

**ARTICLE II
DEFINITIONS**

175-6. Meaning of Words.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section. Words used in the present tense include the future. The singular number includes the plural, and the plural the singular. Where terms are not defined in this section, they shall have their ordinary accepted meanings or such as the context may imply.

175-7. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY AGRICULTURAL ACTIVITIES – Non-commercial agricultural activities such as gardening and the raising of flowers and ornamental plants conducted by the occupants of a residence primarily for their own use or consumption. These activities shall not include any use that is defined as animal husbandry, commercial agriculture, or the keepings of pigs, chickens, or fowl. The excess products of this activity may be sold so long as the volume of sales does not result in excessive noise, traffic, or other adverse impacts on the neighborhood or constitute a commercial operation that requires the filing of a Schedule F as part of the owner's or operator's federal income tax return. (See Section 175-109(A))

ACCESSORY APARTMENT – A dwelling unit located in a single family residence as an accessory use. (See Section 175-109(C))

ACCESSORY DWELLING UNIT – A dwelling unit located in an accessory structure in conjunction with a single-family residence as an accessory use.

ACCESSORY SHED – A small shed for the storage of items in conjunction with a residential use.

ACCESSORY STRUCTURE – A structure detached from a principal building on the same lot and incidental and subordinate to the principal building. (See Section 175-109(D))

ACCESSORY USE – A use of land or a building or a portion thereof which is incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

ACRE – A measurement of area equal to forty three thousand five hundred sixty (43,560) square feet.

ADAPTIVE REUSE – The use of an existing building for a new type of use in which the exterior appearance and the structural and architectural elements of the building remain

essentially unchanged except for minor renovations needed to provide access or to comply with code requirements.

ADULT DAY CARE FACILITY – A nonresidential facility for the care of adults.

AGRICULTURAL BUILDING, EXISTING – Any building or structure constructed prior to the adoption of this chapter and designed, used or adapted for agricultural purposes. Section 175-109(D)

AIRPORT, COMMERCIAL – A facility used for landings and takeoffs by commercial and private fixed wing or rotary wing aircraft. Such a facility typically includes aircraft parking and service facilities.

AIRPORT, PRIVATE – A tract of land used for landings and takeoffs by fixed winged or rotary wing aircraft belonging to the owner or lessor of the land or to a third party using the tract of land with the permission of the owner or lessor of the land.

ALL TERRAIN VEHICLE – Any motor-driven vehicle which is designed or adapted for travel over surfaces other than maintained roads with one or more tires designed to hold not more than 10 pounds per square inch of air pressure, having capacity for passengers or other payloads, not to exceed 1,000 pounds net vehicle weight, and not to exceed 50 inches in width.

ALL TERRAIN VEHICLE/OFF HIGHWAY RECREATIONAL VEHICLE FACILITY – A facility or site where people who do not own the site or reside on the site are allowed to operate all terrain vehicles or off highway recreational vehicles with or without compensation. A trail that crosses a parcel and that is used by all terrain vehicle or off highway recreational vehicle operators that do not own or reside on the parcel is an all terrain vehicle/off highway recreational vehicle facility.

ALTERATION – A change or rearrangement in the structural parts of a building or structure or in the means of egress or an enlargement, whether by an extension on a side or by an increase in height, or the moving from one location or position to another.

ANIMAL FEEDLOT – A commercial agricultural establishment consisting of confined feeding areas and related structures used for the finishing of livestock in accordance with USDA regulations. Any activity that requires the filing of a Schedule F as part of the owner's or operator's federal income tax return shall constitute a commercial operation.

ANIMAL HUSBANDRY, ACCESSORY – The breeding and/or raising of livestock or fowl for noncommercial purposes in conjunction with a residence. (See Section 175-109(B))

ANIMAL HUSBANDRY, COMMERCIAL – The commercial breeding and/or raising of livestock. Animal husbandry does not include any activity that is defined as a kennel, stable, animal feed lot, or the keeping of pigs, chickens, and fowl for commercial purposes. Any activity that requires the filing of a Schedule F as part of the owner's or operator's federal income tax return shall constitute a commercial operation.

APARTMENT – See "dwelling unit."

AQUACULTURE – The commercial growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

AQUIFER – A geologic formation, group of formations or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies. Aquifer includes both bedrock aquifers and stratified drift aquifers.

AQUIFER, BEDROCK – Bedrock comprised of a high concentration of interconnected fractures, fissures, or cracks that is able to produce a high quantity of water.

AQUIFER, STRATIFIED DRIFT – A geologic formation of predominantly well-sorted sediments deposited by or in bodies of glacial melt water, including gravel, sand, silt or clay, that contains sufficient saturated permeable materials to yield significant quantities of water to wells.

AQUIFER PROTECTION DISTRICT – The recharge area of designated aquifers. The "Aquifer Protection District" is shown on an overlay to the Official Zoning Map of the Town and is described in detail in Section 175-85 of this Ordinance.

AQUIFER RECHARGE AREA – The area in which water is absorbed that eventually reaches the zone of saturation in one or more aquifers.

AREA OF SPECIAL FLOOD HAZARD – A designated A0, AH, or V0 zone on the Flood Insurance Rate Map (FIRM) with a one-(1) percent or greater annual possibility of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

ART CENTER – A facility for the display and/or sale of objects of art, the teaching of art, or the creation of works of art.

AUTOMOBILE CAR WASH – A facility equipped for washing cars manually or automatically.

AUTOMOBILE SERVICE STATION – Any building or premises used primarily for the retail sale of gasoline and lubricants but which may also provide for the incidental servicing of motor vehicles and small engine repair, including grease racks, tire repairs, battery charging, hand-washing of automobiles and the sale of merchandise and supplies related to the servicing of motor vehicles, but excluding body and fender work, engine overhauling, painting, storage of autos not in operating condition or other work involving noise, fumes, glare or smoke.

BASAL AREA – The cross sectional area of a tree measured at a height of 4-1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees. "Total basal area" is the sum of the "basal areas" of all vegetation in the zone.

BASE FLOOD – The flood level having a one-percent possibility of being equaled or exceeded in any given year.

BASEMENT – Any area of a building having its floor subgrade on all sides.

BED AND BREAKFAST – An owner-occupied single-family residence containing, in addition to living accommodations for the owner and the owner's family, not more than four (4) individual sleeping rooms, without cooking facilities, for the purpose of providing to the general public, for compensation, lodging, bathroom facilities and breakfast to overnight patrons only and for no longer than two (2) consecutive weeks.

BOARDINGHOUSE – An owner-occupied residential building principally used, designed or adapted to provide living accommodations for not more than ten (10) occupants and having common cooking and dining facilities.

BOATYARD/BOAT CLUB – Waterfront facilities for recreational boating, launching facilities and other water-related activities, but excluding the sale of products and accessories associated with boating needs.

BOG – A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil and/or water conditions.

BUFFERING – The use of landscaping (other than grass on flat terrain), or the use of landscaping along with berms, walls or decorative fences that at least partially and periodically obstructs the view.

BUILDABLE AREA – That portion of a building site, exclusive of the required yard areas, on which a structure or building improvement may be erected.

BUILDING – Any structure designed or intended for the support, enclosure, shelter or protection of persons, domestic animals, chattels or property. For purposes of determining exterior measurements or footprint in order to locate the setback line, "building" shall include all attached structures such as open or closed porches, carports, garages, balconies, stairways and other similar structures.

BUILDING FOOTPRINT – The total area of the ground surface enclosed within the foundation of a building or within the downward projection of the exterior walls of a building.

BUILDING HEIGHT – The vertical distance from the mean grade elevation (average grade around the perimeter of the building) to the mean roof elevation [one-half (1/2) of the vertical distance from eave to ridge].

BUILDING INSPECTOR – All references to Building Inspector are the same as if they were Code Enforcement Officer.

