

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.

The following Table of Uses identifies allowed uses of land, buildings, or structures in all zoning districts. There is a definition in 175-7 for each of the uses listed in the table. Permitted Uses are indicated by a “P” in the appropriate column. Uses permitted only by Special Exception are indicated by a “SE.” Uses permitted only with the issuance of a Conditional Use permit are indicated by a “CU.” Uses not permitted in that district are marked with an “X.” Uses indicated with a CUA are Conditional Uses that are allowed only as an adaptive reuse of an existing building. Any use that is not listed as a Permitted Use or a Conditional Use is prohibited in the district. The following uses are specifically prohibited in all zoning districts:

- A. All-Terrain Vehicle/Off Highway Recreational Vehicle Facility
- B. Airport, private
- C. Airport, commercial
- D. Heliport
- E. Drive-through facilities other than as an accessory to a financial institution as set forth in the table below
- F. Junkyard
- G. Cemetery
- H. Warehouse, mini-storage

All projects involving the construction or enlargement of a building or structure that will be used for a nonresidential use or a multi-unit residence or that will create 2 or more dwelling units (not including accessory dwelling unit - detached and accessory dwelling unit - attached) or that involve the erection of a personal wireless service facility are subject to review and approval by the Planning Board in accordance with the provisions of the Site Plan Review Regulations of the Town of Durham, New Hampshire. A nonresidential use includes any use listed below as a Rural Use, an Institutional Use, a Recreational Use, a Utility and Transportation Use, or a Commercial and Industry Use.

In addition, a change in the occupancy of an existing building is also subject to Site Plan Review by the Planning Board if the change in use is:

1. from one category of nonresidential use to another category of nonresidential use;
2. from a residential use to a nonresidential use;
3. from a nonresidential use to a multi-unit residential use; or
4. from a single-family residential use to a multi-unit residential or a nonresidential 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-1 and CB-2) See Note 4	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)
I. NATURAL RESOURCE USES													
Principal Uses													
Conservation activities	P	P	P	P	P	P	P	P	P	P	P	P	P
Excavation and/or mining	CU	X	X	X	X	X	X	X	X	X	X	X	X
II. AGRICULTURAL USES (See Article XX.1)													
Principal Uses													
Agricultural Sales, Commercial	P	SE	SE	P	P	P	P	P	P	P	P	P	P
Aquaculture	P	X	X	SE	X	X	X	X	P	P	P	P	P
Bees, keeping of	P	X	X	SE	P ³	P	P	P	P	P	P	P	P
Crop Cultivation	P	P	P	P	P	P	P	P	P	P	P	P	P
Farmers' Market	SE	X	X	SE	P	P	P	P	P	P	P	P	P
Forestry	P	P	P	P	P	P	P	P	P	P	P	P	P
Fur-bearing animals, keeping of	P ²	X	X	X	X	X	X	X	X	P ²	P ²	P ²	P ²
Goats and sheep, keeping of	P ²	X	X	SE ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Horses, keeping of	P ²	X	X	SE ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²

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	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB-1 and CB-2) See Note 4	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)
Swine, keeping of	P ²	P ²	P ²	P ²	X	X	X	X	X	P ²	P ²	P ²	X
Uses Accessory to Farms													
Farmstand	P	X	X	P	P	X	X	P	P	P	P	P	X
III. RESIDENTIAL USES													
Principal Uses													
Manufactured Housing	P	X	X	X	X	X	X	X	X	X	X	X	X
Nursing Home	X	X	X	X	X	X	P	P	P	P	P	P	CU
Porkchop Subdivision (See Article XX)	P	X	X	P	X	X	X	X	X	X	X	X	X
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
Residence, multi-unit complex	X	X	X	X	X	X	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

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Senior housing, multi-unit	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
Student Rental	X	X	X	X	P	P	P	P	X	X	X	X	X
Uses Accessory To Any Residential Use													
Accessory structure	P	P	P	P	X	P	P	P	P	P	P	P	P
Day care home (See Article XX)	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupation-1	P	P	P	P	X	P	P	P	P	P	P	X	X
Home occupation-2	P	X	X	P	X	CU	CU	X	P	P	P	X	X
Uses Accessory To a Single-family Residential Use													
Accessory dwelling unit - attached (See Article XX)	P	P	P	P	X	P	P	X	X	X	P	P	X
Accessory dwelling unit - detached (See Article XX)	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

