

HOUSING COMMITTEE
Excerpts from Zoning Ordinance pertinent to residential use
September 20, 2021

ARTICLE II - DEFINITIONS

175-7. Definitions.

As used in this chapter, the following terms shall have the meanings indicated. The inclusion of a particular use in this section does not indicate that the use is allowed anywhere in the town of Durham; some terms are included for general reference only.

ACCESSORY DWELLING UNIT – A dwelling unit located in, or attached to, a single-family residence as an accessory use. A single-family residence with an accessory dwelling unit is considered a single-family residence (not a duplex residence). *See Article XX*

ACCESSORY APARTMENT – A dwelling unit located in an accessory structure in conjunction with a single-family residence as an accessory use. A single-family residence with an accessory apartment is considered a single-family residence (not a duplex residence). *See Article XX*

BASEMENT – That portion of a building that is fully below existing grade or partly below and up to two feet above existing grade.

BEDROOM – A fully enclosed room designed for sleeping.

BOARDING HOUSE – 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. *See “Rooming House.”*

CO-HOUSING – An intentional community of private homes clustered around shared space. Each attached or single-family home has traditional amenities, including a private kitchen. Shared spaces typically feature a common house, which may include a large kitchen and dining area, laundry, and recreational spaces. Shared outdoor space may include parking, walkways, open space, and gardens. Neighbors also tend to share resources like tools and lawnmowers.

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. Common open space is not part of any house lot or developable lot within the subdivision and it not owned by the developer nor another resident in the subdivision. Rather, common open space is owned by the Town, another government entity, a nonprofit organization, or jointly/in common by the lot owners in the subdivision.

CONDITIONAL USE – Those uses that because of particular 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.

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.

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.

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.

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.

FAMILY – *See “Household.”*

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 percent of the gross floor area.

FRATERNITY/SORORITY – A fraternal organization officially recognized by the University of New Hampshire, and organized to benefit the Durham and University of New Hampshire communities 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.

HOTEL – A building containing seven (7) or more sleeping rooms or suites, each with a private bathroom, for the purpose of providing overnight lodging facilities to the general public for stays of less than thirty consecutive days for compensation and usually providing on-site dining facilities, recreational services, function rooms, housekeeping, laundry and related services. Access to guest rooms is provided through interior corridors. *See Article XX*

HOUSEHOLD – A group of occupants of a dwelling unit defined by one of the following two 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," above. (Note. See specific requirements for unrelated households in Section 175-56 - General Dimensional Standards.)

INN – An owner-occupied, single-family residence containing, in addition to living accommodations for the owner and his or her family, four (4) to six (6) 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 less than thirty consecutive days.

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 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 on a corner lot is as determined by the Zoning Administrator based upon a reasonable consideration of the following: location of the front door, location of the driveway and garage, configuration of other buildings in the vicinity, the lot layout (generally, the shorter lot line is the front lot line as lots tend to be deep and narrow rather than wide and shallow), and other pertinent issues.
 - 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 the 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 non-elevation design requirements of this chapter.

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 pre-site built housing as defined in RSA 674:31-a. *See Article XX*

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

MOTEL – A building containing seven (7) or more sleeping rooms or suites, each with a private bathroom, for the purpose of providing overnight lodging facilities to the general public for compensation for stays of less than thirty consecutive days, with or without meals, and usually providing on-site function rooms, housekeeping, laundry and related services. Access to guest rooms is provided directly from the outside or from exterior corridors or walkways. *See Article XX*

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."

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.

OLDER SINGLE-FAMILY RESIDENCE – A single-family residence that has been at its current location since 1950. *See Article XX*

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.

PORKCHOP SUBDIVISION – A porkchop subdivision involves limited subdivision of relatively large lots where there is significant back land but not sufficient street frontage to provide the minimum required frontage for each new lot. *See Article XX*

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, pre-site built housing shall not include manufactured housing as defined in RSA 674:31.

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.

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 NHDES.

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.

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. A single-family residence is situated on its own separate lot with no other dwelling units nor nonresidential uses other than those that are accessory to the single-family use, including accessory dwellings/apartments and home occupations, where allowed.

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. *See “Boarding House.”*

SENIOR CARE FACILITY – Housing principally used, designed, or adapted for use by citizens fifty-five (55) years of age and older who are not capable of living independently and who require assistance in activities of daily living. Residents of a senior care facility receive a package of services to meet their needs. A senior care facility may be contained in a single building or group of buildings and may include assisted living, memory care, and/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, is considered to be a senior care facility.

SENIOR HOUSING – In accordance with RSA 354-A:15, either: a) housing where at least 80% of the units are occupied by at least one person 55 years of age or older; or b) housing where 100% of the occupants are 62 years of age or older.

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.

SHORT-TERM RENTAL – An accessory use to an owner-occupied single-family residence containing, in addition to living accommodations for the owner and the owner’s family, not more than three sleeping rooms, for the purpose of providing to the general public, for compensation, lodging, with or without breakfast, for less than thirty consecutive days. A short-term rental is not considered a home occupation.

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.

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

STORY - The complete horizontal division of a building, situated at or above ground level, comprising the usable space or room(s) on one level. Each such division is considered one full story, except for the top level when it is under a sloped roof, which is considered a half story. For the purpose of determining the total number of permitted stories, a sloped roof that does not contain usable space (other than crawl-type storage space) is not considered a half story. For the purposes of this ordinance, a lower level is considered to be a story if the front exterior wall of the lower floor level rises more than two feet above the finished grade. Cupolas with areas of 100 square feet or less do not count as a story.

STRUCTURE (See additional definitions immediately below.) – That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground. Structure includes but is not limited to a building, swimming pool, mobile home, billboard, pier, wharf, septic system, parking space/parking lot and deck. Structure does not include a minor installation such as a fence six (6) feet high or less in height, a mailbox, a flagpole, or an accessory shed.

SUBDIVISION – The division of a 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.

UNRELATED OCCUPANTS – Persons living in an unrelated household. (See definition for “Household.”)

UNRELATED HOUSEHOLD – See “*Household.*”

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 “*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 Section 175-56(E).

VERNAL POOL – A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, Identification and Documentation of Vernal Pools in New Hampshire, rev 2004, as amended.

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.

ARTICLE VII - CONDITIONAL USE PERMITS

175-21. Conditional Use Permits.

- A. The purpose and intent of a Conditional Use permit is to allow certain uses that are not normally permitted under conventional zoning provisions. Specifically authorized conditional uses appear in Section 175-53, Table of Land Uses. A Conditional Use shall be approved if the application is found to be in compliance with the approval criteria in Section 175-23. Further Conditions may be placed on the Conditional Use Permit by the Planning Board to ensure that the Conditional Use will have a positive economic, fiscal, public safety, environmental, aesthetic, and social impact on the town. The Planning Board shall make findings of fact, based on the evidence presented by the applicant, Town staff, and the public, respecting whether the Conditional Use is or is not in compliance with the approval criteria of Section 175-23
- B. No structure, building or land requiring a conditional use permit shall be used, constructed, altered or expanded unless a conditional use permit specifically required by this chapter has been authorized by the Planning Board and issued by the Town Planner.
- C. Any use that was lawfully established prior to the adoption, extension or application of this chapter and is now permitted by this chapter subject to a conditional use permit may continue in the same manner and to the same extent as conducted prior to said adoption or extension of this chapter. A conditional use permit shall be secured from the Planning Board before the use or structure or building in which said use is conducted may be altered, added to, enlarged, expanded or moved from one location to another on the lot on which said use is located.
- D. Structures or buildings devoted to any use permitted under the terms of this chapter subject to the securing of a conditional use permit, may not be altered, added to, enlarged, expanded or moved from one location to another on the lot without securing a new conditional use permit.

175-22. Procedures.

A. *Application.*

- 1. Application for a conditional use permit may be made by the owner of the affected property, or his or her designated agent, on a form obtainable from the Town Planner.
- 2. The completed application and fee as set by the Town Council shall be submitted to the Town Planner or his or her designee. Said fee is nonrefundable.

B. *Procedure for Consideration.*

1. After receipt by the Town Planner or his or her designee, the completed application shall be transmitted to the Planning Board staff for their review and evaluation.
2. The planning staff shall set a public hearing date and publish a notice advertising the public hearing before the Planning Board in a newspaper of general circulation. Public notice shall be made at least ten (10) calendar days prior to the meeting of the Planning Board at which the application is to be considered.
3. The planning staff shall also mail written notice, by certified mail, to all abutting and adjacent property owners within three hundred (300) feet of the subject property and a sign measuring two by three (2 x 3) feet shall be placed on the property by the applicant not less than ten (10) calendar days prior to the time of the public hearing by the Planning Board. The sign shall remain on the property until the conclusion of the public hearing. This sign shall be visible from the most heavily traveled street right-of-way adjacent to the property. The sign shall state the date of the public hearing, the time, the location and the action to be considered. (Where the subject property abuts a public right-of-way, the three hundred (300) foot measurement shall be in addition to the right-of-way along the abutting side.)
4. Any written comment shall be specific when maintaining that the granting of the conditional use permit would adversely or injuriously affect the writer's personal and legal interests.
5. The Planning Board shall consider the application at its next regular meeting following the public notice process.
6. Where development approval for a conditional use includes subdivision or site plan approval by the Planning Board, the application and review procedure for a conditional use permit shall be made concurrently and in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development.

C. *Approval of Application and Granting of Conditional Use Permit.* At least five (5) members must vote in favor of the issuance of a Conditional Use Permit for an application to be approved. Upon rendering a decision to grant a conditional use permit with conditions of approval that must be adhered to by the applicant, the Town Planner shall send a notice to the applicant of the board's decision, which shall include all conditions of approval. The application and all subsequent information, correspondence, evaluations, recommendations and decisions shall then be placed on permanent file in the office of the Town Planner. The Conditional Use Permit Findings of Fact and Conditions of Approval shall be recorded at the Stafford County Registry of Deeds.

D. *Revocation.* In the event of a violation of any of the provisions of these regulations or amendments thereto or in the event of a failure to comply with any prescribed condition of approval or stipulations placed upon such approval, the Zoning Administrator, in coordination with the Town Planner, shall suspend any conditional use permit immediately, shall notify the Planning Board and shall set a date for a hearing to determine if such suspensions shall be

lifted or if the conditional use permit shall be revoked. The Planning Board shall be the hearing body. In the case of a revocation of a conditional use permit, the determination of the Planning Board shall be final, unless recourse is sought in a court of competent jurisdiction.

E. ***Termination and Transferability.*** Once granted, a conditional use permit, with its terms and conditions, shall:

1. Run with the lot, building, structure or use and shall not be affected by changes in ownership.
2. Terminate twelve (12) months from the date of authorization if the authorized use has not begun:
 - a. Unless otherwise spelled out in the conditions of approval; or
 - b. Unless the applicant can demonstrate good reason(s) at a public hearing before the Planning Board why the permit should be extended.
3. Terminate after twelve (12) consecutive months of nonuse.