BUSINESS SERVICES – Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance, employment service, management and consulting services, protective services, office equipment rental and leasing, commercial research, development and testing, photo finishing and personal supply services.

CAMPGROUND – Any area or tract of land used or designed to accommodate two (2) or more camping parties, including tents, camping trailers, recreation vehicles or other camping outfits, and includes the necessary accessory uses normally associated with such use.

CARETAKER APARTMENT – A dwelling unit that is incorporated into, and is accessory to, a nonresidential use and is occupied by an owner or an employee of the business occupying the principal use and having a gross floor area of less than two thousand (2,000) square feet.

CATEGORY OF USE – Any use listed in Section 175-53, the Table of Land Uses or listed as permitted or conditional use in a zoning district.

CHILD CARE CENTER – A nonresidential facility for the care of preschool and/or school aged children that is not located within a home or other residence. (See Section 175-109(E))

CHILD CARE HOME – A nonresidential facility for the care of preschool and/or school aged children that is located within the residence in which the primary care provider resides. (See Section 175-109(F))

CHILD CARE NURSERY – A nonresidential facility for the care of children under three years of age that is not located within a home or other residence.

CINEMA – A motion picture theater.

CLUB – A building or portion thereof used by a group of people organized as a non-profit organization for a common purpose to pursue common goals, interests or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. A club includes the facilities occupied by a fraternal or similar organization.

COMMERCIAL AGRICULTURE – The use of land for commercial agricultural purposes including tilling of the soil, raising of crops, pasturage, and including the necessary accessory structures and uses normally associated with such uses. Commercial agriculture includes the raising of flowers but does not include any activity that is defined as animal husbandry, an animal feedlot, a plant nursery, or the keeping of pigs, chickens, and fowl. Any activity that requires the filing of Schedule F as part of the owner's or operator's federal income tax return shall constitute a commercial operation.

COMMERCIAL USE – A nonresidential use operated for profit or compensation.

COMMON OPEN SPACE – Land within or related to a subdivision that is set aside to conserve natural resource, scenic, cultural, historic, or archeological values, provide active or passive recreation, or accommodate support facilities related to the subdivision, and that is restricted from significant development or intensive use except for approved recreational or support facilities and protected in perpetuity in a substantially undeveloped state through legally binding fee ownership or conservation easements.

COMMUNITY CENTER – A building that accommodates recreational, educational, entertainment, and/or cultural activities primarily for use by residents of a subdivision or by residents of the community-at-large.

CONDITIONAL USE – Those uses which because of peculiar characteristics or because of size, technological processes or equipment or because of the exact location with reference to surroundings, streets and existing improvements or because of demands upon public facilities,

require a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same area.

CONDITIONAL USE PERMIT – An authorization to conduct a conditional use when such authorization is required by these regulations and when established according to the procedures outlined in Article VII of these regulations.

CONDOMINIUM – A building or group of buildings in which units are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional undivided basis. Condominiums shall be considered a subdivision and reviewed accordingly.

CONFERENCE CENTER – A facility used for conferences and seminars, which may include accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms. If sleeping accommodations are part of the facility, transients that are not attending activities at the center may occupy not more fifty percent (50%) of the accommodations at any time.

CONSERVATION ACTIVITIES – Non-structural activities involved with the maintenance of the natural resource value of land, including forest management activities that do not involve the creation of motorized vehicle ways or the disturbance of the soil. Activities to stabilize erosion or address emergency conditions are part of this use.

CONSERVATION SUBDIVISION – A subdivision meeting the requirements of Section 175-107 in which a substantial portion of the site is set aside as common open space.

CONTIGUOUS - Touching at a point or along a boundary; Adjoining.

CONTRIBUTING STRUCTURE – A property or structure in the Historic Overlay District that is part of Durham’s heritage and contributes to the District’s sense of time, place and historical development by virtue of its age, historical use, location, design, setting, materials, workmanship, aesthetics, or association.

CONVENIENCE STORE WITH GASOLINE SALES – A retail store with less than five thousand (5,000) square feet of gross floor area that includes the retail sales of gasoline and similar petroleum products but provides no other automobile services such as repairs or washing.

CONVENTIONAL RESIDENTIAL SUBDIVISION – A residential subdivision in which all or most of the area of the parcel is put into lots and roads with little or no common open space.

CORNER CLEARANCE – An unobstructed area at street intersections free from any object, vegetation or slope which impedes visibility within a triangle, two (2) of whose sides extend twenty (20) feet from the intersection along the street lines and between two (2) planes three (3) feet and seven (7) feet above the level of the traveled way.

CRAFT SHOP WITH ACCESSORY PRODUCTION – A studio of a crafts person or group of crafts people. A craft shop may include the sale of crafts and the production of crafts for sale on the premises.

DAY CARE – A use which provides daytime care and supervision of any number of children or handicapped, disabled or elderly adults not related by blood or marriage and licensed by the appropriate state agency.

DEVELOPER – An owner, the owner’s agent, or any other person, firm or organization with authorization from the owner, who intends to improve or to construct improvements upon his/her property.

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.

DIAMETER AT BREAST HEIGHT (DBH) – The diameter of a tree trunk at a height of four and one-half (4.5) feet.

DISTURBED AREA – An area in which natural vegetation is removed, exposing the underlying soil.

DORMITORY – A building occupied by a resident manager and used, designed and adapted to provide housing for more than ten (10) occupants. Such units are distinguished by separate study and sleeping quarters for each individual or pair of individuals; common social assembly rooms; common toilet facilities; and common cooking and dining facilities, where provided.

DRIVE THROUGH FACILITY – A service facility designed for the convenience of the motoring public that is intended to enable the customer to transact business with a person located within a structure or a machine without exiting the motor vehicle.

DRIVEWAY – A private, vehicular access connecting a house, parking area, garage or other building with the street.

DUST-FREE – The maintenance of a dust free environment by paving with one of the following methods: bituminous paving, concrete, compacted crushed rock or gravel, or other suitable materials.

DWELLING GROUP OR CLUSTER – A pattern of residential development where units are grouped together on a single lot around access courts with the remainder of the lot left in its natural condition or as common open space.

DWELLING UNIT – One (1) or more rooms arranged, designed or used for residential purposes for one (1) household and containing independent sanitary and cooking facilities. The presence of cooking and sanitary facilities conclusively establishes the intent to use for residential purposes.

EDUCATIONAL FACILITIES – A building or part thereof principally used, designed or adapted for educational use or instruction and operated by an educational institution approved by the New Hampshire Postsecondary Educational Commission.

ELDERCARE FACILITY – Housing principally used, designed, or adapted for use by elderly citizens, fifty-five (55) years of age and older that are not capable of living independently and that that require assistance in activities of daily living (ADL’s), and complying with the design

requirements of the Architectural Barrier Free Design Code for the State of New Hampshire. Residents of an eldercare facility shall receive a package of services to meet their needs. An “eldercare facility” may be contained in a single building or group of buildings and may include assisted living facilities or nursing home facilities. A “life care community” or other retirement community that provides a continuum of care including both independent living units and units for residents that require assistance, shall be considered to be an eldercare facility.

ELDERLY HOUSING – Housing principally used, designed or adapted for use by elderly citizens, fifty-five (55) years of age and older who are capable of living independently, and complying with the design requirements of the Architectural Barrier Free Design Code for the State of New Hampshire, as amended. “Elderly housing” may be single family residences, duplex residences, or multiunit residences and can be contained in a single building or groups of buildings and may include dwelling units that do not include services for the residents and/or congregate housing that includes services such as meals, housekeeping, recreational programs and related management support systems.

EXCAVATION – A land area that is used, or has been used, for the commercial taking of earth, including all slopes. This includes removal from its natural location of soil, sand, gravel, rock, topsoil, loam, clay, peat, or other mineral deposits. This does not include the excavation of material incidental to approved construction of buildings, driveways, or parking areas; or the excavation of material incidental to and at the site of construction or repair of streets.

