

Town Office

Town of Durham

New Hampshire



Ordinances and

Regulations

1968

TOWN OF
DURHAM, NEW HAMPSHIRE
ORDINANCES AND REGULATIONS

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Z O N I N G O R D I N A N C E

T O W N O F

D U R H A M , N E W H A M P S H I R E



Preamble

Pursuant to the authority vested in towns by Chapter 51, Revised Laws of New Hampshire, 1942, as amended; and to promote the health, safety, convenience and general welfare of the Town by regulating and restricting the use of land and buildings thereon in the Town of Durham, the following ordinance is hereby enacted by the voters of the Town of Durham, New Hampshire, in official Town Meeting convened, March 11, 1952. Revised and amended in official Town Meetings convened March 11, 1958; March 12, 1963; March 14, 1967; March 12, 1968.

ARTICLE I

Section 100. Establishment of Districts

100.1 Districts defined. For the purpose of this ordinance, the following use classifications, as hereinafter defined, are hereby created for districting the land in the town of Durham:

- (a) Class A Business Use; (b) Class B Business Use; (c) Class I Residential Use; (d) Class II Residential Use; (e) Class III Residential Use; (f) Rural Use; (g) University Use.

100.2 Districts established. For the purpose of this ordinance, the following use districts are hereby created and established:

- (a) Class A Business District, hereafter referred to as Business A;
- (b) Class B Business District, hereafter referred to as Business B;
- (c) Class I Residential District, hereafter referred to as Residential I;
- (d) Class II Residential District, hereafter referred to as Residential II;
- (e) Class III Residential District, hereafter referred to as Residential III;
- (f) Rural District;
- (g) University District;

The aforesaid districts are shown on a Zoning Map of the Town of Durham which is hereby incorporated as a part of this ordinance and is filed with the Town Clerk. The said map and all the notations, references, district boundaries, and other information shown thereon shall be as much a part of this ordinance as if all were fully described herein.

100.3 Boundaries of Districts. Where uncertainty exists with respect to the boundaries of the various districts, as shown on the zoning map, the following rules shall apply:

(a) The district boundaries are either streets, alleys, lot lines, natural features or division lines described or otherwise shown, and where the districts designated on the zoning map are bounded approximately by street, alley, lot lines, natural features or division lines, the said street, alley, lot line, natural feature or division line shall be construed to be the boundary line of such district.

(b) Where the district boundaries are neither streets, alleys, lot lines, or natural features, unless otherwise clearly indicated on the zoning map, they shall be determined by the use of the scale of the zoning map.

(c) Where privately owned land is entirely or partly surrounded by the University District, that private land use and classification shall be deemed to have the same zoning classification of the nearest general classification of similar privately-owned land.

ARTICLE II

Section 200. Definitions

Definitions of Terms

(a) Unless otherwise expressly stated, the following terms shall, for the purpose of this ordinance, have the meanings indicated in this section.

(b) Words used in the present tense include the future; the singular number includes the plural and the plural the singular.

(c) Where terms are not defined in this section, they shall have their ordinarily accepted meanings or such as the context may imply.

Accessory Building means a subordinate building, attached or unattached to the main building. For the purpose of this ordinance and its amendments, however, a garage or carport, attached directly to or by another structure to the main building, shall be regarded as an integral part of the main building.

Alley means any public thoroughfare less than 21 feet in width which has been legally dedicated or devoted to public use.

Alteration, as applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending a side or by increasing its height; or structural changes other than repairs, that would affect safety; or adding an elevator; or significant changes to the plumbing, gas piping, wiring, ventilating or heating installations. The term "alter" in its various moods and tenses and its participial forms, refers to the making of an alteration.

Apartment -- see "Dwelling unit."

Attic means the space between the ceiling beams of the top habitable story and the roof rafters.

Areaway means an uncovered subsurface space adjacent to a building.

Automobile Service Station means a building designed or used primarily for the supply of motor fuel, oil, accessories and service or repair to motor vehicles.

Basement means a story of a building or structure having one-half or more of its clear height below grade. Also see "Story."

Brick means a solid masonry unit having a shape which approximates a rectangular prism, usually not larger than 12 by 4 by 4 inches. A brick may be made of burned clay or shale, or fire clay or mixtures thereof, of lime and sand, of cement and suitable aggregates, or of other approved materials.

Building means a structure, including all integral parts thereof, intended for use and occupation as a habitation, or for some purpose of assembly, business, manufacture, institutional, storage, ornamentation, or shelter to persons, animals or chattels.

Building Area means the maximum horizontal projected area of the building at or above grade excluding uncovered steps and terraces.

Building Line means the line, established by ordinance, beyond which a building shall not extend.

Building Inspector means the officer or other designated authority charged with the administration and enforcement of this ordinance or his duly authorized representative.

Club Lodgings means a building or accessory thereto used or adapted to use primarily as a meeting or lodging place occupied by a fraternal organization, club or voluntary corporation for the benefit of its members or members of a beneficiary recreational or social club, organization or association. For the purpose of this ordinance a collegiate social fraternity or sorority house shall be considered as a club lodging.

Clearance means the minimum horizontal distance from any property or lot line to the nearest point of any proposed or existing structure;

side clearance refers to the distance from the side lot line to a building.

rear clearance refers to the distance from the rear lot line to the building.

Concrete means a mixture of portland cement, aggregates and water;

reinforced concrete means concrete in which reinforcement other than that provided for shrinkage or temperature changes is embedded in such a manner that the two materials act together in resisting forces.

Court means an open, uncovered, unoccupied space on the same lot and fully enclosed on at least three adjacent sides by walls of the building;

inner court means any court other than an outer court or a yard;

outer court means a court other than a yard having at least one side thereof opening on to a street, alley or yard or other permanent open space.

Curb level means the elevation of the street curb as established in accordance with an ordinance.

Dead storage of mobile homes, travel trailers and camper trailers means to place and leave for a time, unoccupied and unconnected with the land or utilities.

District: A district includes all the land, water and buildings within certain designated boundaries, defined in Article I of this ordinance and shown on the Zoning Map which is incorporated as a part of this ordinance and the amendments thereto.

Dwelling: A building used as a habitation or parts thereof used for access to such building.

(a) Single family dwelling means a building and accessories thereto used or adapted for use as a dwelling by one family.

(b) Two family dwelling means a building and accessories thereto used or adapted for use as a dwelling by two families.

(c) Multiple dwelling means a building and accessories thereto used or adapted for use as a dwelling by more than two families or by any unit or group other than a family as defined herein.

(d) Seasonal dwelling means a dwelling used for a part of a year.

(e) Dwelling unit means one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Elevator means a hoisting and lowering mechanism equipped with a car or platform which moves within guides in a substantially vertical direction, and which serves two or more floors of a building or structure.

Exit doorway means a doorway opening directly to the exterior, to a horizontal exit, to an exit stairway, or to a similar place of safety.

Family: One or more persons living together in a dwelling as a single non-profit housekeeping unit, as distinguished from a group or fraternal organization occupying a hotel, club lodging or rooming house.

Fire Department means the Town of Durham-University of New Hampshire Fire Department.

Fire District, as applied to this ordinance, is defined to include the areas zoned as the Business A and B Districts.

Fire door means a door and its assembly, constructed and assembled in place, to give protection against the passage of fire.

Fire resistance rating means the time in hours that the material or construction will withstand the standard fire exposure as determined by a fire test made in conformity with the "Standard Methods of Fire Tests of Building Construction and Materials," ASTM E119.

Fire-resistive construction includes fire-resistive construction type A and type B, as defined by the National Board of Fire Underwriters in the National Building Code, Art. VII, Sec. 700.

Foundations: For the purpose of this ordinance a foundation of a building or structure used for human habitation shall be defined as a continuous supporting wall of masonry, masonry units, concrete or other similar materials, the base of which is not less than 3 feet below the ground level at the building line.

Fire retardant ceiling means a ceiling used in a floor and ceiling construction that has a fire resistance rating of one hour or more.

Fire walls -- see "Walls."

Fire window means a window and its assembly, constructed and assembled in place, to give protection against exposure fires.

Public garage is a building for which the primary use is the sale, storage, maintenance and repair of motor vehicles.

Private garage is an accessory building, joined or attached to or entirely separate from the main building, the primary use of which is the storage or parking of not more than three motor vehicles.

Carport means a roofed, wall-less or semi-walled shed, projecting from the side of a building or entirely separated therefrom, that is used primarily as a shelter for private automobiles.

Height, as applied to a building, means the vertical distance from grade to the average elevation of the roof of the highest story; "height" of a building in stories does not include basements -- see "Story."

Height, as applied to a story, means the vertical distance from top to top of two successive tiers of floor beams or finished floor surfaces;

Height, as applied to a wall, means the vertical distance to the top measured from the foundation wall, or from a girder or other immediate support of such wall.

Home industry means a business incidental to the occupancy of a dwelling and accessory building as a family unit, employing not more than one person outside the immediate family and operated by a member of the family occupying the dwelling.

Light industry is defined, for the purpose of this ordinance, on the basis of performance in terms of absence of objectionable noise, smoke, odor, dust, dirt, noxious gases, glare and heat; the creation of hazards to health and life by reason of fire hazard, effects of industrial wastes, psychological effects and generation of motor vehicle traffic.

Livestock means the horses, cattle, sheep and other useful animals kept or raised on a farm.

Lot means a parcel of land considered as a unit, occupied or intended to be occupied by a building or buildings, including the open spaces required in this ordinance. The lot area shall not include any part of a public right-of-way which it fronts or abuts.

Lot area means the area of the lot on which one building and its accessory buildings are located, provided that the area shall be measured to the street line only, and provided further that the portion of the lot farther back from the street line than the distance of four times the average width shall not be included in the lot area, unless the rear portion abuts a street line.

Lot depth is the mean distance from the front or street line to the extreme rear lot line measured on a line which is the mean direction of the side lot lines.

Lot line means a line dividing one lot from another, a street right-of-way or other public space.

Masonry means a built-up construction or combination of building units of such materials as clay, shale, concrete, glass, gypsum or stone set in mortar or plain concrete.

Mobile home is a single-family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on a flatbed or other trailers, or by railroad, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like. A mobile home not located in a mobile home park, set on a continuous supporting wall of masonry, masonry units, concrete or other similar material extending at least 3 feet below normal ground level shall be deemed to have an adequate foundation and said mobile home shall be considered a building or dwelling within the terms of this ordinance.

Mobile home park is land upon which two or more mobile homes are parked and occupied for living purposes, whether or not a charge is made for such accommodations.

Mobile home space is a plot of ground within a mobile home park designed for the accommodation of one mobile home.

Motel means a roadside hotel which provides lodging in one central building or in individual cabins for tourists and travelers and garaging or parking space for their motor vehicles.

Noncombustible, as applied to a building construction material, means a material which, in its usable form, will not ignite, burn or support combustion.

Noncombustible construction includes protected noncombustible construction and unprotected noncombustible construction.

Occupied, as applied to a building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied."

Occupancy means the use classification of a building, structure or land.

Owner includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary, and a person having a vested or contingent interest in the property in question.

Patio: A paved outdoor living space designed to supplement the mobile home living area.

Pent house means an enclosed structure other than a roof structure, located on a roof, extending not more than twelve feet above it and used primarily for living or recreational accommodations.

Person means any natural individual, firm, trust, partnership, association or corporation.

Place of assembly means a room or space used for assembly or educational occupancy for 100 or more occupants.

Plastic means a material that contains as an essential ingredient an organic substance of large molecular weight and which is solid in its finished state. At some stage in its manufacture or in its processing into finished articles it can be shaped by flow.

Plot plan is a drawing, satisfactory to the Selectmen that shows the dimensions of the lot and the buildings proposed to be altered or erected, the setback, and the side and rear clearances. See Art. IX, Sec. 900.7.

Prefabricated means fabricated prior to erection or installation on a building or structure foundation.

Repair means the replacement of existing work with equivalent materials for the purpose of its maintenance but it does not include additional work that would affect safety, the required exit facilities, or plumbing, gas piping, wiring, ventilating or heating installation.

Roof structure means a structure above the roof of any part of a building enclosing a stairway, tank, elevator machinery or service equipment, or such part of a shaft as extends above the roof. This definition does not apply to living or recreational accommodations.

Rooming House means a building other than a hotel where lodging is provided for more than five persons, with or without meals, for compensation.

Service building means a building housing toilet and bathing facilities and/or laundry facilities and such other facilities as may be required by this ordinance.

Setback means the horizontal distance between the street line and the nearest part of any building on the lot, excluding uncovered steps and terraces.

Self-closing is applied to a fire door or other opening normally closed, or equipped with an approved automatic device for closing after having been opened for use.

Shaft means a vertical opening or passage through two or more floors of a building or through floors and roof.

Sign means a structure that is arranged, intended, designed or used as an advertisement or announcement; this definition includes signs, sign screens, billboards and advertising devices of every kind, irrespective of size or area.

Sprinklered means equipped with an approved automatic sprinkler system.

Stairway means one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

Story means that part of a building comprised between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds 33-1/3 percent of the roof area of the floor immediately below. A pent house shall be considered a story if it exceeds 1,000 square feet or 33-1/3 percent of the roof area. The basement of a building used for educational occupancy shall be considered a story if it is used for purposes other than storage or heating.

Shore Front means that part of a lot that is bounded by tidal water and for the purpose of this ordinance this applies only to the lands abutting Oyster River, Little Bay and Great Bay, east of Newmarket Road.

Shore front measurement: The minimum shore front dimension shall be established by measuring along a straight line, perpendicular to either side line; said straight line shall be so located that the line does not include any tidal land beyond the mean low tide boundary. Where tidal creeks lie between the side lot lines, the minimum shore front dimensions shall be increased by the width of such creek.

Street means a public road, highway or thoroughfare having a right-of-way width of 50 or more feet, which constitutes or is designed to constitute, the main access to more than one lot and which has been legally dedicated and accepted for public use.

Street line is the line dividing a lot from a street right-of-way.

Structure means a combination of materials to form a construction that is safe and stable; including among others: buildings, stadiums, tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, piers, wharves, sheds, coal bins, shelters, fences and display signs. The term structure shall be construed as though followed by the words "or part thereof."

Structural alteration means any change in the supporting or structural members of a building or structure, such as the bearing walls, supporting partitions, columns, beams, girders, or roof framing.

Unit and Unit Areas: For the purpose of this ordinance, a unit is defined as the area of a building used as a dwelling by one person or a family. The minimum area of such a Unit shall be 200 square feet. The maximum area of a Unit shall not exceed 1000 square feet, where the number of the combined Units controls the area of the lot or front footage required. The foregoing maximum unit area does not apply to single or two family dwellings.

Use of a building means any and every use conducted within a building or accessory thereto.

Variance is an order by the Zoning Board of Adjustment issued pursuant to its discretionary power, in order that the spirit of the ordinance may be observed and substantial justice shall be done. The Board may waive a literal enforcement of the terms of the ordinance where such enforcement:

- (a) would result in unnecessary hardship, or
- (b) would not permit the continuance to the best advantage of a non-conforming use of land or buildings in existence at the time of the enactment of this ordinance.

Walls:

Bearing wall means a wall which supports a vertical load in addition to its own weight;

Fire wall means a wall constructed of masonry or other proved non-combustible material for the purpose of subdividing buildings to restrict the spread of fire;

Veneered wall means a wall having a facing of masonry or other material securely attached to the backing, but not bonded, so as to exert a common reaction under load.

Yard means an open unoccupied space surrounding a building on a lot.

- (a) side yard means the required open space extending along the side lot lines from the street line to the rear of the main building, except for a corner lot, where the side yard restriction of the adjacent lots shall apply.
- (b) rear yard means the required open space extending across the whole width of the lot in the rear of the main building, except for a corner lot, where it is the area at the rear of the side yards.

ARTICLE III

Section 300. Class A Business District

300.1 The following shall be permitted in the Class A Business District:

- (a) Any uses permitted in the Residential Districts under the provisions that apply to residences in those Districts.
- (b) Stores, restaurants and other retail business except hereinafter provided.
- (c) Business offices, theaters, halls and clubs.

300.2 Uses not permitted: No land shall be used and no building shall be erected, altered or used for any purpose injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or any cause or for any of the following specified uses, unless the Zoning Board of Adjustment shall, on application of the proposed user, rule that such use under such conditions and in such a building as it may prescribe will neither be detrimental nor injurious to the neighborhood:

- (a) Factory or industry
- (b) Automobile service station or public garage
- (c) Junk Yard or Dump
- (d) Lumber or coal yard
- (e) Storage in excess of 10 gallons or the equivalent, for the purpose of sale or service, of gasoline, fuel oils, petroleum products or any combustible fluids or gases.

300.3 Off-street parking and unloading: Any building erected or altered hereafter, so that changes in the land use, type occupancy or the use of the building, shall be served with adequate facilities for off-street unloading and space for off-street parking for the number of persons regularly employed or 25 percent of the number of persons living in the building.

The foregoing does not apply to the land or buildings as now used and now deemed to be in conforming use.

300.4 Mobile Homes: The use of land for the accommodation of mobile homes is forbidden, provided, however, that this section shall not be construed to prohibit any property owner or lessee from accommodating mobile homes of non-paying guests for a period not to exceed 30 days in any one calendar year.

Section 310. Class B Business District

310.1 In the Class B Business District, land may be used and buildings may be erected, altered or used for any purpose permitted in the Class A Business District. In addition the following uses are permitted, provided that no internal combustion engine shall be operated unless objectionable noise be eliminated:

- (a) Automobile service stations
- (b) Public garage
- (c) Storage for the purpose of sale or service of gasoline, fuel oil, petroleum products and other flammable fluids or gases, provided these products are stored and protected in accordance with the requirements of the State Fire Marshall.

310.2 Uses not permitted: No land shall be used and no building shall be erected, altered or used for any purpose deemed dangerous, injurious, noxious, or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise for any cause or for any of the following specified uses unless the Zoning Board of Adjustment shall, on application by the proposed user, rule that such use under such conditions and in such building as it may prescribe will neither be detrimental nor injurious to the neighborhood. Junk yards or dumps are excluded from this District.

310.3 Off-street parking and unloading: Any building erected or altered hereafter, so that changes in the land use, type of occupancy or the use of the building, shall be served with adequate facilities for off-street loading and off-street parking space for the number of persons regularly employed or 25 percent of the number of persons living in the building.

The foregoing does not apply to the land or buildings as now used and now deemed to be in conforming use.

310.4 Mobile homes: The use of land for the accommodation of mobile homes is forbidden, provided, however, that this section shall not be construed to prohibit any property owner or lessee from accommodating mobile homes of non-paying guests for a period not to exceed 30 days in any one calendar year.