F. ***Denial of application.*** In the event that an application is denied by the Planning Board, no resubmittal of an application for a conditional use permit for the same or similar use may be made for one (1) year from the date of said denial, unless sufficient new evidence or conditions are offered to the Zoning Administrator, in consultation with the Town Planner, to demonstrate that the circumstances have altered and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

175-23. Approval Criteria.

A. ***Planning Board Decision Based on Findings.*** Every decision of the Planning Board pertaining to the granting, denial or amendment of a request for a conditional use permit shall be based upon findings of fact and conditions of approval. The findings of fact and conditions of approval shall be supported in the records of its proceedings. The criteria enumerated in Subsection C are required to be met in any matter upon which the Planning Board is required to pass under these regulations. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific fact shall be deemed not to be in compliance with these regulations.

B. ***Burden on applicant.*** The applicant shall bear the burden of persuasion, through the introduction of sufficient evidence, through testimony, or otherwise, that the development, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the ordinance.

C. ***Criteria Required for Consideration of a Conditional Use Permit.*** A conditional use permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following conditional use permit criteria (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application):

1. Site suitability: The site is suitable for the proposed use. This includes:

- a. Adequate vehicular and pedestrian access for the intended use.
 - b. The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The absence of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.
 - d. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.
2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.
 3. Character of the site development: The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood. This shall include, but not be limited to, the relationship of the building to the street, the amount, location, and screening of off-street parking, the treatment of yards and setbacks, the buffering of adjacent properties, and provisions for vehicular and pedestrian access to and within the site.
 4. Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, the architectural treatment of the front or street elevation, the location of the principal entrance, and the material and colors proposed to be used.
 5. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.
 6. Impact on property values: The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.
 7. Availability of Public Services & Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured, to the end that the use will be capable of proper operation. In addition, it must be determined that these services will not

cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

8. Fiscal impacts: The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the fiscal impact of the project on the town. The Planning Board may commission, at the applicant's expense, an independent analysis of the fiscal impact of the project on the town.

D. ***Conditions of Approval.*** Conditional Use Permit approvals shall be subject to appropriate conditions where such conditions are shown to be necessary to further the objectives of this ordinance and the Master Plan, or which would otherwise allow the general conditions of this article to be satisfied. Conditions of approval shall be stated in writing in the issuance of a permit. The conditions shall, if applicable, include, but are not limited to, the following:

1. Front, side, and rear setbacks in excess of the minimum requirements of this Ordinance.
2. Screening of the premises from the street or adjacent property in excess of any minimum requirements of this Ordinance.
3. Landscaping in excess of any minimum requirements of this Ordinance.
4. Modification of the exterior features of buildings or other structures.
5. Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance.
6. Footprint or lot coverage less than the allowed maximum of this Ordinance.
7. Limitations on the number of occupants and methods and times of operation.
8. Grading of the premises for proper drainage.
9. Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.
10. Off-street parking and loading spaces in excess of, or less than, the minimum requirements of this Ordinance.
11. Other performance standards as appropriate.

175-24. Appeals.

Any persons aggrieved by a Planning Board decision on a Conditional Use Permit may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment. (RSA 676:5 III)

ARTICLE IX - NONCONFORMANCE

175-27. General Provisions.

- A. ***Change of Ownership.*** Nonconforming uses, lots, and buildings and structures may be transferred and the new owner may continue the nonconforming use or continue to use the nonconforming lot, building or structure subject to the provisions of this article.

- B. ***Repair and Maintenance.*** The normal upkeep and maintenance of nonconforming uses, buildings, and structures including repairs or renovations that do not involve structural changes or expansion of the building, structure, or paving are permitted subject to the provisions of this article. Routine maintenance includes activities such as the replacement of roofing, siding, windows, and deck surfaces and the repaving of existing paved areas.

175-28. Nonconforming Uses.

- A. ***Routine Maintenance.*** Routine maintenance and repairs of the building or structure housing the nonconforming use as well as those modifications required by applicable health and safety codes shall be permitted by the Zoning Administrator.
- B. ***Nonconforming Status of Projects Under Construction.*** Any use of a building for which a building permit has been issued prior to the adoption or amendment of these regulations and the erection of which is in conformity with the plans submitted and approved for such permit, but that does not conform to the use provisions of these regulations, shall be a nonconforming use, and may be continued or modified in accordance with the following provisions.
- C. ***Continuation of a Nonconforming Use.*** Any nonconforming use may be continued, except that if any such nonconforming use is abandoned or desisted or voluntarily or by legal action caused to be discontinued for a period of one (1) year, then any subsequent use of the building, other structure or use of the land shall be required to be in conformity with the provisions of these regulations.
- D. ***Enlargement of a Nonconforming Use.*** A nonconforming use may be expanded only upon the approval and issuance of a conditional use permit, within the confines of the lot or parcel of land upon which it was located at the time of the adoption or amendment of these regulations; provided, however, that the land area and/or size of the building or the structure being used for said nonconforming use at the time of the adoption or amendment of these regulations is not increased by more than fifty (50) percent.
- E. ***Conversion of a Nonconforming Use to an Allowed Use.*** A nonconforming use may be converted to a permitted use or conditional use permitted with a conditional use permit in the zone in which it is located. Once a nonconforming use is converted to a conforming use, it may not revert to a nonconforming status. A building or structure containing a nonconforming use may be enlarged, extended, reconstructed or structurally altered if said use is changed to a permitted use or a conditional use for which a conditional use permit has been issued and the building or structure completely conforms to the provisions of these regulations.
- F. ***Change of a Nonconforming Use to Another Nonconforming Use.*** A nonconforming use may, upon approval and issuance of a conditional use permit, be changed to another nonconforming use of the same or a more-restricted use classification, if no structural alterations are made to the building or other structure provided that said new nonconforming use is less deleterious to the neighborhood, considering all factors, than was the previous nonconforming use.

175-29. Nonconforming Lots.

A. ***Single, Vacant Nonconforming Lots.*** A nonconforming vacant lot which, at the time of passage of this chapter, was in separate ownership from any adjacent lot and which was duly recorded in the Strafford County Register of Deeds prior to the adoption of this chapter may be used for a single-family dwelling in the RA, RB, RC, and R districts and for a permitted use in a non-residential district provided that:

1. The lot is in a district where the proposed use is permitted.
2. The requirements of this chapter regarding setbacks, yards and height are met.
3. The arrangements for sewage disposal and water supply are approved by the Code Enforcement Officer in accordance with the provisions of state law.
4. The lot contains a minimum of 5,000 (five thousand) square feet of area unless a Special Exception has been granted by the Zoning Board of Adjustment.

B. ***Requirements for Individual Nonconforming Vacant Lots in the WCOD and SPOD.*** The erection of a structure or septic system on an existing vacant lot within the Wetland Conservation Overlay District or Shoreland Protection Overlay District may be permitted by special exception if the Zoning Board of Adjustment, after due public notice and public hearing, finds that such exception complies with all other applicable requirements set forth in this Article and with each of the following:

1. The lot upon which the exception is sought was an official lot of record, as recorded in the Strafford County Registry of Deeds, prior to the date on which this Article was posted and published in the town.
2. The use for which the exception is sought cannot be carried out on a portion or portions of the lot which are outside the Wetland Conservation Overlay District or Shoreland Protection Overlay District without undue hardship.
3. Due to the provisions of the Wetland Conservation Overlay District or Shoreland Protection Overlay District, no reasonable and economically viable use of the lot can be made without the exception.
4. The location and design of the building(s) and all structures shall provide for the maximum setback from the reference line consistent with reasonable use of the property considering the size, shape, slope, and natural conditions of the lot including, but not limited to, soils, flood hazard areas, and wetlands.
5. The design and construction of the proposed septic system will, to the extent practical, be consistent with the purpose and intent of this Article.
6. The proposed septic system will not create a threat to individual or public health, safety and welfare, such as the degradation of ground or surface water, or damage to surrounding properties.

7. Where site review is required, prior approval shall be obtained from the Planning Board.

At the time of submission of the special exception application to the Zoning Board of Adjustment, the Conservation Commission, the Health Officer, and the Planning Board shall be informed of the application for special exception.

- C. ***Alteration or Expansion of a Conforming Structure or Building on a Nonconforming Lot.*** An alteration or expansion of a conforming structure or building on a nonconforming lot shall be permitted by the Zoning Administrator as long as the structure or building remains conforming with respect to height, setbacks, and coverage and does not further deviate from this chapter.

175-30. Nonconforming Structures and Buildings.

- A. ***Continuance of a Nonconforming Building or Structure.*** Any lawful nonconforming building or structure in existence when this chapter was passed or when any pertinent amendment is passed may continue unchanged but may not be altered or extended in any way which will result in a new and increased violation.
- B. ***Restoration and Reconstruction of a Nonconforming Building or Structure.*** Nothing herein shall prevent the substantial restoration or reconstruction within one (1) year of a building or structure destroyed in part or whole by fire or other casualty so long as this does not result in a new or increased violation.
- C. ***Alteration of a Nonconforming Building or Structure.*** A building or structure that is nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not further deviate from this chapter except as provided in D. below.
- D. ***Requirements for Nonconforming Buildings and Structures in the WCOD and SPOD.***
 1. Legally nonconforming buildings and structures existing prior to the date on which this Article was enacted may be continued, provided that such buildings and structures shall not be expanded further to encroach upon the wetland, water body, or designated buffer zone.
 2. Where an existing building or structure within the Wetland Conservation Overlay District or Shoreland Protection Overlay District is destroyed or in need of extensive repair, it may be rebuilt, provided that such rebuilding is completed within one (1) year of the event causing destruction, the new or rebuilt structure shall occupy the same footprint as, or be situated within the footprint of, the original building or structure, not extend closer to the wetland, water body, or buffer zone than the original foundation and the result will not be a new or increased threat to the wetland or water body.
 3. The construction of attached additions or other expansions to nonconforming one- and two-family dwellings shall be permitted within the Wetland Conservation Overlay District and Shoreland Protection Overlay District provided that:

- a. The dwelling lawfully existed prior to the date on which this Article was enacted.
- b. The number of dwelling units shall not be increased.
- c. The building footprint existing prior to the date on which this Article was enacted shall not be cumulatively increased by more than fifteen (15) percent.
- d. The habitable floor area existing prior to the date on which this Article was enacted shall not be cumulatively increased by more than thirty (30) percent.
- e. The proposed construction shall conform to all other applicable ordinances and regulations of the Town of Durham.

ZONING DISTRICTS

ARTICLE XI - ESTABLISHMENT OF ZONES

175-35. Zoning Districts.

For the purpose of this chapter, the Town of Durham is hereby divided into zoning districts as follows:

A. Residential Zoning Districts:

Residence A	RA
Residence B	RB
Residence Coastal	RC
Rural	R

B. Commercial Core Zoning Districts:

Central Business	CB
Professional Office	PO
Church Hill	CH
Courthouse	C
Coe’s Corner	CC

C. Research – Industry Zoning Districts

Office and Research – Route 108	OR
Mixed Use and Office Research	MUDOR
Office, Research and Light Industry	ORLI
Durham Business Park	DBP

175-36. Overlay Districts.