EXTERIOR ARCHITECTURAL APPEARANCE – The architectural character, general composition, and general arrangement of the exterior of the structure, including the kind, color, and texture of the building material and type and character of all windows, doors, light fixtures, signs, and appurtenant elements.

FINANCIAL INSTITUTION – A business or nonprofit organization providing retail financial services, including but not limited to banks, credit unions, financial exchanges, free-standing Automatic Teller Machines (ATM), and check cashing facilities.

FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY – An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide 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 or flooding.")

FLOODPROOFING – Any combination of structural and nonstructural 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, REGULATORY – 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 increasing the water surface elevation.

FLOOR AREA, GROSS – The sum of the areas of all floors of a building as measured from the exterior dimensions, but not including cellars, attics, porches, garages or areas occupied by heating and ventilating equipment.

FLOOR AREA, HABITABLE – Heated areas used daily for living, eating, cooking or sleeping, including bathrooms and bedroom closets; but excluding garages, circulation areas (stairways, hallways, corridors), storage areas, (including but not limited to attics, unfinished basements, and utility rooms). For the purposes of this chapter, "habitable floor area" is deemed to be seventy (70) percent of the gross floor area of a given building unless evidence sufficient to rebut that presumption in the form of complete floor plans drawn to a standard scale is submitted to the Durham Code Enforcement Officer. This presumption shall not apply in any instance where the owner or occupant(s) of the building allow inspection and measurement of such interior floor areas by the Code Enforcement Officer. It is recognized that, under this definition, it is possible for the "habitable floor area" to exceed 70% of the gross floor area.

FORESTRY – Forestry shall include the growing, stocking, cutting, or sale of forest trees of any size for habitat management, for producing timber, or for other forest products; and pre-commercial silvicultural activities including but *not* limited to timber stand improvement.

FOUNDATION, PERMANENT – A continuous perimeter foundation of masonry or concrete constructed in accordance with the Building Code of the Town of Durham.

FRANCHISE ARCHITECTURE – A stylized building design in which the shape, detailing, ornamentation, materials, or use of color is clearly identified with a specific brand or company.

FRATERNITY/SORORITY – A fraternal organization officially recognized by the University of New Hampshire, and organized to benefit the Durham/University of New Hampshire community through the efforts of its members, who are students currently enrolled at the University of New Hampshire.

FRATERNITY/SORORITY HOUSE – A building used to provide lodging facilities for the exclusive use of the bonafide members of a fraternity or sorority.

FRONTAGE – See "lot frontage."

FUNERAL HOME – An establishment where the dead are prepared for burial or cremation and where wakes and funerals may be held. A funeral home may include a chapel and/or facilities for the storage of vehicles used in the business.

GALLERY – A business involving the display and sale of objects of art such as paintings, sculpture, assemblies, and collages. A gallery may include the studio of one or more artists.

GOLF COURSE – A tract of land laid out with at least nine holes for playing the game of golf and improved with fairways, greens, landscaping, and/or hazards. A golf course may include a

club house that provides services to golfers and/or members including, but not limited to, the sale and repair of golf equipment and food and beverage service, and accessory buildings and structures necessary for the operation of the course.

GOVERNMENT FACILITY – A structure or parcel of land the use of which is governmental, as defined in RSA 674:54. As stated therein, the use, construction or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, or by a county, town, city, school district or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.

GOVERNMENT USE – The use or development of a parcel of land or building by a governmental body, agency, or organization or by a quasi-governmental agency or organization carrying out a recognized governmental function.

GREENWAY – A network of connected common open spaces and/or other conservation land that typically extends along or around a natural feature such as a stream, pond, wetland, or wildlife travel corridor, or includes an area with significant scenic, historic, archeological, or cultural value, or provides for passive or active recreation such as trails or similar linear facilities.

GROUNDWATER – All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

GROUNDWATER RECHARGE – The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

GROUND COVER – Low plants ranging from ground level to three (3) feet which grow to form a continuous cover over the ground, such as vinca, English ivy or like material.

HELIPORT – A facility used for landings and takeoffs by helicopters.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HIGH-WATER LEVEL – On saltwater bodies, the seasonal high-water level (the wrack line where tidal debris is deposited at seasonal high tides); on freshwater rivers and streams, the average springtime high-water level, including contiguous wetlands; or for dammed streams, the height of the dam.

HOME OCCUPATION – Any occupation, profession, activity or use which is clearly an incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood and is further defined as follows:

1. **FIRST-CLASS HOME OCCUPATION** – A home occupation meeting the following requirements:
 - a. It occupies no more than five hundred (500) square feet of floor area.

- b. The principal operator resides on the premises, has not more than one (1) other person employed on-site and does not sell on-site any principal manufactured products prepared by others. Services provided electronically and off-site employees who interact electronically with the home occupation are not limited.
 - c. The activity is completely enclosed in a primary or accessory structure. There is no indication of such occupation visible on the exterior of the building or on the lot, except permitted signs.
 - d. The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.
2. SECOND-CLASS HOME OCCUPATION – A home occupation meeting the following requirements:
- a. It occupies no more than one thousand (1,000) square feet of floor area, with the exception of existing farm structures, which may utilize one hundred (100) percent of the floor area.
 - b. The principal operator resides on the premises, has not more than three (3) other persons employed on-site and does not sell on-site any principal manufactured products prepared by others. Services provided electronically and off-site employees who interact electronically with the home occupation are not limited.
 - c. The activity, except for outdoor storage, is completely enclosed in a primary or accessory structure. Outdoor storage of materials or equipment shall not be located in any required setback or yard area and shall be at least ten (10) feet from any lot line and so screened as not to be visible from any public way or shoreline or public park.
 - d. The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.

HOSPITAL – An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

HOTEL – A building containing seven (7) or more individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities for stays of less than two (2) consecutive weeks, to the general public for compensation, with or without meals, and usually providing on-site recreational services, function rooms, housekeeping, laundry and related services. Access to individual guest rooms is provided through interior corridors. (See Section 175-109(G))

HOUSEHOLD – A group of occupants of a dwelling unit restricted to the following two (2) categories:

- 1. FAMILY – An individual or two (2) or more persons related within the second degree of kinship by civil law or by marriage or adoption or foster care arrangement living

together as a single housekeeping unit, including necessary domestic help such as nurses or servants not to exceed three (3) in number.

2. UNRELATED HOUSEHOLD – Any household not conforming to the definition of a "family," provided that no such household shall have a number of members in excess of the figure provided in Table II-1.

Table II-1. DWELLING DENSITY BY TYPE

Dwelling type	Maximum number of occupants in unrelated household per 300 square feet of habitable floor area
Single-family dwelling	1
Duplex or townhouse	1
Apartment, including accessory apartments	1.5
Rooming/boarding, including accessory rooming/boarding	2
Dormitory	3
Fraternity or sorority	2
Nursing home	2
Elderly housing	1.5

Notes: No more than three (3) unrelated occupants may occupy a dwelling unit in an R, RA, RB, RC, PO, CH, C, or CC Zoning District. See Section 175-109(C).

HYDROGEOLOGIST, QUALIFIED – Any person certified in New Hampshire as a License Professional Geologist pursuant to NHRSA 310-A:125. The Planning Board, at its discretion, may accept as a Qualified Hydrogeologist any person possessing similar credentials from any other state.

IMPERVIOUS SURFACE – A material with low permeability that impedes the natural infiltration of moisture into the ground so that the majority of the precipitation that falls on the surface runs off or is not absorbed into the ground. Common impervious surfaces include, but are not limited to, roofs, concrete or bituminous paving such as sidewalks, patios, driveways, roads, parking spaces or lots, and storage areas, compacted gravel including drives and parking areas, oiled or compacted earthen materials, stone, concrete or composite pavers, wood, and swimming pools.