ARTICLE IV

Section 400. Class I Residential District

400.1 Uses: In the Class I Residential District, land may be used and buildings may be altered or used for:

- (a) Single family and two family dwellings and accessory uses thereto
- (b) Churches and schools
- (c) Farms and gardens, excluding any use injurious, noxious or offensive to the neighborhood
- (d) Accessory use customarily incident to any of the above uses

400.2 Accessory uses not permitted:

- (a) Any use injurious, noxious or offensive to the neighborhood.
- (b) Taking more than five lodgers.
- (c) The sale of produce not raised on the premises, but not excluding the products of home industries.
- (d) The raising or keeping of poultry or livestock except as incidental to a farm operation, provided, however, that nothing herein shall prevent the keeping of household pets.
- (e) Signs except those pertaining to the lease, sale or use of the land or building on which placed and not to exceed a total area of eight square feet.

400.3 Uses excluded from this District: The following uses of land and buildings are excluded in the Class I Residential District: Multifamily dwellings, apartment houses, club lodgings, clubs, fraternity and sorority houses, hotels, motels, business establishments and offices, theaters, automobile service stations, public garages, public or commercially operated parking lots, junk yards or dumps.

400.4 General provisions:

- (a) The building area shall not exceed 33 percent of the lot area.
- (b) No building or structure shall be erected or altered so that it projects nearer to the street line than the average set-back of other buildings within 300 feet each way on the same side of the street, or 30 feet from the street line, whichever is the greater distance.
- (c) Each building or structure hereafter erected in the Class I Residential District shall have a side yard, on each side, of width not less than 10 feet, and for an interior lot a rear yard of not less than 20 feet.
- (d) Separate buildings or structures for accessory use may be located in the rear or side yard, but shall not project nearer to the street line than the main building and shall not be placed closer than 10 feet from the rear or side lot lines of the lot upon which the main building is located.
- (e) Building lots shall have a frontage of not less than 100 feet, provided, however, that a lot with lesser frontage which is listed and taxed as a lot at the time of passage of this ordinance shall be deemed a conforming use.
- (f) The following minimum lot areas are specified in those parts of the district served and not served by Town sewers and water:
 - 1. Single family dwellings served with both sewer and water, 10,000 square feet.
 - 2. Single family dwellings served by water but not sewer, 20,000 square feet. If neither service is available the minimum area shall be 40,000 feet.

3. Two family dwellings served by both sewer and water, 15,000 square feet.
4. Two family dwellings served by water but not sewer, 25,000 square feet. If neither service is available the minimum area shall be 50,000 square feet.

The foregoing minimum areas do not apply to those lots of lesser area which are listed and taxed as building lots at the time of passage of this ordinance.

- (g) The height for any wood-frame building or structure in this district shall be limited to 2-1/2 stories or 35 feet whichever is lesser.
- (h) All buildings shall be provided with off-street parking facilities. Entrance and exits to such off-street parking facilities are subject to the regulation of the New Hampshire Department of Public Works and Highways.
- (i) The use of land for the accommodation of mobile homes is forbidden, provided, however, that the provisions of this section shall not be construed to prohibit any property owner or lessee from accommodating mobile homes of non-paying guests for a period of not more than 30 days in any one calendar year.
- (j) Owners and users of land for all purposes permitted in this district, not served by Town water and sewer, shall be required to furnish plans for a satisfactory on site sewage disposal system with field tests that indicate satisfactory drainage conditions before a building permit will be issued.
- (k) Untreated sewage or household wastes shall not be discharged into any flowing stream or body of water.

ARTICLE V

Section 500. Class II Residential District

500.1 Uses: In the Class II Residential District, land may be used and buildings and structures may be erected, altered or used for single and two family dwellings, rooming houses, rest homes, churches, schools, clubs, club lodgings, fraternity or sorority houses, apartments, multifamily dwellings and accessory uses thereto.

500.2 Accessory uses not permitted:

- (a) Any use injurious, noxious or offensive to the neighborhood.
- (b) The sale of produce not raised on the premises, but not excluding the products of home industries.
- (c) The raising or keeping of poultry or livestock except as incidental to a farm operation, provided, however, that nothing herein shall prevent the keeping of household pets.
- (d) Signs except those pertaining to the sale, lease or use of the land or building on which placed and not to exceed a total area of eight square feet.

500.3 Uses excluded from this District: The following uses of land and buildings are excluded in the Class II Residential District: Business and commercial establishments, theaters, automobile service stations, public garages, public or commercially operated parking lots, junk yards or dumps.

500.4 General provisions:

- (a) The building area shall not exceed 33 percent of the lot area.
- (b) No building or structure shall be erected or altered so that it projects nearer to the street line than the average set-back of other buildings within 300 feet each way on the same side of the street, or 30 feet from the street line, whichever is the greater distance.
- (c) Separate buildings or structures for accessory use may be located in the rear or side yard, but shall not project nearer to the street line than the main building and shall not be placed closer than 10 feet from the rear or side lot lines of the lot upon which the main building is located.
- (d) Building lots for any use permitted in this district shall have a frontage of not less than 100 feet, provided, however, that a lot with lesser frontage listed and taxed as a lot at the time of passage of this ordinance shall be deemed conforming use.
- (e) The following minimum lot areas are specified in those parts of the district served or not served by Town sewers and water.

1. Sewer and water available

Single family dwelling - lot area 10,000 square feet

Two family dwelling - lot area 15,000 square feet

Multifamily dwelling - lot area 20,000 square feet, but increased by 5,000 square feet for each unit in excess of 5 dwelling units

All other uses permitted - lot area 20,000 square feet

2. Sewer not available - water available

Single family dwelling - lot area 20,000 square feet

Two family dwelling - lot area 25,000 square feet

Multifamily dwelling - lot area 30,000 square feet, but increased by 5,000 square feet for each unit in excess of 5 dwelling units

All other uses permitted - lot area 40,000 square feet

3. Sewer and water not available

Single family dwelling - lot area 40,000 square feet

Two family dwelling - lot area 50,000 square feet

Multifamily dwelling - lot area 50,000 square feet, but increased by 10,000 square feet for each unit in excess of 5 dwelling units

All other uses permitted - lot area 50,000 square feet

The foregoing minimum area requirements do not apply to those lots of lesser area which are listed and taxed as a lot at the time of the passage of this ordinance.

- (f) The height of any wood-frame building or structure in this district shall be limited to 2-1/2 stories or 35 feet whichever is the lesser.
- (g) All buildings shall be provided with off-street parking facilities. Entrances and exits to such off-street parking facilities are subject to the regulation of the New Hampshire Department of Public Works and Highways.
- (h) The use of land for the accommodation of mobile homes is forbidden, provided, however, that the provisions of this section shall not be construed to prohibit any property owner or lessee from accommodating mobile homes of non-paying guests for a period of not more than 30 days in any one calendar year.
- (i) Owners and users of land for all purposes permitted in this district, not served by town water and sewer, shall be required to furnish plans for a satisfactory on site sewage disposal system with field tests that indicate satisfactory drainage conditions before a building permit will be issued.
- (j) Untreated sewage or household wastes shall not be discharged direct into any flowing stream or body of water.

ARTICLE VI

Section 600. Class III Residential District

600.1 Use: In the Class III Residential District, land may be used and buildings may be erected, altered or used for the following:

- (a) Single, and multifamily dwellings and accessory uses thereto.
- (b) Churches, hospitals, sanitarium, rest homes, rooming houses, club lodgings, schools, hotels and motels, yacht clubs, marinas and boat yards including the operation of not more than two gasoline pumps for service of marine craft.
- (c) Commercial uses permitted in the Class A Business District, with the same use restrictions set forth in Article III Section 300 of this Ordinance.
- (d) Farms and uses incidental to farming excluding any use injurious, noxious or offensive to the neighborhood.
- (e) Accessory use customarily incident to any of the above uses.

600.2 Accessory use in this Article shall not include:

- (a) The use of land to accommodate mobile homes; provided, however, that the provisions of this section shall not be construed to prohibit any property owner or lessee from accommodating mobile homes of non-paying guests for a period not to exceed 30 days in any one calendar year.
- (b) Signs in excess of 15 square feet in area and two in number, pertaining to the use, sale or lease of lot on which placed.

600.3 The following uses are not permitted in this district:

Any use injurious, noxious, offensive to a neighborhood by reason of the emission of smoke, fumes, dust, vibration noise or any other cause, or for any of the following specific uses: Factory, light or heavy industry, commercial airport, motor vehicle service station, public garage, dump or junk yard, the storage for purpose of sale, of coal, gasoline, oils, gas or other flammable products. The latter is not intended to exclude gasoline fuel pumps to service marine craft.

600.4 Building lot area and dimensions:

- (a) Building lots used for residential purposes shall have a minimum front footage of 200 feet on an existing or proposed street or road, and a minimum area of 40,000 square feet for single or two-family houses. Where multifamily houses or group units are to be built in excess of a two family unit, the area of the lot shall be increased 10,000 square feet per unit and the front footage shall be increased 50 feet per unit. The foregoing shall not apply to those lots of smaller size so listed and taxed at the time of the adoption of this article.
- (b) Building lots used for other than residential purposes, as permitted and specified in Section 600.1 (b) and (c) of this article, shall have a minimum front footage on an existing or proposed street or highway of 200 feet or the longest dimension of the proposed building plus 100 feet, whichever is the greater.

600.5 Shore Frontage:

- (a) Building lots for single and two family residential use, having shore frontage on tidal water, shall have a minimum shore front dimension of 100 feet (see definition Art. II, Sec. 200). The foregoing shall not apply to those lots having lesser shore frontage so listed and taxed at the date of the adoption of this article.

- (b) Building lots used for multifamily use shall have a minimum shore frontage of 100 feet (see definition) plus 50 feet additional for each family unit planned, built or used but the required maximum is limited to 300 feet.
- (c) Building lots and land use for other than residential purposes as permitted and specified in Section 600.1 (b) and (c) of this Article, shall have a minimum shore frontage of 300 feet.

600.6 General Provisions:

- (a) The total area occupied by buildings on a lot shall not exceed 33-1/3 percent of the area of the lot.
- (b) No building or structure shall be erected so that it projects nearer to the street line or highway right-of-way boundary than the average setback of the buildings on adjacent lots, or 30 feet whichever is greater distance.
- (c) No building or structure shall be erected so that the side or rear clearance is less than 50 feet from the side or rear property line.
- (d) The building height for any wood-frame building or structure in this District shall be limited to 2-1/2 stories or 35 feet whichever is the lesser.
- (e) Adequate off street or highway parking facilities shall be provided consistent with the character of the land use.
- (f) Owners and users of land for all purposes permitted in this district, not served by Town water and sewers, shall be required to furnish plans for a satisfactory on-site sewage disposal system with field tests that indicate satisfactory drainage conditions before a building permit shall be issued.
- (g) Untreated sewage or industrial wastes shall not be discharged direct into any flowing stream or body of water.

ARTICLE VII

Section 700. Rural District

700.1 Uses: In the Rural District land may be used and buildings and structures may be erected, altered or used for any of the uses permitted in the Residential Districts, the Class A and B Business Districts and in addition farms and uses incidental to farm operation. In addition the following uses are permitted:

- (a) Mobile home parks and uses incidental to their operation.

700.2 Uses not permitted: Any uses that are injurious, dangerous, or offensive to the neighborhood by reason of the emission of odor, fumes, dust, smoke, noise or as a fire hazard, or for any other cause. Junk yards and dumps are excluded from this district.

700.3 Building lot area and dimensions:

- (a) Building lots for residential purposes shall have a minimum frontage of 200 feet on an existing or proposed street or road, and a minimum area of 40,000 square feet for a single or two family house. Where multifamily houses or group units are to be built in excess of a two family unit, the area of the lot shall be increased 10,000 square feet per unit and the frontage 50 feet per unit. The foregoing shall not apply to those lots of smaller size so listed and taxed at the time of the adoption of this article.

- (b) Building lots used for other than residential or farm uses as permitted in this district shall have a minimum frontage on an existing or proposed street or road of 200 feet or the longest dimension of the proposed building plus 100 feet whichever is the greater. The minimum area shall be 40,000 square feet.

700.4 General provisions:

- (a) The total area occupied by buildings on a lot shall not exceed 33-1/3 percent of the area of the lot.
- (b) No building or structure shall be erected or altered so that it projects nearer the street line or highway right-of-way boundary than the average set-back of buildings on adjacent lots, or 30 feet whichever is the greater distance.
- (c) No building or structure shall be erected so that the side or rear clearance is less than 10 feet from the side or rear property line.
- (d) The height of any wood-frame dwelling shall be limited to 2-1/2 stories or 35 feet whichever is the lesser. The height of buildings not used for dwelling purposes is not limited, provided, however, that adjacent or accessory wood-frame buildings or structures be separated from wood-frame dwellings by at least 50 feet.
- (e) Adequate off-street or highway parking facilities shall be provided, consistent with the character of the land use.
- (f) Signs pertaining to the use, sale or lease of the lot on which placed are not permitted in excess of 15 square feet in area and not more than two in number.
- (g) The use of land for the accommodation of mobile homes outside licensed mobile home parks is forbidden, provided, however, that the provisions of this section shall not be construed to prohibit any property owner or lessee from accommodating mobile homes of non-paying guests for a period not to exceed 30 days in any one calendar year.
- (h) Owners and users of land for all purposes permitted in this district, not served by Town water and sewers, shall be required to furnish plans for a satisfactory on site sewage disposal system with field tests that indicate satisfactory drainage conditions before a building permit will be issued.
- (i) Untreated sewage or industrial wastes shall not be discharged direct into any flowing stream or body of water.

700.5 Provisions with respect to mobile home parks:

- (a) Location, space, and general layout: All mobile home parks shall conform to the following minimum requirements:
 1. All mobile home parks shall be located on a site graded to insure drainage of surface water, sub-surface water, and sewerage. All such parks shall be in areas free from marshes, swamps, stagnant pools, or other potential breeding places for insects or rodents.
 2. Where any boundary of a park directly abuts property which is improved with a permanent residential building, or directly abuts unimproved property which may under existing laws and regulations be used for permanent residential construction, an appropriate wall, fence, or hedge, shall be provided along such boundary.
 3. The area of the mobile home park shall be large enough to accommodate:
 - (a) The designated number of mobile home spaces;
 - (b) Necessary streets, walkways, and public utilities;
 - (c) Parking areas for motor vehicles;
 - (d) Necessary service buildings and sanitary facilities;
 - (e) Recreational area.

4. Each park shall provide mobile home spaces, and each such space shall be clearly defined or delineated. No mobile home shall occupy an area in excess of 10 percent of the mobile home space; however, each mobile home space shall contain a minimum of 3,000 square feet, and shall be at least 50 feet wide; provided, however, that parks which, at the time of the adoption of these regulations, existed lawfully with mobile home spaces that do not comply with the foregoing minimum area and width requirements, may continue to operate and shall be excused from such compliance.
5. There shall be a minimum of 20 feet clearance between each mobile home. However, with respect to mobile homes parked end to end, the end to end clearance may be less than 20 feet but shall be not less than 15 feet. No mobile home shall be located closer than 15 feet from any building within the park or 50 feet from any property line bounding the park.
6. When applying the 20-foot clearance figures, awnings, vestibules, or other attached added structures shall be considered an integral part of the mobile home.
7. No mobile home shall be located so that it sets nearer to the street line than the average set-back of other buildings within 300 feet of either boundary of the park on the same side of the street, or 30 feet from the street line, whichever is the greater distance.
8. Each mobile home space shall be provided with a patio having a minimum size of 180 square feet. The patio location shall be convenient to the entrance of the mobile home and appropriately related to open areas of the mobile home space and other facilities. Patio construction shall be a minimum 4-inch Portland Cement concrete or other rigid type of impervious pavement of appropriate construction.
9. All mobile home spaces shall abut upon a park roadway of not less than 30 feet in width, which shall have unobstructed access to a public street or highway.
10. Walkways of not less than 3 feet in width shall be provided from the park roadway to each mobile home space and to the service buildings.
11. All park roadways, walkways, and parking bays or spaces within the park shall be hard surfaced with a minimum 4-inch Portland Cement concrete or other rigid type of impervious pavement of appropriate construction and lighted at night with electric lamps providing illumination which shall not be less than 2 foot candles.
12. Each park shall provide service buildings to house such toilet, bathing and other sanitation facilities as are prescribed by applicable state and local ordinances and regulations.
13. An electrical outlet supplying at least 120/240 volts, 60 amperes shall be provided for each mobile home. Such electrical outlets shall be weatherproofed and grounded. No main power supply line shall be permitted to lie on the ground, or to be suspended less than 18 feet above the ground. All electrical installations shall be constructed of new materials and all parts thereof shall comply with all applicable State and local electrical codes and ordinances. In the absence of local or State codes, or where such codes are deemed inadequate, installations shall comply with the applicable provisions of the National Electrical Code unless otherwise modified herein.

(b) Parking spaces:

1. Vehicle parking spaces shall be provided in sufficient number to meet the needs of the occupants of the park and their guests without interference with the normal movement of traffic. Such

facilities shall be provided at the rate of at least one vehicle space for each mobile home space, plus an additional vehicle space for each four spaces to provide for guest parking, for two-car tenants and for delivery and service vehicles. Insofar as practicable one vehicle space shall be located on each mobile home space and the remainder located in adjacent parking bays. All vehicle parking spaces shall be located for convenient access to the mobile home spaces. All vehicle parking spaces located on a mobile home space shall have a minimum width of 10 feet and a minimum length of 20 feet.

2. All off-street parking bays shall conform to the following minimum specifications:

<u>Parking Angle</u>	<u>Curb Length per vehicle</u>	<u>Minimum Bay Depth*</u>
90 degrees	9 ft.	18 ft.
60 degrees	12.5 ft.	17 ft.
45 degrees	13 ft.	16 ft.

*Perpendicular to curb line

(c) Recreational Area Requirements:

1. Recreational areas shall be provided, and shall be restricted to such use. These areas shall be protected from the park roadways and from parking areas. No single recreation area shall contain less than 5,000 square feet. Recreational area requirements shall conform to the following minimum specifications:

- 1 - 20 Mobile Home Spaces - 10,000 square feet
 - 21 - 40 Mobile Home Spaces - 20,000 square feet
 - 41 - 60 Mobile Home Spaces - 30,000 square feet
 - 61 - 80 Mobile Home Spaces - 40,000 square feet
 - 81 - 100 Mobile Home Spaces - 50,000 square feet
- For each additional Mobile Home Space above 100 a minimum of 500 square feet for recreational area shall be provided.

