section 345: EFFECTIVE DATE

No permit issued by the Zoning Administrator shall take effect until fifteen (15) days have passed, or in the event that a notice of appeal is properly filed with the Development Review Board, no such permit shall take effect until adjudication of that appeal by the Development Review Board is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until the environmental court rules in accordance with 10 V.S.A. §8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

#### Section 350: EXPIRATION

A Zoning Permit shall become void if all work described therein has not been substantially completed within two (2) years from the date of issuance, unless an extension is granted by the Zoning Administrator under Section 355.

If a permit expires, reapplication and approval of further development shall be required.

#### Section 355: EXTENSION

The Zoning Administrator may grant an extension to a Zoning Permit when any of the following circumstances exist:

1. Inability of the applicant to obtain all necessary State permits in time to meet the 2-year expiration.
2. Hardships which may cause a delay.
3. If the project is to be developed in phases.

No more than two (2) one-year permit extensions may be granted.

#### Section 360: APPEALS

An interested person, as defined in Section 4465(b) of the Act may appeal any act or decision of the Zoning Administrator to the Development Review Board within fifteen (15) days of such act or decision, in accordance with the provisions of Subchapter 11 of the Act.

## Section 362: INSPECTION

In order to prevent construction in locations which have not been approved, and to eliminate costly relocation expenses, an inspection by the Zoning Administrator is required before the footings are poured or sono-tubes/posts are placed in the ground.

A copy of the Zoning Permit application must be on site with the Zoning Administrator's signature of approval and date.

## Section 365: COORDINATION WITH HEALTH/SEWAGE and SEWER ORDINANCES

If development requires the disposal of domestic or other wastes or effluent, such development shall not commence until evidence of approval to dispose of said waste has been filed with the Zoning Administrator. Approval shall be in the form of:

1. A Town of Dover Sewage Permit, or
2. A permit issued under the Environmental Protection Rules of the State of Vermont, or
3. A letter of commitment to discharge effluent into the North Branch Fire District #1 or other municipal sewage treatment facility.

## Section 370: REVIEW BY STATE AGENCIES

In accordance with Section 4448(c) of the Act, the applicant is responsible for contacting the regional permit specialist employed by the Agency of Natural Resources to identify, apply for, and obtain relevant state permits that may be required.

No Zoning Permit for development of the following types or located within the following designated areas may be granted prior to the expiration of a period of thirty (30) days following the submission of a report to the State agency designated in each case, describing the proposed use, the location requested and an evaluation of the effect of such proposed use on the Town and Regional Plans:

1. Forest, Parks and Recreation Department
  - a. Any use in or within one thousand (1000) feet of any State owned or leased property.
  - b. Ski areas with lifts of other equipment other than tows, with a total capacity of more than five hundred (500) persons per hour.
  - c. Camps with accommodations for more than fifty (50) persons.
  - d. Public beaches or lands within one thousand (1000) feet thereof.
  - e. Natural areas as defined in Section 2010 of Title 10.
2. Department of Environmental Conservation
  - a. Any areas designated as a floodplain or wetland.
  - b. The damming of any streams so as to form an impounding area of five (5) acres or more for reservoir or recreational purposes.
  - c. The drilling of wells deeper than fifty (50) feet or with a potential yield greater than twenty-five thousand (25,000) gallons per day, except this shall not apply to a well drilled by the owner of a farm or residence for his/her own use, or the use of the farm.
3. Highway Department – Any use within five hundred (500) feet of an intersection or of any entrance of exit ramp providing access to any limited access highway
4. Fish and Game Department - Game lands and stream bank areas owned or leased by the State
5. Vermont Agency of Transportation - Airports

## Section 375: CONDITIONAL USE PERMITS

No Zoning Permit shall be granted by the Zoning Administrator for any use or structure which requires conditional use approval as determined in Article 4 of the Bylaw until the Development Review Board grants such an approval. In considering its actions, the Development Review Board shall make findings on general and specific standards, hold at least one (1) duly warned hearing and attach conditions as provided for in Section 4414(3) of the Act. The Board shall set a date and place for a public hearing for a conditional use request, which shall be within 60 days of the filing of the request for a conditional use permit. The Board shall act to approve with conditions, or disapprove any such requested conditional use within forty-five (45) days after the date of the final public hearing. Failure to act is considered approval.

## Section 380: GENERAL STANDARDS for CONDITIONAL USE

The Development Review Board shall require that the proposed use shall not result in any undue adverse effect on any of the following:

1. The capacity of existing or planned community facilities.
2. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan..
3. Traffic on roads and highways in the vicinity.
4. Bylaws and ordinances then in effect; or
5. Utilization of renewable energy resources.

## Section 385: SPECIFIC STANDARDS for CONDITIONAL USE

The Development Review Board shall require that all conditional uses meet the following standards:

1. Where applicable, the proposed use shall meet the requirements of:  
Article 5: Flood Hazard Regulations  
Article 6: General Regulations of this Bylaw.
2. The area, dimension and coverage standards for the district in which the proposed use will be located shall be considered the minimum standards.
3. Maximum safety of vehicular circulation between the site and the street network. Particular consideration shall be given to visibility at intersections, to traffic flow and controls, to pedestrian safety and convenience, and to access in case of emergency. Cul-de-sacs should be discouraged.
4. Adequacy of circulation, parking and loading facilities. Particular consideration shall be given to insure that the items in #3 above are achieved. The effect of noise, glare, or odors on adjoining properties shall be considered. Refuse and service areas should be included in this consideration. Provisions for clearing snow, for maintaining parking areas, internal roads, and emergency access should also be made.
5. Adequacy of landscaping, screening and setbacks with regard to achieving maximum compatibility and protection to adjacent properties. Particular consideration shall be given to preservation of existing vegetation, minimizing the adverse impact of visibility of development from the road and adjoining properties, site grading, erosion control, soil conditions, and the adequacy of landscaping materials to meet seasonal conditions. The impact of lighting on the site shall also be considered.
6. Protection of Dover's natural resources, given advisement of a duly established Conservation Commission.
7. In granting a Conditional Use Permit, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purpose of the Act and these Bylaws. For example, the Development Review Board may attach additional conditions in regard to minimum lot size, distance from adjacent or nearby structures, parking and service areas.





## ARTICLE 4: ESTABLISHMENT OF ZONING DISTRICTS & MAP

### Section 400: PURPOSE OF ZONING DISTRICTS

The purpose of establishing zoning districts in the Town of Dover is to further the public health, safety and welfare of the Town. Specifically, the districts seek to provide an orderly growth pattern by allocating various functional uses to areas best suited for them.

### Section 405: GENERAL REQUIREMENTS FOR ALL DISTRICTS

- A. No land development is permitted on lots that do not have either frontage on a public road or a permanent easement or right of way of record approved by the DRB as a conditional use in accordance with Section 375 of the bylaw. Minimum frontage must be in accordance to what is established for each zoning district. Frontage applies to all property lines bordering public or private roadways but not driveway easements. Permits may be granted for land that does not have frontage on a public road provided access is available by a permanent easement or right-of-way. The required easement or right-of-way shall be at least 50 feet in width for any such landlocked parcels.
- B. The minimum building setback requirements from all perennial rivers, lakes, or streams shall be 50 feet from the nearest banks unless otherwise established by these regulations.
- C. No wall or other structure shall be erected, and no hedge, tree or other obstruction shall be planted or maintained that may cause danger to traffic on a public street by obscuring the line of sight.

### Section 410: ONE-ACRE TRANSFER EXEMPTION

As an exemption to the density requirements of the Resource Conservation District and Productive Residential District, each owner of a lot recorded by either a deed description or survey in the Dover Land Records on or before April 26, 1988, will be permitted to sell or otherwise convey title to one, and only one family member one, and only one lot, of less than the District requirements, but equal to or greater than one (1) acre. No more than one (1) lot may be transferred from the lot so deeded or surveyed and recorded in the Dover Land Records on or before April 26, 1988, under this exemption, and the transferred lot must also comply with all other conditions of this Section. For the purposes of this Section, a family member is one or more persons related by blood, marriage, civil union or adoption. The total area of both lots must equal or exceed the minimum lot standards of the District the lots are located in. The minimum dimensions for the sub-standard lots are:

Lot Frontage - 150 feet, Lot Depth - 150 feet.

All other requirements of the District and this Bylaw shall apply.

### Section 413: PROHIBITED USES

The provisions of Section 490 notwithstanding, in all districts the following uses are not permitted: junkyards, machinery wrecking yards; bulk storage of oil, butane, propane, gasoline, smelters (except those approved as part of a site map for a permitted or conditionally permitted use); blast furnaces; slaughter houses; rendering plants; hide tanning or curing plants; concentrated animal feeding operations; manufacture or processing of fertilizer, bone, rubber, asphalt, ammonia, chlorine, manufacture or refining of petroleum, gas, explosives, bulk storage of explosives; dumps, except municipally operated sanitary landfill; amusement parks and zoos; drive-thru food and beverage establishments; and corrugated fences.

### Section 415: ESTABLISHMENT OF ZONING DISTRICTS

The Town of Dover is hereby divided into the following Zoning Districts as shown on the Map #1:

Village District (VIL)	Residential District (RES)
Planned Commercial District (COM)	Productive Residential District (PRO)

Resource Reserve & Conservation District (CON)	Light Industrial District (IND)
Resort Center District (RST)	Vacation Zone (Resort Overlay) (VAC)

#### Section 418: ESTABLISHMENT OF OVERLAY DISTRICTS

This Bylaw provides for the regulation of sensitive wildlife resources and transfer of development rights through the use of special overlay districts. Descriptions of overlay district locations, use and dimensional regulations and special procedures are defined in Articles 9 and 10.