IMPERVIOUS SURFACE AREA – The total area of a site or parcel that is covered by impervious surfaces. The area covered by a deck or similar structure shall be included in the impervious surface area unless the surface of the deck or structure provides for precipitation to pass through it and reach the ground in a dispersed pattern and the material under the deck or structure is not an impervious surface.

IMPERVIOUS SURFACE RATIO – The impervious surface area of a site or parcel divided by the total area of the site or parcel expressed as a percentage.

INN – An owner-occupied, single-family residence containing, in addition to living accommodations for the owner and her family, not more than six (6) individual sleeping rooms, without cooking facilities, for the purpose of providing to the general public, for compensation, lodging, bathroom facilities and breakfast to overnight patrons only and for no longer than two (2) consecutive weeks.

JUNKYARD – An area of land used for the storage, outside of a completely enclosed building, of used and discarded materials, including but not limited to wastepaper, rags, metal, building materials, furnishings, machinery, vehicles or parts thereof. "Junkyard" also means any business or any place of storage or deposit which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles, or old iron, metal, glass, paper, cordage or other waste, or discarded or secondhand material which has been a part or is intended to be a part of any motor vehicle, the sum of which parts shall be equal in bulk to two (2) or more motor vehicles.

KEEPING OF PIGS, CHICKENS, AND FOWL FOR COMMERCIAL PURPOSES – The commercial breeding and/or raising of pigs, hogs, chickens, ducks, turkeys, and similar fowl. Any activity that requires the filing of a Schedule F as part of the owner's or operator's federal income tax return shall constitute a commercial operation.

KENNEL – Any lot or premises on which four (4) or more dogs, cats or similar small animals, or a combination thereof, which are in excess of four (4) months of age, are boarded for compensation or bred for sale. A kennel shall not include licensed veterinary medical facilities.

LANDSCAPE BUFFER – See "solid planting" in landscaping definitions--175-7(C).

LANDSCAPING – Some combination of planted, living trees, shrubs, hedges, vines, ground cover and flowers suitable for the climate, exposure and site condition. In addition, the combination or design may include earth sculpture, cobble, bark, mulch, edgers, flower tubs, rock and such structural features as foundations, pools, artworks, screens, walls, fences or benches, but such objects alone shall not meet the requirements of this provision. The selected combination of objects and plans for landscaping purposes shall be arranged in a manner compatible with the building and its surroundings.

LEACHABLE WASTES – Waste materials, including but not limited to solid wastes, sewage sludge and agricultural wastes, that are capable of leaching contaminants to groundwater or surface water sources.

LIBRARY – A place in which literary and artistic materials, such as books, periodicals, newspapers, pamphlets, and prints are kept for reference or reading.

LIGHT ASSEMBLY – See "assembly, light."

LIGHT MANUFACTURING – See "manufacturing, light."

LIVESTOCK – Horses, ponies, mules, donkeys, oxen, cattle, sheep, goats, swine, buffalo, llamas, emus, ostriches, alpacas, and any other large animal raised primarily in the outdoors or in unheated structures and that serve as a beast of burden or a source of meat or wool.

LOT – A legally recorded and defined parcel of land or two (2) or more contiguous parcels to be used as a unit under the provisions of these regulations.

LOT AREA – The total horizontal area within the confines of the boundary lines of a lot. The "lot area" shall not include any part of a public right-of-way which it fronts or abuts.

LOT, CORNER – A lot abutting on two (2) or more intersecting streets where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees. A "corner lot" shall be considered to be in that block in which the lot fronts. [See "lot line," Subsection (1)(a).]

LOT COVERAGE – The aggregate gross ground floor area of all buildings on a lot expressed as a percentage of the total lot area, excluding parking facilities, sidewalks and driveways.

LOT FRONTAGE – A lot line dividing the lot from a street right-of-way.

LOT LINE:

1. LOT FRONT – The front property line of a lot shall be determined as follows:
 - a. CORNER LOT – The front property line of a corner lot shall be the shorter of the two (2) lines adjacent to the streets as platted, subdivided or laid out. Where the lines are equal, the front line shall be that line which is obviously the front by reason of the prevailing custom of the other buildings on the block. If such front is not evident, then either may be considered the front of the lot, but not both. Where such front property line is not obviously evident, the Zoning Administrator shall determine the front property line.
 - b. INTERIOR LOT – The front property line of an interior lot shall be the line bounding the street frontage.
 - c. THROUGH LOT – The front property line of a through lot shall be that line which is obviously the front by reason of the prevailing custom of the other buildings in the block.
2. LOT REAR – The rear property line of a lot is that lot line opposite to the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten (10) feet long lying within the lot and parallel to the front property line. In the event that the front property line is a curved line, then the rear property line shall be assumed to be a line not less than ten (10) feet long lying within the lot and parallel to a line tangent to the front property line at its midpoint.
3. LOT SIDE – The side property lines of a lot are those lot lines connecting the front and rear property lines of a lot.

LOWEST FLOOR – The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for the 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 an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Chapter.

MAINTENANCE – The replacing or repair of a part or parts of a building or structure which have been made unusable, unsafe, or unsightly, or have been damaged by ordinary wear or tear or by the weather.

MANUFACTURED HOUSING – Any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing shall not include presite built housing as defined in RSA 674:31-a. (See Section 175-109(H))

MANUFACTURING, LIGHT – An establishment engaged in the production, packaging, and/or distribution of products or components of products involving processing, fabrication, and/or assembly of parts or components produced off the site that meets the performance standards for a light manufacturing use (See Article XX).

MARINE SALES AND SERVICE – A business establishment located on a navigable water within the Town of Durham providing boat sales, rental and storage, marine supplies and equipment, marine engine and hull repairs, construction and outfitting of pleasure craft, fuel and oil, electricity, freshwater, ice, and other supplies for owners and crew.

MASTER PLAN – The Town of Durham Master Plan, and any amendments which may be made thereto, adopted by the Durham Planning Board as a guide to the prudent development and protection of the resources of the community.

MEAN SEA LEVEL – The National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MEDICAL CLINIC – A structure or group of structures occupied by one or more medical practitioners for the purpose of providing health services to people on an outpatient basis.

MINING – Activities performed in the extraction of minerals including the excavation of pits, removal of minerals, removal of dimension stone, removal or quarrying for the production of construction aggregate, disposal of overburden, and the construction of roads for the haulage of mining materials but not including removal activities that are part of development projects that have received site plan or subdivision approval or that are undertaken only for the purpose of improvement of or use on the owner's property in which there will be no removal of materials from the site.

MIXED USE WITH RESIDENTIAL (OFFICE/RETAIL DOWN, MULTIUNIT RESIDENTIAL UP) – A building in which the first floor is used for office or retail or similar non-residential uses and the upper floor(s) is used, in whole or in part, for multiunit residential use.

MIXED USE WITH PARKING (PARKING AND OFFICE/RETAIL) – A building in which the first floor or ground floor is used for parking and the upper floor(s) is used for office or retail or similar non-residential uses.

MIXED USE WITH PARKING (PARKING AND OFFICE) – A building in which the first floor or ground floor is used for parking and the upper floor(s) is used for office or similar non-residential uses.

MOTEL – A building containing seven (7) or more individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities for stays of less than two (2) consecutive weeks, to the general public for compensation, with or without meals, and usually providing on-site recreational services, function rooms, housekeeping, laundry and related services. Access to individual guest rooms is provided directly from the outside or from exterior corridors, walkways, or balconies. (See Section 175-109(G))

MOTOR VEHICLE SALES AND SERVICE – The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers, recreation vehicles, motorcycles, or similar motorized vehicles. This use may include repair facilities for such vehicles.