(d) General provisions:

1. The provision of this ordinance and of the building regulations of the Town of Durham shall apply to all construction, alterations, repairs and additions to mobile homes and structures within the mobile home park unless otherwise modified herein. The skirting of mobile homes is permitted to achieve better heating of the unit, but skirting should not provide a harborage for rodents, nor create a fire hazard. Skirting, cabanas, awnings, porches or other additions shall not be attached to the mobile home unless they are manufactured only for mobile home use, constructed of fire-resistant materials in a workmanshiplike manner, and are approved by the Building Inspector.
2. All piping from outside fuel storage tanks or liquefied petroleum gas cylinders to the mobile home shall be copper or other acceptable metallic tubing mechanically connected, and shall be permanently installed and securely fastened in place. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the mobile home or less than 5 feet from

- any mobile home exit. Racks to hold all fuel tanks or cylinders shall be of a design which will prevent tipping or accidental overturning.
3. Every park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number and so located within the park as to satisfy applicable regulations of the fire department. No fires shall be permitted at any place which may endanger life or property. No open fires shall be left unattended at any time.
 4. Every owner, operator, attendant, or other person responsible for the operation of a mobile home park shall maintain a register containing a record of all mobile homes and occupants using the park. Such register shall be available to any authorized person inspecting the park, and shall be preserved for the period required by the Board of Selectmen. Such register shall contain (1) the names and permanent addresses of all mobile home occupants stopping in the park, (2) the make, model and license number of the motor vehicle and mobile home, (3) the state or other governmental unit issuing the mobile home license, and (4) the dates of arrival and departure of each mobile home.
 5. Lawn and ground cover shall be provided where needed to prevent erosion of slopes and on other areas to obtain usable yards. Trees, shrubs and vines shall be required to the extent needed to provide for (a) screening of objectionable views, (b) adequate shade, and (c) a suitable setting for the mobile homes and other facilities.
 6. Where telephone service to mobile home spaces is provided, the distribution systems may be overhead or underground, but shall be in general conformance with the placement of the electrical distributions system.
 7. The owner, operator or other person responsible for the operation of a mobile home park shall visit the mobile home park each day the park is occupied and shall do whatever may be necessary to keep the park and its equipment in a clean and sanitary condition, to maintain order and see that all applicable zoning and sanitary regulations are observed. The management of each park shall assume responsibility for maintaining in good repair all buildings, streets, walks, sanitary facilities and utilities within the park and shall take such action as is necessary to prosecute or eject from the grounds any person who willfully or maliciously fails to comply with these and other applicable regulations.

ARTICLE VIII

Section 800. University District

800.1 Uses: The University District shall be the lands owned and used by the University of New Hampshire. In the University District land may be used for education purposes and operations incidental to the administration of the University of New Hampshire. When lands owned, used, or leased, by the University of New Hampshire shall pass by sale, lease or other conveyance to private persons or corporations, the lands and buildings thus conveyed shall revert in their use to the uses permitted in the Zoning District in which located.

Whenever the University of New Hampshire shall acquire ownership of lands not presently within the University District, such land shall become a part of this

District at the time the University acquires title to same. Any lands the University does not own, but acquires only the right to use, whether by rental, lease, or other beneficial interest, shall become a part of this District only by amendment.

ARTICLE IX

Section 900. Administration

900.1 Duty and Authority: It shall be the duty of the Board of Selectmen, and the Board is hereby given the power and authority, to enforce the provisions of this Ordinance.

900.2 Administrative Official: The Board of Selectmen is hereby given the power and authority to appoint a Building Inspector and delegate to such Building Inspector the power and authority to administer these Ordinances.

900.3 Building Inspector - Appointment and Salary: The Building Inspector shall be appointed annually by the Selectmen and he shall be responsible to the Selectmen for the administration and enforcement of this Ordinance and amendments thereto, and other such ordinances that pertain to the regulation of buildings; particularly the Fire District regulations. The salary or compensation of this officer shall be fixed by the Selectmen.

900.4 Duties of the Building Inspector: The Building Inspector shall receive application and fees for permits for the erection, alteration, remodeling and demolition of buildings, the installation of or alteration of electrical wiring and heating systems. He shall keep a record of all applications and his action on same. He shall promptly inspect all sites for proposed buildings, and those buildings on which alterations or remodeling are proposed. He shall collect such permit fees as are prescribed and deposit same with the Town Treasurer. He may approve the issuance of a permit for the erection, alteration, remodeling of all buildings and the use of such buildings, if, in his opinion, the proposal complies with the laws of the State, this Ordinance and other Town Ordinances. It is further provided that in any instance where other licenses or permit fees for uses are required, his approval of the permit shall constitute an approval on which other proper authority may act. He shall review and approve or disapprove all plans for which permits have been issued. He shall periodically inspect all new buildings being erected and those being altered, remodeled or demolished, for the purpose of enforcing these ordinances. He shall perform such other duties prescribed by law and shall cooperate with the Fire Warden, Health Officer, and other Town Officers in such matters where their respective duties overlap or coincide. He shall take such action in the enforcement of this ordinance as the Selectmen may direct.

900.5 Applications and Permits: It shall be unlawful to construct, alter, remove, or demolish, or commence any construction, alteration, remodeling, removal or demolition of a building or structure, or install equipment for the operation of a building without first filing a written application with the Building Inspector and obtaining a formal permit.

900.6 Application Form: Applications shall be filed with the Building Inspector in such form as he may require. The application shall contain the full name of the owner and/or his agent. It shall contain a certification that the property does not lie in an unapproved sub-division. The application shall

describe briefly the proposed work and give such other information as may be required to enable the Building Inspector to determine whether the proposed work complies with the provisions of this ordinance.

900.7 Plot Plan: A plot plan shall accompany the application and shall show the following: (a) lot dimensions; (b) name of abutting streets; (c) name of abutting property owners with the location of all buildings on the adjoining land within 10 feet of the property lines; (d) dimensions of the proposed building; (e) dimensions indicating the set-back, side and rear clearances; (f) location of proposed connection to the town sewer and water lines where available, otherwise the proposed location of the well, septic tank and drainage field; (g) location of the proposed driveways; (h) such other information as may be required by the Building Inspector.

900.8 Plans to Accompany Application: Applications for permits shall be accompanied by drawings of the proposed work, drawn to scale, showing when necessary, floor plans, sections, elevations, structural details.

900.9 Issuance of Permit:

- (a) No work shall be started on the proposed site and no building shall be erected, altered, remodeled or demolished, until the owner or his agent shall first secure a building permit from the Selectmen or from the Zoning Board of Adjustment as hereinafter provided.
- (b) No building permit shall be issued or become effective until the Building Inspector has certified that the proposed building, alteration or remodeling, and its intended use or type occupancy, complies with the provisions of this ordinance.
- (c) Upon approval of the application by the Building Inspector the Selectmen shall issue a permit authorizing such construction, alteration or demolition.
- (d) The Building Inspector shall be given at least 12 hours notice of the starting of work under a permit.

900.10 Permit Fees: The following schedule of permit fees is based upon the estimated cost of construction. The permit fee shall be paid prior to the issuance of a permit:

<u>Estimated Cost</u>	<u>Fee</u>
New construction or remodeling	
Less than \$500	None
\$500 to \$10,000	\$10.00
\$10,000 to \$20,000	\$15.00
\$20,000 to \$30,000	\$20.00
\$30,000 to \$40,000	\$25.00
\$40,000 to \$50,000	\$30.00
Above \$50,000	\$35.00

900.11 Certification of Occupancy: No building or structure or part thereof hereafter erected or altered shall be used, moved or the open spaces in any way reduced, until the Building Inspector shall have certified on the building permit the specific use to which the land or structure complies as to use or occupancy.

900.12 Revocation or Lapse of Building Permits:

- (a) A violation of or variation from the terms, conditions or authorization of a building permit by the holder thereof or his agent, architect or contractor shall be cause for the revocation of said permit. Such revocation shall be made at the discretion of the Selectmen and an appeal from such action may be made as provided in Article X of the ordinance.
- (b) The Building Inspector shall, at the expiration of 12 months during which no earnest or substantial effort has been made to complete or carry out the construction or alterations authorized in a building permit declare, and send notice to the holder thereof, that said permit has lapsed. Said permit may be reinstated on application of the proposed user to the Building Inspector.

900.13 Enforcement: Upon any well founded information that this ordinance is being violated, the Selectmen shall, on the advice of the Building Inspector, take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other legal action. For penalty, see Article XII, Section 1200.5.

- (a) Should the Building Inspector or Selectmen fail to take action on an application for a building permit within 15 days of the date of filing, the applicant may apply to the Zoning Board of Adjustment for a building permit.
- (b) A building permit, once issued, shall not be assignable nor shall it be revocable except on an appeal as authorized by Article X of this ordinance or as provided in Section 900.12 herein.
- (c) No building permit shall be required for repairs or maintenance necessitated by ordinary wear and tear.
- (d) No permit fee shall be required for remodeling, where the total cost for such work including materials will not exceed \$500.00 and the purpose for which the building is to be used is not changed.
- (e) No permit, however, shall be issued unless the proposed structure will present a reasonable appearance and will be in keeping with the neighborhood and unless the building is to be finished on the exterior in a permanent manner and is to be suitably painted on the outside whenever the same is of wood or material customarily painted. This is intended to eliminate the erection of structures obviously out of place for the neighborhood where they are to be located and which may have a detrimental effect on the property values and neighborhood character. When an objection on the account of appearance of a proposed structure, as above indicated, is raised by a majority of the families residing or owning property within a radius of 500 feet to the property in question or when the Selectmen cannot reasonably grant a permit on the basis of the interpretation of the foregoing, the Selectmen shall request the Zoning Board of Adjustment to hold a public hearing to receive the evidence on both sides. The Zoning Board of Adjustment shall have the authority to decide whether the permit shall be issued.
- (f) Plans for the provision of sewage disposal facilities for (1) commercial and industrial buildings in all districts, and (2) residences not employing town facilities shall be approved by the Town Health Officer prior to granting of building permit.

900.14 Licensing of Mobile Home Parks:

(a) Licensing:

- 1. It shall be unlawful for any person to operate or maintain a mobile home park within the limits of the Town of Durham unless he holds a

valid license issued annually by the Board of Selectmen in the name of such person for the specific mobile home park.

2. A license, upon written request therefore, and payment of the proper fee, shall be issued by the Board of Selectmen for every park in existence upon the effective date of this ordinance, permitting the park to be maintained and operated for the period of one year after the effective date of this ordinance. Upon issuance of such license the aforesaid parks shall be deemed to be in conforming use.

(b) License fees:

1. The annual license fee for each park shall be fifty dollars (\$50.00).

(c) Application for license:

1. Application for initial license. Application for initial mobile home park license shall be filed with the Board of Selectmen. The application shall be in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the applicant, and shall include the following:

- (a) The name and address of the person making application.
- (b) The location and legal description of the mobile home park.
- (c) A complete set of plans in conformity with the requirements of this ordinance.
- (d) Plans and specifications of all improvements, buildings, streets, recreational areas, walks, sewer, water and other facilities constructed or to be constructed within the park.
- (e) The area and dimensions of the tract of land whereon the proposed park is to be located.
- (f) Such further information as may be requested by the Board of Selectmen to enable it to determine if the proposed park will comply with the provisions of this ordinance and all other applicable legal requirements. The application and all accompanying plans and specifications shall be filed in triplicate. The Board of Selectmen shall investigate the applicant and inspect the application and proposed plans and specifications. If the applicant is of good moral character, and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all the provisions of this ordinance and all other applicable ordinances, statutes and regulations, the Board of Selectmen shall approve the application, and upon completion of the park according to the plans, shall issue the license.

2. Application for renewal of license. Application for the renewal of a license shall be made in writing to the Board of Selectmen by the holder of the license, and shall contain the following:

- (a) Any change in the information submitted since the time of the original license was issued or the latest renewal granted;
- (b) Such other information as the Board of Selectmen may require. Upon approval of the application for renewal of a license by the Board of Selectmen and upon payment of the annual license fee, the Board of Selectmen shall issue a certificate renewing such license for another year.

3. Revocation of license. A violation of, or variation from the terms, conditions or authorization of a license to operate or maintain a mobile home park by the holder thereof or his agent, architect, or contractor shall be cause for the revocation of said license. Such revocation shall be made at the discretion of the Board of Selectmen and an appeal from such action may be made as provided in Article X of this ordinance.
4. Posting of license. The license certificate shall be conspicuously posted in the office of or on the premises of the park at all times.
5. No license shall be transferable. Every person holding a valid license shall give notice in writing to the Board of Selectmen five (5) days prior to any proposed sale, transfer, gift or other disposition of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park.

ARTICLE X

Section 1000. Board of Adjustment

1000.1 Members. A Zoning Board of Adjustment, consisting of five members appointed by the Board of Selectmen, is hereby created and established. When the Board is first organized, one member shall be appointed to serve for one year, one for two years, one for three years, one for four years, and one for five years, thereafter the Board of Selectmen shall annually appoint one member for a term of five years. Said members can be removed for cause only by the Board of Selectmen upon written charges filed and after a public hearing on said charges. Vacancies shall be filled for the unexpired term.

1000.2 Meetings.

A. A chairman and Clerk shall be appointed. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

B. Meeting of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

C. All meetings of the Board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Town Office and shall be a public record.

1000.3 Powers of the Board. The Zoning Board of Adjustment is hereby authorized and empowered to adopt such rules of organization and procedure as are necessary for the efficient administration and enforcement of this ordinance. In addition the Zoning Board of Adjustment shall have the following powers.

A. To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement of this ordinance.

B. To hear and decide special exceptions to the terms of the ordinance upon which the Board is required to pass under the ordinance.

C. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to

special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

D. In exercising the above-mentioned powers, the Board, may in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, or decision, as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

E. The concurring vote of three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance.

F. Any other power authorized to a Zoning Board of Adjustment by virtue of the adoption by the Town of Durham of Chapter 51, Sections 50-71, and Chapter 53, Sections 26 and 31, of the Revised Laws of New Hampshire, as amended.

1000.4 Appeals to Board. Appeals to the Zoning Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of an administrative official. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer or board from whom the appeal is taken and with the Zoning Board of Adjustment a notice of appeal specifying the grounds thereof. The officer or board from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

1000.5 Effect of Appeal. An appeal stays all proceedings under the action appealed from unless the officer or board from whom the appeal is taken certifies to the Zoning Board of Adjustment after notice of appeal shall have been filed with it that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Superior Court on notice to the officer or board from whom the appeal is taken and cause shown.

1000.6 Notice of Hearing. The Zoning Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appeal in person or by agent or attorney.

1000.7 Disqualification of Board Member. No member of the Zoning Board of Adjustment shall sit upon the hearing or any question which the Board is to decide in a judicial capacity who would be disqualified from any cause, except exemption from service and knowledge of the facts involved gained in the performance of his official duties, to act as juror upon the same matter in any action at law. If a member shall be disqualified or unable to act in any particular case pending before the Board, the Board of Selectmen, upon application of the Board, shall appoint a member to act in his place upon said case.

ARTICLE XI

Section 1100. Amendments

1100.1 The provisions of this ordinance, or any part thereof, may from time to time be amended, supplemented or repealed by a resolution, adopted at a duly held Town Meeting, setting forth the proposed amendment. No such amendment shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a paper of general circulation in the Town of Durham; provided, however, that such hearings shall not be necessary if the warrant for the Town Meeting at which the matter is to be considered shall contain an article stating what regulations, restrictions, and boundaries are to be acted upon.

1100.2 In case of a written protest against a proposed amendment, filed with the Board of Selectmen and signed by the owners of twenty percent either of the area of the lots included in such proposed changes, or of those immediately adjacent in the rear thereof extending one hundred feet therefrom, or of those directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, such proposed amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Town Meeting.

ARTICLE XII

Section 1200. General Provisions

1200.1 Continuation of Non-conforming Use.

A. Any lawful building or use of a building or property in existence at the time of passage of this ordinance shall be continued, except that if such use shall cease to exist for a period of twelve consecutive months, such use may not again be initiated provided however, that the Zoning Board of Adjustment shall grant a special exception to the provisions of this section to allow the resumption of a non-conforming use by the person or his heirs, or the corporation or its successors, who originally abandoned the said use on a showing by such proposed user as applicant of (a) undue hardship by reason of non-adaptability of the premises to a conforming use, or (b) that the proposed non-conforming use will not be conducted within one hundred (100) feet of any other owner's conforming use of land or buildings.

B. For the purpose of this ordinance, vacant land or buildings shall be deemed to be conforming in use.

C. Any lawful building or use of a building or property, whether conforming or not, in existence for six consecutive months and not challenged by proper authority shall be deemed, for the purpose of this ordinance, to have been in existence at the time of passage of this ordinance.

1200.2 Restoration. Nothing herein shall prevent the substantial restoration within one year and continued non-conforming use of a building damaged by fire or other casualty, provided that, in case of damage to a building non-conforming in use, location or structure, to an extent that the estimated cost of such restoration exceeds 75 percent of its fair valuation immediately prior to such damage, authorization of the Board of Adjustment must be obtained for such restoration.

1200.2A Dead Storage of Mobile Homes, Travel Trailers and Camper Trailers.
For the purpose of this ordinance, land in any use district may be used for the dead storage and parking of mobile homes, travel trailers and camper trailers, subject to compliance with the following minimum requirements:

1. Not more than one (1) mobile home or one (1) travel trailer or one (1) camper trailer shall be stored or parked at any time on any lawful building lot in any Land Use District. The foregoing shall apply to all building lots, residential or otherwise.
2. Any mobile home, travel trailer or camper trailer shall be stored or parked in such a manner as to fully comply with the provisions governing the location of buildings and structures for accessory use of the respective use districts in which they are located.
3. Any mobile home, travel trailer or camper trailer stored or parked under the provisions of this ordinance shall:
 - (a) remain on its own wheels and not be affixed to the land.
 - (b) Not be occupied, lived in or used as a dwelling.
 - (c) Not be connected to any utility, public or private, such as water, sewer, electricity or gas.

1200.3 Governmental Use. Nothing herein shall prevent the use or condemnation of land or buildings for (a) municipal use by the Town of Durham, or (b) public or institutional use by any agency, department, institution, or public corporation of the State of New Hampshire or of the United States.

1200.3A. Signs and Utility Structures:

A. The purpose and intent of this section is to provide control of the erection, installation, and maintenance of signs, vending machines, awnings, marquees, canopies, public time pieces and thermometers for the purpose of uniformity with aesthetic values and for the convenience, comfort, prosperity and the general welfare of the Town of Durham and its inhabitants.

B. Definition of Terms:

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

Accessory Signs - Any sign relating to business on the premises on which the sign is located.

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

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

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

Combination Signs - Any sign which combines the characteristics of two or more types of signs.

Curb Level - The elevation of the street curb as established in accordance with an ordinance.

Curb Line - The vertical plane of the street side of a curb.

Flashing Signs - Any sign that moves or flashes or contains traveling lights or gives the impression of any movement or flashing.

Ground Signs - Any sign supported by uprights or braces or cables placed upon the ground and not attached to any public building.

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

Illuminated Signs - Any sign that is lighted by electricity either directly or indirectly.

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

Neon - Any tubular gas filled light or lighting device.

Neon Signs - Any lighted sign using exposed neon tubes for illumination or display.

Non-accessory Signs - Any sign advertising business or businesses at other locations.

Private Directional Signs - Those signs of a permanent nature that direct the traveling public to specific buildings, areas, people or things.

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

Public Clocks and Thermometers - Any time piece or thermometer erected upon a standard upon the sidewalk or ground or on the exterior of a building or structure for the convenience of the public.

Pylon or Pole Signs - A sign supported by or suspended from a free-standing column or columns of structural steel, pipe, or poles.

Roof Signs - Any sign erected, constructed, or maintained wholly upon or over the roof of any building with the principal support on the roof structure.