In addition to the zoning districts (or “base zoning districts”) identified in Section 175-35, there are six (6) overlay districts as follows:

WCOD	Wetland Conservation Overlay District
SPOD	Shoreland Protection Overlay District
FHOD	Flood Hazard Overlay District

APOD	Aquifer Protection Overlay District
HOD	Historic Overlay District
PWSFOD	Personal Wireless Service Facilities Overlay District

Each of these overlay districts establishes requirements in addition to the requirements of the underlying zoning district. The requirements of both the underlying zoning district and the overlay district(s) shall apply and any conflict between such regulations shall be resolved by applying the most restrictive regulation.

ARTICLE XII - BASE ZONING DISTRICTS

The uses of land, buildings, and structures shall conform to the provisions of the zone in which they are located except as otherwise specifically provided for in this ordinance.

175-37. General Requirements.

The following requirements apply to all base zoning districts. See sections on each individual district below for purpose statements and specific requirements for each district.

- A. Permitted Uses in each zoning district. Any use shown as a Permitted Use in the particular district in the Table of Land Uses in Section 175-53 shall be permitted in that district.
- B. Conditional Uses in each zoning district. Any use shown as a Conditional Use in the particular district in the Table of Land Uses in Section 175-53 shall be permitted in that district only if a Conditional Use Permit is granted by the Planning Board in accordance with Article VII.
- C. Prohibited Uses in each zoning district. Any use that is not listed as a Permitted Use or a Conditional Use in the particular district in the Table of Land Uses in Section 175-53 is prohibited.
- D. Dimensional Standards in each zoning district. All buildings and structures shall be erected, structurally altered, enlarged, or moved and all land in each zoning district shall be used in accordance with the dimensional standards for that district as shown in the Table of Dimensions in Section 175-54.
- E. Performance Standards applicable to each zoning district. Uses within each zoning district shall conform to all applicable standards of this Ordinance, including but not limited to:
 - 1. Article XX. Standards for Specific Uses
 - 2. Article XXIII. Signs and Communication Devices
 - 3. Article XXIV. Septic Systems

175-38. Rural District (R).

A. Purpose of the Rural District.

The purpose of the Rural District is to preserve the rural character of the areas of Durham that have historically been rural, that are low density, that are not served or intended to be served by public water and public sewerage, and that the Master Plan identifies as areas that should remain rural and their agricultural heritage preserved. In this district, customary rural land uses will be preserved and all development will be carried out with the objective of preserving the natural and scenic environment of the district. Residential development will be limited to housing that is designed so that the character of the district is maintained, the scenic quality is protected, and a significant amount of open space is permanently preserved.

B. Development Standards in the Rural District.

In addition to the dimensional standards, development in the Rural District shall conform to the following additional requirements:

1. All residential subdivisions shall be developed as Conservation Subdivisions in accordance with Article XIX and the provisions of the Subdivision Regulations, unless the subdivision is exempt from the requirement as set forth in Article XIX. As part of any conservation subdivision in the Rural District, common open space shall be set aside and permanently protected. The minimum amount of common open space shall be equal to one hundred percent (100%) of the “unsuitable areas” plus at least fifty percent (50%) of the “usable area” of the parcel.
2. No new residential lot shall have its required minimum lot frontage or driveway on a street that is functionally classified as an arterial or collector unless the Planning Board makes a finding that there is no viable alternative for meeting the frontage requirement or for providing vehicular access to the lot due to the shape of the lot, the topography of the site, the potential impact on wetlands or other natural resources, or pre-existing legal restrictions applicable to the lot.

175-39. Residence A District (RA).

A. Purpose of the Residence A District.

The purpose of the Residence A District is to maintain the integrity of existing high density residential areas that are predominately served by public water and sewerage while ensuring that new development, redevelopment, or expansions of existing buildings and structures are consistent with and maintain the established character of these neighborhoods.

B. Development Standards in the Residence A District.

In addition to the dimensional standards, development in the Residence A District shall conform to the following additional requirements:

1. All residential subdivisions shall be developed as Conservation Subdivisions in accordance with Article XIX and the provisions of the Subdivision Regulations, unless the subdivision is exempt from the requirement as set forth in Article XIX. As part of any conservation subdivision in the Residence A District, common open space shall be set aside and permanently protected. The minimum amount of common open space shall be equal to one hundred percent (100%) of the “unsuitable areas” plus at least thirty percent (30%) of the “usable area” of the parcel.
2. No new residential lot shall have its required minimum lot frontage or driveway on a street that is functionally classified as an arterial or collector. The Planning Board may waive this limitation based upon a finding that there is no viable alternative for meeting the frontage requirement or for providing vehicular access to the lot due to the shape of the lot, the topography of the site, the potential impact on wetlands or other natural resources, or pre-existing legal restrictions applicable to the lot.

175-40. Residence B District (RB).

A. Purpose of the Residence B District.

The purpose of this district is to maintain the integrity of existing medium-density residential areas while ensuring that new development, redevelopment, and expansions of existing buildings and structures are consistent with and maintain the established character of these neighborhoods.

B. Development Standards in the Residence B District.

In addition to the dimensional standards, development in the Residence B District shall conform to the following additional requirements:

1. All residential subdivisions shall be developed as “Conservation Subdivisions” in accordance with Article XIX and the provisions of the Subdivision Regulations, unless the subdivision is exempt from the requirement as set forth in Article XIX. As part of any conservation subdivision in the Residence B District, common open space shall be set aside and permanently protected. The minimum amount of common open space shall be equal to one hundred percent (100%) of the “unsuitable areas” plus at least forty percent (40%) of the “usable area” of the parcel.
2. No new residential lot shall have its required minimum lot frontage or driveway on a street that is functionally classified as an arterial or collector. The Planning Board may waive this limitation based upon a finding that there is no viable alternative for meeting the frontage requirement or for providing vehicular access to the lot due to the shape of the lot, the topography of the site, the potential impact on wetlands or other natural resources, or pre-existing legal restrictions applicable to the lot.

175-41. Residence Coastal District (RC).

A. Purpose of the Residence Coastal District.

The purpose of the Residence Coastal District is to protect the water quality of the community's principal surface waters and to preserve the rural character and scenic beauty of these coastal areas including the view of the shore as seen from the water. In this district, all development will be carried out in a manner that preserves the natural and scenic environment of the district. Residential development shall be limited to housing that is designed so that the character of the district is maintained, the scenic quality of coastal areas is protected, and a significant amount of open space is permanently preserved.

B. Development Standards in the Residence Coastal District.

In addition to the dimensional standards, development in the Residence Coastal District shall conform to the following additional requirements:

1. All residential subdivisions shall be developed as Conservation Subdivisions in accordance with Article XIX and the provisions of the Subdivision Regulations, unless the subdivision is exempt from the requirement as set forth in Article XIX. As part of any conservation subdivision in the Residence Coastal District, common open space shall be set aside and permanently protected. The minimum amount of common open space shall be equal to one hundred percent (100%) of the "unsuitable areas" plus at least fifty percent (50%) of the "usable area" of the parcel.
2. No new residential lot shall have its required minimum lot frontage or driveway on a street that is functionally classified as an arterial or collector. The Planning Board may waive this limitation based upon a finding that there is no viable alternative for meeting the frontage requirement or for providing vehicular access to the lot due to the shape of the lot, the topography of the site, the potential impact on wetlands or other natural resources or pre-existing legal restrictions applicable to the lot.

175-42. Central Business District (CB)

A. Purpose of the Central Business District

The purpose of the Central Business District is to maintain the mixed-use, pedestrian-oriented character of the downtown area while accommodating new development, redevelopment, and enlargement of existing buildings in a manner that maintains and enhances the small town character of the downtown. Downtown Durham should be an attractive and vibrant community and commercial center where desirable residential, retail, office, and other nonresidential growth can occur in a clean, safe, pedestrian-friendly environment. The Central Business District is intended to accommodate a range of uses in a manner that encourages fuller utilization of the limited area of Downtown through denser building construction and modified parking requirements.

B. Development Standards in the Central Business District

In addition to the dimensional standards, development in the Central Business District shall conform to the following additional requirements:

6. Maximum number of stories – The maximum number of permitted stories is four except as restricted in sections 8 and 9 below.

However, the maximum number of permitted stories in the remainder of the district outside of the area covered in sections 8 and 9 below, may be increased to five stories subject to all of the following provisions:

- a. Adding a story is permitted by conditional use.
- b. The provisions regarding percentage of office/retail use apply.
- c. The additional fifth story must be set back from the first floor as follows:
 - (i) by at least 10 feet where any side of the building faces a public street;
 - (ii) by at least 20 feet where any side of the building faces Main Street; and
 - (iii) by at least 25 feet where any side of the building faces an adjacent lot (not separated by a street) situated in the section of the Central Business District that is restricted to three stories (Section 175-42 B. 8. and 9., or as those subsections may be renumbered in the future).

The setback in (i) and (ii), above, also applies where they may be any intervening street or road that has never been built but which appears on an approved plat or other Town plan.

- d. The Planning Board must determine that the additional story will not have an adverse impact upon the streetscape, giving particular consideration to scale and mass (See Architectural Regulations for guidance).

- e. Building height. When an additional story is incorporated under this section the maximum building height is 60 feet.

7. Required office/retail uses for a mixed-use with residential building

- a. One-story building: A mixed-use with residential use is not allowed in a one-story building.
- b. Two-story building: The entire first floor must be office/retail.
- c. Three- or four- story building: The entire first floor must be office/retail. Alternatively, office/retail uses may be located anywhere on the first, second, third, and fourth floors provided: 1) the amount of office/retail equals or exceeds the square footage of the first floor and 2) where the

building fronts on a public road, the first floor of the portion of the building facing the road must be office/retail to a depth of at least 50 feet.

- d. Five-story building: The entire first floor must be office/retail. Also, one additional floor (any floor) or an area equal to the square footage of the fifth story must be office/retail.
 - e. For a building where there are distinct sections with a different number of stories and for sites where there are multiple buildings, the required minimum overall office/retail gross square footage is determined by the sum of the minimum office/retail area required by each distinct section, or by each separate building, using the required office retail space specified above. For these sites, the disposition of office/retail and residential space on the site is flexible provided the minimum overall amount of office/retail required is included and the Planning Board determines that the configuration of the building and its uses meets the intent of this subsection 7.
 - f. Outdoor public use areas. Outdoor space on the subject property that is dedicated in perpetuity to public use may be used to meet the office/retail square footage requirement on a one-to-one basis provided that: a) the Planning Board determines that the design, location, management, and other aspects of the space will add a significant public amenity to the project; and b) the outdoor space may be used to meet a maximum of 50% of the overall required office/retail square footage.
8. Maximum Height of Mixed-Use Buildings, Section of Main Street – No building in the Central Business District on any lot with frontage along either side of Main Street, from and including Tax Map 2, Lot 14-4 to the easterly boundary of the district, shall exceed three (3) stories. This provision specifically includes the following properties: Tax Map 2, Lot 14-4; Tax Map 4, Lot 7-0; Tax Map 4, Lot 6-0; Tax Map 4, Lot 5-0; Tax Map 4, Lot 4-0; Tax Map 4, Lot 3-0; Tax Map 4, Lot 2-0; Tax Map 4, Lot 1-0; Tax Map 5, Lot 1-0; Tax Map 5, Lot 1-2; Tax Map 5, Lot 1-3; Tax Map 5, Lot 1-17; Tax Map 5, Lot 1-4; Tax Map 5, Lot 1-5; Tax Map 5, Lot 1-6; Tax Map 5, Lot 1-7; and Tax Map 5, Lot 1-8.
9. Maximum Height of Mixed-Use Buildings, Madbury Road – No building in the Central Business District on any lot with frontage along Madbury Road shall exceed three (3) stories. This provision specifically includes the following properties: Tax Map 2, Lot 12-0; Tax Map 2, Lot 12-2; Tax Map 2, Lot 12-3; Tax Map 2, Lot 12-4; Tax Map 2, 12-5; Tax Map 4, Lot 1-0; Tax Map 4, Lot 11-0; Tax Map 4, Lot 12-0; Tax Map 4, Lot 13-0UNH; and Tax Map 4, Lot 14-0.