MOTOR VEHICLE SERVICE FACILITY – A business that provides service, maintenance, and repairs for motor vehicles, including the accessory sale of parts and supplies. This use includes muffler, transmission, and brake shops, tune-up centers, repair garages, and similar uses but shall not include operations involving body work, painting, structural repairs or alterations

MUSEUM – A nonprofit institution operated principally for the purpose of preserving, acquiring, and exhibiting objects of historical, cultural, scientific, or artistic interest and which may also engage in the incidental retail sales of items related to its principal purpose.

NEIGHBORHOOD – An area of land local to the use concerned, generally lying within a radius of one thousand (1,000) feet, which has a set of unifying characteristics such as housing style or quality, similar income strata, topographic features, water features, local recreational facilities or convenience shopping. Factors such as a railroad and highway rights-of-way, major streets, rivers, water bodies and severe topographic constraints may form boundaries and serve to separate "neighborhoods."

NONCONFORMING BUILDING – A structure or building, the size, dimensions and location of which were lawful prior to the adoption, revision or amendment of a Zoning Ordinance but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NONCONFORMING LOT – A lot, the area, dimensions and location of which were lawful prior to the adoption, revision or amendment of the Zoning Ordinance but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NONCONFORMING USE – A lawful use of a building, other structure or use of land which predated the adoption of the zoning use regulations now and/or previously in effect and which would not be a use authorized in the district designation currently applied to that site.

NONCONTRIBUTING STRUCTURE – A property or structure which, due to its recent vintage, incompatible design, incompatible and irreversible alterations, or secondary or incidental use, would not be considered to contribute to that character or quality of the Historic Overlay District that the Town seeks to preserve.

NONMUNICIPAL WELL – Any well not owned and operated by the Town of Durham or its agent.

NURSERY OR PRE-SCHOOL – A school for children primarily between the ages of three and five that provides preparation for elementary school.

NURSING HOME – A facility licensed by the State of New Hampshire as a nursing home and that provides intermediate and/or skilled nursing care to individuals, who by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

OCCUPANCY – The predominant use classification of a building, structure or land.

OFF HIGHWAY RECREATIONAL VEHICLE – Any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, belts, cleats, tracks, skis or cushion of air and dependent on the ground or surface for travel, or other unimproved terrain whether covered by ice or snow or not, where the operator sits in or on the vehicle. All legally registered motorized vehicles when used for off highway recreational purposes shall fall within the meaning of this definition; provided that, when said motor vehicle is being used for transportation purposes only, it shall be deemed that said motor vehicle is not being used for recreational purposes.

OFFICE, BUSINESS – A place of business where activities such as general management, bookkeeping, accounting, telephone sales, and telecommunications take place, but where no “walk-in” consumer retail sales of physical products occur. A business office may include research and development activities, software development, and information transfer and management activities but shall not include the production of physical products for sale or distribution.

OFFICE, PROFESSIONAL – A building containing one (1) or more offices in which there is no display of unrelated stock or wares in trade commodity sold, nor any commercial use conducted other than the professional offices of a doctor, dentist, lawyer, architect, engineer and related laboratories, insurance agent, realtor or other similar professional services, but excluding barbershops, beauty salons or similar services.

OLDER SINGLE-FAMILY RESIDENCE – A single-family residence that has been at its current location since 1950. (See Section 175-109(J))

ONE-HUNDRED-YEAR FLOOD – See "base flood."

OPEN SPACE – Land such as, but not limited to, recreational areas, playgrounds, and conservation land that contains no structures other than those incidental to recreation or agriculture.

ORDINARY HIGH WATER MARK – The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the NH Department of Environmental Services (NH DES).

OVERSTORY – Vegetation ranging from fifteen (15) feet to the top of the canopy.

OWNER – An individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest to seek development of land.

PARKING SPACE – A space within or without a building, exclusive of driveways, meeting the minimal requirements of this chapter, used to temporarily park a motor vehicle and having access to a public street or driveway.

PERENNIAL STREAM – A stream or brook that, under normal circumstances, runs all year long.

PERFORMANCE GUARANTY – Any security acceptable by the town as a guaranty that improvements required as part of an application for development are satisfactorily completed.

PERMITTED USE – A use specifically permitted or analogous to those specifically permitted as set forth in the Table of Uses or the zoning district standards.

PERSONAL SERVICES – Establishments primarily engaged in providing services involving the care of a person or his or her apparel. Personal Services includes fitness centers.

PLANT NURSERY – The commercial cultivation and/or raising of flowers, ornamental and greenhouse plants, and other vegetation including the necessary accessory structures and uses normally associated with such uses. A plant nursery may include the retail sale of plant materials raised on the premises together with related accessory items.

PREMISES – A lot, parcel, tract, or plot of land together with the buildings and structures thereon. Premises may be further defined as the principal use dwelling unit/residence, or non-residential building, and any accessory structures to that principal use, where there are multiple principal buildings on a single lot.

PRESITE BUILT HOUSING – Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this subdivision, presite built housing shall not include manufactured housing as defined in RSA 674:31.

PRIMARY BUILDING LINE – The setback from the reference line.

PRINCIPAL USE – The primary or predominant use to which the property is or may be devoted and to which all other uses on the premises are accessory.

PROHIBITED USE – A use which is not specifically permitted.

PUBLIC UTILITY – A public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, telephone, television cable, gas and transportation for persons and freight.

PUBLIC WAY – A road, sidewalk, footpath, trail, or navigable waterway accessible to the public.

RARE AND EXEMPLARY COMMUNITY – A natural community that has been identified by the New Hampshire Natural Heritage Bureau as being an exemplary example of a particular type of community and/or location of rare plants or animals.

RECREATION, ACTIVE – Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed sites, locations, or fields. Active recreation includes, but is not limited to, swimming, tennis and other court games, baseball, track and field sports, and playground activities. Active recreation generally requires altering the land for recreational use.

RECREATION, PASSIVE – Non-motorized recreational activities that typically occur in a natural setting, that do not have significant adverse impacts to natural, cultural, scientific, or agricultural values of the setting, and do not require structures. Such passive recreation uses include, but are not limited to, walking, hiking, picnicking, nature observation, and cross-country skiing

RECREATIONAL FACILITY, INDOOR – A building or structure enclosed by walls and a roof designed and equipped for the conduct of indoor sports, leisure activities, and other customary and usual recreational activities. These include, by way of example only, skating rinks, gymnasias, bowling alleys, fitness centers, and arcades.

RECREATIONAL FACILITY, OUTDOOR – A place or structure designed and equipped for the conduct of outdoor sports, leisure activities, and other customary and usual outdoor recreational activities. An outdoor recreational facility shall not involve the use of individual motorized vehicles, all terrain vehicles, off highway recreational vehicles, motorized rides, or fire arms. Outdoor recreation facilities include, by way of example only, miniature golf courses, cross country ski centers, stadia, tennis courts, and ball fields.

RECREATIONAL PLAYING FIELDS, OUTDOOR – Non-commercial outdoor playing fields for organized practices like soccer, field hockey, baseball and similar outdoor sports as approved by the Planning Board of the Town of Durham through Site Plan Review. No structures allowed except for necessities like small sheds for maintenance and portable toilets. No lighting, voice amplification equipment or paved parking lots or areas shall be permitted.

RECREATIONAL VEHICLE – A vehicle which is: (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.

REFERENCE LINE – The regulatory limit of a surface water or wetland determined as follows:

1. For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the NH DES.
2. For artificially impounded water bodies with established flowage rights, the limit of the flowage rights and for water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest.
3. For coastal waters, the highest observable tide line, which means a line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.
4. For rivers and streams, the ordinary high water mark.

RELIGIOUS USE/FACILITY – A structure or place in which worship ceremonies, rituals and education pertaining to a particular system of beliefs are held.

REPAIR – Work conducted to restore an existing legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.