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

Size of Sign - The exposed surface area in square feet.

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

Street Line - The line dividing a lot from a street right of way.

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

Vending Machines - Any automatically or semi-automatically operated machine for the purpose of dispensing goods or merchandise, excluding telephone booths.

Wall Sign - Any sign attached to the front, rear, or side walls of any building or other structure with the exposed face of the sign in a plane approximately parallel to the plane of the wall.

C. General Provisions:

1. Application. Application for an erection or replacement permit shall be made in writing to the building inspector for all signs in excess of six (6) square feet surface area, vending machines, awnings, marquees,

canopies, public timepieces, and thermometers, and such application shall contain the following information:

- (a) name, address, and telephone number of applicant.
 - (b) location and position of proposed sign or structure.
 - (c) plans or drawings with specifications.
 - (d) written consent of owner of building or land.
 - (e) such other information as the building inspector may require.
2. Number and Size of Signs. The number and size limitations of this zoning ordinance are incorporated herein by reference. See Article IV, Section 400.2(e); Article V, Section 500.2(d); Article VI, Section 600.2(b), and Article VII, Section 700.4(f).
 3. Inspection. The owner of any sign shall inspect annually each sign belonging to him and it shall be the duty of said owner to keep his sign(s) in good repair and in good appearance at all times. The owner of any clock or thermometer displayed for the public convenience shall keep it in working order and reasonably accurate.
 4. All signs shall be prohibited within public rights-of-way areas except as provided in paragraph #14, and except traffic control devices and directional signs deemed essential for the public welfare and safety authorized by municipal and state agencies.
 5. No sign shall be placed in such a position as to endanger, obscure, or confuse or otherwise create a hazardous condition to motor vehicles, persons or property.
 6. Signs may be illuminated only by continuous indirect light sources so placed that they will not constitute a hazard to street or highway driving by glare.
 7. No flashing or animated signs, or signs with visible moving parts or intermittent lighting to create the visual effect of movement shall be permitted in other than Class B Business District.
 8. No neon signs shall be allowed in any district.
 9. Signs shall refer only to a use or activity carried on on the lot upon which they are situated, except that a limited number of signs, each sign not exceeding two square feet in area on each of two sides and intended solely to provide directional information may be permitted by the Selectmen for a limited period of time.
 10. No roof sign shall project more than three (3) feet above the average roof or parapet line of adjacent buildings.
 11. Size of Roof, Wall or Parapet Signs. In the Class A Business District, no sign shall exceed forty-eight (48) square feet in size, but in no case shall the total surface area of any sign exceed ten (10) percent of the area of the building face upon which the sign is to be attached. In the Class B Business District the cumulative area of all such signs on any one lot shall not exceed ninety-six (96) square feet in size.
 12. Certain Temporary Signs Permitted. One temporary sign such as used by real estate agents, contractors, architects, painters, or other artisans may be permitted, provided: It is unlighted, that it sets back at least one-half the required depth of the front yard, that it shall not exceed twelve (12) square feet in surface area, and that it maintains proper appearance. The Building Inspector or the Selectmen may permit temporary display of large banners, flags and other temporary signs not exceeding one hundred (100) square feet in size for periods of not more than two weeks each upon such terms as he or they specify, provided the same are a reasonable and non-hazardous use.

13. Signs shall be constructed of durable materials and shall be maintained in good condition and repair. Where by reason of neglect a sign becomes hazardous, unsightly, or otherwise tends to depreciate its surroundings the same shall constitute a public nuisance.
14. Within the Class A and Class B Business Districts only one (1) accessory projecting sign shall be permitted for each business establishment, except for such signs required by State or Federal regulations; it shall not project horizontally in excess of six (6) feet nor beyond the curb line, whichever is less; it shall be erected at a height of not less than eight (8) feet above the sidewalk or ground level; and it shall not exceed twenty (20) square feet in surface area, and, provided further that it is approved as a reasonable and non-hazardous use by the Building Inspector.
15. Within the Class B Business District one (1) accessory pole sign is permitted for automobile service establishments provided: it shall not exceed forty (40) square feet on each exposed surface area; any portion of such pole sign shall be set back at least fifteen (15) feet from any street or side lot line; it shall be erected in such a manner that no portion of it shall be more than twenty-five (25) feet above ground elevation at its base, and, provided further that it is approved as a reasonable and non-hazardous use by the Building Inspector.
16. Nonconforming Signs. Any sign, vending machine, marquee, canopy, public time piece, or thermometer, or other such structure not conforming to the terms of this amendment shall be allowed to continue non-conforming until such sign or structure must be replaced for any reason.
17. Removal of Certain Signs. Any snipe sign, or any other sign of any kind now or hereafter existing which no longer advertises a bona fide business conducted, or product sold on the premises concerned, shall be removed by the owner, agent, or person having the beneficial use of the building or property upon which the sign may be located within fourteen (14) days after written notification from the Building Inspector; otherwise the same shall thereby constitute a public nuisance.
18. Glass Requirements. Any glass forming a part of a sign shall be of safety glass and in case any single piece or pane of glass has an area of more than three (3) square feet, it shall be constructed of wired glass securely held in place.
19. Wind Pressure and Dead Load. All signs shall be so constructed as to withstand wind pressure of twenty-five (25) pounds per square foot of surface area and a dead load of not less than ten (10) times the square foot surface area measured in pounds.
20. Obstructions to Doors and Windows. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape.
21. Marquees. No marquee shall be erected unless designed by a structural engineer and approved as a reasonable and non-hazardous use by the building inspector; it may extend over the sidewalk across to the curb line of the street provided it has a minimum height above the sidewalk of ten (10) feet above the curb level; it shall not itself exceed an additional five (5) feet in height; it must be able to support a live load of not less than one hundred (100) pounds per square foot; any sign attached to or hung from a marquee shall fully comply with this amendment.

22. Canopies. Canopies may be constructed of cloth or metal hood, provided however all frames and supports shall be of metal; the lowest portion of any canopy shall be not less than eight (8) feet above the level of the sidewalk or public thoroughfare; they must be designed by a structural engineer and be approved as a reasonable and non-hazardous use by the Building Inspector.
23. Awnings. Awnings may be constructed of cloth or metal, provided however all frames and supports shall be of metal; the lowest portion thereof shall be not less than seven (7) feet above the level of the sidewalk; it may extend beyond the street line but not nearer than eighteen (18) inches to the curb line; they must be approved as a reasonable and non-hazardous use by the Building Inspector.
24. Vending Machines. No vending machine shall be permitted on the exterior surface of any building or structure, or on any sidewalk or thoroughfare except within the Class B Business District.

D. Enforcement. It shall be the duty of the Selectmen upon notification by the Building Inspector of any violation of the provisions of this section to notify the violator and/or building owner of such condition in writing, and if such condition is not corrected in five (5) days from the date of notification the Selectmen shall take legal action to have removed immediately the sign, vending machine, awning, marquee, canopy, public time piece, thermometer, structure, or machine. The owner shall be liable for any costs incurred for such removal. Any such use in violation hereof, after such notice duly given, is hereby declared to be a public nuisance (as is any other use or violation which is otherwise hereby declared to be such a public nuisance), and the Selectmen are authorized to abate the violation by application for injunction or other lawful means. Nothing herein shall prevent the Selectmen from causing prosecutions to be had for violations to obtain or impose fines for such violations, either as supplemental or alternative corrective action.

E. Penalties. Any person violating any of the provisions of Section 1200.3A shall be subject to the penalties as provided by section 1200.5A, except that the fine shall be limited to a maximum of \$10.00.

F. Appeal. Any person aggrieved by a decision taken under Section 1200.3A shall have the right to appeal the making of said decision to the Zoning Board of Adjustment, as provided in Article X of the Zoning Ordinance.

G. Separability. If any section, subsection, sentence, clause, phrase or portion of this amendment is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

1200.4 Interpretation.

A. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare of the Town of Durham and its citizens.

B. Whenever the provisions of this ordinance or any other lawful regulations made under the authority of Chapter 51, Sections 50-71, of the Revised Laws of New Hampshire and amendments thereto, shall conflict, or shall differ from those

prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

1200.5 Penalties.

A. For any and every violation of the provisions of this ordinance, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the architect, builder, or any other person who knowingly commits, takes part of assists in any such violation, shall be liable on conviction thereof to a fine or penalty not exceeding \$25.000 for each and every offense and whenever such person shall have been notified by the Board of Selectmen, or by service of summons in a prosecution, or in any other way that he is committing such violation of this ordinance, each day that he shall continue such violation after such notification, shall constitute a separate offense punishable by a like fine or penalty. Such fines or penalties shall be collected as like fines or penalties are now by law collected.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the Board of Selectmen, in addition to other remedies may institute any appropriate action or proceedings to prevent such unlawful action, to restrain, correct or abate such violation or to prevent the occupancy of the building, structure or land, or any illegal act or use in or about such premises.

1200.6 Nuisance Uses. No land in any district shall be used for a dump, except as provided under Section 1200.3, above, or a place for refuse, waste, or junk of any kind, nor for abandoned automobiles, carriages, or other vehicles, machinery or other tools or appliances, nor used in any manner that is disorderly, unsightly, noxious, offensive or detrimental to the public, or the owners or occupants of adjacent property, or prejudicial to the general welfare of the community, without the approval, in writing, of the Board of Adjustment upon such conditions as they may determine.

1200.7 Saving Clause. Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.

1200.8 Effective Date. This ordinance shall take effect immediately upon its passage.

Date Passed: March 11, 1952

Date Revised and Amended: March 11, 1958

March 12, 1963

March 14, 1967

March 12, 1968

BUILDING REGULATIONS

TOWN OF

DURHAM, NEW HAMPSHIRE

Preamble

Pursuant to the authority vested in the towns by Chapter 156, Sections 1-5, New Hampshire Revised Statutes Annotated, 1955, and to provide for safety, health, and public welfare through structural strength and stability, and protection to life and property from fire and hazards incident to the design, construction, alteration of buildings and structures in the Town of Durham, the following ordinance is hereby enacted by the voters of the Town of Durham, New Hampshire, in official Town Meeting convened, March 11, 1958.

ARTICLE I

Section 10. Title, Purpose, Scope

10.1 Title. This article of the ordinance shall be known and may be cited as "the Building Regulations."

10.2 Purpose of the Building Regulations. The purpose of these regulations is to provide for safety, health and public welfare through structural strength and stability, means of egress, adequate light and ventilation and protection to life and property from fire and hazards incident to the design, construction, alteration, removal or demolition of buildings and structures.

10.3 Scope of the Building Regulations. The provisions of the building regulations apply to the construction, alteration, equipment, use, occupancy, and maintenance of buildings and structures and to appurtenances such as areaways and street encroachments, hereafter erected and where expressly stated, existing on land or over water and to buildings and structures and equipment for the operation thereof hereafter moved or demolished in the town. The provisions of the building regulations, based on occupancy, also apply to conversions of existing buildings and structures or portions thereof from one occupancy classification to another.

10.4 Validity of other laws. Nothing in these building regulations shall be construed to prevent the enforcement of other portions of these ordinances or state law which prescribe more restrictive limitations. The invalidity of any section or provision of this ordinance or these building regulations hereby adopted shall not invalidate other sections or provisions thereof.

10.5 Materials and methods of construction. Nothing in these building regulations shall be construed to prevent the use of any material or method of construction whether or not specifically provided for in these building regulations if, upon presentation of plans, methods of analysis, test data, or other necessary information to the building inspector by the interested person or persons, the building inspector is satisfied that the proposed material or method of construction complies with specific provisions of or conforms to the intent of this article.

Section 11. Unsafe Buildings and Structures

11.1 Removal or made safe. When a building or structure or any portion thereof is found unsafe upon inspection by the building inspector, he shall order such building or structure or any portion thereof to be made safe or taken down and removed. The term unsafe building or structure or portion thereof shall include

buildings or structures or portions thereof structurally unsafe, unstable, unsanitary, inadequately provided with exit facilities, constituting a fire hazard, unsuitable or improper for the use or occupancy to which they are put, constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment, or otherwise dangerous to life and property.

11.2 Demolition of buildings. Any building or structure that is damaged by fire or other cause in excess of 75 percent shall be either rebuilt or demolished within a period of one year, following such damage. Demolition includes removal from the premises of all debris and parts of the structure above the foundation.

Section 12. Violations

12.1 Notice of violations. Whenever the building inspector is satisfied that a building or structure, or any work in connection therewith, the erection, construction or alteration, execution of which is regulated, permitted or forbidden by these building regulations, is being erected, constructed, or altered, in violation of the provisions or requirements of these building regulations, or in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, he shall serve a written notice or order upon the person responsible directing discontinuance of such illegal action and the remedying of this condition that is in violation of the provisions or requirements of these building regulations.

12.2 Disregard of violation notices. In case a violation notice or order is not properly complied with, the building inspector shall notify the selectmen of such non-compliance. The selectmen upon receipt of such notice shall institute an appropriate action.

12.3 Stopping work. Whenever in the opinion of the building inspector, by reason of defective or illegal work in violation of a provision or requirement of these building regulations, the continuance of a building operation is contrary to public welfare, he shall order, in writing, all further work to be stopped and may require suspension of all work until the condition in violation has been corrected.

Section 13. Penalties

13.1 Non-compliance. A person who shall violate a provision of these building regulations or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter or repair, or have erected, constructed, altered or repaired a building or structure or portion thereof, in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor punishable by a fine of not less than \$10 nor more than \$100.

Section 14. Provision for Appeals

14.1 Appeals. Any person aggrieved, or any town official, may take an appeal to the Zoning Board of Adjustment from any decision of the building inspector, as provided in Article X of the Zoning Ordinance.

Section 15. Building Regulations

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15.1 Assembly occupancy. Any building intended, designed, or converted to the use of public assembly for more than 50 persons, lying within the Fire District shall be built, or if rebuilt, reconstructed of noncombustible walls and roof.

Buildings intended, designed, or converted to the use for public assembly outside the Fire District, may be built of wood frame construction with a fire resistant roof covering, provided the height does not exceed 2-1/2 stories and provided further than the minimum clearance between adjacent wood frame buildings be not less than 20 feet.

15.2 Business buildings. No buildings intended or designed to be used for business, commercial, mercantile or other public use shall be erected, altered or used for any purpose which does not provide noncombustible exterior walls. The interior walls which serve to separate or divide the building into units for different tenants or use shall be constructed in a manner to furnish a fire rating of one hour or more, as defined and described in the National Building Code and as approved by the National Board of Fire Underwriters.

Buildings for the above use may be built of wood frame construction in the Fire District, provided the restrictions set forth in Sections 30.3 and 30.4 of the Fire District requirements are met.

15.3 Exits. No building intended or designed for any public use or congregation of people shall be erected, altered, or used for any purpose which does not provide adequate exits and methods of egress as described in Chapter 176, Revised Laws of New Hampshire and Chapter 153, Laws of 1943, and in the regulations of the State Department of Health.

15.4 Garages. No public garage for the storage of five or more automobiles, or having any service or repair enterprises connected therewith shall be erected, altered, or enlarged unless the building is so constructed, or the proposed alterations, enlargements or extensions shall be of slow-burning or noncombustible material, except that use of automatic sprinklers may obviate the use of such slow-burning or non-combustible materials.

15.5 Fire and draft stops. No building of wood or other combustible material shall be erected, altered, remodeled, or enlarged without providing fire-stops in every combustible wall or partition, at every floor and between floor joints at every partition, and draft stops around any shaft, or pipe passing through walls, floors, or ceilings. The open air spaces around chimneys, fireplaces and flues shall be blocked with noncombustible material.

15.6 Chimney construction. No chimney shall be built, erected, or altered below the roof unless it contains a tile or brick lining and with an iron clean-out door at or near its base, and shall extend at least two feet above the roof. No chimney shall be built, erected or altered below the roof having wood or other combustible materials within two inches of the chimney and no chimney shall have its base resting upon any floor or beam of combustible material.

15.7 Thimbles. No wall paper or other combustible material shall be laid over any thimble or thimble hole in any chimney.

15.8 Smoke pipes. No smoke pipes shall be installed or erected so as to be within twelve inches of any combustible floor or ceiling, unless amply protected with noncombustible material. No smoke pipes shall be installed or erected which pass into or through partitions or walls of combustible material, except when guarded by a double collar of metal with vented air space of at least five inches, or by at least five inches of brick or other non-combustible material between the pipe and the combustible material.

15.9 Electric wiring. All electrical wiring shall conform with approved methods and practices for safety to life and property. Compliance with the National Electrical Code, as published by the National Board of Underwriters, shall be prima facie evidence of such approved methods and practices.

15.10 Foundations. All structures shall be set on solid, continuous foundations of concrete, brick, stone or other acceptable masonry material having a minimum thickness of 6 inches and resting on a footing at least 12 inches wide, the base of which shall extend below the ground at the building line to a minimum depth of 3 feet or to solid rock whichever is less, except that in special cases where buildings are used for seasonal dwelling or accessory use only, the building inspector may waive the requirements of this section and permit the use of wood, metal or masonry piers.

15.11 Height restriction. For the safety of life, the maximum height for any building above grade at the front building line shall not exceed the following:

- (a) In the fire District when the structure is built of noncombustible material and conforms to Class A or Class B as defined by the "National Board of Fire Underwriters," the height shall not exceed 75 feet.
- (b) In the Fire District when the structure is of wood frame construction and conforms to the set-back and clearance limitations set forth in Section 30.3 of the Fire District ordinance, the height shall not exceed 2-1/2 stories or 35 feet whichever is less.
- (c) In all other districts the maximum height of any building shall not exceed 2-1/2 stories or 35 feet, except that the maximum height restriction shall not apply to church steeples or accessory buildings or structures subject to the limitations for that District.

15.12 Fire escapes. Fire escapes shall be provided as required by State Law.

15.13 Minimum building area. Every dwelling unit to be used by a single family shall have a minimum floor area of 500 square feet.

15.14 Plumbing. All plumbing installations shall conform to the requirements of the Town Health Officer, the Town of Durham Water Department, and the General Regulations of the Durham Sewer Commission.

15.15 Sewerage. All dwellings and all commercial, public or industrial buildings shall be connected to the public sewer system, where available. The connection to the public sewers is subject to the provisions set forth in "General Regulations of the Durham Sewer Commission."

15.16 Septic Tanks. When a public sewer is not available a private sewage disposal system shall be installed on the lot subject to the following requirements:

- (a) The minimum capacity of any septic tank shall be 750 gallons for a two-bedroom or less house, 900 gallons for a three-bedroom house, 1000 gallons for a four-bedroom house, and 250 gallons for each additional bedroom.
- (b) The drainage field for each septic tank shall have an adequate area and satisfy the requirements of the State Board of Health, the Town Health Officer and the Building Inspector.
- (c) Before any building permit is issued for a building where a septic tank is to be installed, the owner shall have a Standard Percolation Test made. Based on the results of this test the building inspector and health officer shall approve the size and type drainage field to be provided.
- (d) No building permit shall be issued by the building inspector when the use of a septic tank is proposed until the health officer has approved such use and signed the permit.
- (e) No burial of the sewerage system, including the absorption bed, shall be completed until inspected by the Health Officer and the Building Inspector. A fee of \$15.00, payable to the Town, will be assessed for this inspection and a certificate of on site inspection shall be issued to the property owner, signed by the Health Officer and the Building Inspector.