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Manufacturing, light	X	X	X	X	P	P	P	P	P	P	P	P	P
Marine sales and service	X	X	X	CU	X	X	X	X	X	X	X	X	P
Mixed Use with residential (office/retail down, multi-unit residential up) (See Note 1)	X	X	X	X	See Note 5	X	X	X	X	X	X	X	X
Motor vehicle gas station	X	X	X	X	X	X	X	P	X	X	X	X	X
Motor vehicle service facility	X	X	X	X	X	X	X	P	X	X	X	X	X
Motor vehicle sales facility	X	X	X	X	X	X	X	P	X	X	X	X	X
Office	X	X	X	X	P	P	P	P	P	P	P	P	P
Restaurant	X	X	X	X	P	X	P	P	X	X	X	X	X
Retail store, medium	X	X	X	X	P	X	CU	P	X	X	X	X	X
Retail store, small	X	X	X	X	P	X	P	P	X	X	X	X	X
Reuse of older single-family residence for a low impact nonresidential use (See Article XX)	CUA	X	X	CUA	P	P	P	P	P	P	P	X	X
Self storage facility	X	X	X	X	X	X	X	X	X	X	X	X	X
Theater	X	X	X	X	P	P	X	CU	X	X	X	X	X
Warehouse	X	X	X	X	X	X	X	X	X	CU	X	CU	CU

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VIII. USES ACCESSORY TO AN ALLOWED NON-RESIDENTIAL USE													
Accessory buildings and structures	P	P	P	P	P	P	P	P	P	P	P	P	P
Drive-through facility accessory to a financial institution	X	X	X	X	CU	CU	X	CU	X	X	X	CU	CU
Restaurant or cafeteria accessory to a nonresidential use	X	X	X	X	CU	CU	CU	CU	CU	CU	CU	CU	CU
IX. USES ACCESSORY TO ANY ALLOWED USE													
Caretaker apartment	P	P	P	P	P	P	P	P	P	P	P	P	P
Off street parking on the lot to serve the allowed use	P	P	P	P	P	P	P	P	P	P	P	P	P
Parking garage	X	X	X	X	P	P	P	P	P	P	P	P	P
Parking lot	P	P	P	P	P	P	P	P	P	P	P	P	P

Notes

1. For the use “Mixed use with residential (office/retail down, multi-unit residential up),” see the definition. The layout of uses within the building or lot may also be specified by zone in Article XII, including some flexibility allowed by conditional use in the Central Business District under Development Standards
2. The use is permitted only on lots of 3 acres or greater. Roosters are permitted only in the Rural District.
3. In the Central Business District the use is permitted only on rooftops.
4. All uses under Central Business District (CB) apply to both Central Business-1 District (CB-1) and Central Business-2 District (CB-2) except where otherwise noted.
5. Mixed use with residential is P in CB-1 and CU in CB-2.

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-1 and CB-2)	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)	Attainable Housing Overlay District (AHOD)
Minimum Lot Size in Square Feet - Single-Family Residence (that is not part of a Conservation Subdivision) - Multi-unit Housing - Allowed Nonresidential Use - Any Other Allowed Use	20,000	40,000	150,000	150,000	NA	10,000	5,000	5,000	30,000	40,000	40,000	150,000	40,000	NA
	NA	NA	NA	NA	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000	5,000
	20,000	40,000	150,000	150,000	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000	5,000
	20,000	40,000	150,000	150,000	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000	5,000
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	4,200 (The density bonus under footnote 3 does not apply in the AHOD)
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	NA

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB-1 and CB-2)	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)	Attainable Housing Overlay District (AHOD)
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	50
Minimum Front Setback in Feet - Minor Street ¹ - 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	50 50 50
Maximum Front Setback in Feet	NA	NA	NA	NA	See Note 5	NA	NA	25	NA	NA	NA	NA	NA	NA
Minimum Side Setback⁴ in Feet	10	20	50	50	NA	15	5	10	15	25	20	20	20	25
Minimum Rear Setback⁴ in Feet	20	30	50	50	NA	20	15	15	20	25	20	20	20	25
Minimum Shoreland Shore frontage in Feet	200	200	200	200										See underlying zone
Maximum Permitted Building Height in Feet	30	30	30	30	30	30	30	30	30	50	40	40	40	NA – See AHOD ordinance
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	NA – See AHOD ordinance
Maximum Impervious Surface Ratio	33%	30%	20%	20%	100%	50%	80%	80%	30%	50 %	50%	50%	50%	50%

NOTES: 1. When the average front yard setback of other buildings within 300 ft. each way on the same side of a minor street is less than 30 feet, the front yard setback may be reduced to the average existing setback.

