

§ 145-10. Allowable uses.

- A. Purpose. The use regulations in this article are intended to allow flexibility of land use to encourage business development that is consistent with the character and scale of Dover's hamlets, neighborhoods, and rural areas. In reviewing applications for special permits and site plan approval, the Planning Board shall impose any conditions that may be necessary to ensure that a proposed use will be compatible with its surroundings. The Planning Board shall deny any proposed use which does not satisfy the criteria in this chapter.
- B. Use restrictions and Use Table. No structure or land shall be used except as provided in the Use Table below. See § 145-74 for definitions of the use categories. In the event that a particular proposed use does not fit into one of the categories shown on the Use Table and is not prohibited by § 145-10C, it may be allowed by special permit issued by the Town Board.

Use Table

Town of Dover

[Amended 11-23-2009 by L.L. No. 2-2009]

Key:

- P Designates a use permitted by right. Usually requires a zoning permit or a building permit and a certificate of occupancy from the Code Enforcement Officer, but does not require review by any municipal board.
- P* Designates a use permitted by right, subject to site plan review by the Planning Board (see §§ 145-64 through 145-67).
- S Designates a use permitted by special permit issued by the Planning Board (see §§ 145-59 through 145-63).
- ST Designates a use permitted by special permit issued by the Town Board.
- Designates a prohibited use.

Use Category	Use District								Section Reference
	RU	RC	HM	HR	SR	HC	CO	M	
Residential Uses									
Single-family dwelling	P	P	P	P	P	S	S	—	
Two-family dwelling	S	S	P	P	S	S	S	—	§ 145-12A
Multifamily dwelling (conversion)	S	S	P*	S	—	S	S	—	§ 145-12B
Multifamily dwelling (new)	S ¹	S ¹	P*	S	— ³	—	S	—	§ 145-12B
Accessory apartment	S	S	S	S	S	S	S	—	§ 145-12C
Mobile home	—	—	—	—	—	—	—	—	§ 145-44
Upper-floor apartment in mixed-use building	—	—	P*	P*	—	S	S	—	

Use Category	Use District								Section Reference
	RU	RC	HM	HR	SR	HC	CO	M	
Residential care facility	S	S	S	—	—	—	—	—	§ 145-52
Business Uses²									
Adult entertainment	—	—	—	—	—	—	—	ST	§ 145-48
Agriculture	P	P	P	P	P	P	P	P	§ 145-49
Camp, Type 1	S	S	—	—	—	—	—	—	§ 145-45
Camp, Type 2	S	S	—	—	—	—	—	—	§ 145-45
Commercial logging	P*	P*	—	—	—	—	P	P	
Communication tower	ST	ST	—	—	—	—	ST	ST	§ 145-46
Country inn/ conference center	S	S	—	—	—	—	—	—	—
Craft workshop	S	S	P*	S	—	P	P*	P*	
Home occupation	P ⁵	P ⁵	P ⁵	P ⁵	P ⁵	P ⁵	P ⁵	—	§ 145-41
Bed-and-breakfast	S	P*	P	P*	—	P*	S	—	
Junkyard	—	—	—	—	—	—	—	ST	§ 145-51
Kennel	S	S	—	—	—	S	S	S	
Light industry	—	—	S	—	—	S	S	S	§ 145-50
Hotel/motel	—	—	S	—	—	P*	S	—	
Office	—	—	P*	S	—	S	P*	S	
Public utility facility (excluding communication towers)	S	S	S	S	S	S	S	S	
Recreational business	S	S	S	S	—	S	S	—	
Restaurant	—	—	P*	S	—	S	S	—	
Retail business (not listed elsewhere)	S ⁴	—	P*	S	—	S	S ⁶	—	
Service business (not listed elsewhere)	—	—	P*	S	—	S	S	S	
Soil mining	ST ⁷	ST ⁷	—	—	—	—	ST ⁷	ST	§ 145-42
Solid waste management facility	—	—	—	—	—	—	—	—	§ 145-50
Veterinary hospital	S	S	S	—	—	S	S	S	
Warehouse	—	—	—	—	—	S	P*	S	
Wholesale business	—	—	—	—	—	S	P*	S	
Boarding stable/ riding academy	P*	P*	—	—	—	—	—	—	
Community Uses									
Cemetery	S	S	S	S	S	—	—	—	
Educational/ charitable/ religious	S	S	S	S	S	S	S	—	