15.17 Street encroachments. No building or part thereof shall extend beyond the street line except as hereinafter provided.

15.18 Permissible projections.

- (a) Main cornices, mouldings, belts, the eaves of roofs and gutters may project no more than 12 inches over the street line, providing such projections are not less than 12 feet above curb or sidewalk level.
- (b) Marquees at entrances to buildings or structures may extend beyond the street lines and across the sidewalk to the curb line, provided they are not less than 10 feet above the curb level at all points, and, within the fire limits, are constructed of iron and glass or other noncombustible materials. They shall be securely supported from the building or structure and shall be properly drained.
- (c) Awnings attached to buildings or structures may extend beyond the street line but not nearer than 18 inches to the curb line, provided that they are not less than 8 feet above the sidewalk at all points.
- (d) Areaways may project beyond the building line not more than 4 feet, provided that every such areaway shall be covered over at the sidewalk level by a grating of approved noncombustible material.
- (e) No device for exhausting air, fumes or vapor of any nature shall be permitted on the front of a building unless it be placed at least 12 feet above sidewalk level.

15.19 Walls.

- (a) No exterior covering of tar paper or other treated paper shall be permitted on any building used as a dwelling, place of assembly or for any public use. Accessory buildings when placed in the rear yard and separated at least 20 feet from any adjacent building are excluded from this requirement.

- (b) In multifamily dwellings, each individual unit shall be separated and protected by interior walls having a fire rating of one hour or greater as defined and described in National Building Code and as approved by the National Board of Fire Underwriters.

Section 10. Conforming Buildings

16.1 Any building or structure in existence and in use at the time of the adoption of this Article shall be deemed to be in conforming use.

ARTICLE II

Section 20. Definitions

Definitions of Terms

(a) Unless otherwise expressly stated, the following terms shall, for the purpose of this ordinance, have the meanings indicated in this section.

(b) Words used in the present tense include the future; the singular number includes the plural and the plural the singular.

(c) Where terms are not defined in this section, they shall have their ordinary accepted meanings or such as the context may imply.

Accessory Building means a subordinate building, attached or unattached to the main building. For the purpose of this ordinance and its amendments, however, a garage or carport, attached directly to or by another structure to the main building, shall be regarded as an integral part of the main building.

Alley means any public thoroughfare less than 21 feet in width which has been legally dedicated or devoted to public use.

Alteration, as applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending a side or by increasing its height; or structural changes other than repairs, that would affect safety; or adding an elevator; or significant changes to the plumbing, gas piping, wiring, ventilating or heating installations. The term "alter" in its various moods and tenses and its participial forms, refers to the making of an alteration.

Apartment - see "Dwelling unit."

Attic means the space between the ceiling beams of the top habitable story and the roof rafters.

Areaway means an uncovered subsurface space adjacent to a building.

Automobile Service Station means a building designed or used primarily for the supply of motor fuel, oil, accessories and service or repair to motor vehicles.

Basement means a story of a building or structure having one-half or more of its clear height below grade. Also see "Story."

Brick means a solid masonry unit having a shape which approximates a rectangular prism, usually not larger than 12 by 4 by 4 inches. A brick may be made of burned clay or shale, of fire clay or mixtures thereof, of lime and sand, of cement and suitable aggregates, or of other approved materials.

Building means a structure, including all integral parts thereof, intended for use and occupation as a habitation, or for some purpose of assembly, business, manufacture, institutional, storage, ornamentation, or shelter to persons, animals or chattels.

Building Area means the maximum horizontal projected area of the building at or above grade excluding uncovered steps and terraces.

Building Line means the line, established by ordinance, beyond which a building shall not extend.

Building Inspector means the officer or other designated authority charged with the administration and enforcement of this ordinance or his duly authorized representative.

Club Lodgings means a building or accessory thereto used or adapted to use primarily as a meeting or lodging place occupied by a fraternal organization, club or voluntary corporation for the benefit of its members or members of a beneficiary recreational or social club, organization or association. For the purpose of this ordinance a collegiate social fraternity or sorority house shall be considered as a club lodging.

Clearance means the minimum horizontal distance from any property or lot line to the nearest point of any proposed or existing structure;

side clearance refers to the distance from the side lot line to a building.

rear clearance refers to the distance from the rear lot line to the building.

Concrete means a mixture of portland cement, aggregates and water;

reinforced concrete means concrete in which reinforcement other than that provided for shrinkage or temperature changes is embedded in such a manner that the two materials act together in resisting forces.

Court means an open, uncovered, unoccupied space on the same lot and fully enclosed on at least three adjacent sides by walls of the building;

inner court means any court other than an outer court or a yard;

outer court means a court other than a yard having at least one side thereof opening on to a street, alley or yard or other permanent open space.

Curb level means the elevation of the street curb as established in accordance with an ordinance.

District: A district includes all the land, water and buildings within certain designated boundaries, defined in Article I of this ordinance and shown on the Zoning Map which is incorporated as a part of this ordinance and the amendments thereto.

Dwelling: A building used as a habitation or parts thereof used for access to such building.

- (a) Single family dwelling means a building and accessories thereto used or adapted for use as a dwelling by one family.
- (b) Two family dwelling means a building and accessories thereto used or adapted for use as a dwelling by two families.
- (c) Multiple dwelling means a building and accessories thereto used or adapted for use as a dwelling by more than two families or by any unit or group other than a family as defined herein.
- (d) Seasonal dwelling means a dwelling used for a part of a year.
- (e) Dwelling unit means one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Elevator means a hoisting and lowering mechanism equipped with a car or platform which moves within guides in a substantially vertical direction, and which serves two or more floors of a building or structure.

Exit doorway means a doorway opening directly to the exterior, to a horizontal exit, to an exit stairway, or to a similar place of safety.

Family: One or more persons living together in a dwelling as a single non-profit housekeeping unit, as distinguished from a group or fraternal organization occupying a hotel, club lodging or rooming house.

Fire District, as applied to this ordinance, is defined to include the areas zoned as the Business A and B Districts.

Fire door means a door and its assembly, constructed and assembled in place, to give protection against the passage of fire.

Fire resistance rating means the time in hours that the material or construction will withstand the standard fire exposure as determined by a fire test made in conformity with the "Standard Methods of Fire Tests of Building Construction and Materials," ASTM E119.

Fire-resistive construction includes fire-resistive construction type A and type B, as defined by the National Board of Fire Underwriters in the National Building Code Art. VII, Sec. 700.

Foundations: For the purpose of this ordinance a foundation of a building or structure used for human habitation shall be defined as a continuous supporting wall of masonry, masonry units, concrete or other similar materials, the base of which is not less than 3 feet below the ground level at the building line.

Fire retardant ceiling means a ceiling used in a floor and ceiling construction that has a fire resistance rating of one hour or more.

Fire walls - see "Walls."

Fire window means a window and its assembly, constructed and assembled in place, to give protection against exposure fires.

Public garage is a building for which the primary use is the sale, storage, maintenance and repair of motor vehicles.

Private garage is an accessory building, joined or attached to or entirely separate from the main building, the primary use of which is the storage or parking of not more than three motor vehicles.

Carport means a roofed, wall-less or semi-walled shed, projecting from the side of a building or entirely separated therefrom, that is used primarily as a shelter for private automobiles.

Height as applied to a building, means the vertical distance from grade to the average elevation of the roof of the highest story; "height" of a building in stories does not include basements - see "Story";

Height, as applied to a wall, means the vertical distance to the top measured from the foundation wall, or from a girder or other immediate support of such wall;

Height, as applied to a story, means the vertical distance from top to top of two successive tiers of floor beams or finished floor surfaces.

Home industry means a business incidental to the occupancy of a dwelling and accessory building as a family unit, employing not more than one person outside the immediate family and operated by a member of the family occupying the dwelling.

Light industry is defined, for the purpose of this ordinance, on the basis of performance in terms of absence of objectionable noise, smoke, odor, dust, dirt, noxious gases, glare and heat; the creation of hazards to health and life by reason of fire hazard, effects of industrial wastes, psychological effects and generation of motor vehicle traffic.

Livestock means the horses, cattle, sheep and other useful animals kept or raised on a farm.

Lot means a parcel of land considered as a unit, occupied or intended to be occupied by a building or buildings, including the open spaces required in this ordinance. The lot area shall not include any part of a public right-of-way which it fronts or abuts.

Lot area means the area of the lot on which one building and its accessory buildings are located, provided that the area shall be measured to the street line only, and provided further that the portion of the lot farther back from the street line than the distance of four times the average width shall not be included in the lot area, unless the rear portion abuts a street line.

Lot depth is the mean distance from the front or street line to the extreme rear lot line measured on a line which is the mean direction of the side lot lines.

Lot line means a line dividing one lot from another, a street right-of-way or other public space.

Masonry means a built-up construction or combination of building units of such materials as clay, shale, concrete, glass, gypsum or stone set in mortar; or plain concrete.

Motel means a roadside hotel which provides lodging in one central building or in individual cabins for tourists and travelers and garaging or parking space for their motor vehicles.

Noncombustible, as applied to a building construction material, means a material which, in its usable form, will not ignite, burn or support combustion.

Noncombustible construction includes protected noncombustible construction and unprotected noncombustible construction.

Occupied, as applied to a building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied."

Occupancy means the use classification of a building structure or land.

Owner includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary, and a person having a vested or contingent interest in the property in question.

Pent house means an enclosed structure other than a roof structure, located on a roof, extending not more than twelve feet above it and used primarily for living or recreational accommodations.

Person includes corporation and copartnership as well as individual.

Place of assembly means a room or space used for assembly or educational occupancy for 100 or more occupants.

Plastic means a material that contains as an essential ingredient an organic substance of large molecular weight and which is solid in its finished state. At some stage in its manufacture or in its processing into finished articles it can be shaped by flow.

Plot plan is a drawing, satisfactory to the Selectmen, that shows the dimensions of the lot and the buildings proposed to be altered or erected, the setback, and the side and rear clearances. See Art. IX, Sec. 900.7 of Zoning Ordinance.

Prefabricated means fabricated prior to erection or installation on a building or structure foundation.

Repair means the replacement of existing work with equivalent materials for the purpose of its maintenance but it does not include additional work that would affect safety, the required exit facilities, or plumbing, gas piping, wiring, ventilating or heating installation.

Roof structure means a structure above the roof of any part of a building enclosing a stairway, tank, elevator machinery or service equipment, or such part of a shaft as extends above the roof. This definition does not apply to living or recreational accommodations.

Rooming House means a building other than a hotel where lodging is provided for more than five persons, with or without meals, for compensation.

Setback means the horizontal distance between the street line and the nearest part of any building on the lot, excluding uncovered steps and terraces.

Self-closing is applied to a fire door or other opening normally closed, equipped with an approved automatic device for closing after having been opened for use.

Shaft means a vertical opening or passage through two or more floors of a building or through floors and roof.

Sign means a structure that is arranged, intended, designed or used as an advertisement or announcement; this definition includes signs, sign screens, billboards and advertising devices of every kind, irrespective of size or area.

Sprinklered means equipped with an approved automatic sprinkler system.

Stairway means one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

Story means that part of a building comprised between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds 33-1/3 percent of the roof area of the floor immediately below. A pent house shall be considered a story if it exceeds 1,000 square feet or 33-1/3 percent of the roof area. The basement of a building used for educational occupancy shall be considered a story if it is used for purposes other than storage or heating.

Shore Front means that part of a lot that is bounded by tidal water and for the purpose of this ordinance this applies only to the lands abutting Oyster River, Little Bay and Great Bay, east of Newmarket Road.

Shore Front Measurement: The minimum shore front dimension shall be established by measuring along a straight line, perpendicular to either side line, said straight line shall be so located that the line does not include any tidal land beyond the mean low tide boundary. Where tidal creeks lie between the side lot lines, the minimum shore front dimensions shall be increased by the width of such creek.

Street means a public road, highway or thoroughfare having a right-of-way width of 50 or more feet, which constitutes or is designed to constitute, the main access to more than one lot and which has been legally dedicated and accepted for public use.

Street line is the line dividing a lot from a street right-of-way.

Structure means a combination of materials to form a construction that is safe and stable; including among others are: buildings, stadiums, tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, piers, wharves, sheds, coal bins, shelters, fences and display signs. The term structure shall be construed as though followed by the words "or part thereof."

Structural alteration means any change in the supporting or structural members of a building or structure, such as the bearing walls, supporting partitions, columns, beams, girders or roof frame.

Trailer is a non-automotive highway vehicle designed to afford living accommodations, whether supported on wheels, jacks, skids, wood blocks, posts or other form of non-continuous supports. A trailer set on a continuous supporting wall of masonry, masonry units, concrete or other similar material extending at least 3 feet below normal ground level shall be deemed to have an adequate foundation and said trailer shall be considered a building or dwelling within the terms of this ordinance.

Unit and Unit Areas: For the purpose of this ordinance, a unit is defined as the area of a building used as a dwelling by one person or a family. The minimum area of such a Unit shall be 200 square feet. The maximum area of a Unit shall not exceed 1000 square feet, where the number of the combined Units controls the area of the lot or front footage required. The foregoing maximum unit areas does not apply to single or two family dwellings.

Use of a Building means any and every use conducted within a building or accessory thereto.

Variance is an order by the Zoning Board of Adjustment issued pursuant to its discretionary power, in order that the spirit of the ordinance may be observed and substantial justice shall be done. The Board may waive a literal enforcement of the terms of the ordinance where such enforcement:

- (a) would result in unnecessary hardship, or
- (b) would not permit the continuance to the best advantage of a non-conforming use of land or buildings in existence at the time of the enactment of this ordinance.

Walls:

Bearing wall means a wall which supports a vertical load in addition to its own weight;

Fire wall means a wall constructed of masonry or other proved non-combustible material for the purpose of subdividing buildings to restrict the spread of fire;

Veneered wall means a wall having a facing of masonry or other material securely attached to the backing, but not bonded, so as to exert a common reaction under load.

Yard means an open unoccupied space surrounding a building in a lot.

(a) side yard means the required open space extending along the side of lot lines from the street line to the rear of the main building, except for a corner lot, where the side yard restriction of the adjacent lots shall apply.

(b) rear yard means the required open space extending across the whole width of the lot in the rear of the main building, except for a corner lot, where it is the area at the rear of the side yards.

ARTICLE III

Section 30. Fire District

30.1 The Fire District shall include all of the area contained within the Class A and Class B Business Districts, as defined and shown on the Zoning Map of Durham.

30.2 Buildings may be built in the fire district without set-back limitation from property lines, provided all exterior walls are constructed of: (a) solid concrete or masonry, (b) masonry veneer not less than 4 inches thick, (c) non-combustible veneer on a structural frame of wood, or metal protected by a material having a fire rating of not less than one hour.

30.3 Buildings of wood frame construction may be built in the fire district provided the set-back from the side and rear property lines is not less than 10 feet, or the minimum clearance to an adjacent wood frame building be not less than 20 feet.

30.4 Roof coverings shall be of a noncombustible material and the roofing material and construction shall meet the standards as established by the National Board of Fire Underwriters. In addition, for the buildings referred to in Section 30.2 the parapets, cornices, dormers, penthouses, or other construction features built onto or above the level of the main roof shall be covered with a noncombustible material.

30.5 Buildings may be extended or raised in the fire district, provided the requirements set forth in Section 30.2, 30.3, and 30.4 are met. Any building that is destroyed by fire to the extent of 75 percent, as adjudged by the State Fire Marshall, may be rebuilt provided it conforms to the provisions of this article.

30.6 Any building in existence in the fire district on the date of the adoption of this article shall be deemed to be in conforming use.

ARTICLE IV

Section 40. Administration

40.1 Duty and Authority: It shall be the duty of the Board of Selectmen, and the Board is hereby given the power and authority, to enforce the provisions of this Ordinance.

40.2 Administrative Official: The Board of Selectmen is hereby given the power and authority to appoint a Building Inspector and delegate to such Building Inspector the power and authority to administer this Ordinance.

40.3 General Administration: The general administration procedure of this Ordinance shall follow that outlined in detail in Article IX, Section 900 of the Zoning Ordinance, and reference being hereby made, that Article therefore becomes effective for the administration of the Building Regulations.

DURHAM WATER DEPARTMENT

TERMS AND CONDITIONS

The Durham Water Department will not guarantee an uninterrupted or unlimited full supply of water but will exercise due diligence to maintain proper, reasonable and adequate service.

The following Terms and Conditions are a part of the tariff and the delivery of water service is conditional upon their acceptance.

TERMS AND CONDITIONS

(1) All applications for the taking of water must be made at the Water Department Office, in the prescribed form, and signed by the owner of the property or his duly authorized agent.

(2) On all streets and thoroughfares serviced by the water main, all costs incident to new service installations from the main to the building or meter shall be borne by the property owner, including all labor and materials required and costs of excavation and backfill. The entire installation shall be made in accordance with specifications prescribed by the Water Department and subject to the strict supervision and inspection of the Water Department or its authorized representative.

That portion of the installation from the main to and including the curb stop shall become the property of and shall be maintained by the Water Department.

That portion of the installation from the curb stop to the building or meter shall remain the property of and shall be maintained by the property owner in a condition satisfactory to the Water Department.

Necessary meters will be furnished by and remain the property of the Water Department.

(3) All service pipes shall be of a size determined to be adequate by the Water Department, but in no event less than 3/4" in diameter, and shall be of wrought iron, Type K underground copper tubing, or other material satisfactory to the Water Department.

(4) No alterations in any water piping or fixtures whereby the consumption of water shall be increased shall be made without the knowledge of the Water Department. Property owners desirous of employing any person or persons other than the Water Department employees to make additions to, repairs, or alterations in any service line shall notify the Water Department prior to beginning any such work.

(5) No person except with the authorization of the Water Department, shall tap any water main or connect any service pipe to such main, nor shall any unauthorized person turn on or shut off the water from any water main.

(6) No person except firemen in the actual discharge of their duty, employees of the Water Department and the Superintendent of Properties of the University of New Hampshire or his authorized agent for purposes of test, shall open any hydrant without the consent of the Water Department. Except in cases of actual emergency, the Water Department should be notified when any such action is contemplated.

(7) In the event that a customer fails to receive an adequate supply of water through his service pipe, proof shall be furnished satisfactory to the Water Department that the portion within his own premises as far as the curb stop is in a satisfactory condition and free of any obstruction before any opening of the street is made by the Water Department.

(8) Should the water be shut off at the request of the property owner, tenant, or agent of either, or for cause, a fee of three dollars shall be collected for turning on the water again.

(9) The members of the Board of Selectmen, or their agent or authorized employees of the Water Department, shall have access to the premises of any customer between the hours of 8:00 a.m. and 6:00 p.m. for purposes of reading, testing or repairing meters, to examine pipes and fixtures and to maintain and repair existing water lines of the Water Department on private property.