2. Any single-family lot in the R and RC Districts existing as of July 1, 2003, including lots in approved subdivisions, shall only be required to have a minimum lot area of 120,000 square feet and shall not be subject to the minimum usable area per dwelling unit requirement. Pre-existing lots with a minimum of 120,000 square feet of area shall be deemed to be conforming lots for the purpose of the minimum lot size and minimum usable area provisions but shall conform to all other current applicable standards for the district in which they are located.

3. See 175-57(A) for the special density requirements for senior housing, senior care facilities, and nursing homes.

4. See Article XX for requirements for accessory buildings.

5. Additional setback requirements for this district are provided in the Development Standards section for the zone.

6. The minimum front yard setback from Route 108 shall be 100 feet plus 2 feet for each foot of building height in excess of 25 feet.

7. No building along the sections of Main Street or Madbury Road delineated in Subsections 175-42(B)(8) and (9) shall exceed 35 feet in height.

175-55. General Use Standards.

The following additional standards apply to the specific uses listed below:

- A. **Junkyards.** Junkyards are prohibited in all districts.
- B. **Untreated wastes.** Untreated sewage or household wastes shall not be discharged into any flowing stream or body of water. Owners and users of land not served by town water and sewer shall be required to furnish plans for a satisfactory on-site sewage disposal system with percolation tests that indicate satisfactory drainage before a building permit will be issued, provided that such system satisfies all local and state ordinances, statutes and regulations.
- C. **Inoperative motor vehicles.** The outdoor storage of unregistered or inoperative motor vehicles shall be prohibited in all zones except as follows:
 - 1. Not more than 1 such vehicle may be stored on any lot during any calendar year, for a period not to exceed 90 days except for lots used for permitted motor vehicle related businesses.
 - 2. The provisions of state law shall determine the storage period for abandoned, improperly registered or wrecked vehicles by any garage or other persons properly storing the same according to law. (See RSA 236.)
- D. **Combination of uses.** Any combination of uses contemplated as a single enterprise may be established in only those districts in which all such uses are permitted. Any establishment having combination of uses must meet all the requirements of each use as outlined by the Durham Zoning Ordinance. In the case of conflicting duly adopted rules, regulations or ordinances, the more restrictive shall apply.
- E. **Airports and Heliports.** Private and commercial airports and heliports shall be prohibited in all Zoning Districts within the Town of Durham, unless otherwise expressly permitted in a Zoning District
- F. **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 4.
- G. **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.
- H. **Accessory uses and structures.** Accessory uses and structures are permitted for all uses in all zones as defined in this ordinance except as otherwise specifically prohibited in the Table of Uses and elsewhere in this ordinance. Site plan review, issuance of a building permit, and other permitting is required for all accessory uses and structures in similar manner as for all principle uses and structures.

175-56. General Dimensional Standards.

- A. **Fire Code.** Note that Fire Code NFPA 101 2021 ED, as amended, requires a minimum of 200 square feet per person (consult the Durham Fire Department for more information).
- B. **Building height.** The height of the building may not exceed the maximum permitted height.

1. Measuring height. Building height shall be measured as the vertical distance from the mean elevation of the finish grade, 6 feet offset from the building foundation (or at the property line if the building is less than 6 feet from the property line), around the perimeter of the building to the following points for the various roof types shown:
 - a. gable, hip, and curved roofs: the midpoint between the ridge/high point and the corresponding eave;
 - b. gambrel and mansard-type roofs and roofs that are fully dormered: the deck or curb line (the top of the lower roof slope) or the eave above the dormer for fully dormered roofs;
 - c. flat roofs (including those with parapets) and situations where there is no discernible roof (such as the higher wall under a shed roof): the eave, cornice, or fascia at the top of the wall.
2. Appurtenant elements. Cupolas and towers with an area of 100 square feet or less and roof-mounted appurtenances such as solar arrays, utilities, roof decks, and telecommunications structures are not considered part of the building height. However, these elements may not exceed the maximum permitted building height by more than 15 feet (unless otherwise explicitly permitted).
3. Additions. For new building additions, the mean grade elevation shall be measured around the addition only.
4. Difference in elevation. Where there is more than an 8-foot difference in elevation between the highest and lowest points along the finish grade, 6-foot offset from the building foundation around the perimeter of the building, the mean elevation shall be calculated separately for appropriate sections or sides of the building.
5. Excavations. Where an area is excavated adjacent to the foundation to provide a light well or outdoor use area for a lower level, such that the excavated area would not be prominently visible from any property line, the grade may be measured to the ground surface beyond the excavated area.
6. Spot elevations. Measurements of the elevation of the grade around the foundation may be taken at specific points as directed by the zoning administrator.