Use Category	Use District								Section Reference
	RU	RC	HM	HR	SR	HC	CO	M	
Health care facility	S	S	P*	—	—	S	S	—	
Membership club	S	S	S	S	—	S	S	—	
Municipal	P	P	P	P	P	P	P	P	

NOTES:

- ¹ Only permitted in a flexible subdivision (see § 145-18B).
- ² Subject to limitations on building footprint in the Dimensional Table.
- ³ Allowed by special permit in flexible subdivisions in the MC Overlay District only.
- ⁴ Only in connection with agricultural use.
- ⁵ Requires a special permit if more than two nonresident employees or 30% of dwelling unit floor space.
- ⁶ Retail use shall not exceed 20% of floor area and shall include only sale of items produced on the premises and customary accessories to such items.
- ⁷ Only within the Soil Mining Overlay District.

- C. Prohibited uses. Any use, whether or not listed in the Use Table, is prohibited if it does not satisfy the standards and criteria in §§ 145-40 and 145-63. The following uses are prohibited under all circumstances (existing uses may be continued pursuant to the nonconforming use provisions of Article VI): heavy industry, asphalt plants, new mobile home courts, facilities for the disposal of hazardous or radioactive material, and, except as provided in § 145-50, solid waste management facilities as defined in Article XII, including but not limited to the use of solid waste or material that has previously been part of the solid waste stream (whether or not it has a beneficial use designation from the Department of Environmental Conservation) as fill. Any such specifically prohibited use which when commenced was not listed as a permitted or special permit use in the Town of Dover Zoning Law (and was therefore commenced in violation of the Zoning Law) shall not be protected as a nonconforming use by the provisions of Article VI.
- D. Accessory uses. Uses customarily incidental and subordinate to principal uses shown on the Use Table shall be allowed on the same terms as the principal uses, whether or not on the same lot, unless otherwise indicated on the Use Table. Noncommercial recreational use shall be permitted as an accessory use in all districts.
- E. Mixed use. The Town of Dover encourages the mixing of uses where such mixing does not create land use conflicts. Accordingly, all special permit and/or site plan reviews for the same project shall be consolidated into one proceeding before the

Planning Board (unless the Town Board has jurisdiction over a special permit).

- F. Change of use or structure. A change of use is the initiation of a use that is in a different use category, as listed on the Use Table, from the existing use of the site or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use, unless the change would result in the enlargement or addition of a sign or an increase of more than 10% in vehicle trip generation as indicated in current trip generation rates published by the Institute of Transportation Engineers.
- (1) Uses by right. Any change of use of land or existing structures to a use permitted by right (without site plan review) shall not require approval from the Planning Board or the Code Enforcement Officer. This shall not affect applicable requirements for obtaining building permits for construction or expansion of a structure from the Code Enforcement Officer under Chapter 47 of the Dover Town Code.
 - (2) Uses by right subject to site plan review. Any change of the use of an existing structure to a use permitted by right subject to site plan review shall require site plan review only if it involves the construction or enlargement of a structure, the clearing, excavation, or grading of more than 1,000 square feet of land, the addition of four or more parking spaces, or the enlargement or addition of signs.
 - (3) Uses by special permit.
 - (a) A special permit shall be required for any change of use from a use that does not require a special permit to a use that does require a special permit.
 - (b) Once a special permit has been granted, it shall apply to the approved use, as well as to any subsequent use of the property in the same use category, provided that it has no greater impact on adjoining properties, complies with all terms and conditions of the special permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas. Any change to another use allowed by special permit shall require the granting of a new special permit or a special permit amendment.

- G. Rebuilding, replacement and expansion of structures. The rebuilding or replacement on the same footprint of any structure for a use which requires site plan review and/or a special permit shall require site plan review, even if it is a continuation of the same use.
- H. Special site design and operational considerations in the CO District. The purpose of the CO District is to allow larger-scale nonresidential uses that contribute to the town's tax base and provide jobs for local residents, while protecting the town's treasured scenic and rural qualities using open space buffers. Impervious surfaces are limited to 40% of the total project area, requiring 60% to be maintained as open or undeveloped green space. This green space shall be arranged in a manner that adequately buffers buildings and parking areas from public roads and neighboring properties, while protecting wetlands, watercourses, and scenic views.

§ 145-11. Density and dimensional regulations.