(10) The Durham Water Department shall have the right to shut off water from any pipes without notice, to make repairs or additions of new work or installations or for other legitimate purposes. The Water Department will endeavor, however, to give reasonable notice in such cases.

(11) Any violations of the Terms and Conditions hereby established or failure on the part of any owner to pay any and all claims of the Water Department within 30 days after they are due and payable shall be considered sufficient cause for cutting off the supply of water to such owner. Five days after written notice has been given the water shall be turned off and the supply shall not be again turned on until all cause of complaint shall have been removed, and, in addition, the regular charge for turning on the water shall have been duly paid to the department. In all cases, the owner of the property will be held responsible for the payment of all Water Department bills against his premises, whether he is an occupant of the premises or not.

(12) No officer or employee of the Water Department has any authority to modify the Terms and Conditions unless specifically authorized by the Board of Selectmen.

(13) If the owner or his authorized agent requests the Water Department to do work he shall be required to make an advance payment, before any work is begun, of such an amount of money as in the judgement of the Water Department will reimburse the department for any and all expense incidental thereto for which the applicant is properly responsible. This regulation shall also apply to repairs of service piping and replacing and repair of meters in the event such replacement or repair is, in the judgement of the Water Department, due in any way to negligence on the part of the property owner. Should the advance payment be insufficient to cover the costs of the installation, or should the payment have been in excess, financial adjustment shall be made immediately upon completion of the work.

(14) Petition for extension of the main water pipe signed by the abutting property owners will be received and referred to the Durham Planning Board for recommendations. Approval of petitions will be subject to the following:

- (a) When in the judgement of the Board of Selectmen a sufficient number of property owners have signed the petition to justify the installation of the new main, the main will be authorized and construction

started as soon as feasible and the necessary funds are made available. The cost of the main in excess of \$220.00 per connection shall be prorated against all petitioners in direct ratio to the front footage of property of the petitioners.

- (b) The excess cost of extension as set forth in (a) above shall be payable in cash or in not more than 10 annual payments, subject to 5 percent annual interest charge on the balance due.
- (15) (a) Extensions of water services to new subdivisions will be made only after a study of the proposed subdivision has been made by the Durham Planning Board and their recommendations submitted to the Board of Selectmen.
- (b) Water mains in new subdivisions to be served by the Durham Water Department shall be installed by the subdivider at his expense according to specifications established by the Water Department. When such installations are made and are accepted, they are to become the property of the Durham Water Department.
- (c) When deemed by the Water Department a prudent investment, the cost of extension of present water mains to the entrance of the proposed subdivision will be borne by the Water Department to the extent of \$220.00 per connection guaranteed by the subdivider at the time of extension of Town mains, provided that all other costs will be met by the subdivider and further provided that the subdivider will be required to guarantee to the Durham Water Department for a period of ten years, in a manner satisfactory to the Water Department, the minimum annual water rental for the number of connections guaranteed at the time of extension or a quarterly fee equal to 3.2% of the total cost of extension of mains, whichever is the greater.
- (16) Meters will be read on a semi-annual basis and billing will be made according to a rate per cubic foot of water consumption. Current rate is on file at the office of the Board of Selectmen.
- (17) Bills for water consumed will be rendered semi-annually and are due and payable upon presentation.
- (18) The Durham Water Department reserves the right to amend or to add to these Terms and Conditions as experience may show to be necessary or advisable, and such changes shall be effective thirty days after publication.

Effective: January 1, 1951

Amended: 1963 (Paragraphs 16 and 17)

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SEWER ORDINANCE

TOWN OF

DURHAM, NEW HAMPSHIRE

SECTION I

Adoption of State Statutes

Pursuant to the provisions of P.L. 95; 3-18 as amended, adopted by the Town Meeting of March 14, 1939, now RSA: 252, the Selectmen do hereby enact an ordinance relating to the sewer system as follows:

SECTION II

General Regulations

A. Permission may be granted by the Durham Board of Selectmen to property owners in the Town of Durham, New Hampshire, to connect property to the town sewer if an application is made and an agreement executed in accordance with the provisions of these regulations.

B. A property owner seeking permission to connect his property to the town sewer must file an application on a form provided by the Selectmen. The application shall be executed in triplicate; when accepted, the original and duplicate will be retained by the Selectmen and the triplicate returned to the applicant.

C. Once the application is accepted by the Selectmen it shall bind the applicant, his heirs, administrators, successors and assigns to pay an entrance fee and to pay an annual operational and maintenance fee as provided by ordinance adopted by the Selectmen and subject to the following provisions:

- (1) Entrance fee; original service: The applicant for sewer service to his property shall pay an entrance fee per unit as determined by the Board of Selectmen from time to time. (Unit defined in Section II, C(4)). The entrance fee is due and payable to the Town of Durham upon connection of the property to the sewer main. In cases where the town sewer becomes available to properties served by septic tank or other private system the Selectmen may enter into an agreement with the property owner so that payment of the entrance fee may be spread over a period not to exceed two (2) years from date of notification that town sewer service is available to the property.
- (2) In case of loss of buildings by fire, demolition or other disaster no refund of entrance fee will be allowed. No entrance fee will be required, except as noted herein, when sewer service is restored to property previously having a sewer service connection to the sewer system. If payment of the original entrance fee was on an installment basis, payment of any balance due will be required. If the number of "units" as defined in section II, C (4) is increased an entrance fee will be required for each of the additional units.
- (3) Entrance fee funds are to be used by the Town in payment of interest and principal on Sewer Construction bonds and/or notes, or for new construction of main line or lateral extensions of the town sewer

system, or if no such debt exists they may be assigned to a capital reserve fund for these purposes.

(4) "Units" shall be determined by the character and use of the building or buildings on the property connected to the town sewer system as follows: so far as residential property is concerned, an apartment house shall be considered to consist of as many units as there are apartments, a multiple-family dwelling house shall be considered to consist of as many units as there are tenements, and a single-family dwelling shall be considered to consist of one unit. So far as public buildings, business houses, fraternities, sororities or other structures, the number of units shall be determined by the Selectmen using as the basis therefor the relationship of the quantity of sewage reasonably anticipated in connection with the building in question as compared with the sewage ordinarily handled for the average single-family dwelling, and having in mind the fact that a single-family dwelling is considered to consist of one unit. It is further provided that each such property shall be deemed to consist of a minimum of one (1) unit.

(5) In the event of any question arising out of the application of the definition of "unit" in subparagraph (4) hereof to the property of any applicant, the decision of the Selectmen shall be final and no application shall be accepted by them unless the charges set forth therein are fixed in accordance with the Selectmen's determination of "units."

D. Each application shall also contain an agreement which, once the application is accepted by the Selectmen, shall bind the applicant, his heirs, executors, administrators, successors and assigns to the following provisions and conditions:

- (1) In the event any changes are made in the character or use of the property covered by the original application, the sewer entrance fee shall be subject to increase by the Selectmen in an amount which will reflect the increase, if any, in units, as units are defined and determined by paragraphs C (4) and (5), Section II, hereof.
- (2) The sewer is to be used only for sanitary sewage and only for sewage connected with the property set out in the application. No surface or ground water drainage whether from floors, roads, land, or otherwise shall be permitted to enter said sewer. Exceptions shall be by application to or by direction of the Board of Selectmen. Sewer facilities of the property served shall be open to inspection by the Selectmen, their agents or representatives at any reasonable time.
- (3) The applicant shall build and maintain at his own expense the sewer line from the property served to the town sewer main.
- (4) The applicant shall submit to the Selectmen for their approval a plan or description of the private sewer line he proposes to build and connect to the town sewer main.

- Amended
- (5) The actual connection of the private sewer line to the town sewer main shall be made under the supervision and subject to the approval of the Selectmen, their agents or representatives.
 - (6) The minimum inside diameter size of pipe to be used shall be four (4) inches and the pipe shall run at a grade of not less than 1/8 inch per foot of length. Joints shall be watertight and of material which has the approval of the State Board of Health. No other lines, whether water, gas, electric, steam, telephone, or lines of any other nature shall be in the same trench with the sewer, and such other lines shall be separated by at least six (6) feet from the sewer line except as approved by the State Board of Health. Minimum depth of covering on the sewer line shall be subject to the approval of the Public Works Department. No back-filling of trench shall be made by the owner until the private sewer line has been inspected and approved by the Selectmen, their agents or representatives.

E. The Selectmen shall record in the Strafford County Registry of Deeds each application after it has been accepted by the Selectmen. The applicant will reimburse the Town for the fee involved.

F. Extension of Sewer Mains

- (1) A petition for an extension of a sewer main signed by the abutting property owners will be received by the Board of Selectmen and referred to the Sewer Policy Committee for recommendations.
- (2) Upon affirmative recommendation of the Sewer Policy Committee, construction of the extension will be authorized by the Board of Selectmen as soon as the necessary funds are available and conditions feasible.
- (3) Extension of a sewer main to a new subdivision may be made only after a study of the proposed subdivision has been made by the Durham Planning Board and Sewer Policy Committee and their recommendations submitted to the Board of Selectmen. Upon affirmative recommendation of the Sewer Policy Committee, construction will be authorized by the Board of Selectmen as soon as the necessary funds are available and conditions feasible.
- (4) Sewer mains shall be installed in a new subdivision within the area served by the Durham sewer system by a subdivider at his own expense in a manner acceptable to the Planning Board, Sewer Policy Committee and the final judgment of the Board of Selectmen. When such installation has been made and accepted by the Board of Selectmen, the subdivision may be connected to the Town system. The sewer mains shall become the property of the Durham sewer system and will be maintained by the Town.
- (5) Entrance fees shall be paid by all new connections to the sewer system as provided in Section II, C (1).
- (6) Section II, F (1) through (5) shall not apply to property or areas owned by the University of New Hampshire except when such property is proposed, planned and disposed of for housing or other usage so

that the property becomes private with the Town assuming responsibility for roads and utilities according to the municipal rules and regulations. Extension of sewer mains within property owned by the University will rest solely with University officials and may be connected to the Town sewer system under authority of the agreement with the Town dated December 21, 1964, or as it may be amended.

SECTION III

Operational Regulations

Relating to financing, management, operation and repair of the sewer system including the pumping station, treatment plant and collecting lines or other appurtenant structures pertaining thereto.

A. Sewer rent. Each owner of property connected to the Town sewer system shall pay a sewer rental charge in proportion to his use of the system for the purpose of defraying the cost of management, maintenance, operation, construction, replacement and repair of Town sewers and sewer systems, including treatment and disposal works and for the payment of the interest and principal of any debt incurred to pay such costs. Sewer rents shall not be used to defray costs of new main line and service extensions.

B. Sewer rental income shall go into Town treasury. The income from sewer rents shall be paid into the Town treasury and shall be kept and applied upon order of the Selectmen exclusively for the purposes set forth in Section III, A, and shall be kept as a separate and distinct fund and shall be known as the Sewer Operational and Maintenance Fund. The Town treasurer is hereby authorized at his discretion to deposit any present or future surplus income from sewer rents in commercial and/or savings accounts and withdraw or transfer the same for proper purposes as is deemed expedient. The treasurer's bond shall cover the Sewer Operational and Maintenance Fund as in the case of all Town funds.

C. Who shall pay sewer rents. Sewer rents shall be paid by the owner or owners of real estate connected by sewer drain with the Town sewer system. Service to the University of New Hampshire properties is by negotiated agreement between the Selectmen and proper University officials.

D. Basis of payment. Sewer rents shall be paid as follows:

- (1) Properties obtaining water from the University-Town water system: upon the metered consumption of water.
- (2) Properties with private water supply: upon the consumption of water shown by a meter supplied, installed and maintained by the Sewer Department.
- (3) Properties with public and private water supply: upon the sum of two meter readings, one showing the amount of water taken from the public supply and the other showing the amount of water taken from the private supply. The second meter will be supplied, installed and maintained by the Sewer Department.

- (4) Special meters: any owner may request the installation on his premises by the Sewer Department, at his own expense, a meter to measure the amount of water used on the premises which does not enter the sewerage system and an adjustment of the rent shall be made based on this metered use. An annual meter fee of \$4.00 shall be paid to the Sewer Department by the owner of the property for this special meter.
- (5) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
 - (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
 - (3) Any waters or wastes having a pH lower than (5.5), or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of sewage works.
 - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (6) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Selectmen that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Selectmen will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150)°F (65°C).
 - (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150)°F (0 and 65°C).
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Selectmen.

- (4) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (7) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section B of this Article, and which in the judgment of the Selectmen, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Selectmen may:
 - (1) Reject the wastes,
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers,
 - (3) Require control over the quantities and rates of discharge, and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

If the Selectmen permit the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Selectmen, and subject to the requirements of all applicable codes, ordinances, and laws.

- (8) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Selectmen, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Selectmen, and shall be located as to be readily and easily accessible for cleaning and inspection.

E. The sewer rental charge. Monies for the Sewer Operational and Maintenance Fund (Section III, B) shall be raised as follows:

- (1) The Selectmen shall prepare and after review by the Sewer Policy Committee, adopt annually in the month of December a Sewer Department Operational and Maintenance Budget for the ensuing calendar year.
- (2) The Selectmen shall review annually in December with the proper University of New Hampshire officials the University's use of the sewer system and determine the proportion of the Operational and Maintenance Budget that shall be paid by the University. This proportion shall be based upon the agreement between the Town and the University dated December 21, 1964, or as amended.
- (3) The Selectmen shall annually in January determine the sewer rental rate in terms of a charge per cubic foot of metered water draining

into the sewer system and defined in Section III, D (1) through (4). Said rate to be sufficient with other available funds to meet the estimated expenses of the Sewer Department Operational and Maintenance budget, Section III, E (1) and (2).

- (4) Sewer rent charge shall be levied at the rate determined in Section III, E (3) per cubic foot of water passing through the water meter or meters of each property owner as read by the Town Water Department. All meters that may be installed as provided in this ordinance shall be made available for reading and checking by the Superintendent of Public Works or his representative during usual working-day periods. The Town of Durham Sewer Department shall not be responsible for installation, maintenance or reading of meters on University of New Hampshire property. All meter readings will be made on or about April 1 and October 1 each year.

F. Notice of charge. Notice of the charge for sewer rent shall be given to the owner or owners of real estate chargeable therefor by mailing to them at the end of each six months, April 30 and October 31, each year, a statement setting forth the total amount then due and payable.

G. Rules for collection. The following rules and regulations shall apply to the collection of sewer rents:

- (1) Sewer rents are due and payable on May 1 and November 1 at the Durham tax collector's office.
- (2) Remittances by mail are at the risk of the sender, and should be accompanied by a stamped envelope properly addressed if return receipt is desired.
- (3) In case of a meter stopping or failing to register, the quantity of water used shall be estimated as the average semi-annual amount which ordinarily passes through the meter when the meter is in operation.
- (4) Any request for meter test made to the water works department shall be accompanied by a deposit of \$5.00, which deposit shall be retained if the meter test shows the meter to be registering properly. If, however, the meter test shows the meter to be registering improperly the \$5.00 deposit will be returned to the applicant and whatever financial adjustment the Selectmen deem advisable shall be made.

H. All charges for sewer rents shall become a lien upon real estate served by the Town sewerage system in accordance with the terms of said Chapter 252, RSA. Interest at 6 percent will be added to sewer rent accounts not paid thirty (30) days after statements are rendered.

I. Upon petition to the Selectmen not later than sixty (60) days after the sewer rent is due and payable, the Selectmen may, for good cause shown, abate in whole or in part any sewer rent.

J. No person, firm or corporation shall do any act or commit any deed to obstruct or interfere with proper measuring of water draining into the system, nor permit roof, cellar or floor drains or other "outside" water source to enter the sewer system on his premises.

K. Any person, firm or corporation violating the provisions of Section III, J, of this ordinance shall be fined not more than ten dollars (\$10.00) for each day of neglect or refusal to remove the obstruction or interference, provided however, said penalty shall not be imposed until after written notice has been given by certified mail to the person, firm or corporation charged with violating the provisions of said Section III, J.

L. If any provision of this ordinance or the application thereof to any person, firm or corporation, or circumstance is held invalid, the remainder of the ordinance and the application of such provision to person or circumstance, other than those to which it is held invalid, shall not be affected thereby.

M. This ordinance shall be effective on its passage and the first charge for sewer rent shall be made and notice given on or about April 30, 1966.

N. This ordinance supercedes any existing regulations, so far as they shall pertain thereto; and in all other respects the existing ordinance is confirmed and ratified. Amendments to this ordinance may be made by the Board of Selectmen upon recommendations of the Sewer Policy Committee.

Effective date: February 12, 1966

Amended: March 9, 1968
July 13, 1968

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SUBDIVISION REGULATIONS

TOWN OF

DURHAM, NEW HAMPSHIRE

Section 1. Title, Authority and Purposes

1.1 Title. These regulations shall be known as the "Subdivision Regulations Town of Durham, New Hampshire."

1.2 Authority. Pursuant to the authority vested in the Durham Planning Board by the voters of the Town of Durham and in accordance with the provisions of Chapter 36, Sections 19-29, New Hampshire Revised Statutes Annotated, 1955, as amended, the Durham Planning Board adopts the following regulations governing the subdivision of land in the Town of Durham, New Hampshire.

1.3 Purpose. The purpose of these regulations is to provide for the orderly development of the Town of Durham; for the coordination of streets and services and open spaces; and for any other factor contributing to the health, welfare, or safety of the Citizens of Durham.

Section 2. Definitions

2.1 Board means the Planning Board of the Town of Durham, New Hampshire.

2.2 Lot means a parcel of land capable of being occupied by one principal structure or use and its accessory structures or uses. The lot area shall not include any part of a public right-of-way which it fronts or abuts.

2.3 Plat means the map or drawing of a subdivision.

2.4 Subdivision means the division of a tract, or parcel of land into two or more lots, plats, sites, or other division of land for the purpose of sale, or building development, whether immediate or future. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

2.4.1 Limited Subdivision (subject to modified procedure for approval) means the division of a tract or parcel of land into not more than two lots, plats, sites or other division of land for the purpose of sale or building development, whether immediate or future, provided that all such lots, plats, sites or divisions of land so created have frontage upon, or suitable access to, an established public highway or an accepted public street. Such limited subdivision is, and shall be deemed to be a subdivision as defined herein for all purposes of these regulations, except where otherwise noted, and shall become a subdivision for all such purposes, requiring Planning Board approval as such, whenever the remainder of such original tract or parcel of land is further subdivided into two or more lots, plats, sites, or other divisions of land.

2.4.2 Resubdivision of Land means the revision or change of lot boundaries, in whole or in part, within a previously approved or previously recorded subdivision or subdivision plat.

2.5 Preliminary Plat means the drawings indicating a proposed layout of the subdivision submitted to the Board for consideration and advice.

2.6 Street means, relates to, and includes thoroughfare, avenue, boulevard, road, land, alley, viaduct, highway, freeway, and other ways exclusive of drive-ways serving not more than two adjacent lots.