#### Section 420: VILLAGE DISTRICT (VIL)

The purpose of the Village District is to support the traditional role of the village as the focus of the Town's economic, cultural and social activities and to provide for residential and related development, which are compatible with the needs of the village and Town. Where appropriate, development within the Village District should be reviewed and conditioned in such a way as to protect buildings and sites of architectural and historic value and protect the investment of public facilities through the coordination of private development activities.

#### Section 425: PLANNED COMMERCIAL DISTRICT (COM)

The purpose of the Planned Commercial District is to accommodate most of Dover's future commercial growth. These lands shall be situated near the Town's principle arterial road and shall not contribute to strip development.

#### Section 430: RESOURCE RESERVE AND CONSERVATION DISTRICT (CON)

The purpose of the Resource Reserve and Conservation District is to protect lands because of their special and unique value to the public and the region's ecosystems. These lands have high natural, scenic, wildlife, recreational, and other resource values. These lands should not be committed to development at intensities that reduce the resources' values or functions.

#### Section 435: RESORT CENTER DISTRICT (RST)

The purpose of the Resort Center District is to support resort related residential and mixed-use commercial development. Development shall be located near existing resort areas and services that are readily accessible by the Town's existing road system.

#### Section 440: RESIDENTIAL DISTRICT (RES)

The purpose of the Residential District is to support low to high-density residential development. These lands are located near existing village areas and services and are readily accessible by the Town's existing road system.

#### Section 445: PRODUCTIVE RESIDENTIAL DISTRICT (PRO)

The purpose of the Productive Residential District is to minimize development and fragmentation of lands with significant economic value when in productive use, significant scenic, and recreational use. Every effort shall be made to preserve the viability of land-based economic activities, including agriculture, forestry, recreation, and to preserve the rural character of the Town.

#### Section 450: LIGHT INDUSTRIAL DISTRICT (IND)

The purpose of the Light Industrial District is to provide for well-planned and coordinated development of industrial uses, and employment opportunities in light manufacturing, warehousing, research and development, solid waste disposal, and related non-intensive commercial uses.

Section 455: VACATION ZONE (RESORT OVERLAY) (VAC)

The purpose of the Vacation Zone is to conditionally permit lesser densities than in the Resort Center District. All the same uses are allowed, but with maximum density no greater than one unit per half acre.

Section 470: ZONING DISTRICTS – PERMITTED (P) AND CONDITIONAL (C) USES

Uses	V I L	C O M	C O N	R S T	R E S	P R O	I N D	V A C
Accessory Apartment	C	C	C	C	C	C	C	C
Accessory Dwelling Units	P	P	P	P	P	P	P	P
Accessory Uses to Permitted Uses	P	P	P	P	P	P	P	P
Accessory Uses to Conditional Uses	C	C	C	C	C	C	C	C
Agriculture	P	P	P	P	P	P	P	P
Airport	-	-	-	-	-	-	C	-
Bank	C	C	-	C	-	-	-	C
Bar or Lounge	-	C	-	C	-	C	-	C
Bed and Breakfast	C	C	-	C	C	C	-	C
Camp	-	-	C	-	-	C	-	-
Campground	-	-	C	-	C	C	-	-
Car Rental	-	C	-	C	-	-	P	C
Carwash	-	C	-	C	-	-	P	C
Cemetery	-	-	C	C	-	C	-	C
Child Care Facility (6 or less)	P	P	P	P	P	P	P	P
Child Care Facility (7 or more)	C	C	C	C	C	C	C	C
Church	C	C	-	C	C	C	-	C
Clubhouse	C	C	-	C	C	C	-	C
Commercial Animals	-	-	C	C	-	C	-	C
Community Structure	C	C	-	-	C	C	-	-
Conference/Convention Center	-	-	-	C	-	-	-	C
Country/General Store	C	C	-	C	-	C	-	C
Dwelling, Mixed-Use Dwelling	P	C	-	C	-	-	-	C
Dwelling, Multi-Family	C	C	-	C	C	-	-	C
Dwelling, Single	P	P	P	P	P	P	C	P
Dwelling, Two Family	P	P	C	P	P	C	-	P
Educational or Institutional Facility	C	C	-	C	C	C	-	C
Entertainment/Cultural Facility	C	C	-	C	-	C	-	C
Earth & Mineral Extraction	-	-	C	-	-	C	-	-
Farm stand	C	C	C	C	-	C	-	C
Gallery	C	C	-	C	-	C	-	C
Garden, Farm Supply or Nursery	C	C	C	-	-	C	C	-
Golf Course	-	-	-	-	-	C	-	-
Home Business	C	C	C	C	C	C	C	C
Home Occupation	P	P	P	P	P	P	P	P
Hotel	C	C	-	C	-	-	-	C
Kennel	C	C	C	C	-	C	-	C
Light Industry	-	C	-	-	-	-	C	-
Lodge/Inn	C	C	-	C	-	C	-	C
Maintenance Facility	-	-	-	C	-	-	P	C
Manufacturing, Packaging or Processing	-	C	-	-	-	-	C	-

Uses	V I L	C O M	C O N	R S T	R E S	P R O	I N D	V A C
Medical/Dental Facility	C	C	-	C	-	-	-	C
Mobile Home Park	-	-	-	C	C	-	-	C
Motel	C	C	-	C	-	-	-	C
Motor Vehicle Body Shop	-	C	-	-	-	-	C	-
Motor Vehicle Service Station	-	C	-	C	-	-	P	C
Multi-Business Center	C	C	-	-	-	-	-	-
Municipal Transfer Station	-	-	-	-	-	-	C	-
Nightclub	-	C	-	C	-	-	-	C
Nursing Home/Assisted Living Facility	-	C	-	-	-	-	-	-
Office	C	C	-	-	-	-	P	-
Office, Professional	C	P	-	-	-	-	P	-
Planned Unit Development	C	C	-	C	C	C	-	C
Private Club	-	C	-	C	-	C	C	C
Recreation, indoor	C	C	-	C	-	-	-	C
Recreation, Outdoor (Non Motorized) – Commercial	C	C	-	C	-	C	-	C
Recreation, Outdoor (Non Motorized) – Private	C	C	C	C	C	C	-	C
Recreation, Outdoor (Non Motorized) - Public	C	C	C	C	C	C	-	C
Recreation, Outdoor (Motorized) – Commercial	-	C	-	C	-	C	-	C
Recreation, Outdoor (Motorized) – Private	-	C	C	C	C	C	-	C
Recreation, Outdoor (Motorized) - Public	-	C	C	C	-	C	-	C
Repair Garage	-	C	C	C	-	-	C	-
Rescue Facility	-	-	C	P	-	-	-	C
Residential Care/Group Home	C	C	C	P	P	P	P	C
Restaurant	C	C	-	C	-	-	C	C
Retail Business or Service <2,500 square feet	C	C	-	C	-	-	P	C
Retail Business or Service >2,500 square feet	C	C	-	C	-	-	C	C
Safety Service Facility	C	C	-	-	C	-	-	-
School	C	C	-	C	C	-	-	C
Service Business	C	C	-	-	-	-	C	-
Ski Area	-	-	C	C	-	C	-	C
Ski Lodge Facilities	-	-	C	C	-	C	-	C
Snowmaking Facility	-	-	C	C	-	C	-	C
State or Municipal Owned or Operated Facility	C	C	C	C	C	C	C	C
Storage Facility	-	-	-	C	-	-	C	C
Veterinary Clinic	C	C	C	-	-	C	-	-
Wholesale Business < 5,000 Square Feet	C	C	-	-	-	-	C	-
Wholesale Business >5,000 Square Feet	-	C	-	-	-	-	C	-