- A. Purpose. The regulations in this section are intended to encourage the preservation of Dover's open space, while providing opportunities for needed housing and business uses. This is accomplished by clustering development in nodes surrounded by open space and, where practical, in the traditional compact pattern found in the town's hamlets. This chapter contains flexible regulations for density and lot dimensions and encourages the use of open space development (including flexible subdivision) as an alternative to conventional subdivision to preserve significant amounts of open space. See Article V for standards for open space development.
- B. Dimensional Table. The following table is hereby adopted and will be referred to as the "Dimensional Table."

Dimensional Table								
Town of Dover								
	District							
	RU	RC	HM	HR	SR	HC	CO	M
Minimum lot size (conventional) ¹	2 ac.	5 ac.	⁴	⁴	1 ac.	1 ac.	1 ac.	5 ac.
Minimum lot size (flexible) ²	See § 145-19C							
Maximum density (flexible) ²	1 ac/du ³	2 ac/du	—	—	1 ac/du	—	—	—
Minimum road frontage ⁵								

Dimensional Table								
Town of Dover								
	District							
	RU	RC	HM	HR	SR	HC	CO	M
Private road	100	100	50	50	100	—	100	100
Town road	250	250	80	70	200	200	200	200
County/state road	300	400	100	100	200	300	200	200
Flexible subdivision	See § 145-19C							
Minimum front yard setback								
Private/town road ⁶	40	40	25	25	50	25	50	100
County/state road ⁶	60	60	30	40	75	35	150	200
Minimum side yard setback	30	30	10 ¹¹	15 ¹¹	30	30 ¹¹	30 ¹¹	50
Minimum rear yard setback	50	50	25	25	50	50 ⁷	50 ⁷	75 ⁷
Setback in flexible subdivision	See § 145-19D							
Maximum impermeable surface coverage ⁸	10%	10%	50%	30%	20%	60%	40%	30%
Maximum height ⁹	35	35	45	40	35	45	35	35
Maximum footprint (in square feet) for nonresidential structures ¹⁰	6,000	4,000	10,000 ¹²	1,000	n/a	40,000	200,000	—

ALL DIMENSIONS IN FEET UNLESS OTHERWISE INDICATED.

NOTES:

¹ For conventional subdivision as defined in § 145-18A.

² For flexible subdivision as defined in § 145-18B.

³ The abbreviation "ac/du" stands for "acres per dwelling unit." See Article V.

⁴ Varies based upon availability of infrastructure; see § 145-11D.

⁵ Lots in conservation density subdivisions and rear lots may have shorter frontages. See §§ 145-21 and 145-22.

⁶ Measured from center line of road. Front yard setbacks may be adjusted to prevailing setbacks in the immediate neighborhood on all roads; a maximum setback or "build-to line" may be established to maintain the "street wall" in the HM and HR Districts.

⁷ One-hundred-foot setback with wooded buffer required if lot abuts a residential district.

⁸ See definition in § 145-73; applies to each lot and to an entire subdivision, including new roads and other public areas (see Article V); in flexible subdivisions applies to entire subdivision only. This requirement may be waived by the Planning Board for lots in the HM District and shall not apply to preexisting nonconforming lots.

⁹ Above average grade. For height exceptions, see § 145-30D.

¹⁰ Excluding agricultural structures and all structures legally completed or granted a building permit, special permit, site plan approval or variance prior to the adoption of this chapter. The purpose of this requirement is to maintain the historic scale and character of development in Dover. The intent of this provision shall not be evaded through the placement of multiple large buildings in rows or otherwise in a pattern that is inconsistent with the scale and character of the town.

¹¹ May be zero for party-wall or zero-lot-line buildings.

NOTES:

¹² May be enlarged up to 50,000 square feet for a supermarket or other use deemed essential to the economic viability of the hamlet.

- C. Minimum floor area. The minimum floor area of a dwelling unit shall be 800 square feet, and the minimum for an accessory apartment shall be 500 square feet.
- D. Minimum lot sizes in the HM and HR Districts. Minimum lot sizes in the HM and HR Districts shall be as shown below, provided that such lots comply with all applicable public health requirements and that all common water and sewage disposal facilities are managed by entities which the Planning Board deems adequate to protect public health on a long-term basis. Minimum lot sizes for such lots shall be:
 - (1) With common or municipal water supply but no common or municipal sewage disposal services: one acre.
 - (2) With common or municipal sewage disposal services only: 1/2 acre.
 - (3) With common or municipal water supply and sewage disposal: 8,000 square feet; 6,000 square feet if 20% of the parcel is maintained as common or public open space such as a green, park, or streamside trail.
 - (4) Without common or municipal water supply or sewage disposal services: one acre.