2.7 Reserve Strip means and includes areas for which future public use is intended for streets, pedestrian ways, recreation and other services.

2.8 Regular Meeting means those sessions of the Board held on the first Monday of January, April, July and October, except where such day falls on a holiday, in which event such session shall be held on the following business day.

Section 3. Procedure

3.1 Technical Review. To preclude the rejection of a subdivision application on grounds of insufficient or inadequate technical information and to expedite processing of subdivision applications, it is recommended that the applicant or his representative discuss the technical aspects of the proposed subdivision with the Chairman of the Board or his representative.

3.2 Application.

A. Submittal. Whenever any subdivision is proposed to be made and before any contract for the sale of such subdivision, or any part thereof, shall have been concluded, the subdividing owner shall submit to the Board an "Application for Subdivision" form.

B. Filing. The Application, together with three copies of the preliminary plat and three copies of the street profiles, shall be filed with the Chairman or the Secretary of the Board together with the required filing fee of one dollar per lot, with a minimum of five dollars and a maximum of twenty-five dollars, which monies shall be paid to the Town of Durham. The Application shall be filed within fifteen, but not less than five, days before any regular meeting of the Board. In a case where this presents an undue hardship to the subdivider, the Application may be filed at a special meeting, the date of which shall be mutually agreed upon by the Board and the subdivider.

C. Contents. The application shall be on a form prescribed by the Board, providing such information as the Board shall require, including the names and addresses of the owners of all lands abutting the premises concerned.

3.3 Preliminary Plat.

A. Site Inspection. The Board will make arrangements for one or more of its Members to visit the site of the proposed subdivision in company with the applicant or his representative.

B. Public Hearing. A public hearing shall be held at which time all parties interested in the subdivision may have an opportunity to present their views. Notice of said hearing shall be sent to the applicant not less than five days before the date by registered mail. Notice shall be posted at least five days before the hearing on the Town Bulletin Boards and printed in the local press.

All abutters and other parties known by the Board to be interested shall also be sent notices by first class mail not less than five days before the hearing date.

C. Required Revisions. The Board, before granting preliminary approval, may hold discussions with the applicant or his agent and may hear and confer with other parties whose interest may be affected by the proposed plat. After such discussions, the Board shall make known in writing to the applicant such changes as it shall require.

D. Approval of Preliminary Plat. The Board shall consider any plat submitted to it within thirty (30) days and shall act to either approve or disapprove the preliminary plat within ninety (90) days of the day on which the preliminary plat was submitted to the Board. Nothing herein shall preclude the petitioner from granting the Board an extension of time for the consideration of the application, but such extension must be in writing and signed by the petitioner, specifically waiving his statutory rights otherwise applicable. If no such action is taken by the Board and no request for an extension is made by the Petitioner within such ninety-day period the preliminary plat shall be deemed to have been approved. Approval by the Board need not be absolute but may be contingent on the performance of certain requirements, or modifications, all of which shall be indicated on the preliminary plat.

3.4 Final Plat.

A. Submittal of Final Plat. Within twelve months from the date of approval of the preliminary plat or within such further time as the Board shall designate, the applicant shall file with the Chairman or the Secretary of the Board, four copies of the final plat and shall be furnished a receipt. Otherwise, the approval of the preliminary plat is void. The final plat shall be submitted to the Board, and it will be examined for compliance with the laws of the State of New Hampshire and the Town of Durham, and the requirements of the preliminary approval.

B. Approval of Final Plat. The Board shall consider any final plat within thirty (30) days, and shall act to either approve or disapprove the final plat in whole or in part within ninety (90) days of the day on which the final plat was submitted to the Board. Such approval or disapproval shall be noted upon the plat. Final action shall be noted on the plat and the applicant shall be notified in writing. Failure of the Board to act within such ninety-day period shall be considered approval of the plat.

C. Implications of Final Approval. Approval of the final plat shall not constitute an acceptance by the Town of Durham of any street, highway, park, or other public open space.

D. Recording of Final Plat. Two copies of the approved final plat will be retained by the Board, and one copy will be returned to the subdivider. One copy shall be filed for recording by the Board in the Office of the Registry of Deeds of Strafford County within ten days of the date of final approval. The subdivider shall be charged the recording fee applicable to such plat.

E. Guaranty of Performance. Where all improvements required by the Town have not been completed to town standards prior to final approval of the final plat, the applicant shall file a performance bond prior to the first to occur of (1) start of construction of any improvement or building, or (2) the sale of any

lot, such bond to be approved as to form and sureties by legal counsel for the Town in an amount to be determined by the Board of Selectmen sufficient to ensure completion of all street, water, sewer, sewage disposal, sidewalk and other facilities required by the Town to standards prescribed by the Town within such period, not exceeding five years from the date of the bond, as the Selectmen shall prescribe. Failure to file such bond prior to such event shall be cause for withdrawal of approval of such final plat as fully as if the subdivision application had been denied. The requirement of bond may be waived where all such work has been completed to standards required for acceptance of streets and other facilities by the Town prior to final approval of the final plat. Where bond is required the applicant shall file the original with the Selectmen and deliver a copy of the bond to the Planning Board.

3.5 Modified Procedure for Limited Subdivision. All provisions of Section 3 of these regulations shall apply to limited subdivision of land as herein defined, with the following exceptions:

A. The Board may waive the requirements for site inspection under subsection 3.3A;

B. The Board may allow the filing of the final plat in four copies to act as both the preliminary and final plats required hereunder in which case, the procedural requirements of subsection 3.4A shall not apply;

C. The Board may waive the requirements for a performance bond under subsection 3.4E if the proposed subdivision offers no such construction or development requirements to warrant such bond;

D. The Board may waive the requirement of a public hearing under Subsection 3.3B, provided the applicant is afforded a hearing on proper notice.

E. Such further and special exceptions to these requirements as the Board deems appropriate and stipulates in writing for good cause shown.

3.6 Modified Procedure for Certain Resubdivision. An application for resubdivision of land (as herein defined) may be considered by the Board under the modified procedures provided in these regulations for a limited subdivision, provided that (1) the application for resubdivision is filed within one year of the date of the Board's prior approval of the subdivision concerned and (2) the applicant is the same as that for such former subdivision and (3) written approval of such resubdivision is obtained from the owners of all lots sold out of the former subdivision, and (4) provided further that the Board does not deem the public interest requires submission of such resubdivision as a new subdivision. Otherwise, any such resubdivision of lands shall constitute a new subdivision, and the application and plats shall conform to all requirements of these regulations. In all cases of resubdivision of lands, the applicant-resubdivider shall be required to pay such additional recording fees as the Registry of Deeds shall require to properly cross-index such resubdivision plat to any recorded plat of the former subdivision it changes and to endorse notice upon any recorded plat of the former subdivision of the resubdivision of the same.

Section 4. Preliminary Plat Requirements

4.1 Plat Details. The preliminary plat shall be clearly and legibly drawn or reproduced on paper 22" x 34" at a scale of 1 inch to each 20 feet, 40 feet, or 50 feet. In the event the size of the subdivision is such that multiple drawings are needed to show the area, the scale, when approved by the Board, may be equal to 1" to each 100 feet. The plat shall show or be accompanied by the following information:

A. Identification. The date of drawing, name of subdivider, boundaries of the proposed subdivision, name of owner of record, subdivider and designer, owners of adjacent properties, scale, magnetic and true north points, date(s) of observation, and angle of variation noted thereon. Each lot shall be identified by number, and shall show boundary line lengths in feet, magnetic bearings, and area in square feet.

B. Contours. Contours will be shown within the Subdivision and on streets adjoining the subdivision within 200 feet thereof. Contour lines shall be shown at five-foot intervals of elevation for slopes averaging 10 percent or greater and at two-foot intervals of elevation for land of lesser slope.

C. Special Features. The locations and dimensions of special features such as easements, rights-of-way, streets, water courses, railroads, bridges, culverts, drain pipes, wooded areas, and surface rock formations shall be indicated.

D. Utilities and Improvements. The preliminary plat shall show existing and proposed public utility systems within the subdivision and in streets adjoining the subdivision within 200 feet; e.g., water lines, storm and sanitary sewer lines, proposals for method of water supply and sewerage disposal, location of all other utilities, manholes, catch basins, shut-offs, flushing troughs, connections, fire hydrants, and special structures and underground utility lines.

E. Street Profiles and Cross Sections. Three copies of center line profiles and cross sections of all streets shall be submitted, showing the existing ground surface, the proposed finished road grades, the depth of water, storm, and sewer mains where required, and manhole location.

F. Future Street Layout. Where the preliminary plat covers only a part of the subdivider's entire holding, a sketch of the future street system of the unsubmitted part shall be furnished, and the street system of the submitted part will be considered in the light of adjustments and connections with future streets in the part not submitted.

G. Public Use Land. Parcels of land proposed for dedication to public use, and any conditions of such dedication should be indicated.

4.2 Design and Technical Requirements. The details of the plan will conform to all requirements of the Zoning Ordinance of the Town of Durham and to any other pertinent ordinances or statutes. In particular, the following design and technical standards shall be required.

A. Lots.

- (1) Area. The area of each lot shall not be less than the minimum requirements of the Zoning Ordinance.

- (2) Frontage. Each lot shall front upon a street. The magnitude of the frontage shall not be less than the requirements of the Zoning Ordinance.

B. Streets.

- (1) Names. Street names shall be designated by the Board subject to the approval of the Board of Selectmen.
- (2) Arrangement. The street pattern within the subdivision shall (a) provide for the continuation of the principal streets in adjoining land, and/or (b) correspond in its location and lines with an adopted major street plan or official map, and/or (c) provide for the projection of the principal streets of the proposed subdivision when adjacent land is undeveloped.
- (3) Width. No street or highway right-of-way shall be less than fifty feet in width and may be required to be more if, in the opinion of the Board, such extra width is required by the anticipated density of use of the street or highway, or is called for by an adopted major street plan or official map.
- (4) Grade. No grade in excess of 3 percent shall be permitted within 100 feet of any intersection with a main road (see 4.2 B9) for definition of main road).
No grade in excess of 5 percent shall be permitted within 100 feet of any intersection within a subdivision.
No grade in excess of 8 percent shall be permitted on any street within a subdivision.
- (5) Grade Changes. All changes in grade shall be connected with vertical curves of sufficient length to provide smooth transition and proper sight distance.
- (6) Intersections. No two streets shall be permitted to intersect at an angle of less than 60 degrees.
- (7) Corners. Street corners shall be founded at the street line with a curve having a radius of not less than twenty feet.
- (8) Streets with Cul-de-Sacs. Each street leading to a cul-de-sac shall be surfaced to a minimum width of 32 feet. The cul-de-sac shall have a radius of 80 feet to the exterior boundary of the right-of-way, a radius of 71 feet to the outside edge of the pavement, and a radius of 43 feet to the inside curbed edge of the pavement. The surface of the island shall be at least six inches above street level and shall drain to the outside. A maximum of ten houselots will be permitted on such a street. No water lines serving such streets shall be dead-ended. If the cul-de-sac is temporary, the required turn-around shall be provided and provisions shall be made for reversion of the excess right-of-way to adjacent property owners upon extension of the street.

- (9) Access to Main Roads. Streets and/or driveways from subdivisions abutting the following main roads shall be spaced not less than 1,200 feet apart, where feasible: Routes 4, 108, 155-A, Durham Point Road, Mill Road, Bennett Road and Packers Falls Road.
- (10) Reserve Strips. No subdivision showing reserve strips controlling access to streets shall be approved unless the land included in such reserve strips has been dedicated to the public use under conditions approved by the Planning Board.
- (11) Non-Conforming Existing Streets. Subdivisions adjoining or including existing streets which do not conform to widths and other conditions as required by these regulations, may be required to dedicate sufficient land to bring such street into conformity.
- (12) Acceptance. No street shall be accepted by the Town of Durham until it has been installed in accordance with specifications set forth by the Board of Selectmen and approved by them.

C. Water Facilities. When municipal water facilities are utilized, the subdivider should note that he is required to conform to the conditions set forth in the Terms and Conditions of the Durham Water Department.

D. Sewerage Facilities.

(1) Requirement.

- (a) In areas not served by a public sewer system, it shall be the responsibility of the subdivider to provide evidence (percolation and other test results as required) to the Board concerning his solution to the sewage disposal problem. At least one (1) percolation test shall be required (taken at random) for each four (4) lots (or any fraction thereof) in the proposed subdivision. The plat shall designate the location on each such lot where such percolation test(s) was made, and the date and results of each such test. Where the Board deems it advisable, it may require additional tests and may require the applicant to allow an engineer or technician retained by the Board to make further tests upon the applicant's land for its advice in this regard. All tests shall be observed by a member or representative of the Planning Board or, in lieu thereof, the Board may accept the certified record of tests made by a Registered Professional Engineer qualified to make such tests; the costs of such tests shall be paid by the subdivider. The Board shall make available the results of these tests to the Health Officer. The procedures for taking and analyzing tests are outlined in Manual of Septic Tank Practice, Public Health Service, Manual No. 526, 1957, and as amended.

When percolation rates in the area proposed for the sewerage system are less than two inches per hour, or such as to create a potential health hazard, separate sewerage systems shall not be permitted on lots of less than eighty

thousand (80,000) square feet in size. As an alternative, the subdivider may install a centralized sewerage system for the subdivision. Design shall conform to the standards established by the Town of Durham. Provisions for ownership and maintenance of the subdivision system shall be in keeping with standards set by the Town of Durham.

- (b) When municipal sewerage facilities are utilized, the subdivider should note that he is required to conform to the conditions set forth in the Terms and Conditions of the Durham Sewer Department.

E. Fire Hydrants. Fire hydrants and ponds shall be installed as required by the Board of Fire Commissioners and the Water Commissioners.

F. Easements.

(1) Utility Easements. Easements along rear property lines or elsewhere for utility installation may be required. Such public utility easements shall be of width and location as required by the Board of Selectmen.

(2) Drainage Easements. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course. Where subdivision may create a surface drainage problem, an adequate drainage easement shall be provided, and the subdivider shall install at his own expense adequate drainage facilities to such standards as the Town of Durham shall require.

4.3 Preliminary Plats for Limited Subdivision (Modified Procedure): All provisions of section 4 of these regulations shall apply to limited subdivisions, with the following exceptions:

A. Under section 4.1 final plat scale may be used if the Board has agreed the final plat may also be filed as the preliminary plat, and in such case, the plat may be clearly and legibly drawn upon paper 8-1/2 x 11" size, or multiples of such size to a maximum of 22" x 34".

B. Contours shall not be required, unless for special cause when the Board so orders.

C. Dimensions of special features shall not be required, unless for special cause when the Board so orders.

D. Street profiles and cross sections shall not be required, unless for special cause when the Board so orders.

E. Future street layout requirements shall not apply, unless for special cause when the Board so orders.

F. Such further and special exceptions to these requirements as the Board deems appropriate and stipulates in writing.

Section 5. Final Plat Requirements

5.1 Plat Details. The final plat shall be clearly and legibly drawn or reproduced on paper 22" x 34" in size and may be drawn at a scale of one inch equal to 20 feet, 40 feet, or 50 feet. (In the event the size of the subdivision is such that multiple drawings are needed to show the area, the scale when approved by the Board, may be one inch equal to 100 feet.) The final plat shall show or be accompanied by the following:

A. Identification. The date of drawing, name of subdivider, boundaries of the proposed subdivision, name of owner of record, subdivider and designer, owners of adjacent properties, scale, magnetic and true north points, date(s) of observation, and angle of variation noted thereon. Each lot shall be identified by number, and shall show boundary line lengths in feet, magnetic bearings, and area in square feet.

B. Survey Information. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, street names, land to be reserved or dedicated to public use, accurate dimensions, bearings or deflection angles, radii, arcs and central angles of all curves, minimum building set-back line on all lots and other sites, and certification by engineer or surveyor.

C. Public Easements. The purpose of any easement of land reserved or dedicated to public use shall be described, and the proposed use of sites other than residential shall be noted.

D. Monuments. Location and description of all monuments.

E. Deed Restrictions. A copy of any existing and proposed protective covenants or deed restrictions applying to the land being subdivided shall be submitted with the final plat.

5.2 Design and Technical Requirements.

A. Streets. All streets shall be improved in accordance with the specifications and standards established by the Board of Selectmen.

B. Water and Sewerage Facilities.

- (1) All subdivisions shall be serviced by municipal water and sewerage facilities where accessible.
- (2) Any extension of water lines or sewer mains within a subdivision shall be performed at the expense of the subdivider.
- (3) Where feasible, the subdivider shall be required to extend water and sewer lines to the property line of each lot.
- (4) All sewerage and water facilities utilizing municipal sewerage and water facilities shall be installed according to the specifications of the Board of Selectmen.
- (5) Where municipal facilities are not available, the installation of water and sewerage systems shall be in accordance with the Laws of the State of New Hampshire and the Regulations of the Town of Durham.

(6) In areas not served by a public sewer system, the subdivider shall provide the Board, on his final plat, evidence by way of percolation and other test results as required concerning his solution to the sewage disposal problem. At least one (1) percolation test shall be required for each lot in the proposed subdivision. The final plat shall designate the location on each lot where such percolation test(s) was made, and the date and results of each such test. Where made within twelve (12) months prior to date of such final plat, such percolation tests as were made and submitted on the preliminary plat may be resubmitted on the final plat to satisfy such part of this requirement as their number and location permits. Where the Board deems it advisable, it may require additional tests and may require the applicant to allow an engineer or technician retained by the Board to make further tests upon the applicant's land for its advice in this regard. All tests shall be observed by a member or representative of the Planning Board or in lieu thereof, the Board may accept the certified record of tests made by a Registered Professional Engineer qualified to make such tests; the costs of such tests shall be paid by the subdivider. The Board shall make available the results of these tests to the Health Officer.

The procedures for taking and analyzing tests are outlined in Manual of Septic Tank Practice, Public Health Service Manual No. 526 1957, and as amended.

When percolation rates in the area proposed for the sewerage system are less than two inches per hour, or such as to create a potential health hazard, separate sewerage systems shall not be permitted on lots of less than eighty thousand (80,000) square feet in size. As an alternative, the subdivider may install a centralized sewer system for the subdivision. Design shall conform to the standards established by the Town of Durham. Provisions for ownership and maintenance of any such centralized subdivision sewerage system shall be in keeping with standards set by the Town of Durham.

C. Monuments. All monuments shall be located in accordance with the approved subdivision plat. Monuments shall be of stone or concrete at block intersections and iron stakes, pipes, pins or rods shall be used at all other boundaries.

D. Trees. Planting of trees within the right-of-way shall be in accordance with a plan approved by the Board of Selectmen.

5.3 Inspection. All the above listed improvements shall be subject to inspection by and approval of the Superintendent of Public Works who shall be notified by the subdivider at least two working days prior to the start of construction. Inspections shall be made within two working days following the request. No underground installation shall be covered until approved by appropriate Town official or his agent.