## Section 475: AREA, DIMENSION AND COVERAGE STANDARDS

DIMENSIONS	VIL	COM	CON	RST	RES	PRO	IND	VAC
<b>Minimum Lot Size</b>								
<u>Residential</u>	<u>½ acre</u>	<u>½ acre</u>	<u>27 acres</u>	<u>1 or 2 family: ¼ acre</u> <u>Multi-family: 1 acre</u>	<u>1 acre</u>	<u>5 acres</u>	<u>1 acre</u>	<u>½ acre</u>
<u>Hotel/Motel, Lodge/Inn</u>	<u>1 acre</u>	<u>2 acres</u>		<u>2 acres</u>				<u>2 acres</u>
<u>Bed and Breakfast</u>	<u>1 acre</u>	<u>1 acre</u>		<u>1 acre</u>		<u>5 acres</u>		<u>2 acres</u>
<u>Other Uses</u>	<u>½ acre</u>	<u>½ acre</u>	<u>27 acres</u>	<u>1 acre</u>	<u>1 acre</u>	<u>5 acres</u>	<u>1 acre</u>	<u>2 acres</u>
<b>Maximum Overall Density</b>								
<u>Residential</u>	<u>1 unit per ½ acre</u>	<u>1 unit per ½ acre</u>	<u>1 unit per 27 acres</u>	<u>1 or 2 family: 1 unit per ¼ acre</u> <u>Multi-family: 10 units per acre</u>	<u>1 unit per acre</u>	<u>1 unit per 5 acres</u>	<u>1 unit per acre</u>	<u>1 unit per ½ acre</u>
<u>Motel/Hotel, Lodge/Inn</u>	<u>12 guest rooms per acre</u>	<u>18 guest rooms per acre</u>		<u>18 guest rooms per acre</u>				<u>10 guest rooms per acre</u>
<u>Bed and Breakfast</u>	<u>6 guest rooms</u>	<u>6 guest rooms</u>		<u>6 guest rooms</u>	<u>6 guest rooms</u>	<u>6 guest rooms</u>		<u>6 guest rooms</u>
<u>Commercial Use (excluding parking areas)</u>	<u>4,000 SF per acre</u>	<u>20,000 SF per acre</u>		<u>10,000 SF per acre</u>			<u>20,000 SF per acre</u>	<u>5,000 SF per acre</u>
<b>Minimum building Setbacks</b>								
<u>Industrial Use (excluding parking areas)</u>							<u>20,000 SF per acre</u>	
<u>Front Yard – Route 100<sup>1</sup></u>	<u>50 feet</u>	<u>50 feet</u>		<u>100 feet</u>	<u>100 feet</u>	<u>100 feet</u>	<u>50 feet</u>	<u>100 feet</u>
<u>Front Yard – Other Roads<sup>1</sup></u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet<sup>2</sup></u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet<sup>3</sup></u>	<u>50 feet</u>
<u>Front Yard –PUD<sup>1</sup></u>	<u>50 feet</u>	<u>50 feet</u>		<u>100 feet</u>	<u>100 feet</u>			<u>100 feet</u>
<u>Other Property Boundaries</u>	<u>15 feet</u>	<u>15 feet</u>	<u>15 feet</u>	<u>15 feet</u>	<u>15 feet</u>	<u>15 feet</u>	<u>25 feet</u>	<u>15 feet</u>
<b>Minimum Lot Frontage</b>	<u>75 feet</u>	<u>100 feet</u>	<u>600 feet</u>	<u>75 feet</u>	<u>150 feet</u>	<u>300 feet</u>	<u>150 feet</u>	<u>100 feet</u>
<b>Minimum Lot Depth</b>	<u>100 feet</u>	<u>100 feet</u>	<u>600 feet</u>	<u>100 feet</u>	<u>150 feet</u>	<u>300 feet</u>	<u>150 feet</u>	<u>100 feet</u>
<b>Maximum Lot Coverage</b>	<u>70%</u>	<u>50%</u>		<u>75%</u>			<u>50%</u>	
<b>Maximum Building Height (except agricultural uses)</b>	<u>36 feet</u>	<u>36 feet</u>	<u>36 feet</u>	<u>36 feet</u>	<u>36 feet</u>	<u>36 feet</u>	<u>36 feet</u>	<u>36 feet</u>
<b>Maximum Appurtenant Height (except agricultural uses)</b>	<u>45 feet</u>	<u>45 feet</u>	<u>45 feet</u>	<u>45 feet</u>	<u>45 feet</u>	<u>45 feet</u>	<u>45 feet</u>	<u>45 feet</u>

These notes accompany the table of Area, Dimension, and Coverage standards:

- (1) All front yard setbacks are measured from the center line of the Road
- (2) Exception: There is a 100 foot setback from Handle Road
- (3) Exception: Industrial and Commercial uses have a 100 feet setback from Dover Hill Road

#### Section 480: ZONING MAPS

The location and boundaries of Zoning Districts are established as shown on the attached Maps. The Maps are hereby made a part of this Bylaw, together with all future amendments. Regardless of the existence of copies of the Maps which may from time to time be made or published, the Maps, which shall be located in the Office of the Clerk of the municipality, shall be the final authority as to the current zoning status of land and water areas.

#### Section 485: INTERPRETATION OF BOUNDARIES

The location of the Zoning District's boundaries are established as shown on the Maps. Where, due to scale, lack of detail or illegibility by the maps, there is uncertainty, contradiction or conflict as to the intended location of any Zoning District boundary shown thereon, the Development Review Board shall make an interpretation, upon request, by any aggrieved party. Where the boundary line between two Zoning District divides a lot held in single and separate ownership, the provisions of the higher density district may be extended by 50 feet, where such higher density district has frontage on a public street, road or right-of-way.

#### Section 490: USES NOT PROVIDED FOR

Provision is made for unanticipated future uses. In order to obtain a permit for a use under this provision, it must meet the following standards and criteria:

- A. The use must not be specified as permitted or conditional in any district.
- B. The Planning Commission shall submit to the Development Review Board written Findings of Fact as to whether:
  - 1. The use of the same character as those permitted (including conditional uses) within the district. This excludes any expressly illegal or non-conforming use. The Planning Commission shall include a listing of all uses within 1500 feet of the proposed use site, as well as a description of similar and dissimilar characteristics that include: intensity of lot usage, hours, noise level, amount of traffic, number of employees, size of structure and other distinguishing factors.
  - 2. The use will not be detrimental to the other uses within the district or to the adjoining land uses. The Planning Commission shall state the level of adverse impact, if any, on the other uses or potential development of the district. In making a decision under this criterion, the Planning Commission shall consider whether the proposed use would attract similar ones and, if so, whether this would be detrimental to the planned development of the area as set forth under the District Purpose and Town Plan.
- C. If there is a permitted use similar to the proposed use in the judgment of the Planning Commission, the Planning Commission in making its findings shall state the permitted use most similar to the proposed use. The proposed use shall then meet all standards in this Bylaw for a similar permitted use, including a site map review, parking and landscaping.
- D. Upon positive findings under 1 & 2 above, the proposed use shall be brought before the Development Review Board for a Conditional Use Permit. Upon positive findings by the Development Review Board and approval for all necessary state permits, a Conditional Use Permit may be issued.

## ARTICLE 5: FLOOD HAZARD AREA REGULATIONS

### Section 500: STATUTORY AUTHORIZATION

To effect the purpose of 10 V.S.A., Chapter 32, and in accordance with the Vermont Planning and Development Act, 24 V.S.A., Chapter 117, there are hereby established Flood Hazard Area Regulations for the Town of Dover.

### Section 505: PURPOSE

It is the purpose of these regulations to promote the public health, safety, and general welfare, to prevent increases in flooding caused by the uncontrolled development of lands in flood hazard areas, to secure the community against unnecessary costs which may be caused when unstable development occurs in areas subject to flooding, and to minimize losses due to flooding by:

- A. Identifying lands that are unstable for their intended purposes because of flood hazards;
- B. Restricting or prohibiting uses that are dangerous to health, safety, or property in times of flood or cause excessive increases in flood heights or velocities;
- C. Requiring that uses vulnerable to floods be protected against flood damage at the time of initial construction.

### Section 510: ESTABLISHMENT OF FLOOD HAZARD BOUNDARIES & MAP

These regulations shall apply to all areas in the Town of Dover identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security, Federal Emergency Management Agency, National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. §756, which are hereby adopted by reference and declared to be part of these regulations.

### Section 520: PERMITTED USES

The following open space uses shall be permitted within flood hazard areas to the extent that they are not prohibited by any other ordinance or regulation and provided that they do not require the erection of structures, storage of materials and equipment, importing fill from outside the flood hazard area, do not obstruct flood flows and will not increase the base flood elevation within the community during the occurrence of the base flood or increase off-site damage potential.

- A. Agricultural uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming and forestry.
- B. Recreation uses, such as parks, camping, picnic grounds, tennis courts, golf courses, ski areas, and boat launching sites.
- C. Residential accessory uses, such as lawns, gardens, unpaved areas and play areas.

### Section 525: DEVELOPMENT PERMIT REQUIRED

Except for the permitted uses as defined by Section 520, a permit is required, to the extent authorized by state law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. Conditional use approval by the Development Review Board is required for:

- 1. New buildings,
- 2. Substantial improvement of existing buildings, and
- 3. Development in a floodway

prior to being permitted by the administrative officer. All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water

systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

Section 530: PERMIT APPLICATION

- A. All zoning permit applications shall be submitted to the Zoning Administrator, on forms furnished by him/her, who shall determine whether or not the proposed development is located within the Flood Hazard Area by the procedure established in Section 510.
- B. If the proposed use is a permitted use as defined in Section 520, a permit shall be issued by the Zoning Administrator.
- C. Requests for other uses will be referred to the Secretary of the Development Review Board by the Zoning Administrator.

Section 535: CONDITIONAL USE APPLICATION REQUIREMENTS FOR FLOOD HAZARD AREAS

- A. Two (2) copies of plans drawn to scale showing the nature, location, dimensions and elevations of the development or lot.
- B. Existing and proposed structures including the elevation of the lowest habitable floor including basement and confirmation as to whether such structure contains a basement.
- C. Proposed fill and/or storage of materials.
- D. Proposed flood proofing measures and the level to which any structure will be flood -proofed.
- E. The relationship of the proposal to the location of the channel of the river or other watercourse.
- F. The extent of the flood hazard areas and the base flood elevations utilizing the best information available.
- G. For all subdivisions and proposed new development which requires a permit under Section 425 and which involves more than fifty (50) lots or five (5) acres, the elevation of the 100 year flood on said parcel.
- H. Upon completion of any walled or roofed building, an elevation certificate printed by the Federal Emergency Management Agency (FEMA Form 81-310) must be completed and submitted to the Zoning Administrator within thirty (30) days.

Section 540: PROCEDURES

- A. Prior to issuing a permit a copy of the application shall be submitted by the administrative officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner. A substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repairs is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.
- B. Adjacent communities and the Alteration Engineer at the Vermont Agency of Natural Resources, Vermont Department of Environmental Conservation shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.



- C. Proposed development shall be reviewed by the Zoning Administrator or the Development Review Board to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal, State, or Municipal law.
- D. In granting its approval, the Development Review Board shall consider all comments received from adjacent communities and the Vermont Department of Environmental Conservation and shall be assured that the flood carrying capacity of any altered or relocated portion of any water course is maintained.