REPAIR SERVICES – Businesses providing for the repair of personal and business property such as radios and televisions; electrical and electronic equipment; watches, clocks, and jewelry; furniture and upholstery; sporting equipment; small engines and equipment; and similar items but not including the repair of motor vehicles, boats, or heavy equipment. Retail sales of parts and supplies shall be allowed provided such sales are accessory to the repair service.

RESIDENCE, DUPLEX – A building and accessories thereto principally used, designed or adapted with two (2) dwelling units, each of which is completely separate.

RESIDENCE, MULTI-UNIT – A building and accessories thereto principally used, designed or adapted with three (3) or more dwelling units. A multi-unit residence includes “townhouse” style attached dwelling units even if the units are separated by a fire wall.

RESIDENCE, SINGLE-FAMILY – A building and accessories thereto principally used, designed or adapted as a single dwelling unit.

RESTAURANT – A commercial establishment open to the general public where food and beverage are prepared, served and consumed primarily within the principal building. Adequate seating shall be provided. Drive-thru facilities are prohibited.

RESTAURANT, CARRYOUT – A commercial establishment open to the general public which, by design of physical facilities or by service or packaging procedures, permits or encourages the purchase, either within or outside the premises, of prepared ready-to-eat foods intended to be consumed either on or off the premises. Drive-thru facilities are prohibited.

RESTAURANT OR CAFETERIA ACCESSORY TO AN OFFICE BUILDING – A food service establishment that primarily serves occupants and other users of an office building or complex rather than the general public.

RETAIL SALE OF FARM PRODUCTS – The sale directly to the consumer of agricultural products grown or raised on the premises or on other land that is part of the same agricultural business including processed products that are made from products grown or raised on the premises or related land.

RETAIL STORE – An establishment with five thousand (5,000) to twenty thousand (20,000) square feet of gross floor area engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAIL STORE, LIMITED – A retail store with less than five thousand (5,000) square feet of gross floor area.

ROOMING HOUSE – An owner-occupied building principally used, designed or adapted to provide living accommodations for not more than ten (10) occupants and without individual or owner-provided cooking and dining facilities.

SAWMILL, TEMPORARY – A portable facility for the sawing, milling, planing, or similar processing of timber or other wood products harvested from the site upon which the temporary sawmill is located. A portable sawmill use shall not include the retail sale of lumber or other wood products on the site. (See Section 175-109(K))

SCHOOLS – See "educational facilities."

SCREENING – A device or materials used to conceal one (1) element of a site from other elements or from adjacent or contiguous sites. "Screening" may include one (1) or a combination of the following materials of sufficient mass to be opaque or which shall become opaque after twelve (12) months and which shall be maintained year-round in an opaque condition: walls, fences, berms or plantings.

SEASONAL HIGH WATER TABLE – The highest level of the groundwater table during the wettest season of the year, usually in the spring.

SETBACK – The required horizontal distance, in feet, from a lot line or shoreline to any structure.

SHOREFRONTAGE – The width of a lot bordering on a waterbody or wetland measured in a straight line between the intersections of the lot lines with the reference line.

SHORELAND PROTECTION ZONE – Encompasses all land within two hundred fifty (250) feet of the reference line of Great and Little Bays, the Oyster River, the Lamprey River, Durham Reservoir, Moat Island Pond, Johnson and Bunker Creeks, and Follett's Brook including the tidal sections of their tributary streams; and within seventy-five (75) feet of all other perennial brooks. These water bodies are designated on the Durham Shoreland Protection Zone Overlay Map, which is based on United States Geological Survey quadrangle maps covering the Town of Durham.

SIGN – Any exterior or exterior-oriented structure, or part thereof, or device attached thereto, or other outdoor surface including billboards or any combination of one or more of the foregoing containing any word, letter, symbol, drawing, model, banner, flag, picture or design, or any device used for visual communication which identifies or calls attention to any premises, person, product activity, or business, directing the subject thereof to the attention of the public.

ACCESSORY SIGN - Any sign relating to a business on the premises on which the sign is located.

ADVERTISING SIGN - Any sign for the purpose of portraying a business, product or location situated on or away from the premises on which the said sign is located.

AWNING - Any structure made of cloth or metal with a frame attached to a building or structure and projecting over a public way, when the same is so erected as to permit its being raised to a position flat or rolled against the building when not in use.

CANOPY - Any structure, other than an awning or a wedding canopy made of cloth or metal with frames attached to a building projecting over a public way, and carried by a frame supported by the ground or sidewalk.

COMBINATION SIGN - Any sign which combines the characteristics of two or more types of signs.

CURB LEVEL - The elevation of the street curb as established in accordance with an ordinance.

CURB LINE - The vertical plane of the street side of a curb.

DAILY SPECIALS READER BOARD - A sign that is flush mounted, does not exceed three (3) square feet in size and provides a fixed location for the advertisement of daily specials.

FLASHING SIGN - Any sign that moves, flashes, contains traveling lights, or gives the impression of any movement or flashing.

FREE STANDING OR GROUND SIGN - Any sign which is not a part of or attached to any building but is located elsewhere on a lot. It shall not exceed six (6) square feet in size and five (5) feet in height, including supports.

IDENTIFYING SIGN - Any sign or plate giving the name and/or address only of the business or occupant of the premises on which the said sign or plate is located.

ILLUMINATED SIGN - Any sign that is lighted by electricity either directly or indirectly.

MARQUEE - Any hood or awning of permanent construction projecting from the wall or roof of a building or structure above an entrance or extending over a public way.

NEON - Any tubular gas filled lights or lighting device.

NEON SIGN - Any light sign using exposed neon tubes for illumination or display.

NON-ACCESSORY SIGN - Any sign advertising business or businesses at other locations.

PRIVATE DIRECTIONAL SIGN - Any sign of a permanent nature that directs the traveling public to specific buildings, areas, people or things.

PROJECTING SIGN - Any sign which is attached to a building or other structure and extends more than twelve (12) inches beyond the line of the said building or structure or beyond the surface of that portion of the building or structure to which it is attached.

PUBLIC CLOCK AND THERMOMETER - Any time piece or thermometer erected upon a structure upon the sidewalk or ground or on the exterior of a building or structure for the convenience of the public.

PYLON OR POLE SIGN - A sign supported by or suspended from a freestanding column or columns of structural steel, pipe or poles.

ROOF SIGN - Any sign erected upon or over the roof of any building.

SANDWICH BOARD SIGN - A portable sign with a message area that does not exceed six (6) square feet in size on each side of a two sided sign. The Sandwich Board Sign shall be no wider than two (2) feet and/or no taller than three (3) feet.

SIDEWALK - Any public or private way or thoroughfare, paved or unpaved, intended for the use of pedestrians or foot traffic.

SIZE OF SIGN - The total exposed surface area in square feet. Where a sign is composed of fabricated letters attached to a wall, the size of the sign shall be determined as twice the average height of the letters times the length of the message.

SNIPE SIGN - Any sign of a non-permanent nature or construction attached to trees, poles, posts or sides of buildings or structures.

STREET LINE - The line dividing a lot from a street right-of-way.

TEMPORARY SIGN - Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard or wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only.

SITE PLAN – A plan of a lot, tract or parcel of land showing the specific location of all existing and proposed features, such as buildings, other structures, driveways, parking, landscaping, easements, utilities, drainage, etc.

SLUDGE – Residual materials produced by the sewage treatment process.

SOIL, POORLY DRAINED – Any soil type having a soil drainage classification of poorly drained when classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

SOIL, SOMEWHAT POORLY DRAINED – Any soil type having a soil drainage classification of somewhat poorly drained when classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

SOIL, VERY POORLY DRAINED – Any soil type having a soil drainage classification of very poorly drained when classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

SOIL SURVEY, HIGH INTENSITY – A soils map and related materials prepared and certified by a New Hampshire Certified Soil Scientist in accordance with the most recent standards for high intensity soils surveys and/or mapping published by the Society of Soil Scientists of Northern New England.

