

TOWN OF DORCHESTER

LAND USE REGULATION ORDINANCE OF DORCHESTER

MARCH 14, 1989

(As Amended March 12, 1991)

(As Amended March 14, 2015)

(As Amended March 12, 2016)

(As Amended March 14, 2017)

ARTICLE I Authority and Title

Pursuant to the authority conferred by Section 674:16 New Hampshire Revised Statutes Annotated, as amended, and in conformity with the Master Plan of the Town of Dorchester, and to promote the health, safety and general welfare of the community, this Ordinance is hereby enacted by the citizens of the Town of Dorchester in Town Meeting assembled, and shall be known and may be cited as the “Land Use Regulation Ordinance of Dorchester”.

ARTICLE II. Purpose and Scope

This Ordinance shall have all the purposes specified in RSA 674:17 and shall regulate all items specified in RSA 674:16 (a)-(d) and, without limitation, all other things necessary or appropriate to fulfill such purposes and the goals stated in **ARTICLE I** hereof.

ARTICLE III. Establishment of Districts

A. The entire Town of Dorchester is determined to be a Rural District.

ARTICLE IV. District Regulations

A. Rural District

1. Uses

a) The following shall be permitted uses in the Rural District:

- 1) One and two-family dwelling units, including single unit manufactured housing.
- 2) Home business and cottage industry.
- 3) Agricultural and Forestry enterprises and uses.
- 4) Church, including parish house and other religious uses.

- 5) Community center, park or playground operated by governmental unit
- 6) Accessory uses customarily incidental to permitted uses.
- 7) One Accessory Dwelling Unit (ADU) per Single Family Dwelling Unit, as that term (ADU) is defined in Article X.

b) The following uses shall be allowed by Special Exception granted by the Board of Adjustment as provided in this ordinance.

- 1) Public or private school, nursery school, or day care center.
- 2) Community hall, lodge or recreational facility operated by a non-profit organization.
- 3) Tourist accommodations or lodging units.
- 4) Commercial campgrounds for transient use by persons with trailers, motor homes, tents or other mobile accommodations.
- 5) Business or professional offices or health provider office or clinic.
- 6) Warehouses.
- 7) Light manufacturing.
- 8) Retail sales or service business including restaurant for on premises or take-out consumption.
- 9) Commercial excavation, processing and removal of material provided that there is compliance with the provisions of RSA 155-E.
- 10) Commercial signs on or off the premises referred to therein.
- 11) Cluster development provided that total residential or commercial density of the entire tract to be considered shall not thereby be increased.

c) Any use not specifically permitted above is prohibited.

2. Lot Standards: Area, Dimensions, Coverage and Set-backs.

a) The minimum area of any lot hereinafter created for building purposes shall be two (2) acres for each principal use intended, provided that such area shall not include any wetlands or sloped area of a grade greater than 20% and provided further that the soil types will support such uses.

b) Dimensions

- 1) No lot shall hereafter be created which shall have less than 200' frontage on a public or private road meeting the standards provided for roads in the Subdivision Regulations of the Town of Dorchester, provided that if such lot be in excess of 15 acres in overall area such frontage shall be not less than 400'.
- 2) If any lot hereafter created shall have frontage on any lake, pond, brook or river, such frontage shall not be less than 150'.
- 3) No lot shall hereafter be created which shall have a depth more than four times its road frontage, unless such lot shall have an overall area in excess of 15 acres.

c) Set-backs

- 1) No principal building shall be erected less than 50' from the frontage line, side line or rear line of any lot, nor within 50' of any lake, pond, river or brook.
- 2) No accessory building shall be erected less than 50' from the frontage line nor less than 25' from any side line or rear line of any lot, nor within 50' of any lake, pond, river or brook.
- 3) No water system, septic system or sewage system shall be constructed less than 25' from the frontage line, side line or rear line of any lot, nor less than 75' from any lake, pond, river or brook.

d) The aggregate area of all principal and accessory buildings and water, septic and sewage systems shall not exceed 20% of the overall qualifying area of a lot.

e) No building hereafter erected shall exceed 35' in height, measured vertically from the highest point of the roof to the average grade level.