Section 542: BASE FLOOD ELEVATIONS AND FLOODWAY LIMITS

- A. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.
- B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations.
- C. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 545: DEVELOPMENT STANDARDS

- A. Floodway Areas:
  - 1. Development within the regulatory floodway, as determined by Section 442.B, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a registered professional engineer certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
  - 2. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway. These facilities may be permitted outside of the floodway, provided the area is filled to at least one foot above the base flood elevation.
- B. Floodway Fringe Areas (i.e. special flood hazard areas outside of the floodway):
  - 1. All development shall be reasonably safe from flooding and: (1) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood, (2) be constructed with materials resistant to flood damage, (3) be constructed by methods and practices that minimize flood damage, and (4) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - 2. Residential Development:

- a. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- b. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:
  - (1) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
  - (2) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

3. Commercial Development:

- a. New construction located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- b. Existing buildings to be substantially improved located in Zones A1-30, AE, and AH shall or shall either (1) have the lowest floor, including basement, elevated to or above the base flood elevation, or (2) together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. *(Note: While buildings need only be flood-proofed to the base flood elevation for floodplain management purposes, the building must be flood-proofed to an elevation at least one foot above the base flood elevation to receive credit for base flood protection for flood insurance rating purposes.)*
- c. A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

4. Subdivisions:
- a. New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
  - b. Subdivisions (including manufactured home parks) shall be designed to assure that:
    - (1) such proposals minimize flood damage within the flood-prone area,
    - (2) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
    - (3) adequate drainage is provided to reduce exposure to flood hazards.
5. Enclosed Areas Below the Lowest Floor:
- a. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.
  - b. All new construction and existing building to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
  - c. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
6. Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall either:
- a. be on the site for fewer than 180 consecutive days,
  - b. be fully licensed and ready for highway use, or
  - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in section B.2.(b).
7. Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:
- a. shall not be used for human habitation,
  - b. shall be designed to have low flood damage potential,
  - c. shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters,
  - d. shall be firmly anchored to prevent flotation, and

- e. shall have service facilities such as electrical and heating equipment elevated or flood-proofed.
- 8. Water Course Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
- 9. Sanitary Sewerage Systems and Water Supply Systems: New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 10. On-Site Waste Disposal Systems: On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. The lowest elevation of the wastewater distribution field shall be located at least 1 foot above the base flood elevation.

#### Section 550: DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATIVE OFFICER

The provisions of these regulations shall be administered and enforced as provided by Article 11 of this Bylaw. In conformance with these regulations, the Zoning Administrator shall maintain a record of:

- A. all permits issued for development in areas of special flood hazard,
- B. the as built elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings,
- C. the as built elevation, in relation to mean sea level, to which buildings have been flood-proofed.
- D. all flood-proofing certifications required under this regulations, and
- E. all variance actions including justifications for their issuances.
- F. The elevation certificate (FEMA Form 81-310) completed by the applicant as indicated in Section 435 item H.

#### Section 555: VARIANCE TO DEVELOPMENT STANDARDS

Variances shall be granted by the Development Review Board only in accordance with the provisions of 24 V.S.A., Section 4469; and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations.

#### Section 560: WARNING OF DISCLAIMER OF LIABILITY

These regulations do not imply that areas outside of the flood hazard area or land uses permitted within such districts will be free from flooding or flood damage. These regulations shall not create liability on the part of the Town of Dover, or any town official or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

#### Section 465: PRECEDENCE OF BYLAW

The provisions of the Flood Hazard Bylaw shall not in any way impair or remove the necessity of compliance with any other applicable bylaws. Where this bylaw imposes a greater restriction, the provisions of this bylaw shall take precedence.

#### Section 570: ENFORCEMENT AND PENALTIES

It shall be the duty of the Administrative Officer to enforce the provisions of this bylaw. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

If the structure is still noncompliant after the opportunity to cure has passed, the Administrator Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### Section 575: DEFINITIONS

**BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE):** The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

**BASEMENT:** Any area of the building having its floor elevation (below ground level) on all sides.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD:** (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS):** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

**FLOODPLAIN OR FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source (see definition of “flood”).

**FLOOD PROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

**HISTORIC STRUCTURE:** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION:** For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE:** A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**SPECIAL FLOOD HAZARD AREA:** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

**STRUCTURE:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**VIOLATION:** The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

**WATERCOURSE:** The channel and banks of an identifiable river, stream, or drainage way. The watercourse does not include the adjoining floodplain areas.

## ARTICLE 6: GENERAL REGULATIONS

### Section 600: CAPPING OF WELLS

Starting upon the date of adoption of this Zoning Bylaw, all new drilled or upgraded flowing artesian bedrock wells shall be capped to stop or substantially reduce free flow and the dewatering of aquifers.

### Section 610: HOME OCCUPATION AND HOME BUSINESS GENERAL STANDARDS

No provision of these Bylaws shall prevent a person from using a minor portion of the dwelling in which he or she resides, or an accessory building on the same lot, for the performance of an occupation customary in residential areas, provided that the particular occupation is consistent with the character of the particular neighborhood and meets the applicable requirements.

Two categories of non-residential use are set forth in order to adequately provide for the needs and protection of residents: home occupation and home business.

The general standards set forth below are applicable to both Home Occupations and Home Business.

1. No home occupation or home business shall be permitted without the issuance of a zoning permit;
2. The home occupation or home business shall be operated by a person for whom the property is the primary residence. The permit is only valid while the person lives there; and
3. The permit is not transferable from address to address.

### Section 611: HOME OCCUPATIONS – SPECIFIC REQUIREMENTS

1. Application
  - a. Application for a home occupation permit shall be made to the Zoning Administrator in accordance with Section 335: Permit Application and Requirements.
  - b. When it is unclear if a commercial activity is a Home Occupation or a Home Business, the Zoning Administrator will make a determination.
  - c. The Zoning Administrator shall review the application and make findings that the application meets the criteria set forth in Section 610 and this Section.
  - d. Upon finding that the criteria set forth below are met, the Zoning Administrator shall issue a home occupation permit without a public hearing in accordance with Section 340 of this Bylaw.

2. Criteria

The standards for home occupations are intended to insure compatibility with the residential character of the neighborhood, and that the home occupation is a clearly secondary or incidental use in relation to the residential use of the main structure. In addition to meeting the criteria in Section 610, a home occupation shall meet the following criteria:

- a. The occupation is one that is customary in a residential area;
- b. The home occupation shall be conducted solely by the resident occupant of the premises; there shall be no non-resident personnel, profit or non-profit employees or volunteers;



- c. That portion of the home occupation which is conducted at the residence must be conducted wholly within;
- d. The home occupation may increase customer, delivery, and pick-up vehicular traffic flow and parking by no more than one additional vehicle at a time on the lot;
- e. There shall be adequate off-street parking for residential vehicles as well as one customer vehicle;
- f. Customers or deliveries shall not exceed that reasonably occurring for a residence including no more than eight (8) business visitors or customers per day, and no more than two (2) deliveries or shipments of products or materials per day;
- g. A home occupation use may have no more than one dedicated vehicle, limited to two axles, in addition to personal vehicles not dedicated to the home occupation;
- h. There shall be no outward appearance change, or variation from the residential character of the residence or accessory buildings, and no outside storage of materials, equipment, products, or outside display except for a maximum of two signs, each no larger than 4 square feet;
- i. No more than 25% of the gross floor area of the dwelling can be used for the occupation or office. This shall be calculated by the area of heated and ventilated floor space, including attics and basements.
- j. No flammable or explosive liquids, solids, or gases shall be stored in bulk, excluding residential uses;
- k. No equipment or process shall be used in such home occupation which creates excessive and sustained noise, vibration, glare, fumes, odors, electrical interference or adverse affects to on or off-site water quality.
- l. Any activity which grows to exceed the definition and criteria for a home occupation will be required to relocate to a district, in which the activity is a permitted or a conditional use, or apply and obtain a home business permit if applicable.

### 3. Examples of Home Occupations

Home occupations shall be deemed to include professional offices, such as that of a lawyer, accountant, engineer, architect and the business offices of a variety of similar occupations. They shall also include occupations such as dressmaking, cooking limited items for off-premise consumption, home crafts, hairdressing limited to one chair, and music or art lessons.

Home occupations expressly do not include commercial kennels, the parking or storage of tractor trailers, auto or small engine repair or maintenance, welding, or other uses which involve the visible storage on the property of automobiles or parts thereof. A contractor or tradesman may store building materials or construction equipment on the premises only within existing or proposed structures.

## Section 612: HOME BUSINESS – SPECIFIC REQUIREMENTS

### 1. Application

- a. Application for a Home Business permit shall be made to the Development Review Board and shall require conditional use permit approval after public hearing;
- b. Notice of the hearing must be duly warned in accordance with Section 375 of this Bylaw.

## 2. Criteria

The standards for home businesses are intended to insure compatibility with the residential character of the neighborhood. This classification recognizes that there is a greater chance for disturbance to the neighborhood, therefore greater scrutiny is needed for the applications. Lot size, location, and proximity to neighbors are important considerations in determining the impact a home business may have on a residential neighborhood.

In addition to the criteria in Section 610, the following criteria must be met.

- a. The primary use of the property remains residential in character;
- b. That portion of the home business which is conducted from the residence shall be conducted wholly within such residence and/or accessory structures. Work on the property that is outside the residence or accessory structures is not allowed. The parking of equipment that is associated with the home business and used off-site is permissible;
- c. The home business shall be owned and conducted by the resident occupants of the premises. There shall be no more than three (3) non-resident personnel, profit or non-profit employees or volunteers working on the premises;
- d. Retail sales and/or wholesale sales from the premises shall be prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the home business or the pick-up of items manufactured off-premises and delivered to the premises only when ordered from the business by phone or at an off-premise sales event.
- e. Contractors or other tradesmen may be permitted to park equipment at their residence subject to meeting the criteria of Section 610 and this section. In addition to the three (3) non-residential personnel that would be allowed to work from the premises, no more than ten (10) employees of the business will be allowed to leave their vehicles on-site and pick up construction equipment to be used off-site;
- f. In no case shall a home business be open to the public at times earlier than 7:00 a.m. or later than 8:00 p.m.;
- g. No more than fifteen (15) customers or clients are allowed at the dwelling unit during any one day, and no more than two (2) deliveries or shipments of products or materials are allowed a day;
- h. Any need for parking generated by the conduct of such home business shall be met off the street and other than in a front yard, if feasible. This includes parking for vehicles dedicated to the business, employees and other personnel or customers;
- i. No equipment or process shall be used in such home business which creates excessive and sustained noise, vibration, glare, fume, odors, or electrical interference off the lot, or adversely impacts water quality either on or off the lot;
- j. No flammable or explosive liquids, solids or gases shall be stored in bulk, excluding residential type uses, unless they are located at least 75 feet from any lot line (in the case of above-ground storage), or 40 feet from any lot line (in the case of underground storage), and all materials shall

be stored in a manner and location which is in compliance with applicable rules and regulations of the Vermont Department of Public Safety and all other applicable federal, state, and local regulations;

- k. An activity which grows to exceed the definition and criteria for a home business will be required to relocate to a district in which the activity is a permitted or a conditional use.