SOLID WASTE – Any discarded or abandoned material, including refuse, putrescible material, septage or sludge, as defined by New Hampshire Solid Waste Rule He-P 1901.03. "Solid waste" includes solid, liquid, semisolid or gaseous waste material resulting from residential, industrial, commercial, mining and agricultural operations.

SPECIAL EXCEPTION – A use which would not be appropriate generally or without restriction in a particular district, and accordingly, is allowable only upon such conditions as are established by this chapter and only after public hearing and determination by the Board of Adjustment.

SPECIAL FLOOD HAZARD AREA – See definition of Area of Special Flood Hazard.

STABLE – Any lot or premises on which four (4) or more horses, ponies, or similar equines, or combination thereof, are boarded for compensation or bred for sale.

START OF CONSTRUCTION – The date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement occurs within one hundred eighty (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 a slab or footings, the installation of piles, the construction of columns or any work beyond the stage

of excavation, or the placement of manufactured housing or pre-site built housing 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, footings, piers or foundations on the property or accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

STREET, ARTERIAL – A major street that is functionally classified as an arterial with moderate to fast speeds, high volume, designed to provide access to the regional transportation system and move traffic through or around the town or from one general area of the town to another. "Arterial streets" include Madbury Road, U.S. Route 4, Route 108, Route 155A and Route 155.

STREET, COLLECTOR – An street which is functionally classified as a "collector" and that collects local traffic from neighborhoods and moves it to an adjacent neighborhood or transfers the traffic to the arterial system.

STREET, PRIVATE – A private right-of-way for vehicles which provides a principal means of access to two (2) or more lots and is subject to an easement for ingress and egress running with the land to the benefit of all lots having frontage thereon. Such easement shall define the parties responsible for maintenance, the collection of trash and recyclables, and snow removal.

STREET, PUBLIC – A dedicated public right-of-way for vehicles which affords a principal means of access to abutting properties.

STRUCTURAL PARKING – Any structure for the parking or garaging of five (5) or more motor vehicles that is not surface parking.

STRUCTURAL PARKING FACILITY – A structure or portion of a structure that provides parking. The parking may be above or below grade, may be covered or uncovered, and may be on multiple levels.

STRUCTURE – That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground. "Structures" include but are not limited to a building, swimming pool, mobile home, billboard, pier, wharf, septic system, parking space/parking lot and deck. It shall not include a minor installation such as a fence under six (6) feet high, a mailbox, a flagpole, or an accessory shed.

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 Historic Overlay District purposes) Anything within the Historic Overlay District that is built or constructed with a fixed location on the ground or attached to anything with a fixed location on the ground including but not limited to buildings, fences, walls, signs, light fixtures, decks, porches, and steps.

SUBDIVISION – The division of the lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. It includes re-subdivision

and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

The division of a parcel of land, held in common and subsequently divided into parts among the several owners, shall be deemed a subdivision under these regulations.

The granting of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters, and supporting apparatus, including any unstaffed structure which is less than 500 square feet, shall not be construed as a subdivision under these regulations, and shall not be deemed to create any new division of land for any other purpose.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure shall be the appraised value prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a "historic structure".

SURFACE PARKING – A parking lot or other at-grade, uncovered facility for the parking of five (5) or more motor vehicles.

SURFACE PARKING FACILITY – A parking lot or similar uncovered, single-level parking facility that provides at-grade parking that is not located within a structure.

TEMPORARY – A period of less than ninety (90) days when in reference to a time frame and not having or requiring permanent attachment to the ground when in reference to structures.

TIMBER HARVESTING – The cutting and removal of trees from their growing site, the production of cord wood in conjunction with such harvesting, and/or the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and haul roads. (See Section 175-109(L))

THEATER – A building or part of a building devoted to showing motion pictures or dramatic, musical or live performances.

TOXIC OR HAZARDOUS MATERIAL – Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant actual or potential hazard to water supplies or other hazard to human health. "Toxic or hazardous materials" include, but are not limited to: volatile organic chemicals; petroleum products; heavy metals; radioactive materials; infectious materials or wastes; acids; alkalis; products such as pesticides, herbicides, solvents and thinners; or such other substances as defined in New Hampshire Department of Environmental Services Rules Section Env-Wm-400, in New Hampshire Solid Waste Rule Env-Wm 100 and in the Code of Federal Regulations 40 CFR 261, as amended. The more-restrictive rules shall apply in all cases.

The following commercial activities are presumed to use toxic or hazardous materials and/or to generate wastes containing toxic or hazardous materials, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board. In all cases the burden of proof shall rest with the applicant:

- A. Airplane, boat and motor vehicle service and repair, including gasoline stations.
- B. Chemical and biological laboratory operations.
- C. Dry cleaning.
- D. Electronic circuit manufacturing.
- E. Metal plating, finishing and polishing.
- F. Motor and machinery service and assembly.
- G. Painting, wood preserving and furniture stripping.
- H. Pesticide and herbicide application.
- I. Photographic processing.
- J. Printing.
- K. Any other commercial or industrial activity which, in the judgment of the Planning Board, typically uses toxic or hazardous materials or produces wastes containing toxic or hazardous materials.
- L. Storage and/or distribution of chemicals or any other hazardous materials used in any of the above activities.

TREATED SOILS – Soils decontaminated by a treatment process and certified for distribution and use as soil under NH Env-Wm 3203.11, having originally been contaminated with liquids

or materials not regulated by the State of New Hampshire as hazardous waste defined under NH Env-Wm 2603.01.

TRUCKING AND DISTRIBUTION FACILITY – A facility for the short term storage and trans-shipment of materials or goods including express delivery, common carriers, oil terminals, moving companies, and similar operations.

UNDERSTORY – Vegetation ranging from three (3) feet to fifteen (15) feet in height.

UNSUITABLE AREA – The area of a parcel that must be subtracted from the gross area of the parcel to determine the usable area of the parcel (see definition of usable area).

USE – The specific purpose for which a building or lot is arranged, intended, designed, occupied or maintained.

USABLE AREA – The area of any conservation subdivision, that is suitable, in its natural state, for development or intensive use and, therefore, can be used in determining the allowed density of development. The usable area of a parcel of land shall be determined in accordance with the provisions of 175-55.

USABLE BUILDING VOLUME – The sum of the volume of all spaces enclosed within the portions of a building used or intended to be used for human habitation not including garages, attics, storage areas, and non-habitable basement spaces.

VARIANCE – A variation from the terms of this chapter, not otherwise permitted within the district concerned, which may be granted by the Zoning Board of Adjustment pursuant to its discretionary power.

VERNAL POOL – A confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, provides essential breeding habitat for certain amphibians and invertebrates, and is free of adult fish populations.

VETERINARY CLINIC/GROOMING – A facility where animals or pets are given medical or surgical treatment or where animals and pets are groomed, and in which the boarding of animals is short-term and incidental to the medical care or grooming.

WAREHOUSE – A building for the storage of commercial goods and materials.

WAREHOUSE, MINI STORAGE – Any self-service storage building housing individual storage units or lockers, each of which is accessible through a private entrance, and rented to the public for storage of personal or business belongings.

WATER-DEPENDENT STRUCTURE – A structure that services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.

WATER SURFACE ELEVATION – The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains.

WETLAND – An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soils. Wetlands include, but are not limited to, swamps, marshes, bogs, vernal pools, and similar areas.

WETLAND, NON-TIDAL – A wetland that is not subject to periodic inundation by tidal waters.

WETLAND, PRIME – A wetland designated by the Town Council in accordance with RSA 482-A:15 as having one or more of the values set forth in RSA 482-A:1 and that, because of its size, unspoiled character, fragile condition or other relevant factors, makes it of substantial significance.