5.4 Final Plats for Limited Subdivision (Modified Procedure): All provisions of Section 5 of these regulations shall apply to limited subdivisions, with the following exceptions:

A. Under section 5.1, in any case where the Board has agreed the final plat may also be filed as the preliminary plat, the plat may be clearly and legibly drawn or reproduced on paper 8-1/2" x 11" in size, or multiples of such size, to a maximum of 22" x 34".

B. Where the Board is satisfied that the plat submitted is reasonably accurate, it may waive certification of survey information by an engineer or surveyor.

C. Such further and special exceptions to these requirements as the Board deems appropriate and stipulates in writing.

Section 6. General Requirements

6.1 Undesirable Land. Land subject to flooding and land deemed by the Board to be uninhabitable shall not be plotted for residential occupancy nor for any use which might be hazardous to health, life, or property.

6.2 Reserved Land. In general, no reserve strips controlling access to land dedicated or to be dedicated to public use will be permitted, unless such strips are conveyed to the Town of Durham. Reserve strips of land which may prove to be untaxable for improvements shall not be permitted.

6.3 Unusable Lots. Remnants of lots below allowable size left over after subdividing a tract shall be added to adjacent lots rather than remain as unusable lots.

6.4 Lot Size. When in the interest of avoiding congestion of population and to ensure or create conditions favorable to health, safety, convenience or prosperity, the lot area of a subdivision may be required to be greater than that specified under the Zoning Ordinance.

6.5 Premature Subdivision of Land. The Board may take such action as required to ensure against the scattered or premature subdivisions of land as would involve danger or injury to health, safety, or welfare by reason of the lack of water supply, drainage, public sewerage system, transportation, access or other public services or necessitate an excessive expenditure of public funds for the supply of such services.

6.6 Parks and Open Spaces. The Board may require that plats showing a subdivision of land, shall provide for a park or open space suitably located for playground or other recreational uses. Such parks or open spaces shall be of reasonable size for neighborhood playgrounds or other recreational uses.

6.7 Streets. The subdivider shall be required to provide paved roadways, and to provide storm sewers or adequate surface drainage, all of which shall conform to the standards established by the Town of Durham, and the subdivider may be required to provide sidewalks where hazards or circumstances appear to warrant this and any such sidewalks shall conform to the town's standards. Such standards shall include street layout, street width, grades, curvatures, and construction methods, and in the design and construction of sidewalks, curbs and gutters. The subdivider shall install all streets, utilities, and improvements prior to approval of the final plat or he shall file a performance bond

approved as to form and sureties by the legal counsel of the Town in an amount to be determined by the Board of Selectmen, sufficient to ensure completion of all work required for acceptance by the Town.

6.8 Inspection of Property. The Board, its members, officers, and employees may enter upon any land under subdivision consideration for the purpose of making such surveys and examinations as are reasonably necessary and may place and maintain necessary monuments and marks thereon.

6.9 Erection of Building. No building shall be erected on any lot in a subdivision nor shall any building permit be issued therefor until such subdivision has received the Board's final approval.

No building shall be erected on any lot within any part of the town of Durham nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed (a) shall have been accepted or opened as, or shall otherwise have received the legal status of a public street prior to that time, or unless such street (b) corresponds in its location and lines with a street shown on the official map (if any) or with a street shown on a subdivision plat approved by the Board, or with a street on a street plat made by and adopted by the Board.

Section 7. Administration

7.1 Officers. These regulations shall be administered by the Board with the assistance of such persons as they shall designate.

7.2 Variances. It is recognized that, under certain conditions, conflicts may occur between or among sections of these regulations. When a subdivider or his agent can clearly demonstrate to the Board that conformity to the Subdivision Regulations would cause undue hardship or injustice to the owner of the land, the Board may permit such variations from the Regulations as deemed reasonable, provided that the spirit of the regulations and public convenience, health, and welfare will not be adversely affected.

7.3 Penalty. Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells any land by reference to, or exhibition of, or by other use of, a plat of a subdivision, before such plat has been approved by the Board and recorded or filed in the Office of the Registry of Deeds of Strafford County shall forfeit and pay a penalty of one hundred dollars for each lot or parcel so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town of Durham through its solicitor or other officail designated by its Selectmen may enjoin such transfer or sale or agreement and may recover the said penalty by civil action.

7.4 Amendments. These regulations may be amended, changed, altered, added to or rescinded from time to time whenever this action is deemed necessary or advisable by the Board, but only following public hearing on the proposed amendment, change, alteration, addition or rescision. The Chairman or Secretary of the Board shall sign and transmit a record of any changes so authorized to the Office of the Register of Deeds of Strafford County, and a like copy to the Town Clerk and to the Selectmen of the Town of Durham.

7.5 Separability. If any article, section, sub-section, sentence, clause or phrase of these regulations shall for any reason be found null and void, such finding shall apply only to such article, section, subsection, sentence, clause or phrase, and the remainder of the regulations shall remain in full force and effect.

7.6 Rescinding Clause. These regulations supercede and take the place of the Subdivision Regulations, Town of Durham, New Hampshire, adopted April 14, 1952, as amended prior hereto, and such prior regulations are hereby rescinded.

As amended: June 16, 1966

A REGULATION
RELATING TO THE ESTABLISHMENT AND ENFORCEMENT
OF
STANDARDS OF HEALTH AND SANITATION
FOR
MOBILE HOME PARKS
IN THE
TOWN OF DURHAM, NEW HAMPSHIRE

Preamble

Pursuant to the authority vested in towns by Chapter 147, Revised Laws of New Hampshire 1955, as amended, the following regulation relating to the establishment and enforcement of standards of health and sanitation for mobile home parks in the Town of Durham, New Hampshire, is hereby adopted.

ARTICLE I

Section 100. Title, Purpose

100.1 Title. These regulations shall be known and may be cited as the "Health and Sanitation Regulations for Mobile Home Parks."

100.2 Purpose of the "Health and Sanitation Regulations" for Mobile Home Parks. The purpose of these regulations is to provide for the public safety, health and welfare through the establishment and enforcement of standards of health and sanitation for mobile home parks located in the Town of Durham.

ARTICLE II

Section 200. General Provisions

200.1 Inspection of Mobile Home Parks.

(a) The Health Officer is hereby authorized and directed to make periodic inspections to determine the condition of mobile home parks located within the Town of Durham, in order that he may perform his duty of safeguarding the health and safety of occupants of said parks and of the general public.

(b) The Health Officer shall have the power to enter at reasonable times upon any public or private property for the purpose of inspecting and investigating conditions relating to the enforcement of these regulations.

(c) The Health Officer shall have the power to inspect the register containing a record of all mobile homes and occupants using the park.

(d) It shall be the duty of the owners or occupants of mobile home parks and the mobile homes contained therein, or of the person in charge thereof, to give the Health Officer free access to such premises at reasonable times for the purpose of inspection.

(e) It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of said park or its premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with these regulations, or with any lawful order issued pursuant to the provisions of these regulations or any other applicable ordinances or statutes.

200.2 Water Supply Requirements.

(a) An accessible, safe, potable and adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and mobile home spaces within the park, to meet the requirements of the park. The source

of supply shall be adequate to furnish a minimum of 150 gallons per day per mobile home space. Where a public supply of water of such quality is available, connection shall be made thereto and its supply shall be used exclusively. The development of an independent water supply to serve the park shall be made only after express approval has been granted by the Health Officer and the State Department of Health.

(b) The water distribution system and piping shall be constructed of materials acceptable to the Health Officer and shall be maintained in accordance with State and local laws; the water distribution system shall not be connected with non-potable or questionable water supplies, nor be subject to the hazards of back-flow or back-siphonage.

(c) Each mobile home space shall be provided with an individual water service connection. The service connection shall consist of a riser terminating at least four inches above the ground surface, with two valved outlets. The outlets shall be threaded so that a connection may be made from one outlet to the mobile home water piping system and so that the other connection will serve a garden hose. The riser shall be protected within a concrete curb, or by a 12-inch diameter concrete collar extending at least three inches below finished grade, and shall be sloped to divert surface drainage away from the connection. Adequate provision shall be included to prevent freezing of the riser and valved outlets and service line. If a drain valve is included to drain the riser an adequate return system must be provided to prevent a cross connection. The mobile home park water system shall be adequate to provide at least six gallons per minute at a minimum pressure of 20 pounds per square inch at each mobile home water service connection.

(d) An adequate supply of hot water shall be provided at all times in the service buildings for all bathing, laundry, and sanitary facilities.

(e) Where an independent or non-public water system is used to serve the mobile home park with water obtained from wells, the wells shall have been approved by the Health Officer, and shall have been either drilled or driven. Springs or other sources of supply shall not be used except after approval by the Health Officer and the State Department of Health.

(f) Every well shall be located and constructed in such a manner that neither underground nor surface contamination shall reach the water supply from any source. A minimum distance of 150 feet shall be maintained between the water supply and any cesspool. A minimum distance of 100 feet shall be maintained between the water supply and any other possible source of contamination, except that sewers or pipes through which sewage may back up shall be located at least 50 feet from any well or water-suction pipeline. Where such sewers or pipes are specially constructed to provide adequate safeguards, and when specifically authorized by the Health Officer, such sewers or pipes through which sewage may back up may be closer than 50 feet, but not less than 30 feet from a well.

(g) No well-casings, pumps, pumping machinery, or suction pipes shall be located in any pit, room, or space extending below ground level, nor in any room or space above ground which is walled in or otherwise enclosed, unless such rooms have free drainage by gravity to the surface of the ground. The floor of rooms above the ground shall be at least six inches above the ground's surface. All floors shall be watertight, and sloped from the pump pedestal to the drain. The pedestal shall be not less than 12 inches above the floor.

(h) All water storage reservoirs shall be watertight, and constructed of impervious material; all overflows and vents of such reservoirs shall be effectively screened. Open reservoirs are prohibited. Manholes shall be constructed with overlapping covers so as to prevent the entrance of contaminated material. Overflow pipes from a reservoir shall not be connected to any pipe in which sewage or polluted water may back up.

(i) Underground stop-and-waste cocks shall not be installed on any connection.

(j) All water and plumbing systems shall be new and shall comply with all local and State codes and ordinances. In the absence of such codes, or where they are deemed inadequate, the systems shall comply with the applicable provisions of the National Plumbing Code.

200.3 Disposal of Sewage.

(a) Waste from showers, bath tubs, flush toilets, urinals, lavatories, sinks, garbage grinders, and laundry facilities, in service and other buildings and in mobile homes within the park shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of such construction and in such manner as will present no health hazard.

(b) Where the sewer lines of a mobile home park are not connected to a public sewer, the means of disposal of all sewage must be approved by the Health Officer and the State Department of Health.

(c) Sewage-treatment plant effluents shall not be discharged into any water of the State except with prior approval of the State Water Pollution Commission. The disposal plant shall be located where it will not create a nuisance or health hazard to the park or to the owner or occupants of any adjacent property. The design of the disposal facilities shall be based on the ultimate maximum capacity of the mobile home park and a minimum of 150 gallons of sewage per mobile home space per day. The approval of the Health Officer and the State Department of Health shall be obtained on the type of treatment proposed and on the design of the disposal plant prior to construction.

(d) Each mobile home space shall be provided with at least a three-inch sewer connection so located as to provide a suitable connection from the mobile home with a continuous grade and not subject to surface drainage. This sewer connection shall consist of at least a three-inch riser, protected within a concrete curb or by a concrete collar at least three inches deep and extending 12 inches from the connection in all directions. The sewer connection shall be provided with suitable fittings, so that a water-tight connection can be made between mobile home drain and the sewer connection. Such individual connections shall be so constructed that they can be closed when not linked to mobile home and shall be trapped in such a manner as to maintain them in odor-free condition.

(e) All sewer lines shall be constructed of materials acceptable to the Health Officer and shall be laid in trenches separated at least ten feet horizontally from any drinking water supply line under pressure, at a grade which will insure a velocity of two feet per second when the sewer is flowing

full. All joints in the sewer lines shall be made watertight and every effort shall be made to minimize ground water infiltration into the sewerage system. All sewer connections and manholes shall be so constructed as to prevent surface water from entering the sanitary sewers. Manholes shall be provided at every change in direction or grade, at the upper end of every main sewer line, at every junction of two or more main sewers, and at intervals of not more than 400 feet. Cleanouts extending to grade shall be installed at 100 foot intervals on four-inch lines. All cleanouts shall be capped with cleanout plugs.

(f) All plumbing shall be new and shall comply with all local and State codes and ordinances. In the absence of such codes, or where they are deemed inadequate, the plumbing shall comply with the applicable provisions of the National Plumbing Code.

200.4 Sanitation Facilities.

(a) Each park shall be provided, for emergency purposes, with the following sanitation facilities:

- (1) One flush toilet and one urinal for males, one flush toilet for females, one lavatory for each sex, and one shower or bath tub with individual dressing accommodations for each sex, for the first 50 mobile home spaces or any less number thereof; and
- (2) One additional flush toilet and one additional urinal for males, one additional flush toilet for females, one additional lavatory for each sex and one additional shower or bath tub with individual dressing accommodations for each sex, for each 50 mobile home spaces or fractional number thereof in excess of 50 mobile home spaces.

(b) Each park which accommodates mobile homes of the type which does not have a flush toilet and a bath or shower, shall, in addition to the emergency facilities required by subsection (a) of this section, be provided with the following sanitation facilities:

- (1) One flush toilet and one urinal for males, one flush toilet for females, one lavatory for each sex, and one shower or bath tub with individual dressing accommodations for each sex, for the first ten mobile homes of such type or any less number thereof so accommodated; and
- (2) One additional flush toilet and one additional urinal for males, one additional flush toilet for females, one additional lavatory for each sex, and one additional shower or bath tub with individual dressing accommodations for each sex, for each ten mobile homes of such type or fractional number thereof in excess of ten mobile homes of such type so accommodated.
- (3) There shall be provided in a separate compartment for each sex not less than one flush toilet bowl receptacle for emptying bed pans or other containers of human excreta and not less than one slop sink or other like facility with an adequate supply of hot running water for cleaning such bed pans or containers.

(c) Each toilet and each shower or bath tub with individual dressing accommodations, for which provision is made in subsections (a) and (b) shall be in a private compartment or stall.

(d) The toilet and other sanitation facilities for males and females shall be either in separate buildings or shall be separated, if in the same building, by a soundproof wall. The sanitation facilities for males and females shall be distinctly marked to denote the sex for which they are intended.

(e) Laundry facilities shall be provided in the ratio of one single laundry tub and one automatic or semi-automatic type washing machine for every 30 mobile home spaces, and shall be in a separate soundproof room of a service building housing the toilet facilities or in a separate service building. Adequate outside drying spaces, or other clothes drying facilities shall be provided.

(f) Service buildings housing the toilet and laundry facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems, and shall be located not closer than 15 feet nor farther than 200 feet from any mobile home space.

(g) The service buildings shall be well-lighted at all times of the day and night, shall be well-ventilated with screened openings, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 70 degrees Fahrenheit during the period from October first to May first. The floors of the service building shall be of water impervious material.

(h) All service buildings and the grounds of the park shall be maintained in a clean sightly condition and kept free of any condition that will menace the health or safety of any occupant or the public or constitute a nuisance.

200.5 Refuse Disposal.

(a) All refuse shall be stored in flytight, watertight, rodent-proof containers, which shall be located not more than 150 feet from any mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse. Racks or holders shall be provided for all refuse containers. Such racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them. The containers shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that the garbage containers shall not overflow and affect the public health. The accumulation of debris which may provide harborage for pests and rodents shall not be permitted. No refuse, garbage or rubbish shall be buried within the confines of the mobile home park.

200.6 Animals and Pets.

(a) No owner or person in charge of any dog, cat, or other pet animal shall permit it to run at large or commit any nuisance within the limits of any mobile home park. If such animals should be kept in restricted enclosures on the individual mobile home space, the enclosures shall be maintained in a sanitary condition at all times.

200.7 Communicable Diseases.

(a) Every owner, operator, attendant or other person operating a mobile home park shall notify the Health Officer immediately of any suspected communicable or contagious disease within the park. In the case of diseases diagnosed by a physician as quarantinable, such owner, operator, attendant, or other person operating a park shall not permit the departure of a mobile home or its occupants, or the removal therefrom of clothing or other articles which have been exposed to infection, without approval of the Health Officer.

200.8 Insect and Rodent Control.

(a) Insect and rodent control measures to safeguard public health as required by the Health Officer shall be applied in the mobile home park.

(b) When rats or other objectionable rodents are known to be in the mobile home park, the park owner, operator, or attendant shall take definite action, as directed by the Health Officer, to exterminate them.

ARTICLE III

Section 300. Definitions

300.1 Definitions of Terms.

(a) Unless otherwise expressly stated, the following terms shall, for the purpose of these regulations, have the meanings indicated in this section.

(b) Words used in the present tense include the future; the singular number includes the plural and the plural the singular.

(c) Where terms are not defined in this section, they shall have their ordinarily accepted meanings or such as the context may imply.

Health Officer is the legally designated health officer of the Town of Durham or his authorized representative.

State Department of Health means the Department of Health and Welfare, Division of Public Health of the State of New Hampshire.

Mobile Home Park is land upon which two or more mobile homes are parked and occupied for living purposes, whether or not a charge is made for such accommodations.

Mobile Home is a single family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, or by railroad, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation, connections to utilities and the like.

Mobile Home Space is a plot of ground within a mobile home park designed for the accommodation of one mobile home.

Person means any natural individual, firm, trust, partnership, association or corporation.

Public System (Water or Sewerage): A system which is owned and operated by a local governmental authority or by an established public utility company which is adequately controlled by a governmental authority.

Service Building means a building housing toilet and bathing facilities for men and women with laundry facilities and such other facilities as may be required by these regulations.

Regulations mean the "Health and Sanitation Regulations for Mobile Home Parks" in the Town of Durham, New Hampshire.

ARTICLE IV

Section 400. Conflict of Ordinances: Effect of Partial Invalidity

400.1 In any case where a provision of these regulations is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the Town of Durham existing on the effective date of these regulations, the provision which, in the judgment of the Health Officer, establishes the higher standard for the promotion and protection of the health and safety of the public shall prevail.

400.2 Should any section or provision of the regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of these regulations as a whole or any other part thereof.

ARTICLE V

Section 500. Penalties

500.1 Any person who violates any provision of these regulations shall upon conviction be punished by a fine of not less than five dollars nor more than fifteen dollars, and each day's failure of compliance with any such provision shall constitute a separate violation.

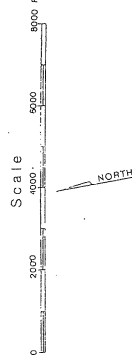
ARTICLE VI

Section 600. Effective Date

600.1 These regulations shall take effect immediately upon their adoption.

Adopted: March 13, 1963

TOWN OF
DURHAM
 New Hampshire



ZONING MAP
 LEGEND

- A - CLASS A BUSINESS
- B - CLASS B BUSINESS
- I - CLASS I RESIDENTIAL
- II - CLASS II RESIDENTIAL
- III - CLASS III RESIDENTIAL
- R - RURAL
- U - UNIVERSITY
- ZONING BOUNDARIES