#### Section 615: EQUAL TREATMENT OF HOUSING

Except as provided in Section 4414(1)(E)&(F) of the Act, no zoning regulation shall have the effect of excluding mobile homes, modular housing or other forms of prefabricated housing from the municipality except upon the same terms and conditions as conventional housing is excluded. In addition, no zoning regulation shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in Section 4382(a)(10) of the Act; and no provision of this Bylaw shall be construed to prevent the establishment of mobile home parks pursuant to Chapter 153 of Title 10.

#### Section 616: CHILD CARE FACILITIES

1. Pursuant to Section 4412(5) of the Act, a state registered or licensed family child care home or facility serving 6 or fewer children shall be considered by right to constitute a permitted single family residential use of property. A zoning permit is required.
2. A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 4902(3)(A), shall be considered to constitute a permitted use of property. A Zoning Permit is required.
3. A state licensed or registered family child care facility serving more than 6 full-time and four part-time children shall be allowed as a Conditional Use in all zoning districts. Conditional Use Approval and a Zoning Permit shall be required.

#### Section 617: RESIDENTIAL CARE/GROUP HOMES

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted home. A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. § 4501, shall be reviewed as a multi family dwelling and shall be subject to conditional use review.

#### Section 620: CALCULATION OF LOT MEASUREMENT, BOUNDARIES & AREAS

Road/access rights-of-way (existing or undeveloped) shall be included in calculating the required lot area ONLY in the Resource Reserve and Conservation District.

The lot depth and setback requirements shall be measured from the center line of the surveyed right-of-way, or if the right-of-way is not surveyed, then the centerline of the road (whether existing or undeveloped) not from a deed boundary line.

#### Section 622: REDUCTION OF LOT AREA AND BUILDING ON LOTS

1. No lot shall be so reduced in area such that the total area, dimension and coverage shall be less than the standards prescribed for each district in this Bylaw.
2. Any building standing on more than the minimum lot area required for the district within which it is located must retain the minimum required lot area if such building is sold or the lot subdivided.

Section 623: NUMBER OF BUILDINGS ON LOTS

There shall be only one principal building on a lot unless otherwise approved as a PUD by the Development Review Board.

Section 624: LOCATION OF DRIVEWAYS

All driveways except for one and two unit residential dwelling are to be located at least 100 feet from a street or highway intersection on the same side.

Section 626: CHANGING SITE GRADE

In any district the use of any material other than uncontaminated soil, rock, stone, or gravel for changing site grade must be approved as a conditional use by the Development Review Board.

Section 630: EROSION AND SEDIMENT CONTROL

The land exposed at any one time during development should be the smallest practical area. Lands shall not be left exposed between November 15 to April 15. Where necessary, temporary vegetation and/or mulching, hay bales and structural measures may be required to protect areas exposed during development. Sediment basins shall be installed, where necessary, and maintained during development to remove sediment from run-off water and from land undergoing development.

Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Grading and storm drainage plans shall maximize the amount of natural drainage which can be percolated into the soil and minimize direct runoff into adjoining streets, properties, watercourses and water-bodies. Areas of grading, cut or fill and ditches shall be designed, constructed, and kept in good repair to minimize erosion and sediment.

Section 632: LANDSCAPING REQUIREMENTS

In all districts, landscaping will be installed and maintained in front, side and rear yards and shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover.

The following are the minimum requirements:

1. Where any non-residential land use abuts a residential land use, a strip of land at least twenty-five (25) feet in width shall be maintained as a landscape area or naturally wooded area in the abutting property.
2. Commercial and industrial uses shall provide for a strip of land at least twenty-five (25) feet in width which shall be maintained as a landscape area in the front, side and rear yard.
3. In any Planned Unit Development (PUD) landscaping shall be carried out as required by the Development Review Board.

Section 634: MINIMUM PARKING REQUIREMENTS

For every building hereafter erected, altered, extended, or changed in use, there shall be off-street parking spaces as set forth below. A required driveway shall be at least twenty (20) feet in width, except for one and two unit residential uses. A parking space shall be at least nine (9) feet by twenty (20) feet.

1. Residential dwelling: Two (2) parking spaces per dwelling unit and three (3) Parking space for three and more-bedroom unit.
2. Hotel, motel, lodge, or bed & breakfast: One and a quarter (1¼) parking spaces per guest bedroom.

3. Business, professional and medical offices: One (1) parking space for every four hundred (400) square feet of office space.
4. Retail stores: One (1) parking space for every two hundred (200) square feet of floor area.
5. Restaurant, bar, lounge, dance club, or places of public assembly: One (1) parking space for every three (3) persons permitted for occupancy by the Vermont Department of Labor and Industry;
6. Industrial uses: One (1) parking space per employee.
7. Parking areas shall have a minimum setback as set forth in each district, unless a plan for shared parking between properties is approved by the Development Review Board.
8. Other uses: Determined by the Development Review Board, which shall consider the following in determining the required number of parking spaces: the parking requirements for the most similar listed use, the conditional use review standards, the factors listed in 24 V.S.A. Chapter 4414 (4) and ITE parking generation standards.

**Section 636: SPECIAL PARKING REQUIREMENTS FOR ALL CONDITIONAL USE PERMITS**

Off-street parking spaces shall be provided as set forth below. The physical improvements shall include the following:

1. Where necessary, curbs, paving, sidewalks and drainage systems;
2. Where necessary, adequate lighting in public parking areas to assure the general safety and convenience;
3. Where necessary, screening for the protection of adjacent properties, particularly along district boundaries;
4. Aisles and turning areas shall provide good internal circulation with adequate radii to assure ease of mobility, ample clearances and convenient access and egress areas.
5. Additional off-street parking and loading spaces may be required for any use if the minimum spaces as provided for in Section 534 are not sufficient.

**Section 637: GENERAL LIGHTING REQUIREMENTS**

To ensure appropriate lighting while minimizing its undesirable effects, the following standards apply to all outdoor lighting in the Town of Dover. The applicant shall submit to the Town sufficient information to enable the Town to determine the applicable provisions will be satisfied.

1. All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which it is located.
2. Permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, roads, or public waters; shall minimize glare; and shall not result in excessive lighting levels which are uncharacteristic of a rural area. Lighting fixtures shall be cast downward and/or designed to minimize glare. Such fixtures shall include recessed, shielded or cutoff fixtures and/or low luminance lamps (bulbs).
3. All non-essential lightning will be required to be turned off after business hours, leaving only the necessary lighting for site security.
4. Security lighting will be full cut-off or shielded type light, not allowing any upward distribution of light. Floodlighting is discouraged, and if used, must be shielded to prevent:

- a. Disability glare for drivers of pedestrians,
  - b. Light trespass beyond the property line, and
  - c. Light trespass above a 90 degree horizontal plane.
- 5. The Development Review Board may require:
  - a. Information regarding exterior lighting fixtures, including fixture type, mounting location and height, illumination levels and distribution, and color.
  - b. A lighting plan prepared by a qualified engineer or lighting expert, may be required as appropriate for larger projects.
  - d. The burial of electrical service to outdoor lighting fixtures.
- 6. The Development Review Board may modify the requirements of this section if it determines that in so doing, it will not jeopardize the intent of these regulations.

The following uses are exempt from the general lighting requirements:

- 1. Outdoor lighting fixtures attached to single and two-family residential structures provided that such lighting does not create dangerous glare on adjacent streets or properties.
- 2. Emergency lighting used by police, firefighting, or medical personnel, or at their direction.
- 3. United States and State of Vermont flags.
- 4. Holiday lighting.
- 5. Lighting required by the FAA or FCC.
- 6. Lighting lawfully installed prior to the effective date of this regulation. However, in the event a non-conforming lighting fixture must be moved or replaced, the new or moved fixture must comply with the regulations of this bylaw.

#### Section 640: EXTRACTION OF SOIL, SAND, AND GRAVEL

In any district where permitted, the removal of soil, and or gravel for commercial purposes shall be permitted only upon approval as a conditional use by the Development Review Board. This conditional use review shall insure that:

- 1. The abandoned site will be left in a safe, attractive and useful condition.
- 2. The removal of all material shall have due regard for the contours in the vicinity, grading, replanting, surface drainage, and top-soil.

The Development Review Board may attach any additional conditions that it may find necessary, including but not limited to: proof of financial capability for site rehabilitation, the height of embankments, the extent of the area excavated, and hours of operation in order to protect the general welfare and safety of the public.