10. Number of bedrooms – There shall be a maximum of two bedrooms in any dwelling unit within a mixed use with residential building or development.

175-43. Professional Office District (PO)

A. Purpose of the Professional Office District

The purpose of the Professional Office District is to provide an area for the growth of professional services and offices adjacent to the Downtown. The district allows for the conversion of existing fraternities/sororities into office uses as well as multi-unit housing. The district is intended to be pedestrian focused with strong pedestrian connections to the Downtown and UNH campus. The district is intended to maintain the existing character of the neighborhood by requiring buildings to be set back and the area in front of the buildings to be retained as open area and not used for parking or other vehicular activities.

B. Development Standards in the Professional Office District

In addition to the dimensional standards, development in the Professional Office District shall conform to the following additional requirements:

3. Maximum Height – The maximum height of any new or redeveloped building in the Professional Office District shall be three (3) stories.

175-44. Church Hill District (CH)

A. Purpose of the Church Hill District

The purpose of the Church Hill District is to preserve and enhance the historic character of this area by allowing for multiple land uses including professional offices, limited retail uses, and senior housing. The adaptive reuse of existing buildings is encouraged including the use of first floor space for non-residential use while the upper floors are residential. Reuse of existing buildings is bound by the standards of the Historic Overlay District provisions and is required to maintain the historic character of the building's façade. New development should maintain the character of the area and is subject to the standards of the Historic Overlay District. Parking should be located behind buildings.

175-45. Courthouse District (C)

A. Purpose of the Courthouse District

The purpose of the Courthouse District is to revitalize this area of the community by allowing a variety of retail and professional services including such businesses as banks, professional offices, restaurants, motor vehicle repair facilities, and gasoline stations. The use of sites for multiple uses is encouraged. The district is intended to enhance the area's pedestrian nature and reinforce the pedestrian links to Downtown. The character of new development should create a smooth visual transition into the Historic District by assuring that the architecture, landscaping, and signage are compatible with the historic buildings in and adjacent to the district.

175-46. Coe’s Corner District (CC)

A. Purpose of the Coe’s Corner District

The purpose of the Coe’s Corner District is to create a gateway to the more intensive commercial uses of the Courthouse, Church Hill, and Central Business Districts by establishing a transition zone with controlled commercial development that preserves the scale and scenery of the area and highlights its natural features. Within the district, limited commercial land uses that are sensitive to and complement the existing scale of buildings and the natural environment are allowed. The objective for the district is to accommodate well-designed, high-quality office and hospitality uses. The reuse of existing residential buildings for non-residential uses and the construction of new buildings should maintain the character of the area.

175-48. Office and Research District – Route 108 (OR)

A. Purpose of the Office and Research District - Route 108

The purpose of the Office and Research District – Route 108 is to provide an area for the development of high-quality office and research uses in a rural business park environment that maintains the rural appearance of the corridor and a sense of open space. Buildings and parking lots are required to be set back and significant open land retained on each lot.

175-50. Mixed Use and Office Research District (MUDOR)

A. Purpose of the Mixed Use and Office Research District

The purpose of the Mixed Use and Office Research District is to provide an area in the community for high-quality office development and comparable uses.

175-51. Office, Research and Light Industry District (ORLI)

A. Purpose of the Office, Research and Light Industry District

The purpose of the Office, Research and Light Industry District is to provide areas in Durham to accommodate a wide range of businesses that create employment and contribute to the town’s economic vitality.

175-52. Durham Business Park District (DBP)

A. Purpose of the Durham Business Park District

The purpose of the Durham Business Park District is to provide an area for the development of high-quality office and research uses in a business park environment with the possibility of complementary recreational uses and to accommodate a senior care facility.

ARTICLE XII.1 - USE AND DIMENSIONAL STANDARDS

175-53. Table of Land Uses.

Table 175-53, Table of Land Uses shows the uses that are allowed in the various zoning districts.

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
III. RESIDENTIAL USES													
Principal Uses													
Residence, single-family	P	P	P	P	X	P	P	X	X	X	CU	CU	X
Residence, duplex	X	X	X	X	X	X	X	X	X	X	X	X	X
Residence, multi-unit	X	X	X	X	X	CUA	X	X	X	X	X	X	X
Senior housing, single family	P	P	P	P	X	X	P	X	P	CU	CU	CU	CU
Senior housing, duplex	P	P	P	P	X	X	P	X	CU	CU	CU	CU	CU
Senior housing, multiunit	P	P	P	P	CU	P	P	P	CU	CU	P	CU	CU
Senior Care facility	P	X	CU	P	X	X	P	P	P	P	P	P	P
Nursing Home	X	X	X	X	X	X	P	P	P	P	P	P	CU
Manufactured Housing	P	X	X	X	X	X	X	X	X	X	X	X	X
Porkchop Subdivisions <i>See Article XX</i>	P	X	X	P	X	X	X	X	X	X	X	X	X
Uses Accessory To a Single Family Residential Use													

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
Accessory dwelling unit <i>See Article XX</i>	P	P	P	P	X	P	P	X	X	X	P	P	X
Accessory apartment <i>See Article XX</i>	P	X	X	P	X	P	P	X	X	X	P	P	X
Short-term rental	SE	SE	SE	SE	P	P	P	P	P	SE	SE	SE	X
Mixed Use with residential (office/retail down, multiunit residential up) (See Note 1)	X	X	X	X	CU	X	X	X	X	X	X	X	X

175-54. TABLE OF DIMENSIONS.

Table 175-54, Table of Dimensions shows the dimensional requirements that apply to buildings and structures in the various zones.

TABLE 175-54 TABLE OF DIMENSIONS

STANDARD	ZONING DISTRICTS												
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)
Minimum Lot Size in Square Feet - Single-Family Residence (that is not part of a Conservation Subdivision) - Multiunit Housing - Allowed Nonresidential Use - Any Other Allowed Use	20,000 NA 20,000 20,000	40,000 NA 40,000 40,000	150,000 NA 150,000 150,000	150,000 NA 150,000 150,000	NA 5,000 5,000 5,000	10,000 10,000 10,000 10,000	5,000 5,000 5,000 5,000	5,000 5,000 5,000 5,000	30,000 30,000 30,000 30,000	40,000 80,000 80,000 80,000	40,000 40,000 40,000 40,000	150,000 150,000 150,000 150,000	40,000 40,000 40,000 40,000
Minimum Lot Area Per Dwelling Unit³ in Square Feet	20,000	40,000	150,000 ²	150,000 ²	NA	3,000	4,200	4,200	4,200	4,200	40,000	150,000	20,000
Minimum Usable Area Per Dwelling Unit in a Conservation Subdivision³ in Square Feet	20,000	40,000	150,000	150,000	1,200	3,000	4,200	4,200	4,200	4,200	40,000	150,000	NA
Minimum Lot Frontage in Feet - Minor Street - Collector Street - Arterial Street	100	150	300	300	50	100	50	50	100	50 100 200	100 100 200	150	150
Minimum Front Setback in Feet - Minor Street ⁴ - Collector Street - Arterial Street	30 30 40	30 30 40	30 30 40	30 30 40	None – except per Note 5	30 30 50	15 15 15	15 15 15	30 30 50	50 50 See Note 6	30 30 100	30 30 50	30 30 50
Maximum Front Setback in Feet	NA	NA	NA	NA	See Note 5	NA	NA	25	NA	NA	NA	NA	NA
Minimum Side Setback⁴ in Feet	10	20	50	50	NA	15	5	10	15	25	20	20	20

STANDARD	ZONING DISTRICTS												
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)
Minimum Rear Setback ⁴ in Feet	20	30	50	50	NA	20	15	15	20	25	20	20	20
Minimum Shoreland Shorefrontage in Feet	200	200	200	200									
Maximum Permitted Building Height in Feet	30	30	30	30	30	30	30	30	30	50	40	40	40
Maximum Permitted Building Height in Feet by Special Exception in the Four Residential Zones and by Conditional Use in Other Zones.	35	35	35	35	60 See Note 7	35	35	35	35	75	50	50	50
Maximum Impervious Surface Ratio	33%	30%	20%	20%	100%	50%	80%	80%	30%	50 %	50%	50%	50%

175-55. General Use Standards. The following additional standards apply to the specific uses listed below:

1. Occupancy of Residences. See Section 175-56 A. regarding limitations on the number of unrelated occupants.
7. Number of bedrooms. The maximum number of bedrooms in any dwelling unit in any “Residence, Multi-unit” or “Mixed Use with Residential (office/retail down, multi-unit residential up)” shall be four.
8. Basement units. No new basement dwelling unit, nor any unit that is partially below grade, shall be permitted in any “Residence, Multi-unit” or “Mixed Use with Residential (office/retail down, multi-unit residential up)” building.

175-56. General Dimensional Standards.

A. Limitation on number of unrelated occupants. Within the following zoning districts, any dwelling unit consisting of an unrelated household shall contain no more than three (3) unrelated occupants:

1. Rural (R)
2. Residence A (RA)
3. Residence B (RB)
4. Residence C (RC)
5. Central Business District (CB)
6. Professional Office (PO)
7. Church Hill (CH)
8. Courthouse (C) and
9. Coe’s Corner (CC)

(Note that there may be more restrictive occupancy requirements than these under the New Hampshire State Building Code and Fire Code and the Durham Rental Housing Ordinance.)

B. Minimum floor area per occupant in unrelated household. The minimum required habitable floor area per occupant in an unrelated household is shown in Table 175-56 below. (See definition for “Household.”).

Table 175-56. MINIMUM HABITABLE FLOOR AREA BY DWELLING TYPE FOR UNRELATED HOUSEHOLD

DWELLING TYPE	Minimum habitable floor area per occupant in unrelated household
Single-family dwelling	300
Duplex or townhouse	300

Apartment (but not including apartments in the CB District as delineated in Section 175-42(B)(8) and (9), accessory apartments and apartments in the ORLI and MUDOR districts). 400

Apartment in the Central Business District (excluding apartments in the CB District as delineated in Section 175-42(B)(8) and (9) and accessory apartments) where the number of unrelated occupants does not exceed two 300

Apartment in the CB District located in a building within the area of the district delineated in Section 175-42 (B) (8) and (9) where the maximum height of three stories applies 250

Apartment in the ORLI and MUDOR districts (but not including accessory apartments) 200

Accessory Apartment 200

Rooming/boarding, including accessory rooming/boarding 150

Dormitory 100

Fraternity or sorority 150

Nursing home 150

Senior housing 200

(Note that there may be more restrictive occupancy requirements than these under the New Hampshire State Building Code and Fire Code and the Durham Rental Housing Ordinance.)

G. **Calculation of usable area.** The usable area of a parcel of land shall be determined by subtracting the following unsuitable areas from the gross area of the parcel. A High Intensity Soil Survey (HISS) shall be used to determine the unusable areas of soils set forth below. The unsuitable areas shall be deducted in the following order and no geographic area shall be deducted more than once:

1. All very poorly drained, poorly drained, and somewhat poorly drained soils as identified on the HISS.
2. All floodways and all non-wetland portions of the 100-year floodplain.

3. All areas with ledge outcroppings, shallow depth-to-ledge soils (0” to 20” to bedrock), and variable depth-to-ledge soils (0” to 40” to bedrock) as identified on the HISS if the site will use on-site sewage disposal.
4. Fifty (50) percent of the area with moderate depth-to-ledge soils (20” to 40” to bedrock) as identified on the HISS if the site will use on-site sewage disposal.
5. All areas with a slope of twenty-five (25) percent or greater as identified on the HISS.
6. Fifty (50) percent of the area with a slope between fifteen (15) and twenty-four (24) percent as identified on the HISS.
7. Areas within rights-of-way or easements that impose restrictions on the use of the area such as to make it unavailable for building purposes or intensive use as part of the development.
8. Stream channels as measured from the top of the banks and other water bodies as measured by the normal high water mark.
9. Any otherwise usable area that is fragmented or isolated by unsuitable areas such that the contiguous area of usable land is less than five thousand (5,000) square feet or is narrower than fifty (50) feet.

175-57. Special Situations Affecting Dimensions.

A. Density.

1. Density for senior residential uses. In determining the maximum density for Senior Housing, Senior care Facilities, and Nursing Homes, the following provisions shall apply to the entire development:
 - a dwelling unit containing one bedroom or a studio unit without a separate bedroom shall count as 0.33 dwelling units for the purpose of the density calculation
 - a dwelling unit containing two or more bedrooms shall count as 0.50 dwelling units for the purpose of the density calculation
 - four (4) beds or accommodations for four (4) residents in those facilities that do not provide dwelling units shall count as one (1) dwelling unit for the purpose of the density calculation

ARTICLE XIII - WETLAND CONSERVATION OVERLAY DISTRICT

175-58. Purpose of the Wetland Conservation Overlay District.

The Wetland Conservation Overlay District (WCOD) is an overlay district intended to protect the quality and functioning of wetlands throughout the Town by managing the use of the wetland and the upland buffer adjacent to the wetland in coordination with the state dredge and fill permit system. The provisions of this article are intended to:

- A. Protect the water quality of wetlands by appropriately managing stormwater runoff, siltation and sedimentation, and the construction or alteration of allowed or pre-existing buildings and structures;
- B. Minimize flooding and flood damage by preserving the flood storage capacity of wetlands;

- C. Protect wildlife and fisheries habitats and wetlands vegetation;
- D. Maintain stream flow and groundwater recharge;
- E. Conserve natural beauty and scenic quality; and
- F. Limit uses of the wetland and upland buffer to those that are consistent with the objectives listed in A-E

175-59. Applicability.

A. The provisions of the WCOD shall apply to the following areas of the Town of Durham:

1. All wetlands except:

a. isolated, non-tidal wetlands with a contiguous surface area of less than three thousand (3,000) square feet that are not vernal pools and are not associated with any surface water, natural drainage way, or other wetland, and

b. wetlands associated with currently functioning and maintained, non-abandoned, manmade:

- ditches and swales,
- sedimentation and/or detention basins or ponds,
- agricultural and irrigation ponds and swales, and
- fire ponds, cisterns, and related facilities.

2. An upland buffer strip adjacent to each wetland subject to the provisions of this district as identified in 1. above. The width of the upland buffer strip from the reference line of the wetland shall vary with the type of wetland as follows:

- | | |
|--|----------|
| a. bogs, prime wetlands, and rare and exemplary wetland communities: | 150 feet |
| b. all tidal wetlands (other than those in a.): | 100 feet |
| c. vernal pools: | 100 feet |
| d. all other non-tidal wetlands | |
| - in the R and RC Zones: | 100 feet |
| - in all other zones: | 75 feet |

175-60. Permitted Uses in the WCOD.

A. Notwithstanding the uses permitted in the underlying zoning district, the following uses shall be allowed without a permit in the WCOD provided that they do not alter the surface

condition or configuration of the land by the addition of fill, do not obstruct or alter the natural flow or infiltration of surface water, and comply with the regulations of WCOD:

[VARIOUS MISCELLANEOUS USES, NOT RESIDENTIAL]

- B. The following uses or activities, including any necessary grading, shall be permitted in the WCOD if they are permitted in the underlying zoning district provided that the Zoning Administrator issues a permit for the activity after the Planning Board, with the advice of the Conservation Commission, determines that: a.) appropriate erosion control measures will be used, b.) any disturbed area will be restored, and c.) the activity will be conducted in a manner that minimizes any impact on the wetland:

[VARIOUS MISCELLANEOUS USES, NOT RESIDENTIAL]

175-61. Conditional Uses in the WCOD.

- A. The following uses, including any necessary grading, shall be permitted as conditional uses in the WCOD provided that the use is allowed in the underlying zoning district and a Conditional Use Permit is granted by the Planning Board in accordance with Article VII:
1. The construction of streets, roads, driveways, access ways (but not including any parking areas other than those serving single-family uses), bridge crossings, and utilities including pipelines, power lines, and transmission lines;
 2. The construction of a ***non-residential building*** within the upland buffer strip in a core commercial or research/industry zoning district;
 3. Accessory structures and buildings other than those allowed as permitted uses;
- B. The Planning Board shall approve a Conditional Use Permit for a use in the WCOD only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use:
1. There is no alternative location on the parcel that is outside of the WCOD that is reasonably practical for the proposed use;
 2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;
 3. The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the wetland, and mitigation activities will be undertaken to counterbalance any adverse impacts; and
 4. Restoration activities will leave the site, as nearly as possible, in its existing condition and grade at the time of application for the Conditional Use Permit.

175-64. Use of Wetlands in Calculating Lot Area and Density

No areas of surface water, wetlands or areas designated as very poorly drained, poorly drained, or somewhat poorly drained soil located within the WCOD may be used to satisfy minimum lot sizes or the minimum usable area per dwelling unit requirement.

175-65. Performance Standards in the WCOD.

All buildings and structures shall be erected, altered, enlarged, or moved and all land within (or in the case of septic setbacks, below, to proximity to) the WCOD shall be used in accordance with the following performance standards:

A. Naturally Vegetated Buffer Strip

A naturally vegetated buffer strip meeting the requirements of 175-75.1 of the Shoreland Protection Overlay District shall be maintained from the reference line of each wetland to the upland limit of the WCOD. Where existing buildings or structures or other site considerations preclude the maintenance of a vegetated buffer for the full width of the upland portion of the WCOD, a buffer of the maximum possible width as set forth in 175-75.1 shall be provided. No soil disturbance shall occur within fifty (50) feet of the reference line. Existing lawns within the upland buffer may be allowed to remain provided that a twenty-five (25) foot wide strip adjacent to the reference line of the wetland is not mowed and is allowed to reestablish naturally occurring vegetation. The application of fertilizers, pesticides, or herbicides within the buffer strip shall be prohibited except in conjunction with allowed agricultural activities.

F. Septic Setbacks

Any new septic system, leach field, or other sewage disposal system shall be set back 125 feet from the reference line of the wetland or as provided for in 175-139, whichever is greater.

The replacement of an existing septic system, leach field, or other sewage disposal system that is located within the required setback from the reference line of the wetland shall comply with the required setback unless the Health Officer/Zoning Administrator/Code Enforcement Officer determines that such a location is not physically possible due to the shape or size of the lot and soil conditions. If the Health Officer/Zoning Administrator/Code Enforcement Officer determines that a replacement system must be located within the required wetland septic system setback, the system shall be located to provide the maximum setback possible as determined by the Health Officer/Zoning Administrator/Code Enforcement Officer and shall employ the best available technology.

ARTICLE XIV - SHORELAND PROTECTION OVERLAY DISTRICT

175-69. Purpose.

The Shoreland Protection Overlay District (SPOD) is an overlay district intended to protect

the quality of the Town's surface waters in order to promote public health and safety, maintain wildlife habitat, and conserve and protect shoreline and upland resources. This is accomplished by maintaining and enhancing natural forests and shoreland habitat and buffers. The district is intended to implement and expand upon the provisions of the Comprehensive Shoreland Protection Act, RSA 483-B. The provisions of this article are intended to:

1. Protect the water quality of Great and Little Bays, the Oyster and Lamprey Rivers, and the Town's other surface waters by managing stormwater runoff, siltation and sedimentation, and the construction or alteration of buildings and structures in proximity to these resources;
2. Minimize the potential for the pollution of these water bodies;
3. Protect wildlife and fisheries habitats and travelways;
4. Conserve the natural beauty and scenic quality of the shoreland; and
5. Allow uses of the land adjacent to these water bodies that are consistent with these objectives.

175-70. Applicability.

The provisions of the SPOD shall apply to 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 Overlay District Map, which is based on United States Geological Survey quadrangle maps covering the Town of Durham.

The provisions of this article apply in addition to any state requirements for shoreland areas or other state approvals or permits. It is the intention of the Town that these provisions be coordinated with state requirements and standards but that these standards shall govern if they are more stringent than state standards.

175-71. Permitted Uses in the SPOD.

- A. Notwithstanding the uses permitted in the underlying zoning district, the following uses shall be allowed without a permit in the SPOD provided they do not alter the surface condition or configuration of the land, do not obstruct or alter the natural flow or infiltration of surface or ground water, and comply with the regulations of the SPOD:

[VARIOUS MISCELLANEOUS USES, NOT RESIDENTIAL]

- B. The following uses or activities, including any necessary grading, shall be permitted in the

SPOD provided that the Zoning Administrator issues a permit for the activity after the Planning Board, with the advice of the Conservation Commission, determines that: a) appropriate erosion control measures will be used, b) any disturbed area will be restored, and c) the activity will be conducted in a manner that minimizes any impact on the shoreland:

[VARIOUS MISCELLANEOUS USES, NOT RESIDENTIAL]

175-72. Conditional Uses in the SPOD.

- A. The following uses, including any necessary grading, shall be permitted as conditional uses in the SPOD provided that the use is allowed in the underlying zoning district and a Conditional Use Permit is granted by the Planning Board in accordance with Article VII:
 - 1. The construction of streets, roads, driveways, access ways (but not including any parking areas other than those serving single-family uses), bridge crossings, and utilities including pipelines, power lines, and transmission lines;
 - 2. The construction or expansion of a *non-residential or multi-unit building* or structure;
 - 3. Accessory buildings and structures other than those allowed as permitted uses;

- B. The Planning Board shall approve a Conditional Use Permit for a use in the SPOD only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use:
 - 1. There is no alternative location on the parcel that is outside of the SPOD that is reasonable practical for the proposed use;
 - 2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;
 - 3. The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities will be undertaken to counterbalance any adverse impacts, and
 - 4. Restoration activities will leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.

175-74. Dimensional Requirements.

All land, buildings, and structures to be used, erected, altered, enlarged, or moved within the SPOD shall be in accordance with the dimensional standards of the underlying zoning district except as modified and required by this section.

A. Shoreland Setback of Buildings and Structures

Any new building or structure or any enlargement or modification of an existing building

or structure shall be set back from the reference line of the waterbody as follows:

1. 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 tributaries: 125 feet
2. All other perennial streams except College Brook and Pettee Brook: 75 feet
3. College Brook and Pettee Brook: 25 feet

B. *Septic Setbacks*

Any new septic system, leach field, or other sewage disposal system shall be set back from the reference line of the waterbody as provided for in 175-139 or as follows, whichever is greater:

1. 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 tributaries: 125 feet
2. All other perennial streams: 75 feet

The replacement of an existing septic system, leach field, or other sewage disposal system that is located within the required setback from the reference line of the waterbody shall comply with the required setback unless the Health Officer/Zoning Administrator/Code Enforcement Officer determines that such a location is not physically possible due to the shape or size of the lot and soil conditions. If the Health Officer/Zoning Administrator/Code Enforcement Officer determines that a replacement system must be located within the required shoreland septic system setback, the system shall be located to provide the maximum setback possible as determined by the Zoning Administrator and shall employ the best available technology.

C. *Use of Shoreland in Calculating Lot Area and Density*

Land within the SPOD may be used to meet the minimum lot area, minimum lot size, or maximum density provisions of the underlying zoning.

D. *Shoreland Frontage*

Any single lot that abuts a waterbody in the SPOD shall have a minimum of two hundred (200) feet of shoreland frontage except in zoning districts where a lesser length of frontage or none is specified in the Table of Dimensions. If such a lot contains more than one dwelling unit and is served by on-site sewage disposal, the lot shall have an additional fifty (50) feet of shoreland frontage per dwelling unit.

175-76. Performance Standards in the SPOD

All buildings and structures shall be erected, altered, enlarged, or moved and all land within

the SPOD shall be used in accordance with the following specific performance standards:

A. *Natural Woodland for Shoreland Development*

The preservation of natural shoreland vegetation is intended to stabilize banks to prevent erosion, maintain wildlife habitats, minimize pollution of the water and preserve the scenic quality of shoreline properties.

Where existing, a natural woodland buffer shall be maintained within one hundred fifty (150) feet of the reference line or for the full width of the SPOD if the district is less than one hundred fifty (150) feet in width. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural conditions of the protected shoreland.

Where a natural woodland buffer does not exist, a naturally vegetated buffer strip at least fifty (50) feet in width, or the full width of the SPOD if the district is less than fifty (50) feet in width, shall be maintained adjacent to the reference line. Within the buffer strip, naturally occurring vegetation shall be maintained and encouraged. No new lawn, garden, or landscape areas shall be created within the buffer strip but existing lawns may be allowed to remain provided that a twenty-five (25) foot wide strip adjacent to the shore is not mowed and is allowed to reestablish naturally occurring vegetation.

Within the buffer, the following standards shall apply:

1. Selective cutting of trees and other vegetation other than ground cover shall be permitted provided that a healthy, well distributed stand of trees and other vegetation is maintained. No trees over six (6) inches in DBH [nineteen (19) inches in circumference] shall be cut within the natural woodland buffer. Not more than fifty (50) percent of the basal area of trees, nor more than fifty (50) percent of the total number of saplings shall be removed in any twenty (20) year period. A healthy, well distributed stand of trees, saplings, shrubs and ground covers and their living undamaged root systems shall be left in place.
2. Existing vegetation under three (3) feet in height including ground cover shall not be removed except to provide for a single point of access to the shoreline as provided for in G. below, and in case of disease as provided for in 5. below.
3. No cleared opening in the forest canopy shall be created with a projected surface area of greater than two hundred fifty (250) square feet as measured from the outer limits of the tree crown unless a building is allowed within the buffer strip. In such case, a cleared opening for the building site may be

created but the cleared opening shall not extend more than twenty-five (25) feet outward from the building.

4. Stumps and their root systems which are located within fifty (50) feet of the reference line shall be left intact. The removal of stumps and roots in conjunction with beaches or docks may be permitted with the approval of the Conservation Commission based upon a determination that the removal in combination with mitigation activities will not increase the potential for erosion.
5. Dead, diseased, or damaged trees, saplings, or ground covers may be removed with prior approval of the Conservation Commission, in consultation with the Tree Warden. The stumps and root systems of the removed trees shall not be disturbed and shall remain in place. If such removal results in the creation of cleared openings, these openings shall be replanted with native species unless existing new growth is present. Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved.
6. The application of pesticides, herbicides, and fertilizers within the buffer is prohibited except in conjunction with allowed agricultural activities. In the case of allowed agriculture, no fertilizers, pesticides, or herbicides shall be applied within seventy-five (75) feet of the reference line.

ARTICLE XIX CONSERVATION SUBDIVISIONS

175-107. Conservation Subdivisions.

This section was adopted pursuant to the Town of Durham's 2000 Master Plan which recommended that conservation subdivisions, in which a substantial portion of the site is set aside as permanent, common open space, be the primary form of residential development in the community. The provisions of this section govern the design and development of conservation subdivisions. The process for the design of conservation subdivisions, as set forth in the Town's Subdivision Regulations, requires that key natural, historic, archeological, and cultural features on the site be identified for protection and the development planned to protect these resources.

- A. **Purpose.** The purposes of these provisions are to assure that conservation subdivisions developed in the Town of Durham:
 1. Preserve those areas of the site that have the highest value for conservation purposes;
 2. Preserve identified historic, known archeological and identified cultural features located on the site:

3. Locate the buildings and structures on those portions of the site that are most appropriate for development considering both the development suitability of the site and its conservation value;
 4. Create continuous open spaces or “greenways” by linking the common open spaces in adjoining subdivisions wherever possible; and
 5. Minimize the impact of residential development on the Town, neighboring properties, and the natural environment.
- B. ***Applicability.*** All residential subdivisions in the Residence A District, Residence B District, Residence Coastal District, Rural District, Office Research Light Industry District, and Mixed Use and Office Research District shall be developed as Conservation Subdivisions in accordance with the provisions of this section and the Town’s Subdivision Regulations unless the subdivision is exempt from this requirement based upon subsection C. below.
- C. ***Exempt Subdivisions.*** A proposed subdivision is exempt from being developed as a Conservation Subdivision only if the proposed subdivision meets one of the following criteria. In determining if the criteria are met, any lot that has been or will be transferred to a qualified conservation organization (as defined in Article II) and will be restricted to conservation use in perpetuity, shall not be counted as a lot for the purpose of this provision.
1. Three-lot subdivision. The subdivision will consist of a total of three (3) or fewer lots accommodating a total of not more than three (3) dwelling units (not including accessory dwelling units) and there will be no potential for the future subdivision of the parcel or any of the lots created by the subdivision (other than for a boundary line adjustment) nor for the construction of additional dwelling units on any of the lots, or
 2. 400,000 square foot lots. The subdivision will consist of lots, all of which will have a minimum lot area of four hundred thousand (400,000) square feet , and there will be no potential for the future subdivision of the parcel or any of the lots created by the subdivision nor for the construction of additional dwelling units on any of the lots, or
 3. Three lots with future plan. The subdivision will consist of three (3) or fewer lots accommodating a total of not more than three (3) dwelling units, there is additional land that may be developable in the future for which a Conceptual Long Range Development Plan meeting the requirements of subsection N. will be prepared, all lots being created as part of the exempt subdivision will be consistent with and incorporated into the long range plan as part of a conservation subdivision, and no additional lots will be created in the future that are not part of a conservation subdivision, or

4. One lot each 7 years. The subdivision will create not more than one additional lot accommodating one (1) dwelling unit and no other lots have been created from the parcel within the preceding seven (7) year period. This exemption allows for the subdivision of one lot at a time, leaving residual land for potential future subdivisions, provided that at least 7 years pass between subdivisions.
- D. ***Maximum Development Density.*** The maximum number of dwelling units that may be developed in a Conservation Subdivision shall be determined by dividing the calculated Usable Area of the parcel by the required Minimum Usable Area Per Dwelling Unit for the district in which the subdivision is located (see Section 175-54, Table of Dimensions) and rounding down to the maximum allowed whole number of units. If the parcel is located in more than one district, the maximum number of units allowed on the portion of the parcel in each district shall be calculated separately and the allowed maximum number of units (including fractional units) in each district shall be added together and then rounded down to the allowed number of whole units. If the subdivision involves only part of a parcel, the Usable Area shall be calculated for that portion of the parcel proposed to be included in the subdivision and the determination of the maximum number of dwelling units within the subdivision determined based upon that Usable Area. The Planning Board shall not approve a plan for a Conservation Subdivision that provides for the development of more dwelling units than the maximum number determined by this section.
- E. ***Lots in a Conservation Subdivision.*** Residences in a Conservation Subdivision may be located on individual residential lots, or on common lots with more than one dwelling unit on a lot, or a combination thereof. If more than one dwelling unit will be located on a lot, the ownership and management arrangements for that lot, and the units thereon, shall be detailed as part of the subdivision application and those arrangements shall be subject to approval by the Planning Board in accordance with the Subdivision Regulations.
- F. ***Individual Lot Sizes.*** If individual lots are created as part of a Conservation Subdivision, the lots shall conform to the following minimum lot size requirements:
1. Any lot that has its required lot frontage on a public street that existed as of July 1, 2003 shall conform to the minimum lot size requirement for the district in which it is located (see Section 175-54, Table of Dimensions).
 2. Any lot that has its required lot frontage on a public street created after July 1, 2003, including streets to be developed as part of the subdivision or private ways, may be smaller than the required minimum lot size for the district in which it is located. The size of the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot sizes will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate sewage disposal, but in no case shall any lot served by a private wastewater disposal system be less than ten thousand (10,000) square feet in area.

G. **Individual Lot Frontages.** If individual lots are created as part of a Conservation Subdivision, the lots shall conform to the following minimum lot frontage requirements:

1. Any lot that has its required lot frontage on a public street that existed as of July 1, 2003 shall conform to the minimum lot frontage requirement for the district in which it is located (see Section 175-54, Table of Dimensions).
2. Lots that have frontage on a public street shall be laid out to minimize the number of curb cuts onto the public street through the use of shared or common driveways or other methods. In no case, shall two adjacent driveways be located on a public street that existed as of July 1, 2003 unless the driveways are separated by at least one hundred (100) feet or such other greater distance as required by other provisions of this ordinance.
3. Any lot that has its required lot frontage on a public street created after July 1, 2003, including streets to be developed as part of the subdivision or private ways, may have less frontage than the required minimum lot frontage for the district in which it is located. The amount of frontage for the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot frontages will allow for the creation of a high quality living environment for the residents of the subdivision and provide adequate access to the residences and other facilities, but in no case shall any lot have less than fifty (50) feet of lot frontage.

H. **Common Open Space.** A Conservation Subdivision shall provide for the permanent set aside and protection of common open space meeting the following requirements:

1. The amount of common open space provided within the subdivision shall be equal to or greater the sum of the following:
 - a. the percentage of the calculated Usable Area set forth below, plus
 - b. the unsuitable area of the parcel that is deducted from the gross area of the site to determine the Usable Area.

The minimum percentage of the usable area that shall be set aside for common open space shall be as follows:

Residence A District	Thirty (30) percent
Residence B District	Forty (40) percent
Residence Coastal District	Fifty (50) percent
Rural District	Fifty (50) percent
All other districts	Fifty (50) percent

If the parcel is located in two or more districts, the percentage of the usable area located in

each district shall be calculated and the required minimum percentage of the usable area set aside for open space determined based upon the weighted average of the percentages for the various districts.

2. The location and layout of the common open space shall conform to the standards and process set forth in the Subdivision Regulations.
3. The common open space in a Conservation Subdivision shall not be used as the location for dwelling units or other nonresidential buildings or parking except as provided for below and shall only be used for the following purposes:
 - a. The conservation and protection of natural resource areas, wildlife habitats, scenic features or views, identified cultural or historic features such as stone walls, graveyards or cemeteries, and similar identified features or resources
 - b. Passive and active outdoor recreation uses and facilities including related accessory structures and buildings that are compatible with the overall scale and character of the subdivision provided that any building shall have a gross floor area of less than two hundred (200) square feet and the total gross floor areas of all such buildings shall be less than one thousand (1000) square feet.
 - c. Indoor community or recreational facilities that primarily serve residents of the subdivision, have a total gross floor area for all such facilities of less than two thousand (2,000) square feet, and are compatible with the overall scale and character of the subdivision
 - d. Forest management and agricultural uses including animal husbandry that are specifically approved by the Planning Board as part of the subdivision approval
 - e. Support facilities necessary for the subdivision including community wells, stormwater management facilities, underground utility lines and related facilities such as sewer pump stations, small community storage buildings, and similar buildings and structures that are needed for the operation of the subdivision but not including personal storage buildings or sheds
 - f. Individual or group underground wastewater disposal systems or parts thereof, provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities
 - g. Other appropriate uses that are compatible with the overall scale and character of the subdivision and that are specifically approved by the Planning Board
4. Permanent provisions for the use, ownership, and maintenance of the common open

space including provisions for screening and buffering shall be established subject to approval by the Planning Board as part of the approval of the subdivision in accordance with the Subdivision Regulations.

5. Appropriate legal mechanisms for the on-going maintenance and stewardship of the common open space shall be established, including the creation of a stewardship account or payment to the Town's Stewardship Fund as set forth in the Subdivision Regulations, subject to approval by the Planning Board as part of the approval of the subdivision in accordance with the Subdivision Regulations.

I. *Front Yard Setbacks.*

1. The minimum front yard setback for any lot with its required lot frontage on a public street in existence as of July 1, 2003 shall be the required minimum setback for the type of street and the district in which the subdivision is located (see Section 175-54, Table of Dimensions) or thirty (30) feet whichever is greater.
2. The minimum front yard setback for any lot with its required lot frontage on a public street created after July 1, 2003, including streets to be developed as part of the subdivision or private ways, may be less than that required by the district regulations. The size of the minimum setback shall be shown on the subdivision plan, may vary from lot to lot or in different areas of the subdivision, and shall be subject to Planning Board approval based upon its finding that the setbacks will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate privacy and public safety.
3. If the approved front yard setback for any lot is less than that required by the requirements of the district in which the subdivision is located (see Section 175-54, Table of Dimensions), any garage with garage doors that face the street, whether attached or detached, shall be located so that the front wall of the garage is located at least two (2) feet behind the front wall of the principal building. This requirement shall not apply to a garage located in the basement of a single-family home.
4. If the approved front yard setback for any lot is less than that required by the requirements of the district in which the subdivision is located (see Section 175-54, Table of Dimensions), any accessory building shall be located so that the front wall of the accessory building is located at least two (2) feet behind the front wall of the principal building.

J. *Side and Rear Yard Setbacks.*

1. When a side or rear yard of a lot containing a residence or other building abuts the external perimeter or property line of a Conservation Subdivision, the minimum side and rear yard setbacks shall be the required minimum setback for the district in which

the subdivision is located (see Section 175-54, Table of Dimensions) unless the streetscape buffer requirements of L. result in a greater setback .

2. The minimum side and rear yard setbacks from internal property lines within a Conservation Subdivision may be less than the required setbacks established by the district regulations (see Section 175-54, Table of Dimensions). The size of the minimum setbacks shall be shown on the subdivision plan, may vary from lot to lot or in different areas of the subdivision, and shall be subject to Planning Board approval based upon its finding that the setbacks will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate privacy and public safety.
 3. In all cases, the separation distance between principal buildings within the subdivision, whether on the same lot or on different lots, shall conform to the requirements of the Town's building code and the NFPA fire protection codes based upon the type of construction and the use of the buildings.
- K. ***Streetscape Buffer Adjacent to Existing Public Streets.*** A vegetated buffer strip shall be maintained along any public street existing as of July 1, 2003 that is adjacent to a Conservation Subdivision to minimize the visual impact of the Conservation Subdivision on the streetscape. The depth of the buffer strip shall be at least three times the minimum front yard setback requirement for the zoning district in which the parcel is located and the type of street (see Table of Dimensions) or one hundred (100) feet whichever is greater. This provision shall be reduced to twenty-five (25) feet for individual residential lots that front on public streets that existed as of July 1, 2003. No parking, buildings, structures, or recreational facilities shall be permitted within this buffer strip but accessory structures such as signs, walls, underground utility structures, and drainage facilities may be located within this buffer. The buffer strip may be crossed by driveways or access drives that run essentially perpendicular to the street. The buffer strip shall be naturally vegetated or landscaped in accordance with the landscaping provisions of Article XXII and the treatment shall be subject to approval by the Planning Board as part of the approval of the subdivision. Appropriate legal mechanisms shall be established by the subdivider, subject to approval by the Planning Board as part of the approval of the subdivision, to assure that the buffer strip will be permanently protected and maintained.
- L. ***Perimeter Buffer.*** A vegetated buffer strip shall be maintained along the external perimeter or property line of the Conservation Subdivision to minimize the impact of the Conservation Subdivision on abutting properties. The width of the buffer strip shall be at least the minimum setback requirement for the zone in which the subdivision is located. If the subdivision abuts a water body or wetland, the width and treatment of the buffer shall be consistent with the requirements of the Wetland Conservation Overlay District and/or the Shoreland Protection Overlay District. No parking, buildings, structures, access roads or driveways, or recreational facilities shall be permitted within this buffer strip but accessory structures such as walls, underground utility structures, and drainage

facilities may be located within this buffer. The buffer strip shall be naturally vegetated or landscaped in accordance with the landscaping provisions of Article XXII and the treatment shall be subject to approval by the Planning Board as part of the approval of the subdivision. Appropriate legal mechanisms shall be established by the subdivider, subject to approval by the Planning Board, to assure that the buffer strip will be permanently protected and maintained.

- M. ***Conceptual Long Range Development Plan.*** When a Conservation Subdivision will not utilize the entire parcel and there is potential for future subdivision or development of the parcel or any of the lots being created, the application for subdivision approval shall include a Conceptual Long Range Development Plan showing the potential utilization of the lots and the balance of the parcel not being subdivided. The Long Range Plan is intended to be conceptual in nature, to rely on published data about natural resources relevant to the parcel and the built environment, and to demonstrate that the current subdivision proposal will not compromise important conservation values or the long-term development of the parcel as a Conservation Subdivision. This plan shall show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land. This plan shall analyze the conservation and development potential of the remaining area of the parcel and shall show, in general terms, the potential street network, open space areas, and development areas in a manner that demonstrates that both the proposed development and the future development can occur so that it conforms to the requirements for Conservation Subdivisions and preserves the significant natural resource and conservation values of the entire parcel.

175-107.1 Workforce Housing Option

- A. ***Purpose.*** The purpose of this Section is to provide an option for including workforce housing in Conservation Subdivisions that is consistent with the requirements of RSA 674:58-61 and will:
1. provide reasonable and realistic opportunity for the development of workforce housing;
 2. ensure the continued availability of a diverse supply of home ownership and rental opportunities;
 3. meet the goal of providing an adequate supply of affordable housing in Durham as set forth in the town's Master Plan; and
 4. address the regional need for workforce housing as documented in the Strafford Regional Planning Commission's Housing Needs Assessment, as updated.
- B. ***Authority.*** This section is adopted under the authority of RSA 674:21, Innovative Land Use Controls, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I)(k) and 674:21(IV)(a), as well as RSA 672:1, III-e.
- C. ***Applicability.***

1. Development in accordance with the provisions of this Section is permitted as a Conditional Use in the Rural (R), Residential A (RA), Residential B (RB) and Office Research/Light Industry (ORLI) Districts as an option to Article XIX, Conservation Subdivision.

2. Permitted Uses. Single family, duplexes, multi-units not to exceed four (4) units, accessory apartments, and accessory dwelling units. A mix of housing types within the same subdivision is permitted within an application under this Section. Any housing type that exceeds more than two (2) units shall be designated as workforce housing.

D. **Procedural Requirements.** Any applicant, who applies to the Planning Board for approval of a development that is intended to qualify as workforce housing under this section, shall follow the same procedure as outlined in the Town of Durham Subdivision Regulations and as provided for in the *Developer's Guidance Document for Affordable Housing*, January, 2011 as updated. Any such applicant shall also file a written statement of such intent as part of the application as per RSA 674:60.

E. **Definitions:** The following terms as used in this section shall have the following definitions:

1. Reasonable and Realistic Opportunities for the development of Workforce Housing: Opportunities to develop economically viable workforce housing within the framework of Durham's municipal ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e.
2. Workforce Conservation Subdivision: A Conservation Subdivision that provides rental or ownership housing opportunities to households based on the following standards: (1) workforce rental housing is defined as a housing unit that has a monthly rent not exceeding 30 percent of the gross income of a household earning no more than 60 percent of the Area Median Income for a 3-person household for the Portsmouth-Rochester Fair Market Rent Area as published annually by the United States Department of Housing and Urban Development consistent with RSA 674:58 II; (2) workforce ownership housing is defined as housing that can be purchased at a price, including the combination of mortgage loan debt service, property taxes and insurance, that does not exceed 30 percent of the gross income of a household earning no more than 100 percent of the Area Median Income for a 4-person household for the Portsmouth-Rochester Fair Market Rent Area as published annually by the United States Department of Housing and Urban Development consistent with RSA 674:58 II.
3. Area Median Income (AMI): the median income of the greater region, the HUD Fair Market Rent Area to which Durham belongs, as is established and updated annually by the US Department of Housing and Urban Development. Income considers both wage income and assets.

F. *Density Incentive.* Any Conservation Subdivision that seeks to include workforce housing shall be permitted to increase the number of market units by 20% above the Maximum Development Density as calculated per Section 175-107 E (2) and that will guarantee an additional 20% of units above the Maximum Development Density to be designated as workforce housing.

G. *General Requirements of Workforce Housing Units.*

1. The workforce housing units should be interspersed to the greatest extent possible throughout the overall development and not concentrated in a separate area of the Subdivision.
2. Phasing—The phasing plan for the development shall provide for the construction of workforce housing units concurrently with the market-rate units.
3. More than fifty percent of the workforce housing units in the development shall contain two or more bedrooms.
4. The subdivision plan must also adhere to the standards outlined in Section H and satisfactorily meet the following criteria:
 - a. The dwellings qualifying as workforce housing shall be compatible in exterior appearance and reasonably consistent with the market rate dwellings in the proposed Subdivision.
 - b. Incorporate the equivalent of the Energy Star rating in all building designs or the current requirements outlined within Chapter 38 “Building Construction” of the Town of Durham Code, whichever performs better energy efficiency.
5. Alternative Lot Sizing: The Planning Board may authorize variations from the minimum lot sizes and lot dimensions specified by standards of the underlying zone through the Conditional Use Permit, provided the Planning Board determines that the following conditions are met:
 - a. All lots comply with the New Hampshire Department of Environmental Services requirements (RSA 485: A) for subsurface wastewater management (developments may utilize individual or community wells and/or septic systems) and private water wells within the decreased lot size; and
 - b. The objectives and standards of this article and the Subdivision Regulations are otherwise achieved.

H. *Assurance of Affordability.*

1. Certification of Income Levels

All of the workforce housing units gained under this provision must meet the affordability requirements for workforce housing in Paragraph E (2) of this Section.

2. Assurance of Continued Affordability

Workforce ownership housing units must retain the development criteria and affordability standards herein for a minimum period of thirty (30) years through a suitable deed restriction, easement and/or mortgage deed instrument deemed acceptable to the Durham Planning Board and as monitored through reports provided to the Durham Planning Board by a selected third-party agent prior to the time of unit sale or resale.

- I. **Administration.** This Section shall be administered by the Planning Board in cooperation with a third party property management entity that will be responsible for income verification and ongoing affordability compliance.
- J. **Conflict.** If any provision of this Section is in conflict with the provisions of any other provisions of this ordinance, the more restrictive provision shall apply, except for any provision relating to reductions in standards for lot size, setbacks, or density, in which case the provisions of this Section shall apply.

175-108. Stewardship Fund.

Payments to the Town to provide for the periodic monitoring of conformance with the conservation restrictions on common open space shall be deposited in the Town's Stewardship Fund. The Stewardship Fund shall be maintained as a separate trust account and shall be used only for the monitoring of conservation restrictions. The use of the Fund shall be managed by the Town's Conservation Commission. The Commission shall provide the Town Council with an annual accounting of the use of the fund. At its discretion, after consulting with the Conservation Commission, the Planning Board may approve an alternative arrangement to the stewardship fund as described here.

ARTICLE XX - STANDARDS FOR SPECIFIC USES

175-109. Compliance Required.

This article establishes performance standards for specific uses. These standards must be met for all activities involving the specified uses.

- A. **Accessory Buildings for Multi-unit and Nonresidential Use.** The following standards apply to buildings that are accessory to multi-unit and nonresidential use:
 - 1. There is a limit of two accessory buildings per lot (not including garages), except that additional accessory buildings may be approved by conditional use.

2. The building shall be used only in association with the principal use on the site.
3. The building shall be located to the side or rear of the principal building, except by conditional use.
4. The building shall be separated from any principal residential building on an abutting lot by not less than twenty (20) feet.

B. ***Accessory Buildings for Single-Family Use.*** The following standards apply to buildings that are accessory to single-family use, not including garages and accessory apartments.

1. There is a limit of two accessory buildings per lot.
2. The maximum floor area of the building shall be 200 square feet.
3. The highest point on the building shall be not more than fourteen (14) feet above grade.
4. The building shall not be supplied with water, sewerage, or heat unless approved by special exception.
5. The building shall be used only for the personal use of the occupants of the premises on which it is located, and not for any commercial use except for an approved home occupation.
6. The building shall not be located forward of the front façade of the house.
7. The building shall be set back at least ten (10) feet from any property line.
8. The building shall be separated from any principal residential building on an abutting lot by not less than twenty (20) feet.

C. ***Accessory Dwelling Units and Accessory Apartments.*** Accessory dwelling units and accessory apartments shall conform to the following standards:

1. Only one accessory dwelling unit or one accessory apartment shall be located on a lot with a single-family residence. The location of an accessory dwelling unit and an accessory apartment in conjunction with one single-family residence shall not be permitted.
2. An accessory dwelling unit shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
3. An accessory apartment shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
4. In zoning districts where no more than three unrelated persons may occupy a dwelling unit (as specified in subsection 175-56 General Dimensional Standards), there shall be no more than three unrelated occupants in total for the single-family dwelling and the

accessory dwelling unit combined or for the single-family dwelling and the accessory apartment combined.

5. The location and design of the accessory dwelling unit or accessory apartment shall maintain the single-family character and appearance of the premises.
 6. An interior door shall be provided between the single-family dwelling and the accessory dwelling unit, but the door may be locked or not at the option of the property owner.
 7. One parking space shall be provided for the accessory dwelling unit or accessory apartment, in addition to parking required for the single-family dwelling. The parking space may be situated within a driveway along with other vehicles provided it is readily accessed.
 8. The property owner shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit or accessory apartment in accordance with RSA 485-A:38. However, systems for the accessory dwelling unit or accessory apartment separate from those serving the single-family dwelling are not required.
 9. There are no additional requirements for lot size, frontage, space limitations, or other dimensional controls for an accessory dwelling unit or accessory apartment beyond what would be required for a single-family residence without an accessory dwelling unit or accessory apartment.
- F. **Home Occupation.** The criteria for home occupations are given in the Definitions article. Any person seeking to establish a home occupation shall submit an application to the Zoning Administrator who shall review the application for conformance with the criteria for home occupations. The Zoning Administrator may specify adding parking space(s) to accommodate the home occupation at her/his reasonable discretion.
- G. **Hotels and Motels.** A stay in a hotel or motel is restricted to less than thirty days (as defined in Article II – Definitions). However, a guest or guests may stay in a hotel or motel for thirty days or longer if allowed by special exception. The maximum that may be allowed by a special exception is a stay of 60 consecutive days and 90 days in any 6 month period.
- I. **Manufactured Housing.** A manufactured housing unit shall conform to the following construction and siting standards in addition to any state requirements:
1. It was constructed after June 15, 1975, and certified as meeting the mobile home construction and safety standards of the Department of Housing and Urban Development.
 2. It is at least twenty (20) feet wide at the narrowest point.

3. The roof pitch shall be not less than a two-foot rise for each twelve (12) feet of horizontal run [two to twelve (2:12)], and the roof shall have minimum six-inch eaves or eaves and gutter.
 4. It has roofing materials which are generally acceptable for site-built housing. Any roofing material may be used, provided that it has the appearance of a nonmetallic shingle, shake or tile roof.
 5. It has siding material which has the appearance of wood, masonry or horizontal metal siding. Reflection from horizontal metal siding shall be not greater than that from siding coated with white gloss enamel.
 6. It has a perimeter skirting that resembles a conventional house foundation and is constructed of brick, concrete, concrete block or pressure-treated wood.
 7. It is placed on a permanent foundation approved by the Code Enforcement Officer.
 8. The hitch and tongue of the manufactured home shall be removed.
- J. ***Porkchop Subdivision.*** A porkchop subdivision is allowed in the RC and R Districts. The purpose of a porkchop subdivision is to allow limited subdivision of relatively large lots where there is significant back land but not sufficient street frontage to provide the minimum required frontage for each new lot. Developers of residential subdivisions of two (2) or three (3) lots in the RC and R Districts on existing town roads as of the date this chapter is enacted that are not conservation subdivisions, may elect to follow the requirements for porkchop subdivisions in Table 4-1, provided that at least two of the lots are entered from a common driveway whose maintenance is guaranteed in the deeds to the lots concerned. A common driveway to a porkchop subdivision will only serve a maximum of three (3) lots. Adjacent porkchop subdivisions will not share a common driveway. Each porkchop subdivision will have a common driveway independent from any other subdivision. Other than the possibility that the rear lot (or lots) may take on somewhat of a porkchop shape, the lots shall not be unduly gerrymandered to take advantage of this section.

Table 4-1. Requirements for Optional Porkchop Subdivisions

Porkchop subdivision lots	Minimum area (square feet)	Minimum frontage area (feet)
Each lot	80,000	50
Average, all lots	120,000	125*

*NOTE: The Planning Board is empowered to reduce the average frontage to not less than one hundred (100) feet in the case of a porkchop subdivision of a nonconforming lot into not more than three (3) lots, provided that the requirement for minimum area is met.

K. ***Reuse of an Existing Agricultural Building.*** Any reuse of an agricultural building for a use other than an agricultural use shall conform to the following standards:

1. Any residential reuse shall conform to the use and dimensional requirements for residential uses for the zone in which it is located.

M. ***Short-term rental.*** The following terms and conditions apply to a short-term rental.

1. A short-term rental may not be established until a permit to operate a short-term rental has been issued by the Zoning Administrator. The property owner shall submit an application to operate a short-term rental to the Zoning Administrator. The proposal shall be reviewed for compliance with all Building, Fire, and Life Safety Codes. Site plan review is not required for a short-term rental.
2. Special Exceptions. In those districts where a short-term rental is allowed by special exception, the property owner shall obtain a special exception prior to issuance of a permit to operate a short-term rental. The following specific requirements apply to special exceptions for short-term rentals:
 - a. ZBA Hearing. For notification purposes, abutting properties shall include those lots within 300 feet of the subject property.
 - b. Other Conditions. The Zoning Board of Adjustment may set additional conditions on the special exception based upon potential impact of the proposal to the neighborhood.
3. The site where the short-term rental is located must be the property owner's primary residence.
4. The property owner or a member of the property owner's family must be on the premises overnight each night while the property is rented.
5. Those areas of the premises open to use by lodgers remain subject to periodic safety inspections per state law.
6. No recreational vehicle, travel trailer, tent, or other temporary shelter may be used by the renter(s) on the premises in conjunction with the short-term rental.
7. Signage is restricted to the following:
 - a. One non-illuminated sign not exceeding two square feet. If ground mounted the sign must be set back at least 10 feet from all lot lines and be no taller than three feet. If mounted on the house no part of the sign may be higher than the top of the first floor windows.

- b. Non-advertising auxiliary signs (such as “No Parking Here” and “Entrance to the Right”) that are non-illuminated and do not exceed one square foot for each sign.