WETLAND, TIDAL – A wetland whose vegetation, hydrology, or soils are influenced by periodic inundation of tidal waters.

WHOLESALE SALES – Trade that involves the sale of merchandise, in bulk or large quantities, exclusively to retailers for resale or to industrial, commercial, or institutional users.

YARD – Any open space that lies between the principal building or group of buildings and the nearest lot line and is unoccupied by any structure, unless specifically permitted, and is further defined as front yard, side yard, rear yard and shorefront yard.

B. The following definitions apply to Personal Wireless Service Facilities:

ALTERNATIVE TOWER STRUCTURE – Innovative siting structures that include artificial trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA – The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.

ANTENNA ARRAY – A collection of antennas attached to a mount to send and receive radio signals.

AVERAGE TREE CANOPY HEIGHT – An average height found by inventorying the height at above ground level (AGL) of all trees over twenty (20) feet in height for a defined area, such as the area delineated in Section 175-103.A.4.

CAMOUFLAGED – A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

CARRIER – A company that provides personal wireless services, also sometimes referred to as a provider.

CO-LOCATION – The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

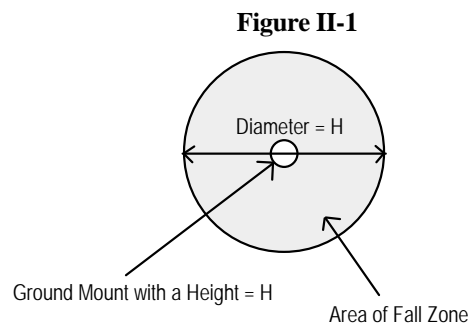
CONCEALMENT – The enclosure of a personal wireless service facility within a natural or human-made feature resulting in the facility being not visible from the outside or being part of the feature enclosing it.

DISGUISE – Changing the appearance of a PWSF to appear to be something it is not.

ENVIRONMENTAL ASSESSMENT (EA) – A document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

EQUIPMENT SHELTER – An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

FALL ZONE – The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a diameter equal the height of the facility, including any antennas or other appurtenances, as set forth in Figure II-1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.



GUYED TOWER – A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

HEIGHT – The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

LATTICE TOWER – A type of mount with multiple legs and structural cross-bracing between the legs that is self supporting and free-standing.

MAST – A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

MONOPOLE – A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

MOUNT – The structure or surface upon which antennas are mounted, including the following four types of mounts:

- A. Roof-mounted. Mounted on the roof of a building.
- B. Side-mounted. Mounted on the side of a building.
- C. Ground-mounted. Mounted on the ground.
- D. Structure-mounted. Mounted on a structure other than a building.

PERSONAL WIRELESS SERVICE FACILITY – Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service facilities include a mount, antenna, equipment shelter, and other related equipment.

PERSONAL WIRELESS SERVICES – The three types of services regulated by this Ordinance: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

RADIO FREQUENCY (RF) ENGINEER – An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR) – The emissions from personal wireless service facilities.

SECURITY BARRIER – A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

SEPARATION – The distance between one carrier's array of antennas and another carrier's array.

- C. The following definitions apply to landscaping and buffering provisions including the provisions of the Wetlands Conservation Overlay and Shoreland Protection Overlay Districts:

DAMAGE – Includes any intentional or negligent act which will cause vegetation to decline and die within a period of five (5) years, including but not limited to such damage inflicted upon the root system by the operation of heavy machinery, the change of the natural grade above the root system or around the trunk of a tree and damages from injury or from fire inflicted on vegetation which results in or permits infection or pest infestation.

GROUND COVER – Any herbaceous plant which normally grows to a mature height of 4 feet or less.

HAZARD TREE – Any tree that has the potential to have parts of or the entire tree fall under moderate to mild environmental changes, conditions or man-made forces.

HISTORIC OR SPECIAL-INTEREST TREE – A tree which has been found by the Tree Warden to be of notable interest because of its age, type, size or historic association.

LANDSCAPED AREA – That area within the boundaries of a given lot which is devoted to and consists of landscaping material, including but not limited to grass, trees, shrubs, flowers, vines and other ground cover, native plant materials, planters, brick, stone, natural forms, water forms, aggregate and other landscape features; provided, however, that the use of brick, stone, aggregate or other inorganic materials shall not predominate over the use of organic plant material.

LANDSCAPE DEVELOPMENT – Trees, shrubs, ground cover, vines, grass and other materials as listed in the definition of "landscaped area" above installed in planting areas for the purpose of fulfilling the requirements of these regulations.

LANDSCAPED STREET YARD – The area of a lot which lies between the street right-of-way line and the actual front wall line of the building, parallel to the street, until such imaginary extensions of such front building wall line intersect the side property lines. In determining the actual building wall of the building for the purposes of this definition, steps and unenclosed porches shall be excluded, but such building wall line shall follow and include the irregular indentations of the building. Further, for the purposes of these regulations, canopies, gas pump islands, overhangs and similar extensions will be figured as part of the "landscaped street yard." A front building wall is a building wall fronting on a street or publicly used area.

- A. On corner lots, the "landscaped street yard" shall consist of all of the area of such lot between all abutting street right-of-way lines and their corresponding actual front building wall lines, as such lines are imaginarily extended in the manner provided above.
- B. When there are multiple buildings on a lot, the "landscaped street yard" shall consist of all the area of the lot between the street right-of-way line(s) and an imaginary line beginning at one side of the property line, running parallel to the street, connecting to the frontmost corner of the building wall, fronting the street and nearest such side property line, then following and connecting the frontmost walls of all buildings fronting on the street and then extending to the other side property line, running parallel to the street. If a building has a rounded front, the front building wall corners shall be the points closest to the side boundaries.
- C. The delineation of the "landscaped street yard" is illustrated by the diagrams accompanying these regulations as Exhibit A under Article XXII and made a part thereof.
- D. Notwithstanding all of the foregoing, on land used only for parking purposes or only as a commercial or private parking lot, the "landscaped street yard" shall consist of the area between the street right-of-way line and the back property line.

LANDSCAPED YARD AREA – The front, side and rear yard areas as established below. In defining the side and rear yard area, the property line shall replace the street right-of-way line defined in the landscaped street yard.

MAINTAIN or MAINTENANCE – In reference to landscaping, includes pruning, mulching, mowing, spraying, fertilizing, propping, bracing, treating for disease or injury, snow removal and any other similar act which promotes the life, growth, health or beauty of the landscape vegetation.

NATURAL WOODLAND BUFFER – A forested area consisting of various species of trees, saplings, shrubs and ground covers in any combination and at any stage of growth.

PUBLIC AREA – Includes parks, playgrounds, areas around public buildings and all other areas under the supervision and maintenance of the town.

REMOVAL OR REMOVED – Cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.

SAPLING – Any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4-1/2 feet above the ground.

SHRUB – A bushy, wooden plant, usually with several permanent stems and usually not over ten (10) feet high at its maturity.

SOLID PLANTING – A planting of evergreen trees and/or shrubs which will prevent the penetration of sight and light to a minimum height of five (5) feet.

SPECIMEN TREE – A tree which has been determined by the judgment of the Tree Warden to be of high value because of its type, age or other professional criteria.

TREE – Any self-supporting, woody perennial plant which has a trunk diameter of two (2) inches or more when measured at a point of four and one-half (4 1/2) feet above the ground level and which normally attains an overall height of at least ten (10) feet at maturity, usually with one (1) main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of ash and others.

TREE WARDEN – The person whose duties shall include the inspection of landscaping installations according to the Town of Durham performance guaranty guidelines, and to ensure that the landscaping provisions of this chapter are being carried out and installed according to the plans submitted and approved.

VEGETATION – Includes a tree, plant, shrub, vine or other form of plant growth.

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