#### Section 645: SPECIAL PUBLIC USE

The use of land for the purpose of schools, state or community owned and operated institutions and facilities, churches and other places of worship, convents, and parish houses, hospitals, regional solid waste management facilities, and hazardous waste management facilities shall be subject to the following standards which shall supersede those area, dimensional, and coverage requirements listed for each underlying Zoning District:

1. The lot size shall be at least five (5) acres.
2. The lot frontage shall be at least three hundred (300) feet.
3. Lot depth should be at least three hundred (300) feet.
4. The density of buildings shall not exceed the residential density permitted in the district in which it is located.
5. The heights of buildings or structures shall not exceed those permitted in the district in which it is located.
6. All buildings must have a setback of one hundred and fifty (150) feet from the right-of-way of any road, and one hundred (100) feet from any property line.
7. A strip of land at least fifty (50) feet in width shall be maintained as a naturally wooded or landscaped area abutting all adjacent properties.
8. The requirements of Section 630, 634, and 636 (where applicable) shall be applied.

**Section 646: ACCEPTED AGRICULTURAL AND SILVICULTURAL PRACTICES**

Pursuant to 24 VSA Section 4413, accepted agricultural and silvicultural practices within the Town of Dover shall be governed as follows:

1. Farm structure means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation. This bylaw shall not regulate accepted agricultural practices, as defined by the Secretary of Agriculture, Food, and Markets, including the construction of farm structures, except that a person shall notify the Town of Dover of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets.
2. This bylaw shall not regulate accepted silvicultural practices, as those practices are defined by the commissioner of forests, parks and recreation under subsection 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.

**Section 650: MOBILE HOME PARKS**

It shall be unlawful to park, place, maintain or permit more than one mobile home on any lot of land except in a mobile home park duly approved under this Section. A mobile home park shall be permitted in any district where PUDs are allowed and shall be reviewed under the procedures and standards of Article 7: PLANNED UNIT DEVELOPMENT (PUD). The application shall also comply with the following standards:

1. A mobile home park shall be consistent with the Town Plan.
2. The overall density of the mobile home park shall in no case exceed the allowable density in that District.

#### Section 651: TEMPORARY RESIDENCE PLACEMENT DURING CONSTRUCTION

A Zoning Permit may be granted by the Zoning Administrator for a period of up to one (1) year for the placement of a temporary residence on a parcel of land for the purpose of construction. The temporary residence must be removed upon expiration of one year or completion and occupancy of the structure, whichever comes first. An extension of up to one year may be granted by the Zoning Administrator, in accordance with the provisions of Section 355.

#### Section 655: RECREATIONAL VEHICLE/TRAVEL TRAILER AND TENTS

It shall be unlawful for any person to park a recreational vehicle/travel trailer, or to erect a tent except in accordance with the following regulations:

1. The non-commercial use of recreational vehicles/travel trailers or tents shall be permitted upon the specific approval of the landowner for camping not to exceed 90 days. Any non-commercial recreational vehicles/travel trailers and tents remaining longer than ninety (90) days shall require the Zoning Administrator to demand conformity with the rest of these regulations, including but not limited to Section 650 or Section 660.
2. The owner of a recreational vehicle/travel trailer may park the vehicle/trailer or erect a tent on his own property. A recreational vehicle/travel trailer or tent so parked or erected shall not be used as living quarters and shall not be permanently hard wired to any electric utility or directly connected to any sewer system.

#### Section 660: RECREATIONAL VEHICLE PARK /CAMPGROUND

A recreational vehicle park/ campground shall be permitted in any district where PUDs are allowed and shall be developed as a PUD under the procedures and standards of Article 7: PLANNED UNIT DEVELOPMENT (PUD). This application shall also comply with the following standards:

1. The overall density of a recreational vehicle park shall not exceed 12 recreational vehicles/acre.

#### Section 665: MOTOR VEHICLE SERVICE STATIONS

In all districts where permitted, motor vehicle service stations shall comply with the following:

1. A motor vehicle service station shall not be located within four hundred (400) feet of any school, hospital, library, or religious institution.
2. The lot size shall be at least two (2) acres.
3. The lot frontage shall be at least two hundred (200) feet.
4. The lot depth shall be at least two hundred (200) feet.
5. Pumps, lubricating and other service devices shall be located at least fifty (50) feet from the highway right-of-way and side and rear lot lines.
6. All fuel shall be stored underground in tanks meeting State environmental standards and at least thirty-five (35) feet from any property line.
7. All automobile parts and dismantled vehicles are to be stored within the building, and no major repair work is to be performed outside the building.
8. Damaged or repaired vehicles shall be adequately screened from public view.



9. There shall be no more than two (2) access driveways from any street or highway. The maximum width of each access driveway shall be forty (40) feet. A maximum of three access driveways shall be allowed on two roads.

10. A suitably curbed landscaped area shall be maintained at least 25 feet in depth.

#### Section 675: DESIGN REVIEW/HISTORIC DISTRICTS AND LANDMARKS

As provided for in Section 4414 of the Act, provision is hereby made for the establishment of design review districts, historic districts, and landmarks, subject to Sections 4441 and 4442 of the Act.

#### Section 685: ABANDONMENT OF STRUCTURES

Within two years after a building or other structures have been destroyed, severely damaged, demolished and abandoned, all debris shall be removed from the site, and any excavation or foundations thus remaining shall be covered or filled to the normal grade by the owner of the land. Owners involved in legal proceedings resulting from the loss or damage of said structure shall comply with the above terms within one (1) year following the date of settlement of any such legal proceedings.

#### Section 690: COMPLIANCE WITH FIRE CODES

All commercial and public building applications for permits must include evidence of compliance with all State and Local fire codes.

#### Section 696: JUNKED VEHICLES

All Junked Vehicles, as defined in this Bylaw, in excess of one (1) shall either be housed in a structure that has a duly permitted zoning permit, if required under any Section of this Bylaw, or hidden from both neighbors and public roads by a fence that has been constructed in compliance with this Bylaw. A corrugated metal fence is expressly prohibited under this Section as being an acceptable fence. All other fences, either existing or to be constructed, must meet the requirements of this Bylaw. No junked or unregistered vehicles may be located on any public right-of-way.

## ARTICLE 7: PLANNED UNIT DEVELOPMENT (PUD)

### Section 700: STATUTORY AUTHORIZATION

In accordance with the provisions of Section 4417 of the Act, and where permitted in the zoning districts, the modification of the district regulations by the Development Review Board is permitted for Planned Unit Development (PUD) in accordance with the following provisions and procedures.

### Section 705: PURPOSE

The purpose of the PUD provision is to encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land through cluster development, to further the objectives of the Town Plan; to provide for the optimal location of buildings, structures, streets and utilities; to provide for a mixture and variety of residential and commercial design types; and to preserve the natural and scenic qualities of open land.

### Section 710: DEFINITION

A Planned Unit Development (PUD) shall mean an area of land, controlled by a landowner, to be developed as a single entity for two (2) or more dwelling units and/or mixed commercial or industrial uses, the plan for which does not comply with the regulations established in the permitted district.

### Section 715: APPLICATION AND REVIEW PROCEDURES

The applicant shall submit one set of site maps and supporting data to the Development Review Board, which shall include the following information, where applicable:

- A. Name, address and interest of the applicant in the subject property, deeds pertinent to the property, and the name and address of the owners of record of adjoining lands;
- B. Survey of the property as prepared by a licensed surveyor showing existing features, including contours, structures, vegetated areas, streets, utility easements, rights-of-way, land use, deed restrictions, water bodies, scale of the map, north point, date and the name and address of person or firm preparing the map;
- C. Site map showing proposed structures, locations, building heights, spacing of buildings, fire protection, and land use areas; streets, driveways, traffic circulation, parking and loading spaces, pedestrian walkways; landscaping plans, including site grading, landscape design, and screening; utility lines; lighting; signs; unique natural and manmade features, including wetlands, streams and rivers, floodplains, wet soils, agricultural and forest lands, wildlife habitat, scenic features; water supply sources; slopes in excess of twenty-five (25%) percent, shallow to bedrock soils; land to be set aside for public use; scale of map, north point, date and name and address of the person or firm preparing the map;
- D. Construction sequence and time schedule for completion of each phase of buildings, parking spaces, and landscaping areas of the entire development;
- E. Evidence of numerical position on the priority list for allocation of sewer gallonage from either the North Branch Fire District #1; other sewage treatment facility; or sewage disposal facility which complies with all State Environmental Protection Rules and Town Health Regulations;
- F. A report to the Development Review Board analyzing the impact of the development on traffic, fire protection, educational facilities and other municipal services;
- G. Articles of Association, Bylaws, water agreements, or declarations for those developments which will provide common open space, recreation, parking areas, or other facilities used, owned or maintained in common; and

- H. A statement setting forth the nature of all proposed modifications to the zoning regulations.

A brief summary of the project and how it meets the General Development Standards in Section 720 shall be submitted at the time of submission of the site map and supporting data to the Development Review Board. All material shall be submitted at least two (2) weeks before the project will be considered at a regularly scheduled meeting of the Development Review Board.

#### Section 720: GENERAL DEVELOPMENT STANDARDS

The following findings of fact shall be made before the Development Review Board approves an application for a Planned Unit Development (PUD):

- A. The PUD shall consist only of uses, or mix of uses, that are permitted or conditionally permitted in the underlying district in which the PUD will be located.
- B. The Planned Unit Development (PUD) is consistent with the Town Plan.
- C. The overall density of the project does not exceed the number of residential units or commercial square footage (for a PUD) permitted if the land were subdivided into lots in accordance with the Zoning Regulations for the districts in which such land is located.
- D. The Planned Unit Development (PUD) is an effective and unified treatment of the development possibilities on the project site, and the development plan makes appropriate provision for the preservation of streams and stream banks, steep slopes, wetlands, soils unsuitable for development, agricultural and open lands, unique natural and manmade features, including historic sites and structures, watersheds, wildlife habitat, floodplains, and scenic features.
- E. The phasing of the development plan is proposed over a sufficient period of time in order that transportation networks, municipal facilities and/or services will not be unduly burdened.
- F. All other zoning requirements of the district, except those that may be waived or varied under the provisions of this Article shall be met.
- G. A Zoning Permit issued for a PUD shall have an expiration date as determined by the Development Review Board.
- H. Notwithstanding any other provisions of this Article, the Development Review Board may grant a PUD permit only if the purpose or use(s) are either permitted or conditional uses in the zoning district where the project is located. The Development Review Board may grant a variance for a use that is neither permitted nor conditional only if all the criteria specified in Section 1140 are met.