B. Waterfront Access

1. This provision shall apply to provide guidelines for the development of back lands with access to ponds, streams, and rivers in Dorchester so as to prevent overcrowding and protect water quality.
2. Rights to gain access to a water body through or by means of any waterfront land in Dorchester shall not be created and attached to any real estate unless the

owner granting such access shall obtain Planning Board approval and shall comply with the following standards:

- a) The area of any waterfront access lot shall be not less than the greater of one acre or 800 square feet for each dwelling, lodging, or campsite unit to be served.
- b) The shore frontage of such waterfront access lot shall be not less than the greater of 200 feet or 5 feet for each such unit to be served.
- c) If any of the units to be served are more than 2000 feet distant from the waterfront access lot, parking facilities shall be provided as deemed necessary by the Planning Board to prevent congestion and to provide orderly traffic flow and public safety.
- d) If the number of units to be served exceeds 25, toilet facilities shall be provided as directed by the Planning Board.

ARTICLE V. Non-conforming Uses

A. Land

1. Non-conforming lots in valid and distinct separate ownership at the time of the adoption of this Ordinance may continue to be used or if vacant, shall be entitled to a variance for development within the other provisions of this ordinance.
2. Any lot, non-conforming by reason of the requirement of **ARTICLE IV**, Paragraphs A,2,a) or b) of this Ordinance, which shall have been improved by a principal structure prior to the adoption of this Ordinance, or shall have been granted a variance for the construction of a principal structure, shall not thereafter need further variance for additions or alterations to the principal structure or construction of an accessory building provided such addition, alteration or construction otherwise conform to this Ordinance.

B. Structures and Uses

1. Non-conforming buildings or other structures and non-conforming use of buildings in existence at the time of adoption of this ordinance and buildings constructed pursuant to building permits issued prior to adoption of this ordinance may continue in their use.
2. Non-conforming buildings or structures destroyed by fire or other natural disaster may be rebuilt or replaced provided that the non-conforming uses shall not be intensified.

3. A non-conforming use discontinued or abandoned for one year shall not thereafter be resumed.

4. A non-conforming use may be altered or expanded under such conditions or restrictions as the Board of Adjustment may specify so that such expansion or alteration shall generally conform with the spirit of this Ordinance.

ARTICLE VI. Interpretation and Construction of Ordinance

This Ordinance shall be interpreted and construed as it may affect any application for a building permit by the person appointed Permit Officer by the Selectmen, pursuant to regulation Relative to New Construction as amended at Town Meeting March 8, 1988, or, if none, by the Board of Selectmen.

ARTICLE VII. Board of Adjustment

A. Creation, Jurisdiction and Appointments

1. There is hereby established a Board of Adjustment consisting of 5 residents, one of whom shall be a Selectman, and not more than one shall also be a member of the Planning Board. There may also be not more than three alternate members.

2. The Board of Adjustment shall hear appeals from any person or party aggrieved by a decision of the Permit Officer or Board of Selectmen pursuant to **ARTICLE VI** of this ordinance, and shall also have the power to grant Special Exceptions or Variances as hereinafter provided. It shall also have and exercise all other powers conferred by law.

3. Members and alternates of the Board of Adjustment shall be appointed by the Board of Selectmen for a term of three years. Initial appointments to the Board of Adjustment shall be made in accordance with RSA 673:6 as soon as practicable after the adoption of this Ordinance.

B. Special Exceptions: Procedure

1. The Board of Adjustment may allow uses specified in **ARTICLE IV**, Subdivision A,1,b) of this Ordinance by Special Exception, after hearing, provided that it shall find that:

a) The specific site is an appropriate location for such use and adequate and appropriate facilities will be provided.

b) The standards of **ARTICLE IV**, Subsection A,2, have been met.

c) The existing road system is adequate for such use or appropriate improvements will be made.

d) That the proposed use is generally in keeping with the purposes of this Ordinance and no hazard or nuisance, loss of value or enjoyment will be suffered by abutting or surrounding properties.