C. Setbacks.

1. No building is permitted within the setback areas specified for the zoning district. However, accessory structures (not including driveways and parking areas) for residential uses may occupy up to 30 percent of a front, side, or rear setback area provided they are set back at least 10 feet from any lot line and do not exceed 20 feet in height.
2. All setback areas, except for driveways, walkways, and permitted structures, shall be landscaped or left with natural vegetation.
3. Setbacks do not apply to the following structures unless another provision provides setbacks specifically to those structures: fences, retaining walls less than six feet in height, signs, light poles, utility poles, flagpoles, structures such as piers and docks where the setback would prevent installation of the structure where it must inherently be situated, driveways, and minor installations like mailboxes,

4. Where eaves, overhangs, cladding materials, and architectural details on a building project 18" or less from the building face, the setback is measured from the applicable building foundation. Where eaves, overhangs, cladding materials, and architectural details on a building project more than 18" from the building face, the setback is measured from the furthest point where those elements extend from the building.
- D. **Corner clearance.** No object, vegetation or slope which impedes visibility at street intersections shall be allowed within a triangle, 2 of whose sides extend 20 feet from the intersection along the street lines and between 2 planes 3 feet and 7 feet above the level of the traveled way.
- E. **Changes in lot dimensions.** Any change made to the dimensions of an undeveloped lot shall meet all the requirements of this Article in effect at the time of the proposed change. In the case of a legal nonconforming lot which has been developed, the lot dimensions may be changed to decrease the violation of the dimensional requirements of this chapter.
- F. **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 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 25 percent or greater as identified on the HISS.
 6. Fifty percent of the area with a slope between 15 and 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 5,000 square feet or is narrower than 50 feet.
- G. **Septic systems** (including leach fields) may be placed closer to property lines than otherwise permitted under this chapter by special exception. However, septic systems may not be placed closer to property lines than permitted by New Hampshire Department of Environmental Services.

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, Nursing Homes, and Workforce Housing (as defined under RSA 674:58 IV.) the following provisions shall apply to the entire development:
 - a dwelling unit containing 1 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 2 or more bedrooms shall count as 0.50 dwelling units for the purpose of the density calculation
 - four beds or accommodations for 4 residents in those facilities that do not provide dwelling units shall count as 1 dwelling unit for the purpose of the density calculation

B. *Lot frontage.*

1. Frontage variation. The minimum frontage otherwise required may be varied by the Zoning Board of Adjustment by special exception for plots of land of unusual shape or at corners where an increased setback can provide the same effective spacing of the usable portion of a lot, whether or not the lot is part of a subdivision plan.

C. *Front yards.*

1. Average setbacks along minor streets. When the average front yard of other buildings within 300 feet each way on the same side of a minor street is less than 30 feet, the street yard may be reduced accordingly.
2. Central Business District fronting on a minor street. The front yard requirement for a Central Business lot fronting on a minor street may be varied by the Zoning Board of Adjustment by special exception.

D. *Side and rear yards.*

1. Nonresidential or multi-unit structures abutting or within residence districts. No nonresidential or multi-unit structures, other than permitted signs, and no parking shall be permitted within 70 feet of a side or rear lot line abutting a residence district or use unless screened as provided in Article XXII or as specified in the Site Plan Regulations.
2. Within business districts. Side and rear yards in the CB District may be omitted where buildings are separated by fire partitions meeting the requirements of the Durham Building Code and/or where the remainder of the yard is occupied by publicly maintained parking, circulation or landscaping.
3. Shore frontage. Any building lot which abuts on the Great or Little Bay and significant rivers and brooks shall conform to the following additional requirements:
 - a. The minimum length of the shore frontage shall be 200 feet, exclusive of the width of creeks at mean low tide.
 - b. The minimum shorefront setback for any building other than a marina or boatyard shall be in accordance with Article XIV.