#### Section 725: ADDITIONAL REQUIREMENTS

The following site standards may be required in addition to the General Development Standards outlined in Section 720, and specific standards in the district, as a condition of the Development Review Board's approval of an application.

- A. More restrictive requirements for height and spacing between buildings.
- B. Greater setback requirements for structures and parking areas and other development along the perimeter of the Planned Unit Development (PUD) along with additional landscaping and/or screening.
- C. Location requirements for fire hydrants, including spacing between hydrants, gallons per minute and pressure outputs, sprinkler systems, and other fire protection/prevention mechanisms.

- D. Evidence that the project has a signed contract for the necessary sewage capacity from North Branch Fire District #1 or other municipal sewage treatment facility before construction can commence.
- E. Improvement to town and state roads with state approval as required.
- F. Provide for emergency vehicle access and allow for safe and adequate pedestrian circulation, which may include sidewalks.
- G. Maximum safety of vehicular circulation between site and the street network. Particular consideration shall be given to visibility at intersections, to traffic flow and controls, to pedestrian safety and convenience, and to access in case of emergency.
- H. Adequacy of circulation, parking, and loading facilities. Particular consideration shall be given to insure that the items in (H) above are achieved. The effect of noise, glare, or odors on adjoining properties shall be considered. Refuse and service areas should be included in this consideration. Provisions for clearing snow, for maintaining parking areas, internal roads, and emergency access should also be made.
- I. Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility and protection to adjacent properties. Particular consideration shall be given to preservation of existing vegetation, minimizing the visibility of development from the road and adjoining properties, site grading, erosion control, soil conditions, and the adequacy of landscaping materials to meet seasonal conditions. The impact of lighting on the site shall also be considered.

#### **Section 730: OPEN SPACE**

If the application results in lands available for parks, recreation, open space or other public facilities, the Development Review Board, as a condition of its approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

#### **Section 740: PERFORMANCE REQUIREMENTS**

The Development Review Board may require the applicant to demonstrate financial capability, for example, by escrow accounts, bonding, or letter of credit, to complete the proposed improvements and meet the conditions of the applications approval.

#### **Section 745: PUBLIC HEARING**

The Development Review Board shall hold at least one public hearing on all proposed Planned Unit Developments (PUD).

#### **Section 750: APPROVALS**

The Development Review Board shall act to approve, approve with conditions, or disapprove the Planned Unit Development (PUD) within forty-five (45) days of the adjournment of the final public hearing for the project. Failure to act within forty-five (45) days shall be deemed an approval. Nothing shall prohibit the applicant from discussing the proposal for development with the Development Review Board at a regularly scheduled meeting prior to the application for PUD approval.

## ARTICLE 8: AFFORDABLE HOUSING

### Section 800: PURPOSE

The intent and purpose of this section of the Bylaw is to encourage the creation and maintenance of housing for citizens of low and moderate income. In order to qualify for affordable housing status under Article 8 of this Bylaw, a project must be aligned to a state recognized community land trust in order to guarantee future affordability.

### Section 815: CREATION of LAND TRUST

The Town of Dover may create a State recognized Land Trust or work with an existing State recognized land trust (hereafter called the "designated Land Trust") to administer and coordinate affordable housing efforts in the Town. This may be a non-profit organization appointed by the Board of Selectmen to procure and manage funds, land and buildings for the purpose of creating and maintaining affordable housing units.

### Section 830: ACCESSORY DWELLING UNIT

One Accessory Dwelling Unit that is contained within, or attached to an existing or proposed owner-occupied single family dwelling or its accessory building, shall be considered a permitted use provided that the Accessory Dwelling Unit complies with the following:

1. The property has sufficient wastewater capacity as evidenced by a revised septic permit or, if the building is on municipal sewer, evidence that additional gallonage from the North Branch Fire District #1 has been obtained.
2. The additional unit does not exceed 30 percent of the total habitable floor area of the single family dwelling. The habitable floor area shall include the interior area of the dwelling unit including basements and attics, but not including a garage or accessory building.
3. The Accessory Dwelling Unit complies with all applicable setback, coverage and parking requirements.
4. Accessory Dwelling Units are exempt from Land Trust requirements.

### Section 835: ACCESSORY APARTMENTS

The Development Review Board may allow, as a conditional use, one accessory apartment that is contained within, or attached to an existing or proposed single family dwelling or its accessory building. The accessory apartment shall be exempt from the density requirement of the Zoning District but shall meet all other requirements of the bylaw including the following requirements:

1. The property has sufficient wastewater capacity as evidenced by a revised septic permit or, if the building is on municipal sewer, evidence that additional gallonage from the North Branch Fire District #1 has been obtained.
2. The Accessory Apartment shall not exceed 1,000 square feet.
3. Only one such apartment may be created on a parcel of property. An Accessory Apartment may not be created on a parcel where an Accessory Dwelling Unit exists.
4. The Accessory Apartment complies with all applicable setbacks, dimensional, and parking requirements of these regulations.
5. Accessory Apartments are exempt from Land Trust requirements.

#### Section 840: CONVERSION of STRUCTURES

In any district in the Town, a structure may be converted to multi-family or residential use for the purpose of providing affordable housing even though such conversion may exceed the density requirements of the District in which the structure is located. The following requirements apply:

1. Parking and health conditions must be adequate and/or upgraded to meet Town specifications.
2. The units must be maintained as affordable on a permanent basis as defined under Section 710, above.
3. The units shall be approved and managed by the designated Land Trust.

#### Section 850: REDUCTION of PERMIT FEES

The Zoning Permit fee for an affordable housing unit may be reduced as prescribed by the Board of Selectmen.

#### Section 870: EMPLOYEE HOUSING

A variance to the density requirements of any Zoning District may be granted by the Development Review Board with approval of the designated Land Trust to create multi-family housing for employees of large businesses in the Town. Such multi-family housing shall be used exclusively for the purpose of housing employees of the business for which they are being created. The rents for such units shall be affordable as defined in this Bylaw.

## ARTICLE 9: SENSITIVE WILDLIFE RESOURCE OVERLAY DISTRICT

### Section 900: AUTHORITY AND PURPOSE

Pursuant to Section 4414 of the Act, there is hereby established a Sensitive Wildlife Resource Overlay District for the Town of Dover. The Sensitive Wildlife Resource Overlay District contains areas that have been identified as either a travel way or containing important food sources used by bears in Dover. It is not the Town's intention to prevent development in these areas but rather to encourage development that will minimize and mitigate the impacts on the sensitive wildlife resources.

### Section 910: ESTABLISHMENT OF DISTRICT BOUNDARIES

The Sensitive Wildlife Resource Overlay District is superimposed on all underlying zoning districts, and includes all lands which are identified on the Sensitive Wildlife Resource Overlay Map, adopted as part of this Bylaw. The Overlay District imposes additional requirements to those in the underlying district. In all cases, the more restrictive requirement(s) shall apply.

Where the boundary of the Sensitive Wildlife Resource Overlay District divides a lot of record such that part of the lot falls within the Overlay District and part of the lot is outside of it, the provisions of this Article shall apply to development on the entire lot.

### Section 920: USE REGULATIONS

1. The permitted and conditional uses are those as specified in the underlying Zoning District.
2. Planned Unit Development shall be considered as a conditional use in the Sensitive Wildlife Resource Overlay District.
3. Any application for the division of land in the Sensitive Wildlife Resource Overlay District may take advantage of the provisions in Article 7: Planned Unit Development in order encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land through cluster development.
4. No Zoning Permit shall be issued by the Zoning Administrator for development in the Sensitive Wildlife Resource Overlay District until the Development Review Board has issued approval for the development in accordance with the requirements of this Article.

### Section 930: SPECIAL REQUIREMENTS FOR DEVELOPMENT IN THE OVERLAY DISTRICT

In addition to all other applicable review requirements, the Development Review Board shall not approve development in the Sensitive Wildlife Resource Overlay District unless the following conditions are met:

1. The proposed development minimizes the impact on the sensitive wildlife resource to the greatest extent possible. To achieve this, the Development Review Board may impose conditions such as requiring clustering of the development, reducing the density, or increasing the vegetated buffer requirements.
2. A buffer of existing vegetation, a minimum of fifty (50) feet wide, shall be maintained from the nearest bank of any stream.
3. The applicant must show that the District Wildlife Biologist from the Vermont Department of Fish and Wildlife has reviewed the development plan and the applicant shall submit any comments received from the Department.

## ARTICLE 10: TRANSFER OF DEVELOPMENT RIGHTS OVERLAY DISTRICT

### Section 1000: AUTHORITY

Pursuant to 24 VSA §4423 of the Act is hereby established a Transfer of Development Rights (TDR) Program for the Town of Dover.

### Section 1010: PURPOSE

The purpose of this section is to provide a mechanism for transferring development rights between zoning districts, in order to achieve the following objectives:

1. To encourage compact development within defined areas near convenient commercial and personal service centers.
2. To conserve public funds by concentrating development in areas where public infrastructure and services may be most efficiently provided;
3. To balance long-term tax revenue reductions in areas planned for limited development with long-term revenue increases in areas planned for concentrated developments;
4. To accomplish the above objectives in a manner in which landowners are compensated for reductions in long-term development potential, through transfers with other landowners who benefit from increases in development potential.