C. Variances; Procedure

1. The Board of Adjustment may, after hearing, grant in specific cases such variance from terms of this Ordinance.

2. The Board of Adjustment may impose upon the operation of property as it shall deem necessary to meet the purposes of this Ordinance.

3. An application for change or expansion of a non-conforming use pursuant to subsection B,4 of **ARTICLE V** of this Ordinance.

D. General Provisions

1. The Board of Adjustment shall elect from its membership a Chairman and a Secretary, and shall, except as herein or by law otherwise provided, establish its own Rules of Procedure.

2. All hearings for Special Exceptions or Variances shall be noticed and advertised at the expense of the appellant in accordance with the provisions of RSA 676:7.

3. All actions of the Board of Adjustment shall require the affirmative vote of three members of the Board, and a written memo of all decisions upon appeals shall be issued to the appellant and copy retained in the files of the Board.

4. The Board of Adjustment, may apply to the Planning Board for a recommendation on any matter before it, and in such event the Planning Board shall review the appeal or application before the Board of Adjustment and return a recommendation within 30 days.

5. The Board of Adjustment may, when it deems necessary, retain engineers, attorneys or other professionals or experts to advise the Board on an appeal before it. The cost of such retention shall be borne by the appellant.

ARTICLE VIII. Administration and Enforcement

A. The Board of Selectmen shall administer and enforce the provisions of this Ordinance, provided that they may delegate these duties to the Permit Officer.

B. In the event of violation of any of the provisions of this Ordinance, the Board of Selectmen shall determine whether to proceed with the enforcement by way of civil or criminal penalties as provided in RSA 676:17 or injunction as provided in RSA 676:15.

ARTICLE IX. Miscellaneous Provisions

A. Saving Clause: The invalidity of any provision of this Ordinance shall not affect the validity of any other provisions.

B. This Ordinance shall take effect immediately upon its adoption.

C. This Ordinance may be amended as provided in RSA 675:3 or 675:4 and not otherwise

ARTICLE X. Definitions

A. Except as hereinafter in this Article provided it is intended that all words and terms used in this Ordinance shall have the meaning normally ascribed to them in common usage. Where appropriate all tenses or gender or singular or plural shall be included. Where appropriate the words “use” or “occupy” in their several forms shall include words “intended”, “designed” or “arranged” to be used or occupied.

B. Words defined in RSA 674:24 or in Section 2 of the Subdivision Regulations of the Town of Dorchester, as it shall exist at the time of the adoption of this Ordinance, shall have the means specified therein unless otherwise hereinafter defined.

C. The following words shall have these definitions:

1. “**Accessory Dwelling Unit (ADU)**” shall mean a dwelling unit, accessory to a principal single family dwelling unit, as ADU is used in SB146 (2016), subject to:
 - a. The ADU may be either attached as part of the principal unit or unattached on the same lot; and
 - b. The owner of the property must reside in either the principal unit or the ADU; and

c. There is no minimum or maximum size requirement.

2. “**Appeal**” shall mean an application to the Board of Adjustment to reverse a decision of the Board of Selectmen or Permit Officer or for a Special Exception or Variance whether referring to an existing lot or in connection with a subdivision or other application pending or to be filed before the Planning Board.

3. “**Board**” shall mean the Board of Adjustment established hereunder.

4. “**Special Exception**” shall mean the grant of permission by the Board for a use of property specified in Subdivision A,1,b) of **ARTICLE IV** of this Ordinance.

5. “**Variance**” shall mean a relaxation by the Board of one or more provisions of this Ordinance, not contrary to the public interest to permit the use of property where due to conditions peculiar to the property, a literal application of this Ordinance would cause undue and unnecessary hardship.

6. “**Wetland**” shall mean any marsh, swamp, or bog subject to permanent or periodic flooding or which for seven or more months of the year is either covered by standing water or within three inches or less of the water table, or which consists of soil types designated as very poorly drained by the National Cooperative Soil Survey or other recognized soil science standards.