### Section 1020: SENDING AREAS

1. Development rights may be transferred from lands which are designated as Sending Areas and located in the Transfer of Development Rights Overlay District as identified on the Transfer of Development Rights Overlay District Map and shall not include any areas outside the Overlay District.
2. For the purposes of the transfer of development rights program, the following TDR sending site base densities apply:
  - a. Sending sites with an underlying zoning district of Resource Conservation shall have a base density of one (1) dwelling unit per five (5) acres for transfer purposes only.
  - b. Sending sites with an underlying zoning of Productive Residential shall have a base density of one (1) dwelling unit per two (2) acres for transfer purposes only.
3. Any fraction of development rights that result from the calculations in Section 1020(2) shall not be included in the final determination of total development rights available for transfer.
4. A parcel within the sending area with an existing dwelling unit may transfer development rights from the remaining portion of the parcel so long as at least one (1) development right can be retained for the existing development.
5. A sending site without an existing dwelling unit may retain one (1) development right on a portion of the property.
6. The establishment of development rights in this section shall not create the right to develop on the land at a greater intensity or higher density than permitted in the underlying zoning.



#### Section 1030: RECEIVING AREAS

1. Development rights transferred from a designated sending area may be used to increase allowable densities on parcels located within designated Receiving Areas as identified on the Transfer of Development Rights Overlay District Map. In addition the following shall apply:
  - a. No receiving parcel shall be less than five (5) acres;
  - b. A receiving parcel shall be required to connect to the municipal wastewater system.
2. Within designated Receiving Areas, the transferred rights shall permit the development of single-family dwellings at an overall density of one (1) dwelling unit per one (1) acres, provided that a development right is acquired for each dwelling unit and that said dwellings are developed as a Planned Unit Development pursuant to Article 7.

#### Section 1040: DETERMINATION OF TRANSFERABLE DEVELOPMENT RIGHTS

1. Development Rights shall be identified by means of a Certificate of Development Rights (CDR) in a form approved by the Development Review Board. The CDR shall specify the amount of development rights to which the owner of the Certificate is entitled, expressed in number of dwelling units. CDR's shall be issued by the Development Review Board according to the provision of this section. Development rights shall be considered as interests in real property and may be transferred in portions or as a whole.
2. An owner of land in a Sending Area may apply for a determination by the Development Review Board of the development rights that are permitted on the property according to the calculations specified in Section 1020. Within forty-five (45) days of submission for an application of determination, the Development Review Board shall issue a decision and shall issue a CDR specifying the Development Rights for the property in question.
3. The Development Review Board shall forward a copy of an approved Certificate of Development Rights to the Zoning Administrator. The Zoning Administrator shall maintain an official register of such certificates and said register shall be made available for public inspection at the Town Office. Said register shall also reflect any transfers of development rights which have been recorded in the Town Clerk's office as specified in Section 1050 and 1060.

#### Section 1050: CREATION OF TRANSFERABLE DEVELOPMENT RIGHTS

1. Transferable development rights shall be created and placed in the ownership of the landowner on execution and filing of a "Conservation Easement Agreement" between the landowner as grantor and the Town of Dover as grantee. The easement agreement shall establish a permanent restriction on the affected property limiting its use to agricultural or other appropriate open space purposes.
2. The easement agreement shall include, by reference, a survey of the property subject to the easement and identification of the book and page number of the land records in which it is recorded.
3. The easement agreement shall specify the transferable development rights being created and placed in ownership of the landowner and shall identify them by number.
4. The easement agreement shall be executed by the landowner and the chair of the Selectboard on recommendation of the Development Review Board.
5. The executed easement agreement shall be filed in the land records, and a copy shall be sent to the Listers.

#### Section 1060: TRANSFER OF TRANSFERABLE DEVELOPMENT RIGHTS

1. Transferable development rights may be sold to any person, corporation or other legal entity and shall be transferred by execution and filing of a "Deed of Transfer."
2. Such deed shall identify the transferable development rights being transferred by number, with reference to the book and page of the land records where the easement agreement which created them is recorded and any deeds transferring their ownership.
3. The Deed of Transfer must be executed by both the seller and the buyer of the transferable development rights.
4. The executed deed shall be filed in the Town's land records and a copy sent to the Listers.

#### Section 1070: USE OF TRANSFERABLE DEVELOPMENT RIGHTS

1. An application for development approval using transferable development rights shall include documentation of the proposed transfer of development rights, including the property from which the development rights are derived and the amount of development rights proposed to be utilized on the receiving parcel.
2. In addition to the review criteria of the applicable review, the Development Review Board shall ensure compliance with all of the following:
  - a. the parcel subject to the application is located within a designated receiving area, and the density increase is allowed by the provisions relating to transfer of development rights;
  - b. the applicant has obtained development rights from parcel(s) within a sending area(s) that are sufficient under the regulations to provide the density increase sought;
  - c. the transfer of development rights is evidenced by a deed in accordance with Section 1070.
  - d. the parcel(s) in the sending area has restrictions on the density of further development as a result of this transfer, in accordance with Section 1060.
  - e. the receiving area has sufficient wastewater capacity as evidenced by approval to connect to the municipal sewer system.
2. Prior to the issuance of any zoning permit for land in the Receiving Area where the proposed development incorporates transferred development rights, evidence of the executed Easement Agreement as detailed in Section 1060 and the Deed of Transfer as detailed in Section 1070 must be submitted.

## ARTICLE 11: ADMINISTRATION AND ENFORCEMENT

### Section 1100: ZONING ADMINISTRATOR

A Zoning Administrator shall be appointed by the Selectboard to administer these Bylaws, as provided for in Section 4448 of the Act. Said Zoning Administrator shall strictly enforce the provisions of these Bylaws and in so doing shall inspect developments, maintain records, and perform all other tasks necessary or appropriate to administer these Bylaws.

An acting Zoning Administrator may be appointed as provided in Section 4448(b) of the Act and shall have the same responsibilities as the Zoning Administrator in his/her absence.

### Section 1110: PLANNING COMMISSION

In accordance with Section 4325 of the Act, the powers and duties of the Planning Commission shall include the preparation of the town plan and any amendments, as well as other planning reports and studies, the preparation of amendments to the zoning regulations, and the consideration of proposed amendments submitted by petition.

### Section 1120: DEVELOPMENT REVIEW BOARD

Members of the Development Review Board shall be appointed by the Board of Selectmen as provided in Section 4460 of the Act.

The powers and duties of the Development Review Board shall be to hear and decide appeals from any decision, act or failure to act by the Zoning Administrator, requests for variances, requests for conditional uses, and requests for interpretation of the Bylaw. The Development Review Board shall also review and decide upon rights-of-way in accordance with Section 4412(3) of the Act and PUD applications in accordance with Article 7 of the Zoning Bylaw and Section 4417 of the Act. Rules of procedure, nature of appeals, public notice and all other matters shall be governed by Subchapter 10 of the Act.

### Section 1130: APPEALS OF DEVELOPMENT REVIEW BOARD DECISIONS

In accordance with Section 4471 of the Act, an interested party who has participated in a Development Review Board proceeding may appeal a decision rendered in that proceeding to the Environmental Court. Participation in the Development Review Board proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

### Section 1140: VARIANCE

On a request for a variance, the Development Review Board shall grant such variance if all of the following facts are specifically found, which shall be specifically stated in the Board's findings:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size and shape, or exceptional topographical or other physical conditions peculiar to the particular property, and the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning regulations in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaw and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That the unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located; will not substantially or permanently impair the appropriate use or development of

adjacent property; will not reduce access to renewable energy resources; not be detrimental to the public welfare.

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulations and from the plan.

Wherein a variance is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board shall grant such variance pursuant to the standards in Section 4469(b) of the Act.

#### Section 1145: EXPIRATION

A variance shall become void if the applicant has not applied for a Zoning Permit within ninety (90) days. Once a Zoning Permit has been issued, the variance shall be in effect for the life of the Zoning Permit.

#### Section 1150: DEVELOPMENT REVIEW BOARD PROCEDURES

In considering an appeal, or variance, the Development Review Board shall follow the procedures outlined below:

1. The Development Review Board shall set a date and place for a public hearing on an appeal, or variance which shall be within sixty (60) days of the filing of the notice in accordance with Section 4468 of the Act.
2. The Development Review Board shall render its decision, which shall include findings of fact, within forty-five (45) days after completing the hearing and shall within that period of time send to the applicant, by certified mail, and to all interested parties present at the hearing (Section 4465(b)), a copy of the decision.
3. A copy of the decision shall be filed with the Zoning Administrator and the Dover Town Clerk.
4. An interested party as defined in Section 4471 of the Act may appeal a decision of the Development Review Board within thirty (30) days of such decision to the Environmental Court.

In considering a PUD application, the Development Review Board shall follow the procedures contained in Article 7 of the Zoning Bylaw and Section 4417 of the Act.

#### Section 1160: VIOLATIONS AND ENFORCEMENT

Violations of the Bylaws shall be prosecuted in accordance with Sections 4451 and 4452 of the Act. Any person who violates these Bylaws shall be fined not more than one hundred dollars (\$100) per offense. Each day that a violation is continued shall constitute a separate offense. No action may be brought under this Section unless the alleged offender has at least seven (7) days notice by certified mail that a violation exists and has failed to correct the alleged violation. If after fifteen (15) days of notification, by certified mail, of default of payment of any fine, if still in default, all such persons notified whether an individual, the members of a partnership or association, or the principal officers of a corporation, may each be assessed double the amount of such fine. All fines collected shall be paid over to the Town of Dover.

If any structure or land is or is proposed to be subdivided, constructed, reconstructed, altered, converted, maintained, or used in violation of these Bylaws, the Zoning Administrator shall institute in the name of the Town any appropriate action, injunction or other proceeding to prevent, restrain, correct, or abate such construction or use, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation.