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ZONING ORDINANCE

Town of Durham
New Hampshire

ARTICLE I
ENACTMENT

1.10 PURPOSE

The purpose of this ordinance is to promote the public health, safety, convenience and general welfare by means of the provisions of this ordinance. 1973

- a. encouraging the most appropriate use of land;
- b. preventing overcrowding of land;
- c. conserving the value of land and buildings;
- d. minimizing traffic hazards and congestions;
- e. preventing undue concentration of population;
- f. providing for adequate light, air and sanitation;
- g. reducing hazards from fire, flood and other dangers;
- h. assisting in the economical provision, utilization and expansion of all services provided by the public;
- i. enhancing the natural, man-made and historical amenities of Durham.

1.20 VALIDITY

1.21 Adoption. Pursuant to the authority vested in towns by Chapter 31, New Hampshire Revised Statutes Annotated, 1955, as amended, the following ordinance is hereby enacted by the voters of the Town of Durham, New Hampshire, in official Town Meeting convened March 11, 1969; as amended 1971, 1972, 1973 and 1974. This ordinance shall take effect immediately upon its passage and the presently existing Zoning Ordinance and amendments thereto shall be repealed hereby, except that any building or use that was unlawful or in violation of such existing zoning ordinance is not made lawful by such repeal or by this ordinance.

1.22 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.

1.23 Legal Nonconformity. This ordinance shall not apply to existing lawful structures nor to the existing lawful use of any building or land, which shall be considered as lawfully nonconforming structures or uses for as long as they are not changed. Lawful structures and uses shall be only such as were lawful nonconforming structures or uses under the terms of the Zoning Ordinance hereby repealed, or shall be otherwise lawfully existing at the time this ordinance was enacted.

1.24 Interpretation of Ordinance. 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, convenience, and general welfare of the Town of Durham and its residents. Where a provision of this ordinance differs from that prescribed by any other applicable statute, ordinance, or regulation, that provision which imposes the greater restriction or the higher standard shall govern.

1.30 AMENDMENT

1.31 Procedure For Amendment. 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 in the manner required in Chapter 31.62-a, RSA. Said Chapter requires among other things, that there shall be two public hearings in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days notice of time and place of each such hearing shall be published in a paper of general circulation in the Town of Durham and a legal notice thereof shall also be posted in at least three public places in the Town. Official copies of the final proposed ordinance or amendments shall be placed upon file and made available to the public at the office of the Town Clerk four weeks prior to that date upon which action is to be taken. 1980

1.32 Protest to Amendment or Repeal. In case of a written protest against a proposed amendment or repeal, 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 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, such proposed amendment or repeal shall not become effective except by the favorable vote of two thirds of all the members of the Town Meeting present and voting. 1973

1.40 DEFINITIONS OF GENERAL TERMS

Additional definitions relevant to a particular Article of this ordinance are listed thereunder. Unless otherwise expressly stated, the following terms shall, for the purpose of this ordinance, have the meanings indicated in this section. Words used in the present tense include the future; the singular number includes the plural and the plural, the singular. Where terms are not defined in this section, they shall have their 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.

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 form, refers to the making of an alteration.

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, storage, ornamentation, or shelter to persons, animals or chattels.

Dumps See Junk Yards

Dwelling Unit means the area and set of living facilities designated, used or adopted for use for human occupancy and further classified into the following:

- a. Dwelling units having complete sleeping, dining, and sanitary facilities for use of the occupants as a household, whether or not related.
- b. Dwelling units having complete sleeping, and sanitary facilities for use of the occupants as a household, whether or not related, but having no separate dining facilities for each unit.
- c. Dwelling units having complete sleeping facilities for each occupant or household but having neither separate dining nor sanitary facilities for each unit.

Dwelling units and their classification and occupancy limit are as follows:

Dwelling Unit	Classifi- cation	Maximum No. of occupants in unrelated household per 300 sq. ft. habitable floor space
Single Family	A	1
Duplex or Townhouse	A	1
Apartment, incl. accessory apt. use	A	1.5
Motel, Hotel	B	2
Boarding House, incl. accessory Boarding House use	C	2
Rooming House, incl. accessory Rooming House use	C	2
Dormitory	C	3
Fraternity, Sorority, or Club House	C	2
Rest or Convalescent Home	C	2
Elderly Housing	A	1.5
Condominium	A	1.5

Note: *UNRELATED - SEE 4.21g - MAX 4 unrelated in Acc Lodging*

1. In any classification, not less than one complete sanitary facility consisting of one toilet bowl, one lavatory and one tub or shower shall be provided for each 7 persons.
2. No Rooming House or Boarding House shall be occupied by more than 10 unrelated persons.
3. Only one such class of dwelling unit other than accessory lodging use shall be permitted on a single lot. This shall apply to all classifications listed above. 1978

Dwelling means a building or part thereof used as a habitation under one of the following categories:

- a. Single detached dwelling means a building and accessories thereto principally used, designed, or adapted for use by a single household. 1971
- b. Duplex dwelling means a building and accessories thereto principally used, designed, or adapted for use by two households, the living quarters for each of which are completely separate. 1971
- c. Apartment dwelling means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three or more households each of which has separate living quarters. 1971
- d. Rooming house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than ten occupants and without owner-provided cooking and dining facilities. 1971
- e. Boarding house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than ten occupants and having common cooking and dining facilities. 1971
- f. Motel or Hotel means a building, or assembly of buildings, principally used, designed, or adapted to provide lodgings for more than ten occupants on a commercial basis and having separate sleeping quarters for each household. 1971
- g. Fraternity or Sorority means a building occupied by a legally organized fraternal organization and principally used, designed, or adapted for use primarily for the provision of lodgings, social and dining facilities for members and pledges of the fraternal order. 1971
- h. Club house means a building principally used, designed or adapted for use by an organization chartered under state law provided that the principal purpose of the club is not that of providing lodgings. Any lodgings contained therein shall be restricted to those defined as accessory lodgings in the ordinance. 1971
- i. Dormitory means a building and accessories thereto principally used, designed, or adapted for the use for providing housing for more than ten occupants. In general, such units are distinguished by separate study and sleeping quarters for each individual or pair of individuals; common social assembly rooms; common toilet facilities; and common cooking and dining facilities, where provided. It shall normally be provided with a resident manager. 1971
- j. Townhouse means a residential structure containing three or more single non-detached dwelling units separated by a common vertical wall. Each Townhouse structure as a whole, shall conform to the dimensional controls of this ordinance. 1975
- k. Condominium means a multiple dwelling building or group of buildings having a total of five or more dwelling units, the dwelling units of which are intended for, used or occupied under separate ownership, and which comply with all requirements of the "unit ownership of real property" statute, RSA 479-A, but excluding unit ownership by long term leasing as provided for in RSA 479-A. 1975
- l. Prefabricated dwelling means a single detached dwelling constructed primarily off-site, designed to be transported on a flat bed truck or trailer provided that it is installed on a permanently enclosed concrete or masonry foundation, with sewer and water connections designed for permanent connection to municipal or on-site systems, and permanently connected to such systems. Such structures are distinguished from mobile homes as described in Article 8 of this ordinance when they have a minimum gross floor area of 600 square feet having no horizontal exterior dimensions of less than 15 ft. not including porches or carports. When such a structure meets the above requirements and conforms to all provisions of the building code of the Town of Durham, it shall qualify for all uses permitted single detached dwellings. 1971

- m. Accessory Lodging Use means any class of permitted dwelling unit accessory and secondary to the principal use of the building concerned. 1971
- n. Housing for Older Citizens means a group of small dwelling units situated and arranged so as to provide comfort, security, social contact, convenience and congenial surroundings for permanent residents at least 55 years of age. Authority for any such developments shall be restricted to occupancy by persons of at least 55 years of age, and the selectmen may revoke the certificate of occupancy of any owner or developer allowing occupancy by persons below such age. 1973

Family

Household means the group of occupants of a dwelling unit restricted to the following two categories:

- a. Family - An individual or two or more persons related within the second degree of kinship, or by marriage or adoption living together as a single housekeeping unit and including necessary domestic help such as nurses or servants or lodgers or roomers, not to exceed three (3) in number. 1978
- b. Unrelated household - Any household not conforming to the definition of a family, provided that no such household shall have a number of members in excess of the figure provided in the table under dwelling unit. 1978

Floor area, gross means the sum of the areas of all floors of a building, unless limited by the text to a specific floor, as measured from the exterior dimensions, but not including cellars, attics, enclosed porches, garages or areas occupied by heating and ventilating equipment. 1971

Floor Area, Habitable means those heated areas used daily for living, eating, cooking and sleeping, but excluding garages, circulation areas, storage areas, etc. It will be presumed for the purposes of this ordinance that habitable floor area is deemed to be seventy per cent (70%) of gross floor area of a given building unless evidence sufficient to rebut the presumption is submitted to the Building Inspector. This presumption shall not apply in any instance where the owner or occupant(s) of the building permit inspection and measurement of such interior floor areas by town authorities concerned. (It is recognized that under these definitions it is possible for the habitable floor areas to exceed the gross.) 1971

Junk Yard means the use of any lot or parcel of land, or any part of a lot or parcel of land, for the open or exposed storage, keeping, sale, disposal or abandonment of food, garbage, refuse, old, used, wholly or partially dismantled, useless, broken or damaged articles, machines, machinery, automobiles, motor vehicles of any sort, clothing, furniture or things of any sort. Such storage, keeping, placing for sale, disposal or abandonment of two or more unused, inoperative or unregistered motor vehicles on any lot or parcel of land, or portion thereof, shall constitute a junk yard. The term "junk yard" as so defined shall not be deemed to include any municipal dump or municipal refuse disposal area.

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; and of the creation of hazards to health and life by reason of fire, effects of industrial wastes, psychological effects and generation of motor vehicle traffic.

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.

) Marina means a facility for the docking and servicing of boats.

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.

Neighborhood means an area of land, local to the use concerned, generally lying within a radius of 1,000 feet of such use for the purposes of this ordinance, but including all areas farther away from such use whenever the use creates a condition which by reasons of noise, vibration, lighting, smoke, dust, or other emission or cause is a detriment, hazard or is injurious to an area more extensive in size.

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

) Special Exception means a use which would not be appropriate generally or without restriction in a particular district, and accordingly, is allowable only upon such conditions as are established by this ordinance, and only after public hearing and determination by the Board of Adjustment. For the purposes of this ordinance, the following are established as conditions upon the grant of all Special Exceptions, subject to such further conditions as may be defined elsewhere herein as to the uses concerned, namely:

- a. That the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the kind and nature of other uses in the vicinity, or by reason of obvious and adverse violation of the character or appearance of the neighborhood;
- b. That the use will not be injurious, noxious or offensive, and thus detrimental to the neighborhood by reason of any of the causes stated in Section 4.12 of this ordinance;
- c. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life or property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions;
- d. As to all non-residential uses subject to site review by the Planning Board, pursuant to RSA 36:19(a) and Section 10.30 of this ordinance, that written approval by the Planning Board of the applicant's site plans must be on file with the Board of Adjustment.

Street means a public road, highway or thoroughfare 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.

) Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structure includes, but is not limited to a building, swimming pool, mobile home, billboard, pier, wharf. It shall not include a minor installation such as a fence less than four (4) feet high, mail box, or flag pole. Also, Radio-TV Tower means a free-standing or attached structure, 20 to 75 feet high, used to facilitate amateur radio transmission

Marina means a facility for the docking and servicing of boats.

Mobile Home Subdivision means the division of a tract, or a parcel of land into two (2) or more lots, for the specific purpose of the placement of mobile homes on individually owned lots within the subdivision.

Neighborhood means an area of land, local to the use concerned, generally lying within a radius of 1,000 feet of such use for the purposes of this ordinance, but including all areas farther away from such use whenever the use creates a condition which by reasons of noise, vibration, lighting, smoke, dust, or other emission or cause is a detriment, hazard or is injurious to an area more extensive in size.

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.

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

Special Exception means a use which would not be appropriate generally or without restriction in a particular district, and accordingly, is allowable only upon such conditions as are established by this ordinance, and only after public hearing and determination by the Board of Adjustment. For the purposes of this ordinance, the following are established as conditions upon the grant of all Special Exceptions, subject to such further conditions as may be defined elsewhere herein as to the uses concerned, namely:

- a. That the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the kind and nature of other uses in the vicinity, or by reason of obvious and adverse violation of the character or appearance of the neighborhood;
- b. That the use will not be injurious, noxious or offensive, and thus detrimental to the neighborhood by reason of any of the causes stated in Section 4.12 of this ordinance;
- c. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life or property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions;
- d. As to all non-residential uses subject to site review by the Planning Board, pursuant to RSA 36:19(a) and Section 10.30 of this ordinance, that written approval by the Planning Board of the applicant's site plans must be on file with the Board of Adjustment.

Street means a public road, highway or thoroughfare 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.

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structure includes, but is not limited to a building, swimming pool, mobile home, billboard, pier, wharf. It shall not include a minor installation such as a fence less than four (4) feet high, mail box, or flag pole. Also, Radio-TV Tower means a free-standing or attached structure, 20 to 75 feet high, used to facilitate amateur radio transmission

and/or radio or TV reception that is mounted on an approved base, is secured by adequate guide wires and/or braces and is properly grounded. Specific technical information will be required for any such-proposed structure over 75 feet in height. Sufficient land must surround any such tower so as to insure against damage to abutting properties should said tower collapse. 1978

Subdivision means the division of a tract, or parcel of land into two or more lots, plots, 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.

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

Variance means a variation from the terms of this ordinance, not otherwise permitted within the district concerned, which may be granted by the Zoning Board of Adjustment pursuant to its discretionary power, where the Board finds that the granting of such variance will do substantial justice and the intent of the ordinance will still be observed. The Board of Adjustment may in such case waive the literal enforcement of the applicable provision(s) of this ordinance and grant a variance only where such literal enforcement would result in unnecessary hardship to the applicant.

ARTICLE 2

ZONING DISTRICTS

2.10 ESTABLISHMENT OF DISTRICTS

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

Residence Districts

RA - Residence A
 RB - Residence B
 RT - Residence, Transition
 (RT-20, RT-40, RT-80)
 RC - Residence, Coastal
 R - Rural

Non-Residential Districts

CR - Commercial Residential
 BA - Business A
 BB - Business B
 OR - Office and Research

There are also the following overlay zoning districts:

Overlay Districts

Wetland Conservation District - see Article 13
 Shoreland Conservation Zone - see Article 14
 Flood Hazard Area - see Article 17
 Durham Historic District - see Article 15

2.20 PURPOSE OF DISTRICTS

RA - The purpose of this district is to maintain largely developed, high-density residential uses at a concentration requiring Town water and sewer.

RB - The purpose of this district is to maintain the integrity of existing medium-density developments.

RT - The purpose of this inner belt district is to foster residential development in keeping with the potential for delivery of Town services, while yet maintaining a more spacious aspect than RA. Provision is made for an orderly transition in density from outlying, low-service areas (RT-80) to inlying areas with partial or full services (RT-40 and RT-20 respectively) as needed to accommodate growth in population and households.

RC - The purpose of this shore-oriented district is to foster and maintain its unique beauty and accessibility for recreation and conservation. For this reason, low residential density and substantial open space are required.

R - In this district, customary rural land uses will be preserved. Thus, only low density residential development, where each building relies on its own water and sewer systems, is encouraged.

CR - The purpose of this centrally located district is to provide a common district for commercial residence structures such as fraternities, sororities, apartments, rooming and boarding houses, and dormitories, primarily used for student housing and located with access to municipal utilities. 1971

BA - The purpose of this district is to provide for establishments offering retail sales and services in a centrally located area.

BB - The purpose of this district is to provide a compact area for automotive services and vehicularly oriented business.

OR - The purpose of this district is to provide for office and research facilities in an area served by major highways and where water and sewer extensions are feasible.

ARTICLE 2
ZONING DISTRICTS

2.10 ESTABLISHMENT OF DISTRICTS

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

<u>Residence Districts</u>	<u>Non-Residential Districts</u>
RA - Residence A	CR - Commercial Residential
RB - Residence B	CR-1 - Commercial Residential
RT - Residence, Transition (RT-20, RT-40, RT-80)	BA - Business A
RC - Residence, Coastal	BB - Business B
R - Rural	CR - Office and Research

There are also the following overlay zoning districts:

<u>Overlay Districts</u>	
Wetland Conservation District	- see Article 13
Shoreland Conservation Zone	- see Article 14
Flood Hazard Area	- see Article 17
Durham Historic District	- see Article 15

2.20 PURPOSE OF DISTRICTS

- RA - The purpose of this district is to maintain largely developed, high-density residential uses at a concentration requiring Town water and sewer.
- RB - The purpose of this district is to maintain the integrity of existing medium-density developments.
- RT - The purpose of this inner belt district is to foster residential development in keeping with the potential for delivery of Town services, while yet maintaining a more spacious aspect than RA. Provision is made for an orderly transition in density from outlying, low-service areas (RT-80) to inlying areas with partial or full services (RT-40 and RT-20 respectively) as needed to accommodate growth in population and households.
- RC - The purpose of this shore-oriented district is to foster and maintain its unique beauty and accessibility for recreation and conservation. For this reason, low residential density and substantial open space are required.
- R - In this district, customary rural land uses will be preserved. Thus, only low density residential development, where each building relies on its own water and sewer systems, is encouraged.
- CR - The purpose of this centrally located district is to provide a common district for commercial residence structures such as fraternities, sororities, apartments, rooming and boarding houses, and dormitories, primarily used for student housing and located with access to municipal utilities. 1971
- CR-1 - The purpose of this zone is to provide for more uses of the land than allowed in the CR Zone, but excluding fraternities, sororities, rooming houses, boarding houses, club houses and dormitories.
- BA - The purpose of this district is to provide for establishments offering retail sales and services in a centrally located area.
- BB - The purpose of this district is to provide a compact area for automotive services and vehicularly oriented business.
- OR - The purpose of this district is to provide for office and research facilities in an area served by major highways and where water and sewer extensions are feasible.

2.30 ZONING MAP

2.31 Zoning Map. A Zoning Map of the Town of Durham dated March 11, 1980 which shows the zoning districts is hereby incorporated as part of this ordinance and is filed with the Town Clerk. The Zoning 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 therein.

2.32 Map of Residence Transition Stages. Each of the three Residence Transition Stages (RT-20, RT-40 & RT-80) shown on the Zoning Map shall be reviewed by the Planning Board at intervals of not more than six years. Revisions to said Stages shall be made by Town Meeting vote as for any other zoning amendment.

2.40 INTERPRETATION OF ZONING MAP

2.41 Location of District Boundaries. A district line drawn on the Zoning Map, generally on, or parallel to, a street, railroad, utility line or water course, or on a lot line, shall, as relevant, be deemed to be:

- a. on the center line of the right-of-way or water course, or
- b. parallel to the center line at the distance noted, or
- c. on the lot line,

as these existed on the date of adoption of this ordinance, or at the time of any amendment of such Zoning Map. In cases of uncertainty, the Planning Board shall define the exact location of the boundary.

2.42 Lots Crossed by Town Lines. When part of a lot in single or joint ownership lies outside the Town of Durham, the portion within Durham shall conform to the use regulations of this ordinance. In applying dimensional controls to that portion of the lot within Durham, the dimensions of the whole lot shall be considered without reference to the Town line.

ARTICLE 3
STANDARD EXEMPTIONS

3.10 EXEMPTION FOR THE UNIVERSITY OF NEW HAMPSHIRE

3.11 Land Owned by the University. Any land which is owned by the University may be used for educational purposes and operations incidental to the administration of the University of New Hampshire.

3.12 Required Hearing. Land which is purchased by the University subsequent to the adoption of this ordinance shall not be used or developed for any purpose or in any manner not otherwise permitted without a public hearing conducted by the Planning Board at least two weeks after a publication of a notice thereof in a paper of general circulation in the Town. The purpose of such hearing shall be to bring to light possible problems of circulation, parking, provision of utilities, the protection of persons and property, or any other problems affecting the Town or the neighborhood. The Planning Board may by way of advisory action recommend conditions for such use or development.

3.13 Land Not Owned by the University. Lands which the University does not own but acquires only the right to use, whether by rental, lease, or other beneficial interest may not be used for any purpose not otherwise permitted unless the owner obtains a variance or a special exception from the Zoning Board of Adjustment.

3.14 Land Owned But Not Used by the University. University land which is leased or allowed to be used by others for private or business purposes not connected with the public functions of the University shall be subject to all the regulations for the district within which it lies.

3.20 EXEMPTION FOR GOVERNMENTAL USE

Nothing herein shall prevent the condemnation of land or buildings for municipal purposes by the Town of Durham, or for public or institutional use by any agency, department, institution, or public corporation of the State of New Hampshire or of the United States.

3.30 NONCONFORMING USES

3.31 Continuance. Any lawful nonconforming use in existence at the time of passage of this ordinance may continue unchanged, but may not be extended in any manner.

3.32 Resumption After Discontinuance. A nonconforming use which has ceased to exist for a period of twelve consecutive months may not again be initiated or replaced by another nonconforming use, provided however, that the Zoning Board of Adjustment may grant a special exception to allow the resumption of a nonconforming 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: 1973

- a. of undue hardship by reason of non-adaptability of the premises to a conforming use, and
- b. that the proposed nonconforming use will not be conducted within 100 feet of the lot line of any other owner's conforming use of land or buildings.

3.40 NONCONFORMING BUILDINGS

3.41 Continuance. Any lawful nonconforming building in existence when this ordinance is passed may continue unchanged but may not be altered or extended in any way which will result in a new and increased violation.

3.42 Restoration and Reconstruction. Nothing herein shall prevent the substantial restoration or reconstruction within one year of a building destroyed in part or whole by fire or other casualty so long as this use does not result in a new or increased violation.

3.50 NONCONFORMING VACANT LOTS

3.51 Single Lot. A nonconforming vacant lot which at the time of passage of this ordinance was in separate ownership from any adjacent lot and which was duly recorded in the Strafford County Register of Deeds prior to the adoption of this ordinance may be used for one single-family dwelling, provided:

- a. the lot is in a district where residential use is permitted;
- b. the requirements of this ordinance regarding yards and height are met;
- c. the arrangements for sewage disposal are approved by the Building Inspector in accordance with the provisions of State law.

3.52 Lots in Contiguous Ownership. Where two or more adjacent nonconforming lots in a district are held by the same fee or beneficial ownership when this ordinance is passed, the area and frontage of the lots shall be combined in such a manner as to comply as nearly as practical with the dimensional requirements of this ordinance. This provision shall not apply to lots within a subdivision previously approved by the Planning Board under this, or the prior, Durham Zoning Ordinance.

ARTICLE 4
USE REGULATIONS

4.10 PROHIBITED USES

4.11 Unlisted Uses. Only uses listed in Article 4 and legal nonconforming uses listed in Section 3.30 shall be allowed unless the Zoning Board of Adjustment finds that a petitioned use is substantially identical in purpose and operational characteristics to a conforming use permitted in the district. 1971

4.12 Offensive Uses. Uses shall not be permitted in a manner injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration, noise, glare, or any other cause, nor as a fire hazard, nor in a manner which is disorderly or insightly and thus detrimental to adjacent property or to the public. The Zoning Board of Adjustment shall have original authority to determine, after due public hearing, whether any use is or has become noxious or offensive, and to order the removal or abatement of any use so found to be noxious or offensive.

4.13 Dumps and Junkyards. Private dumps and junkyards are prohibited in all districts.

4.14 Untreated Wastes. Untreated sewage or household wastes shall not be discharged into any flowing stream or body of water. Owners and users of land not served by Town water and sewer shall be required to furnish plans for a satisfactory on-site sewage disposal system with percolation tests that indicate satisfactory drainage before a building permit will be issued, provided such system satisfies all local and State ordinances, statutes and regulations.

4.15 Mobile Homes, Travel or Camper Trailers. The use of land for the accommodation of mobile homes, as defined in Article 8, or trailers is forbidden except as follows:

- a. mobile home parks will be permitted in designated zones by Special Exception only;
- b. mobile homes in a licensed mobile home park or in an approved mobile home subdivision.
- c. travel or camper trailers in a licensed camping ground;
- d. one occupied mobile home or trailer at a time, of a non-paying guest on the property of the host for a cumulative period not to exceed 30 days in any one calendar year;
- e. dead storage of unoccupied mobile homes or trailers, subject to the following provisions:
 1. not more than one such vehicle shall be stored or parked at any time on any lot in any district;
 2. any such vehicle 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 in the respective district;
 3. any such vehicle shall remain on its own wheels and shall not be affixed to the land nor connected to any utility, public or private, such as water, sewer, electricity or gas.

4.16 Inoperative Motor Vehicles. The outdoor storage of unregistered or inoperative motor vehicles shall be forbidden except as follows:

- a. not more than one such vehicle may be stored at a time for a period not to exceed 90 days for any one vehicle; (The presence, storage or location of two or more such unregistered or inoperative vehicles on a lot shall constitute a junkyard and is prohibited.)
- b. the provisions of state law shall determine the storage period for abandoned, improperly registered or wrecked vehicles by any garage or other persons properly storing same according to law. (See R.S.A. 266)

4.20 PERMITTED USES: DEFINITIONS AND TABLE

The uses as listed in the Table of Permitted Uses shall be limited to those as defined below, including:

4.21 Residential Uses Permitted

- a. Single detached dwelling units, duplexes, townhouses, apartment buildings, motels, hotels, rooming and boarding houses, fraternities, sororities, dormitories, and club houses as defined in Section 1.40 provided each dwelling unit is provided with floor area as follows:
 - 1. Single detached dwelling and each separate living quarters of a duplex or townhouse shall have a gross first floor area of 600 sq. ft. or more, having no horizontal exterior dimensions of less than 15 ft. not including porches or carports. 1971
 - 2. Each apartment including those in accessory lodgings shall have a habitable floor area of 200 sq. ft. or more. 1971
- b. Rest homes, nursing homes, provided State Health Department requirements are met.
- c. Mobile home park and uses incidental to its operation, subject to the provisions of Article 8.
- d. Accessory first-class home occupation or professional office, provided:
 - 1. it occupies no more than 500 square feet of floor area;
 - 2. the principal operator resides on the premises, employs not more than one other person and sells no principal products prepared by others;
 - 3. there is no indication of such occupation visible on the exterior of the building or on the lot, except permitted signs;
 - 4. the activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.
- e. Accessory second-class home occupation, light industry or office, provided:
 - 1. it occupies no more than 1,000 square feet of floor area;
 - 2. the principal operator resides on the premises, employs not more than three other persons and sells no principal products prepared by others;
 - 3. the activity, except for outdoor storage, is completely enclosed in a building;
 - 4. outdoor storage of materials or equipment is at least 10 feet from any lot line and so screened as not to be visible from any public way or shoreline or public park;

5. suitable arrangements are made for public access, parking of customers and employees, and for loading;
 6. the activity does not produce noise, smoke, fire hazard, odors, or other nuisances.
- f. Accessory buildings for non-commercial use by residents of the premises only, such as garages for not more than three motor vehicles, boat houses, storage sheds, greenhouses, etc.; the keeping of customary household pets except as provided in 4.22d; provided that not more than two such accessory buildings shall be placed upon any lot by Special Exception; except that in the R zone one such additional accessory building shall be permitted for each additional 80,000 sq. ft. of lot area above the minimum required lot size, such buildings shall be removed prior to any subdivision of the land if such subdivision would result in a legally non-conforming use. 1974
 - g. Accessory lodging use in single detached, duplex and townhouse dwellings, provided the total number of unrelated occupants of the dwelling shall not exceed the numbers presented for the accessory use according to the table in Section 1.40 and that such use is restricted to not more than four unrelated occupants per building. Accessory lodging use in other classes of building are permitted so long as such uses do not exceed the limits cited in the table of Section 1.40 for the class of dwelling provided.
 - h. Housing for Older Citizens shall consist of small dwelling units with a minimum habitable floor area of 400 square feet which may be:
 1. arranged in clusters;
 2. garden apartments;
 3. in a single building, or
 4. in an existing building suitably converted into separate units. In addition to the floor area, each unit shall be required to have one and one-half parking spaces (300 square feet) and 100 square feet of open space in addition to the setback requirements. These units will be allowed in RA, BA, and CR districts only by Special Exception and require a site review. 1973
 - i. Condominiums, provided they comply with all requirements of this ordinance and state statute, RSA 479-A, but excluding unit ownership by long term leasing as provided for in RSA 479-A, and provided they receive site review approval under Section 10.30. See site review regulations, Section 2.2G. 1975

4.22 Rural and Recreational Uses.

- a. Crop farms, plant nurseries, provided:
 1. no poultry or livestock shall be kept except as incidental to a farm operation;
 2. all products sold are raised or prepared on the premises.
- b. Livestock farms for horses, cattle, sheep and other useful animals, provided:
 1. no swine or fur bearing animals shall be raised for commercial purposes;

5. suitable arrangements are made for public access, parking of customers and employees, and for loading;
 6. the activity does not produce noise, smoke, fire hazard, odors, or other nuisances.
- f. Accessory buildings for non-commercial use by residents of the premises only, such as garages for not more than three motor vehicles, boat houses, storage sheds, greenhouses, etc.; the keeping of customary household pets except as provided in 4.22d; provided that not more than two such accessory buildings shall be placed upon any lot by Special Exception; except that in the R zone one such additional accessory building shall be permitted for each additional 80,000 sq. ft. of lot area above the minimum required lot size, such buildings shall be removed prior to any subdivision of the land if such subdivision would result in a legally non-conforming use. 1974
 - g. Accessory lodging use in single detached, duplex and townhouse dwellings, provided the total number of unrelated occupants of the dwelling shall not exceed the numbers presented for the accessory use according to the table in Section 1.40 and that such use is restricted to not more than four unrelated occupants per building. Accessory lodging use in other classes of building are permitted so long as such uses do not exceed the limits cited in the table of Section 1.40 for the class of dwelling provided.
 - h. Housing for Older Citizens shall consist of small dwelling units with a minimum habitable floor area of 400 square feet which may be:
 1. arranged in clusters;
 2. arranged in garden apartments;
 3. in a single building, or
 4. in an existing building suitably converted into separate units.
 In addition to the floor area, each unit shall be required to have one and one-half parking spaces (300 square feet) and 100 square feet of open space in addition to the setback requirements. These units will be allowed in RA, BA, and CR districts only by Special Exception and require a Site Review. 1973
 - i. Condominiums, provided they comply with all requirements of this ordinance and state statute, RSA 479-A, but excluding unit ownership by long term leasing as provided for in RSA 479-A, and provided they receive Site Review approval under Section 10.30. See Site Review Regulations, Section 2.2G. 1975
 - j. Mobile Home Subdivision. A division of a tract, or a parcel of land into two (2) or more lots, for the specific purpose of the placement of mobile homes on individually owned lots within the subdivision. Allowed within Cluster Developments only. (1982)

4.22 Rural and Recreational Uses.

- a. Crop farms, plant nurseries, provided:
 1. no poultry or livestock shall be kept except as incidental to a farm operation;
 2. all products sold are raised or prepared on the premises.
- b. Livestock farms for horses, cattle, sheep and other useful animals, provided:
 1. No swine or fur bearing animals shall be raised for commercial purposes.

2. no shelter for livestock or outdoor storage of odor-producing substances shall be less than 75 feet from any lot line. 1971
- c. Poultry farms, provided:
 1. no poultry run or shelter shall be less than 100 feet from any lot line;
 2. such runs shall be fenced.
- d. Boarding, training or veterinary care of animals for compensation.
- e. Commercial greenhouse, cidemill, sawmill.
- f. Retail sales of farm or nursery products, provided:
 1. the major portion of the goods are raised and prepared on the premises;
 2. any non-agricultural products sold are accessory thereto, such as gardening supplies and equipment within a nursery, and are displayed only within a building.
- g. Seasonal camping grounds in institutional group, or commercial management, which accommodate cottages, tents, travel or camp trailers, etc., provided such camping grounds are licensed in the same manner as required for Mobile Home Parks by Article 8.80.
- h. Outdoor recreation, such as a riding stable, golf course, swimming beach, skating rink and other forms of predominantly outdoor recreation, except shooting ranges, provided:
 1. spectator events are incidental and not operated as a business;
 2. accessory service buildings are limited to those necessary to the pursuit, on the premises, of the sport;
 3. no area developed for active recreation is within 100 feet of any residential lot line.
- i. Public, commercial or private marinas, yacht clubs, and boat yards, including the operation of not more than two gasoline pumps for service of marine craft.
- j. Public, commercial or private skimobile area, shooting ranges or other sports not creating unusual noise or hazard.
- k. Public, commercial or private airport, air landing strip, heliport and any use customarily accessory thereto, provided the size, runway layout, private or commercial nature, land approach details are approved under the Special Exception.
- l. Removal of earth products, except as incidental to development of a permitted use, subject to the provisions of Article 9.
- m. The keeping of small animals (e.g., dogs, cats, birds, etc.) as pets, providing such use shall not result in noise, odors, unsightly or dangerous activities which are detrimental to the neighborhood.
- n. The keeping of personal riding horses or other large animals (e.g., cattle, goats, sheep, etc.) for non-commercial purposes, provided:
 1. the lot size of the dwelling at which any such animal is kept shall not be less than 40,000 sq. ft.;
 2. no separate shelter for such animals or outdoor storage of odor producing substances shall be less than 75 feet from any lot line; 1971
 3. such use shall not result in noise, odors, unsightly or dangerous activities which are injurious or detrimental to the neighborhood;
 4. riding horses are maintained only for use of the owner's household and his personal, non-paying guests.

4.23 Retail and Personal Service Uses

- a. Retail store, craft, consumer, professional or commercial establishment dealing directly with the general public, provided:
 1. All displays, storage and sales are conducted within a building;
 2. any outdoor vending machine is located at least 20 feet from any street line or residential district line;
 3. the manufacture, assembly, packaging of goods handled is confined to those sold on the premises and occupies not more than half the area thereof.
- b. Restaurants or any other establishment where food or beverages are consumed on the premises, except drive-in eating places. 1977
- c. Drive-in eating places, where customers are not seated in the building.
- d. Theatre, club operated as a business, or other commercial indoor amusement, provided that the building is so insulated and maintained as to confine noise to the premises.
- e. Hotel, motel providing lodging in one central building or in individual cabins for tourists and travelers and garaging or parking space for their motor vehicles.
- f. Medical or dental clinic.
- g. Office for professional or personal services to the public; offices of a public agency.
- h. Bank, provided drive-in teller windows are approved by the Planning Board under the site review provisions.
- i. Funeral parlors, undertaking establishments.
- j. Yard/Garage Sales: a sale of goods belonging to or coming from the house where such a sale is held. Two or three households within a reasonable distance may combine for one sale. Each sale may not last more than three days and each household may not have more than two sales per year. The seller must register at the Town Office two weeks prior to each sale and receive a permit from the Board of Selectmen to be posted during the sale showing the number of participants and the hours of selling. A copy will be on file in the Town Office. Snipe signs or temporary signs may be posted within the property boundaries. If directional signs are desired, they must have prior approval of the Selectmen and be so noted on the permit. A nominal fee may be charged for each permit. Failure to obtain a permit shall be subject to the same penalties as any violation of the Zoning Ordinance. 1976

- k. Any establishment selling alcoholic beverages for consumption on the premises. 1978

4.24 Automotive Uses.

- a. Automobile service station, for the supply of motor fuel, oil, accessories, and service to motor vehicles, or a public garage for their sale, storage and maintenance, provided:
1. Storage in excess of 10 gallons or the equivalent for the purposes of sale or service of gasoline, fuel oil, petroleum products and other flammable fluids or gases as provided and protected in accordance with the requirements of the State Fire Marshall.
 2. No service, maintenance or repair work shall be undertaken without adequate provision for abatement of objectionable noise.
- b. Car Washing establishment, provided arrangements for entrance and exit are provided to the Planning Board under site review provisions.
- c. Parking lot, public or commercial.

4.25 Research and Business Office Uses.

- a. Research offices and laboratories, including the accessory manufacture, but not retail sale of prototypes developed by such office or laboratory.
- b. Administrative, sales and other business offices not primarily dealing with the general public.

4.26 Light Industry.

Light industry as defined under Article 1.40 by Special Exception procedures only.

4.27 Institutional and Semi-Public Uses

- a. Religious and public educational uses.
- b. Other schools, nurseries.
- c. Civic clubs, sport club building, non-residential and not operated as a business.
- d. Hospitals and sanitarium.
- e. Private utility without service yard not to exceed 40,000 sq. ft. 1974
- f. Private utility with service yard not to exceed 40,000 sq. ft. 1974

4.28 Table of Permitted Uses by Zoning Districts. The symbols used in this table mean:

X -- a use permitted only in the district(s) indicated and prohibited elsewhere.

SE -- a use permitted only upon the granting of a Special Exception by the Zoning Board of Adjustment.

Permitted uses shall be limited as described in the preceding and subsequent sections of this ordinance and by footnotes to this section.

Any combination of uses as set forth in Article 4 and contemplated as a single enterprises may be established in only those use districts in which all such uses are permitted. Any establishment having any combination of uses must meet all the requirements of each use as outlined by the Durham Zoning Ordinance. In the case of conflicting duly adopted rules, regulations, or ordinances, the more restrictive may, at the discretion of the Planning Board, be applied. 1978

Table 4.28. Table of Permitted Uses by Zoning District:

USES	RA	RB RT	RC	R	BA	BB	OR	CR
<u>Residential Uses</u> (see 1.40, 4.21)								
All uses except a, b, i and m each require site review.								
a. single household	X	X	X	X			X ¹	X
b. duplex household	X	X ²					X ¹	X
c. apartment dwelling ⁷	SE ^{4,5}	SE ^{4,5}			X			X
d. rooming house				X ³	X ³			X ³
e. boarding house				X ³	X ³			X ³
f. fraternity & sorority					X			X
g. club house					X			X
h. dormitory	SE ^{4,5}	SE ^{4,5}			X			X
i. accessory lodging use								
1. accessory apartments	X	X	X	X	X		X	X
2. accessory rooming	X	X	X	X	X		X	X
3. accessory boarding	X	X	X	X	X		X	X
j. accessory home occupation								
1. first class	X	X	X	X	X			X
2. second class				X	X		X	X
k. rest & nursing homes			SE	X	SE			
l. mobile home parks (Art.8)				SE				
m. accessory buildings	X	X	X	X	X	X	X	X
n housing for elderly	SE ⁴	SE ^{4,6}			SE			SE
o. townhouse ⁷	X ⁶	X ^{2,4}		X ^{6,8}	X			X

4.28 Table of Permitted Uses by Zoning Districts. The symbols used in this table mean:

X -- a use permitted only in the district(s) indicated and prohibited elsewhere.

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Permitted uses shall be limited as described in the preceding and subsequent sections of this ordinance and by footnotes to this section.

Any combination of uses as set forth in Article 4 and contemplated as a single enterprise may be established in only those use districts in which all such uses are permitted. Any establishment having any combination of uses must meet all the requirements of each use as outlined by the Durham Zoning Ordinance. In the case of conflicting duly adopted rules, regulations, or ordinances, the more restrictive may, at the discretion of the Planning Board, be applied. 1978

Table 4.28. Table of Permitted Uses by Zoning District:

USES	RA	RB RT	RC	R	BA	BE	OR	CR	CR-1
<u>Residential Uses</u> (see 1.40, 4.21)									
All uses except a, b, i and m each require site review.									
a. single household	X	X	X	X			X ¹	X	X
b. duplex household	X	X ²					X ¹	X	X
c. apartment dwelling ⁷	SE ^{4,5}	SE ^{4,5}			X			X	X
d. rooming house				X ³	X ³			X ³	
e. boarding house				X ³	X ³			X ³	
f. fraternity & sorority					v			X	
g. club house					X			X	
h. dormitory	SE ^{4,5}	SE ^{4,5}			X			X	
i. accessory lodging use									
1. accessory apartments	X	X	X	X	X		X	X	X
2. accessory rooming	X	X	X	X	X		X	X	X
3. accessory boarding	X	X	X	X	X		X	X	X
j. accessory home occupation									
1. first class	X	..	X	X	X			X	X
2. second class				X	X		X	X	X
k. rest & nursing homes			SE	X	SE				SE
l. mobile home parks (Art.8)				SE					
m. accessory buildings	X	X	X	X	X	X	X	X	X
n. housing for elderly	SE ⁴	SE ^{4,6}			SE			SE	SE
o. townhouse ⁷	X ⁶	X ^{2,4}		X ^{6,8}	X			X	X
p. mobile home subdivision				X ⁶					

Table 4.28 Continued...

NOTES:

1. Only one dwelling per vacant lot of record on date of adoption of this ordinance.
2. On conventional lots or in non-cluster subdivisions in any RT district, the lot of a residential building other than a detached single-family household must have the area and frontage required in the district times the number of dwelling units in the building; see Sec. 5.42.e. and Table 5.42. For requirements in Cluster Developments, see Table 12.51.
3. Not to exceed 10 unrelated persons per building.
4. Only where municipal sewer and water are connected to use.
5. Applies only to buildings on UNH land not exempt from zoning or taxes and served by Town sewer.
6. Within Cluster Developments only; see Table 12.51.
7. Apartments and townhouses may be owned in condominium.
8. Townhouses in R districts must have access to an arterial road.

<u>Rural and Recreational Uses (see 4.22 - each such use will require site review, see 10.30)</u>	RA	RB RT	RC	R	BA	BB	OR	CR
a. crop farms and plant nurseries	X	X	X	X			X	
b. livestock farms			X	X				
c. poultry farms				X				
d. boarding, training or veterinary care of animals			X (1,2)	X			X	
e. commercial greenhouse, cidermill, sawmill				X				
f. retail sales of farm or nursery products	X	X	X	X			X	
g. seasonal camping grounds			X	X				
h. outdoor recreation		X	X	X				
i. marinas, yacht clubs, boat yards				X				
j. sports using motors, shooting ranges				X				
k. airport, heliport				X			X	
l. removal of earth products (by authorization of Board of Selectmen only, See Art. 9)	X	X	X	X	X	X	X	
m. keeping of personal riding horses or other large animals			X	X				

NOTES:

1. Minimum land requirement 5 acres contiguous land.
2. No storage of odiferous materials be maintained so as to drain on abutters property or within 75 ft. of lot lines.

	RA	RB RT	RC	R	BA	BB	OR	CR
<u>Retail and Personal Uses</u> (see 4.23 -- each such use will require site review, see 10.30)								
a. retail stores, personal services					X	X		
b. restaurants or any other establishment where food or beverages are consumed on the premises, except drive-in eating places				X	X		X	
c. drive-in eating places					SE	X		
d. theatre, club operated as a business indoor amusement				X	X	X		
e. hotel, motel				SE	X		X	X
f. medical or dental clinic		X ¹		X	X	X	X	X
g. offices for professional or personal services		X ¹		X	X	X	X	X
h. bank					X			
i. funeral parlor					X			
j. yard/garage sales ²	X	X	X	X	X	X	X	X
k. any establishment selling alcoholic beverages 1980				X ³	X ³		X ³	

NOTES:

1. The conditions for this use shall include the following: the lot on which such uses are permitted shall be large enough to provide for parking of employee and patient's cars in such a manner that exit from the parking lot onto the highway is in the forward direction only. Other requirements of Article 6 will also apply.
2. See definition with restrictions in section 4.23 for permit required.
3. No part of any such establishment may be located within 200 feet of any part of another such establishment, nor within 250 feet of any part of a church, snyngogue, or other place of worship, or within 250 feet of an RA, RB, or RC Zoning boundary. 1978

Z.O. amended 1973, 1975, 1976, 1977,
1978, 1980, 1981

NOTES:

1. Minimum land requirement 5 acres contiguous land.
2. No storage of odiferous materials be maintained so as to drain on abutters property or within 75 ft. of lot lines.

	RA	RB RT	RC	R	BA	BB	OR	CR	CR-1
<u>Retail and Personal Uses</u> (see 4.23 -- each such use will require site review, see 10.30)									
a. retail stores, personal services					X	X			
b. restaurants or any other establishment where food or beverages are consumed on the premises, except drive-in eating places				X	X		X		X ⁴
c. drive-in eating places					SE	X			
d. theatre, club operated as a business indoor amusement				X	X	X			
e. hotel, motel				SE	X		X	X	X
f. medical or dental clinic		X ¹		X	X	X	X	X	X
g. offices for professional or personal services		X ¹	X ¹	X	X	X	X	X	X
h. bank					X				X
i. funeral parlor					X				X
j. yard/garage sales ²	X	X	X	X	X	X	X	X	X
k. any establishment selling alcoholic beverages (1980)				X ³	X ³		X ³		

NOTES:

1. The conditions for this use shall include the following: the lot on which such uses are permitted shall be large enough to provide for parking of employee and patient's cars in such a manner that exit from the parking lot onto the highway is in the forward direction only. Other requirements of Article 6 will also apply.
2. See definition with restrictions in section 4.23 for permit required.
3. No part of any such establishment may be located within 200 feet of any part of another such establishment, nor within 250 feet of any part of a church, synagogue, or other place of worship, or within 250 feet of an RA, RB, or RC Zoning boundary. 1978
4. Establishments may sell alcoholic beverages for consumption on the premises only provided no part of any such establishment may be located within 200 feet of any part of another such establishment, nor within 250 feet of any part of a church, synagogue, or other place of worship, or within 250 feet of an RA, RB, or RC Zoning Boundary.

	RA	RB RT	RC	R	BA	BB	OR	CR
<u>Automotive Uses</u> (see 4.24 each such use will require site review, see 10.30)								
a. automobile service station				SE		X	SE	
b. car washing establish- ment						X	X	
c. commercial parking lot					X	X	X	
<u>Research and Business Office Uses</u> (see 4.25 -- each such use will require site review, see 10.30)								
a. research offices, laboratories					X		X	X
b. administrative, sales offices					X	X	X	X
<u>Light Industry</u> (see 4.26 each such use will require site review, see 10.30)								
						SE	SE	
<u>Institutional and Semi-Public Uses</u> (see 4.27 -- each such use will require site review, see 10.30)								
a. religious and public educational uses	X	X	X	X	X			
b. other schools, nurseries	X	X	X	X	X		X	
c. civic clubs, sports clubs	X	X	X	X	X		X	
d. hospitals and sanitarium		SE		SE			SE	
e. Private utility without service yard, not to exceed 40,000 sq. ft.	X	X	X	X	X	X	X	X
f. private utility with service yard, not to exceed 40,000 sq. ft.				X	X	X	X	

(For signs permitted in each district, see Article 7.49)

	RA	RB RT	RC	R	BA	BB	OR	CR	CR-1
--	----	----------	----	---	----	----	----	----	------

Automotive Uses (see 4.24
each such use will require
site review, see 10.30)

- | | | | | | | | | | |
|-------------------------------|--|--|--|----|---|---|----|--|--|
| a. automobile service station | | | | SE | | X | SE | | |
| b. car washing establishment | | | | | | X | X | | |
| c. commercial parking lot | | | | | X | X | X | | |

Research and Business Office Uses (see 4.25 -- each such use will require site review, see 10.30)

- | | | | | | | | | | |
|-----------------------------------|--|--|--|--|---|---|---|---|---|
| a. research offices, laboratories | | | | | X | | X | X | X |
| b. administrative, sales offices | | | | | X | X | X | X | X |

Light Industry (see 4.26
each such use will require
site review, see 10.30)

						SE	SE		
--	--	--	--	--	--	----	----	--	--

Institutional and Semi-Public Uses (see 4.27 -- each such use will require site review, see 10.30)

- | | | | | | | | | | |
|---|---|----|---|----|---|---|----|---|---|
| a. religious and public educational uses | X | X | X | X | X | | | | |
| b. other schools, nurseries | X | X | X | X | X | | X | | |
| c. civic clubs, sports clubs | X | X | X | X | X | | X | | |
| d. hospitals and sanitarium | | SE | | SE | | | SE | | |
| e. private utility without service yard, not to exceed 40,000 sq. ft. | X | X | X | X | X | X | X | X | X |
| f. private utility with service yard, not to exceed 40,000 sq. ft. | | | | X | X | X | X | | |

(For signs permitted in each district, see Article 7.49)

4.29 Occupancy permits -- Conversion

- a. For each permitted use of a structure for which a building permit and/or a site review approval is required, occupancy of the new or modified use shall not take place until the structure has been inspected by the building inspector and he has issued an Occupancy Permit which certifies compliance with the conditions of the building permit and/or the site review. 1976
- b. Conversion is a change of a permitted use in a structure to another permitted use provided the result of the conversion meets the requirements cited in this ordinance for such latter use within the zoning district in which the structure exists. An occupancy permit is required for any conversion whether or not any construction or alteration is involved, and a site review is required if the use converted to is one which would require a site review if it were new construction. 1976

ARTICLE 5
DIMENSIONAL CONTROLS

5.10 DEFINITIONS

- 5.11 Lot Area. The area of the lot on which one building and its accessory uses are located.
- 5.12 Lot Line. A line dividing one lot from another, a street right-of-way, or other public space.
- 5.13 Street Line. A lot line dividing the lot from a street right-of-way.
- 5.14 Frontage. The length of the street line.
- 5.15 Setback. The horizontal distance between the street line and the nearest part of any building on the lot, excluding uncovered steps and terraces.
- 5.16 Yard. The land between a lot line and the nearest part of any building on the lot, excluding uncovered steps and terraces.
- a. Street yard: a yard along the full length of any street line.
 - b. Side yard: a yard along the full length of any lot line from the point where the line touches a street yard or street line.
 - c. Rear yard: a yard along the full length of any remaining lot line between two side yards.
- 5.17 Coverage. The aggregate gross ground floor area of all buildings on a lot expressed as a percentage of the total lot area.
- 5.18 Building Height. The vertical distance in feet from average grade to the average elevation of the roof of the highest story, except that height limitations shall not apply to chimneys, spires, cupolas, TV antennae and other parts of buildings not intended for human occupancy.
- 5.19 Story. Story means that part of a building between a floor and the floor or roof next above.
- a. Basement story: a basement which has one-half or more of its clear interior height above grade shall be counted as a story if it is used for purposes other than storage or heating.
 - b. Mezzanine story: a mezzanine shall be considered a story if it is used for purposes other than storage or heating, or if it exceeds 33.33 percent of the roof area.
 - c. Half-story: a half-story is the story beneath a pitched roof when not more than half of its floor area has a clear interior height of 7 feet or more.

5.20 GENERAL REGULATIONS

- 5.21 One Residential Use per lot. Only one class of dwelling unit as defined in Section 1.40 is permitted per lot.

5.22 Limitation on Occupants. The number of unrelated occupants is subject to the provisions of Section 1.40 and to the off-street parking requirements of Sections 6.30 and 6.40.

5.23 Permitted Uses in Required Yards. No building or parking is permitted within the minimum yards required for the district except as otherwise allowed below. All required minimum yards, except for driveways and walkways, shall be landscaped or left with natural vegetation with the following exceptions:

- a. Up to 25 percent of the area of street yards of non-commercial residential lots may be used for accessory parking.
- b. Structures accessory to residential uses shall occupy no more than 30 percent of the required yard and be no closer than 10 feet to any lot line, nor more than 20 feet high.
- c. Where a lot in Business A or B district abuts a Residence District, the required yard need not be landscaped, provided there is a screen along the lot line consisting of either a row of evergreens at least 4 feet high when planted, which will grow into a thick hedge not less than 6 feet high, or of an opaque and neatly maintained fence not less than 6 feet in height.
- d. Where a lot in the CR district abuts a lot in a Residence district, the above provisions for screening may be required pursuant to site review.
- e. There shall be not more than one driveway where the frontage is less than 200 feet, plus one additional driveway for each additional 100 feet or major fraction thereof of frontage, except where prohibited by subdivision regulations. Driveways in BA and BB districts must be approved by the Planning Board under the site review procedure.

5.25 Corner Clearance. No object, vegetation, or slope which impedes visibility at street intersections shall be allowed within a triangle, two of whose sides extend 20 feet from the intersection along the street lines and between two planes 3 feet and 7 feet above the level of the traveled way.

5.25 Changes in Lot Dimensions. Any change made to the dimensions of an undeveloped lot shall meet all the requirements of Table 5.41, Dimensional Controls by Zoning District, in effect at the time of the proposed change. In the case of a legal non-conforming lot which has been developed, the lot dimensions may be changed to decrease the violation of the dimensional requirements of this ordinance.

5.30 SPECIAL SITUATIONS AFFECTING REQUIRED DIMENSIONS

5.31 Lot Area

- a. Lots with Multiple Dwellings. The minimum area of a lot with multiple dwelling units shall be the greater of the following: The minimum lot area required for the district; or the area required to meet the off-street parking requirements of Sections 6.30 and 6.40, plus 2000 sq. ft. per multiple dwelling unit as defined in Section 1.40.
- b. Lots for Housing the Elderly. The requirements of 5.31a above may be varied by the Planning Board upon site review for Housing for the Elderly, provided that the lot meets setback requirements and contains at least the following areas per dwelling unit: 400 sq. ft. of

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- b. Structures accessory to residential uses shall occupy no more than 30 percent of the required yard and be no closer than 10 feet to any lot line, nor more than 20 feet high.
- c. Where a lot in Business A or B district abuts a Residence District, the required yard need not be landscaped, provided there is a screen along the lot line consisting of either a row of evergreens at least 4 feet high when planted, which will grow into a thick hedge not less than 6 feet high, or of an opaque and neatly maintained fence not less than 6 feet in height.
- d. Where a lot in the CR, and CR-1 district abuts a lot in a Residence district, the above provisions for screening may be required pursuant to site review.
- e. There shall be not more than one driveway where the frontage is less than 200 feet, plus one additional driveway for each additional 100 feet or major fraction thereof of frontage, except where prohibited by subdivision regulations. Driveways in BA and BB districts must be approved by the Planning Board under the site review procedure.

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- b. Lots for Housing the Elderly. The requirements of 5.31a above may be varied by the Planning Board upon site review for Housing for the Elderly, provided that the lot meets setback requirements and contains at least the following areas per dwelling unit: 400 sq. ft. of

habitable floor area; 300 sq. ft. of parking space; and 100 sq. ft. of open space. The open space requirements for all or several units may be combined, as may parking space, but no parking will be allowed within the minimum open space or setback areas.

5.32 Lot Frontage

- a. Frontage Variation. The minimum frontage otherwise required may be varied by the Planning Board under procedures outlined in the Durham Subdivision Regulations and for site reviews for plots of land of unusual shape, or at corners, where an increased setback can provide the same effective spacing of the usable portion of a lot, whether or not the lot is part of a subdivision plan.
- b. Requirements for Porkchop Lots. Porkchop lots are permitted in certain RT.RC and R subdivisions as regulated by Section 5.40, subject to the following general requirements as well as those of the Durham Subdivision Regulations:
 - (1) Width at Building Line -- The width of the porkchop lot at a line touching the front of the principal building and parallel to a line connecting the intersections of the side lot lines with the street line shall be at least that of the frontage required for a conventional RT lot, or 200 feet in RC and R districts.
 - (2) Yards -- All yards shall be the minimum required for rear yards in the district.

5.33 Street Yards

- a. Minimum Setbacks Along Major Streets. Except in those portions of a Business A district not subject to Section 5.33.b., no structure other than permitted signs shall be closer to the street line than indicated below:
 - (1) along an arterial street: 40 feet;
 - (2) along a collector street: 30 feet;
 - (3) however, where the lot concerned is abutted on both sides by lots with structures not meeting the setback requirement above, the Planning Board is empowered to allow a setback of not less than the lesser of the two adjoining setbacks.

The portion of a street yard between the minimum required for the district and any greater setback required above may be used as otherwise permitted in the district if the yard concerned is:

- in a Residence district; or
- in a non-residential district facing either a non-residential district or property of the University of New Hampshire.

Arterial streets serve as connections between towns (e.g. Routes 4, 108, 155-A and 155); collector streets collect local neighborhood traffic and bring it into the arterial system (e.g. Mill Road). Arterial and collector street shall be shown on the Zoning Map and amendments thereto; other existing rights-of-way shall be considered minor streets. New streets may be designated as arterial or collector by the Planning Board at the time such streets are laid out.

- b. Average Setbacks Along Minor Streets. When the average street yard of other buildings within 300 feet each way on the same side of a minor street is less than 30 feet, the street yard may be reduced accordingly.
- c. Business A Fronting on a Minor Street. The street yard requirement for a Business A lot fronting on a minor street may be varied by the Planning Board upon site review.
- d. Non-Residential Districts Facing Residence Districts. No structure other than permitted signs and no parking shall be permitted within the minimum setback required by Section 5.33.a. in an OR, BA, BB, or CR district facing a Residence district not the property of the University of New Hampshire.

5.34 Side and Rear Yards

- a. Non-Residential Districts Abutting Residence Districts. No structure other than permitted signs and no parking shall be permitted within 70 feet of a side or rear lot line in an OR, BA, BB, or CR district abutting a Residence district not the property of the University of New Hampshire unless screened as provided in Section 5.23.c.
- b. Within Business Districts. Side and rear yards in BA and BB districts may be varied by the Planning Board upon site review. They may be omitted within Business A districts where business buildings are separated by fire partitions meeting the requirements of the Durham Fire Department and/or where the remainder of the yard is occupied by publicly maintained parking, circulation, or landscaping.
- c. Shorefront Yard. Any building lot which abuts on the Oyster River east of Newmarket Road, or on the Great or Little Bay, shall conform to the following additional requirements:
 - (1) The minimum length of the shorefront yard shall be established by measuring along a straight line perpendicular to a side line. Said straight line shall be so located that the line does not include any tidal land beyond the mean high tide boundary.
 - (2) The minimum length of the shorefront yard shall be 200 feet, exclusive of the width of creeks at mean low tide.
 - (3) The minimum shorefront yard for any building other than a marina or boatyard shall be 75 feet measured perpendicularly from the minimum shorefront length.

5.35 Height

- a. Exemption for UNH. Buildings erected, owned and used by the University of New Hampshire which are more than 100 feet from privately owned property are exempt from height regulations except for those of the Fire District. However, no UNH building, or privately erected building on UNH land, shall exceed the height limit set for its district in Table 5.41, or the height limit set for the adjoining privately owned lot in another district, whichever limit is lesser, by more than an amount equal to the distance between the building foundation and the lot line separating UNH from private land.

- b. Average Setbacks Along Minor Streets. When the average street yard of other buildings within 300 feet each way on the same side of a minor street is less than 30 feet, the street yard may be reduced accordingly.
- c. Business A Fronting on a Minor Street. The street yard requirement for a Business A lot fronting on a minor street may be varied by the Planning Board upon site review.
- d. Non-Residential Districts Facing Residence Districts. No structure other than permitted signs and no parking shall be permitted within the minimum setback required by Section 5.33.a in an OR, BA, BB, or CR district facing a Residence district not the property of the University of New Hampshire.

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- b. Within Business Districts. Side and rear yards in BA and BB districts may be varied by the Planning Board upon site review. They may be omitted within Business A districts where business buildings are separated by fire partitions meeting the requirements of the Durham Fire Department and/or where the remainder of the yard is occupied by publicly maintained parking, circulation, or landscaping.
- c. Shorefront Yard. Any building lot which abuts on the Oyster River east of Newmarket Road, or on the Great or Little Bay, shall conform to the following additional requirements:
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5.40 TABLES OF DIMENSIONAL CONTROLS

The following Tables of Dimensional Controls shall apply, except as otherwise provided by Section 5.30, or in Article 12, Cluster Development, or in Article 8, Mobile Home Parks.

Table 5.41 -- DIMENSIONAL CONTROLS BY ZONING DISTRICT

Zoning District	Minimum Lot Area sq.ft.	Min. Lot Frontage feet	Minimum Yards Street-Side-Rear ft. ft. ft.			Maximum Coverage %	Max. Height in ft. - stories	
see also Section	5.31	5.32	5.33	5.34	5.34.....	5.35	5.35	
RA	20,000	100	30	10	20	33	40	3
RB	40,000	150	30	10	20	30	35	2.5
RT	see Table 5.42		30	10	20	30	35	2.5
RC, R	120,000 ¹	300 ¹	30	50	50	20	35	2.5
OR	80,000	200	30	20	20	20	50	5
BA, BB	5,000	50	10	10	20	--	40	3
CR	10,000	100	20	10	20	50	40	3

Note 1: See Table 5.43 for optional Porkchop Subdivision

5.42 Area and Frontage Requirements in RT Districts

- a. Conventional Lots. Lots not part of a subdivision and lots for a permitted non-residential use shall follow the requirements for Conventional Lots in Table 5.42.
- b. Composite Lots. Subdivision lots in the RT-80 and RT-40 districts shall be composites of areas qualifying for resubdivision into component lots as follows (see figure 5.42):
 - (1) one RT-80 lot = 2 RT-40 lots (3 to 4 modules);
 - (2) one RT-40 lot = 2 RT-20 lots (conventional or module).

Dashed lines identifying component lots and modules shall be shown on subdivision plans and on plans registered with deeds.
- c. RT Subdivision Buffer. The side and rear perimeter lines of all RT subdivision tracts with 5 lots or more shall be buffered by a yard within which no structures shall be permitted, as follows:
 - (1) adjoining an RB district: a minimum buffer of 100 feet;
 - (2) elsewhere: a minimum buffer of 75 feet.

Alternatively, the Planning Board may permit the reduction of the required buffer width to not less than 50 feet,

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see also Section ...	5.31	5.32	5.33	5.34	5.34.....	5.35	5.35
RA	20,000	100	30	10	20	33	40 3
RB	40,000	150	30	10	20	30	35 2.5
RT	see Table 5.42		30	10	20	30	35 2.5
RC, R	120,000 ¹	300 ¹	30	50	50	20	35 2.5
OR	80,000	200	30	20	20	20	50 5
BA, BB	5,000	50	10	10	20	--	40 3
CR, CR-1	10,000	100	20	10	20	50	40 3

NOTE 1: See Table 5.43 for optional Porkchop Subdivision

5.42 Area and Frontage Requirements in RT Districts

- a. Conventional Lots. Lots not part of a subdivision and lots for a permitted non-residential use shall follow the requirements for Conventional Lots in Table 5.42.
- b. Composite Lots. Subdivision lots in the RT-80 and RT-40 districts shall be composites of areas qualifying for resubdivision into component lots as follows (see figure 5.42):
 - (1) one RT-80 lot = 2 RT-40 lots (3 to 4 modules);
 - (2) one RT-40 lot = 2 RT-20 lots (conventional or module).

Dashed lines identifying component lots and modules shall be shown on subdivision plans and on plans registered with deeds.

- c. RT Subdivision Buffer. The side and rear perimeter lines of all RT subdivision tracts with 5 lots or more shall be buffered by a yard within which no structures shall be permitted, as follows:
 - (1) adjoining an RB district: a minimum buffer of 100 feet;
 - (2) elsewhere: a minimum buffer of 75 feet.

Alternatively, the Planning Board may permit the reduction of the required buffer width to not less than 50 feet,

provided:

- the buffer yard is heavily wooded naturally, or by planting, and
 - an open area suitable for recreation, owned by the Town, or owned and bound like the Common Area of a Cluster Development (Article 12) is provided according to the standards set forth in the Subdivision Regulations.
- d. Arrangement of RT-20 Modules. Subdivision lots in the RT-20 district may be varied in size and frontage according to the Modules of Table 5.42, provided that the proposed arrangement of modules within the subdivision is approved by the Planning Board, particularly with regard to the use of larger lots as buffers and to the reduction of streets and utility runs.
- e. Duplex and Townhouse Lots. The minimum area and frontage for each permitted residential building other than a single-family detached house shall be the sums of those required if each dwelling unit were detached.
- f. Lots for Housing for the Elderly. The requirements of the RT district may be varied by the Planning Board as provided in Section 5.31.b. for lots accommodating Housing for the Elderly.

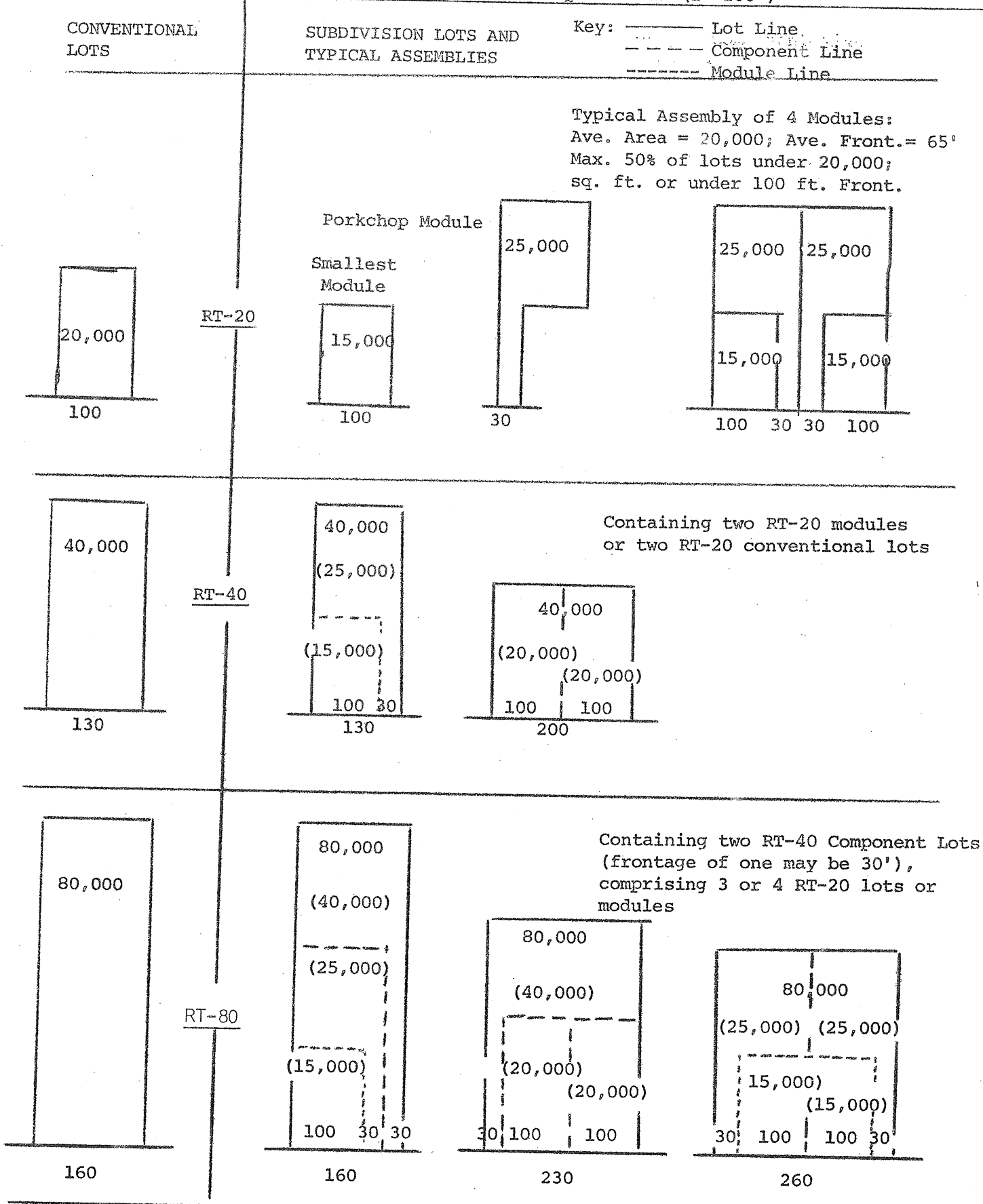
Table 5.42---RT DISTRICTS: AREA AND FRONTAGE REQUIREMENTS

RT DISTRICT, STAGE:	RT-80	RT-40	RT-20
Town sewer and/or water, existing or expected ¹	no sewer no water	sewer OR water	sewer AND water
	Minimum Area Frontage sq.ft. ² ft.	Minimum area Frontage sq. ft. ² ft.	Minimum Area Frontage sq.ft. ft.
<u>Conventional Lot</u>	80,000 160	40,000 130	20,000 100
<u>RT-20 Modules</u>			
-smallest module			15,000 ³ 100
-porkchop module			25,000 30 ⁴
<u>Composite Lots in Subdivisions</u>			
-min. area, frontage	80,000 160	40,000 130	(see modules)
-no. of component lots	two @ RT-40 ⁶	two @ RT-20	---
-min. no. RT-20 lots or modules	3	2	1

NOTES:

1. Expected within 6-year Capital Improvement Program adopted by Planning Board, if no such program, then within 2 years of an approved and funded project, public or private. If neither applies, lots shall conform to next higher RT district.
2. Subject to possibly greater lot size requirements for on-site waste disposal by Board of Health.
3. Not more than 50 percent of lots may be below 20,000 sq. ft. in area.
4. Not more than 50 percent of lots may have less than 100 feet of frontage.
5. See Section 5.32.b for other dimensional requirements.
6. The frontage of one of the two RT-40 component lots may be reduced to 30 feet upon resubdivision.

Fig. 5.42 - RT DISTRICTS, AREA AND FRONTAGE REQUIREMENTS (1"=200')



Note: Each resubdivision into component lots or modules must be approved by the Planning Board pursuant to Subdivision Regulations at the time it takes place.

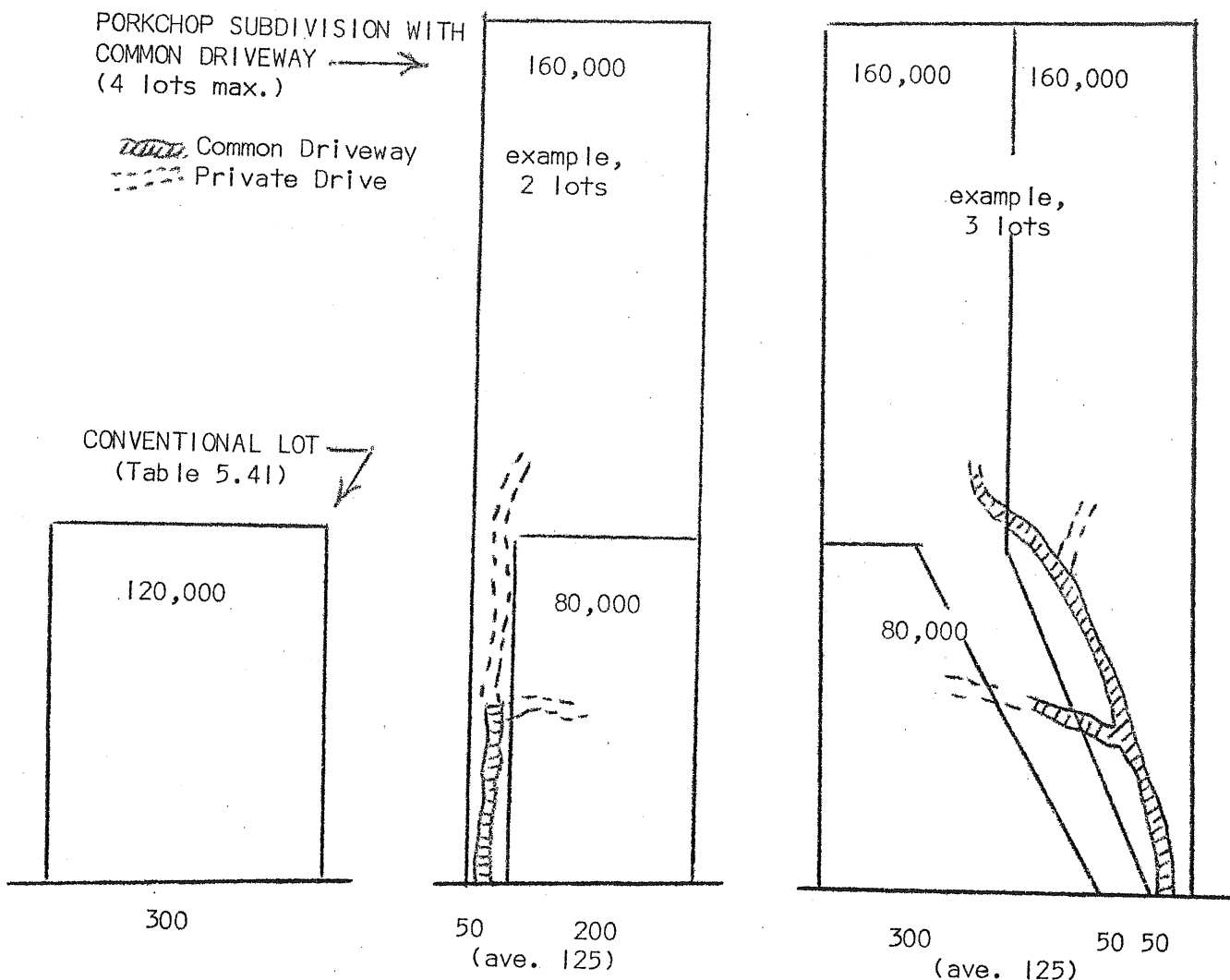
5.43 Optional Porkchop Subdivisions in RC and R Districts. Developers of residential subdivisions of 2 to 4 lots in the RC and R districts may elect to follow the requirements for Porkchop Subdivisions in Table 5.43, provided all lots are entered from a Common Driveway whose maintenance is guaranteed in the deeds to the lots concerned. See also Requirements for Porkchop Lots, Section 5.32.b. and Durham Subdivision Regulations regarding Porkchop lots and Common Driveways.

Table 5.43 -- Requirements for Optional Porkchop Subdivisions

<u>Porkchop Subdivision Lots</u>	<u>Min. Area, sq. ft.</u>	<u>Min. Frontage, feet</u>
-- Smallest Lot	80,000	200
-- Porkchop Lot	160,000	50
-- Average, all lots	120,000	125

1. The Planning Board is empowered to reduce the average frontage to not less than 100 feet in the case of a porkchop subdivision of a non-conforming lot into not more than 3 lots, provided the requirement for minimum area is met.

Fig. 5.43 -- RC and R DISTRICT AREA AND FRONTAGE REQUIREMENTS (1" = 200')



ARTICLE 6
OFF-STREET PARKING AND LOADING

6.10 APPLICABILITY

No use of premises shall be authorized or extended and no building shall be erected or enlarged unless parking and loading requirements are met for the new or added use. Any use existing prior to passage of this ordinance which is later changed or enlarged shall provide an additional number of parking spaces at least equal to the difference between the number required for the total proposed use less the number which would have been required for the prior use under this ordinance.

6.20 GENERAL REQUIREMENTS

6.21 Location. Required parking shall be considered an integral part of the use it is to serve, except that parking required for two or more adjacent buildings or uses may be combined where it is evident that it will continue to be available to all the uses served. 1971, 1973, 1974

6.22 Combined Parking Lots. The total parking provided shall meet the total requirements of all uses served.

6.23 Large Parking Areas. Any parking area for 10 or more vehicles shall be reviewed by the Planning Board for the safety of its arrangement and access. Each parking space shall be clearly marked. The paved area shall be surrounded by trees or hedges and any divisions between parking aisles shall be not less than 4 feet wide and shall be curbed. 1977

6.24 Loading Spaces or Bays. Every retail business shall have direct access to an off-street exterior loading space or interior loading bay. Where the gross floor area of a retail business exceeds 2,000 square feet, an off-street loading space or bay shall be provided on the premises. In the OR district, at least one off-street loading space or bay shall be provided for the first 25,000 square feet of gross floor area, and 2 such spaces or bays for the first 50,000 square feet of gross floor area.

6.30 DESIGN REQUIREMENTS

6.31 Parking Spaces. Each required off-street parking space shall be large enough to contain a rectangle measuring not less than 10 by 20 feet, except for parallel parking spaces on the side of a roadway, which shall be at least 9 by 20 feet, with 5 feet of maneuvering room shared by adjacent spaces.

6.32 Design of Loading Spaces or Bays. No required loading space or bay shall be less than 14 feet high and 12 feet wide. The length shall be not less than 50 feet for retail stores, nor less than 30 feet for all other business establishments. The bay shall be so laid out as not to require repeated maneuvering within a public way or parking lot by the entering or departing vehicle.

6.33 Access to Parking Spaces. Each required parking space shall have direct access to an aisle or driveway having a minimum width of 24 feet in the case of two-way traffic or the following minimum widths in the case of one-way traffic only:

Angle of Parking	Minimum Aisle Width (one way traffic only)
Parallel	12 feet
30-45 degrees	10 feet
60 degrees	15 feet
90 degrees	20 feet

6.34 Maintenance of Parking and Loading Areas. All accessory driveways, parking and loading areas shall be graded, surfaced with a dust-free material and drained, all to the satisfaction of the Superintendent of Public Works and to the extent necessary to prevent nuisance of dust, erosion, or excessive water flow across public ways or the property of others.

6.35 Access From Required Parking Spaces to Town Roads. In the case of a building or adjacent buildings under common ownership and with single or multiple uses such as apartments, rooming houses, boarding houses, dormitories, fraternities, sororities, or a commercial business, access to the street having a peak traffic of more than 50 cars or pedestrians in any single hour shall require approval in a Site Review procedure by the Planning Board. 1971

6.40 REQUIRED NUMBER OF PARKING SPACES

6.41 Interpretation. Where the computation of required spaces results in a fractional number, a fraction of one-half or more shall be counted as one.

6.42 Minimum Number of Spaces, by Use. The minimum number of parking spaces required shall be as follows:

- a. for single detached, duplex or townhouse residences: 1.5 spaces per dwelling unit; or where more than three unrelated occupants reside per household: 1 space for every two residents must be provided (if permitted by the occupancy limits of section 1.40); 1978
- b. for hotels, motels: 1 space per rented sleeping room plus one space per employee; 1971
- c. for rooming and boarding houses, dormitories, fraternities, sororities, club houses, and apartments, 1 space per household or one space per 2 residents, whichever is the greater, and one space per employee; Note 2; 1978
- d. for a rest home or nursing home: 1 space per 4 beds plus one space per employee; 1971
- e. in a mobile home park (see Article 8.40): 1.5 spaces per mobile home space plus one space per employee; 1971, 1973
- f. for educational facilities; 1 space per staff member, or 1 space per 4 seats in the largest public assembly room, including auditorium and gymnasium, whichever number is greater plus one space per employee; 1971

Z.O. amended 1971, 1973, 1974,
1976, 1977, 1978

- g. for a place of assembly with seating, such as a church, funeral parlor, auditorium, restaurant, theatre: 1 space per 3 seats plus one space per employee, Note 1, 1971, 1977
- h. for a place of assembly without fixed seats, such as a skating rink or dance hall: 1 space per 50 square feet of floor area accessible to the public plus one space per employee; Note 1, 1971, 1977.
- i. for a bowling alley: 2 spaces per bowling lane plus one space per employee; Note 1, 1971.
- j. for retail and service establishments, and for medical or dental offices or clinics: 1 space per 250 square feet of gross floor area plus one space per employee; Note 1, 1971, 1974, 1976, 1977.
- k. for automobile service stations: 1 space per 100 square feet of area in service bays plus one space per employee; 1971.
- l. for an office, bank, post office in a Business A or B district: same as for retail and service establishments plus one space per employee; Note 1, 1971, 1977.
- m. for research or laboratory building, administrative offices in an Office and Research district: 4 spaces per 1,000 square feet of gross floor area designed to be occupied by employees, not including areas used only for storage, utilities, fully automated equipment, etc., provided, however, that no more need be paved than 1 space for each employee, or 1.5 spaces per employee at the maximum shift where there is more than one shift.
- n. for other uses: adequate spaces to accommodate customers, patrons and employees, as determined by the Planning Board under its site review procedures plus one space per employee. 1971

Note 1. Within the Business A district, private parking for customers shall be required for any new or changed use at a rate of one half the number of parking spaces otherwise required, provided that the walking distance to a pedestrian exit from a public parking lot does not exceed three-hundred (300) feet. This does not relieve the necessity of providing required employee parking either on the same lot or within 300 feet of the lot being developed by appropriate long-term arrangements satisfactory to the Planning Board. 1977

Note 2. For apartments in the R zone, 1.5 spaces per household or one space per two residents, whichever is the greater, and one space per employee. 1978

ARTICLE 7
SIGNS AND UTILITY STRUCTURES

7.10 APPLICABILITY

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, propriety and general welfare.

7.11 Nonconforming Signs and Utility Structures. Any sign, vending machine, marquee, canopy, public time piece, or thermometer, or other such structure not conforming to the terms of this ordinance shall be allowed to continue nonconforming until such sign or structure must be replaced for any reason.

7.12 Removal of Certain Signs. Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or product sold, 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 14 days after written notification from the building inspector; otherwise the same shall thereby constitute a public nuisance.

7.20 DEFINITION OF TERMS

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

Accessory Sign means any sign relating to business on the premises on which the sign is located.

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

Combination Sign means any sign which combines the characteristics of two or more types of signs.

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

Curb Line means the vertical plane of the street side of a curb.

Flashing Sign means any sign that moves or flashes or contains traveling lights or gives the impression of any movement or flashing.

Free-standing or Ground Sign means any sign which is not a part of or attached to any building but is located elsewhere on a lot. It shall not exceed six (6) square feet in size and five (5) feet in height, including supports. 1978

Identifying Sign means any sign or plate giving the name and/or address only of the business or occupant of the premises on which the said sign or plate is located.

Illuminated Sign means any sign that is lighted by electricity either directly or indirectly.

Marquee means any hood or awning of permanent construction projecting from the wall or roof of a building or structure above an entrance or extending over a public way.

Neon -- Any tubular gas filled lights or lighting device.

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

Non-Accessory Sign means any sign advertising business or businesses at other locations.

Private Directional Sign means those signs of a permanent nature that direct the traveling public to specific buildings, areas, people or things.

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

Public Clock and Thermometer means 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 Sign means a sign supported by or suspended from a freestanding column or columns of structural steel, pipe, or poles.

Roof Sign means any sign erected upon or over the roof of any building.

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

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

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

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

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

7.30 GENERAL PROVISIONS

7.31 Application. Application for erection permit shall be made in writing to the Building Inspector for all signs in excess of six (6) square feet of total exposed surface area, vending machines, awnings, marquees, canopies, public time pieces, and thermometers, and such application shall contain the following information:

- a. name, address, and telephone number of applicant;
- b. location and position of 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.

7.32 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.

7.33 Placement.

- a. All signs shall be prohibited within public rights-of-way areas except as provided and except traffic control devices and directional signs deemed essential for the public welfare and safety authorized by municipal and state agencies.
- b. No sign shall be so designed or so placed as to endanger, obscure, or confuse or otherwise create a hazardous condition to motor vehicles.
- c. No sign shall project above the roof or parapet line of a building.

- d. Vending machines shall not be permitted on the exterior surface of any building or structure except within the Business B district or on any sidewalk or thoroughfare. (See Article 4.23a2)

7.34 Illumination.

- a. Signs may be illuminated only by continuous indirect white light sources so placed that they will not constitute a hazard to street or highway driving by glare.
- b. No flashing or animated signs, or signs with visible moving parts or intermittent lighting to create the visual effect of movement shall be permitted.
- c. No neon or tubular gas filled signs shall be allowed in any district.
- d. Signs will be illuminated only during business hours.

7.35 Message.

Signs shall refer only to a use or activity conducted 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. No sign which contains a registered trademark or name which portrays a specific commodity or service for sale will be allowed in any zone unless the trademark or name is of the principal commodity or service offered for sale by the establishment. 1978

7.36 Condition.

- a. Signs other than permitted temporary or snipe signs shall be constructed of durable materials and shall be maintained in good condition and repair. Whereby reason of neglect a sign becomes hazardous, unsightly, or otherwise tends to depreciate its surroundings, the same shall constitute a public nuisance.
- b. Any clock or thermometer displayed for the public convenience shall be accurate.

7.40 PERMITTED SIGNS, BY DISTRICT

7.41 Number of Signs. Not more than two signs shall be permitted for each business establishment, except for signs as may be required by State or Federal regulations.

7.42 Snipe Signs. The use of snipe signs is permitted on private property only for non-commercial events and elections. Such signs are limited to a period of 45 days preceding and 7 days after the relevant event, provided further:

- a. the size of any snipe sign shall not exceed 12 square feet;
- b. the number of such signs is limited to one per lot in Residence A, B, and C districts, and to two per lot in other districts.

- c. Such signs are not permitted on public property or in public ways.

7.43 Temporary Signs. One temporary sign such as used by real estate agents advertising property for sale or those used by contractors, architects, painters, or other artisans advertising work in progress may be permitted on a lot in any district provided:

- a. it is unlighted;
 - b. it is set back at least one-half the required depth of the street yard;
 - c. it does not exceed twelve (12) square feet in size;
 - d. its proper appearance is maintained;
 - e. it is removed upon completion of the work or transaction.
- 1978

7.44 Residential Accessory Signs. Signs stating the name and nature of a permitted home occupation may be displayed on a lot in any district provided such signs:

- a. are unlighted;
- b. are set back at least one-half the required depth of the street yard or are attached to the building;
- c. do not exceed one in number, which sign is of no more than six (6) square feet in size in the Rural district, or one in number of no more than one square foot in the size in the Residence A, B, or C district.
- d. professional offices and permitted commercial uses in Residential B and C and Rural districts shall abide by the same regulations that apply to residential accessory signs in the Rural district except such signs may be lighted during normal business hours. 1978

7.45 Projecting Signs. Within the Business A and B districts, only one accessory projecting sign shall be permitted for each business ownership; it shall not project horizontally in excess of six (6) feet; 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) feet in surface area on each of two sides nor a total of 40 square feet on all sides.

7.46 Pole Signs. Within the Business B district, only one accessory pole sign is permitted for automobile service establishments, provided:

- a. it shall not exceed forty square feet in surface area on each of 2 sides nor a total of 80 square feet on all sides;
- b. any portion of such pole sign shall be set back at least fifteen feet from any street or side lot line;
- c. it shall be erected in such a manner that no portion of it shall be more than twenty-five feet above the ground elevation of its base. The base of the sign proper shall be no less than eight (8) feet above the ground. 1978

7.47 Roof Signs. No such sign shall be permitted.

7.48 Wall Signs. Within the Business A district no wall sign shall exceed ten percent of the area of the building face to which it is attached, but in no case shall it exceed 48 square feet in size. Within the Business B District the cumulative size of permitted signs on any one business establishment shall not exceed ninety-six square feet.

7.49 Number and Type of Signs Permitted, by District, for Each Business. (See Articles 7.31, 7.41 and 7.48)

Type of Sign (see note 3)

	RA	RB	RC	R	BA	BB	OR	CR
Pole						1		
Projecting					1(1,2)	1(1,2)	1(1,2)	
Residential Accessory	1	1	1	1	1	1	1	1
Snipe	1	1	1	2	2	2	2	1
Temporary	1	1	1	1	1	1	1	1
Wall					1(1,2)	1(1,2)	1(1,2)	
Free Standing or Ground		1	1	1			1	
(1978)								

- Notes: (1) The owner of a business which fronts on two town owned roads or a road and a municipal parking lot may have either a pole or a wall sign facing each road or the road and the municipal parking lot. 1976
- (2) The owner of a business which fronts on two town owned roads or a road and a municipal parking lot may elect to have 2 projecting signs or 2 wall signs in place of one of each kind, subject to the restrictions on such signs in other sections of the ordinance. 1976
- (3) Nothing in this ordinance shall be construed as restricting the placement of signs, placards, posters or advertising displays on the interior of display windows provided such signs do not violate section 7.34c of this ordinance. 1976

7.50 CONSTRUCTION

7.51 Glass Requirements. Any glass forming a part of a sign shall be of safety glass and where 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.

7.52 Wind Pressure and Dead Load. The supporting structure of and fasteners for all signs shall be designed to withstand five times the combined effect of wind pressure and dead load. A wind pressure of 25 pounds per square foot on the maximum horizontally projected area of the sign shall be such assumed; dead load shall be the weight of the sign.

7.47 Roof Signs. No such sign shall be permitted.

7.48 Wall Signs. Within the Business A district no wall sign shall exceed ten percent of the area of the building face to which it is attached, but in no case shall it exceed 48 square feet in size. Within the Business B District the cumulative size of permitted signs on any one business establishment shall not exceed ninety-six square feet.

7.49 Number and Type of Signs Permitted, by District, for Each Business.
(See Articles 7.31, 7.41 and 7.48)

Type of Sign (see note 3)

	RA	RB	RC	R	BA	BB	OR	CR	CR-1
Pole						1			
Projecting					1(1,2)	1(1,2)	1(1,2)		
Residential Accessory	1	1	1	1	1	1	1	1	1
Snipe	1	1	1	2	2	2	2	1	2
Temporary	1	1	1	1	1	1	1	1	1
Wall					1(1,2)	1(1,2)	1(1,2)		
Free Standing or Ground		1	1	1			1	1	1

(1978, 1982)

NOTES:

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7.53 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.

7.54 Marquees. No marquee shall be erected unless designed by a structural engineer and approved by the Building Inspector; it may extend over the sidewalk across the street line to the curb line provided it has a minimum height above the sidewalk of ten feet above the curb level; it shall not exceed five feet in height; it must be able to support a live load of not less than one hundred pounds per square foot; any sign attached to or hung from a marquee shall fully comply with this ordinance.

7.55 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 feet above the level of the sidewalk or public thoroughfare; they must be designed by a structural engineer and be approved by the Building Inspector.

7.56 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 feet above the level of the sidewalk; it may extend beyond the street line but not nearer than eighteen inches to the curb line; they must be approved by the Building Inspector.

7.60 ENFORCEMENT

7.61 Notification and Removal. 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 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 in any other use or violation which is otherwise hereby declared to 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.

7.62 Penalties. Any person violating any of the provisions of this Article shall be subject to the penalties as provided by Article 10.16.

7.63 Appeal. Any person aggrieved by a decision taken under this Article shall have the right to appeal the making of said decision to the Zoning Board of Adjustment, as provided in Article 11.20.

ARTICLE 8
MOBILE HOME PARKS

8.10 DEFINITIONS

Mobile Home is a single-family habitation designed for transportation, after fabrication, on streets and highways on its own wheels and arriving at the site where it is to be occupied as a habitation complete and ready for occupancy, except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundations, connection to utilities and the like. No mobile home not located in a mobile home park, whether or not set on a continuous supporting wall of masonry, masonry units, concrete or other similar material shall be allowed on any lot in any zone, and such mobile home shall not 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.

8.20 GENERAL REQUIREMENTS

No mobile home park will be allowed in a designated zone except by Special Exception and will require site reviews. All mobile home parks shall conform to the following minimum requirements. 1972, 1973

8.21 Location. All mobile home parks shall be located on a site graded to insure adequate and sanitary drainage of surface water, sub-surface water, and sewage. All such parks shall be in areas free from marshes, swamps, stagnant pools, or other potential breeding places for insects or rodents.

8.22 Buffer Yard. There shall be not less than two hundred feet between any exterior lot line of the park and any mobile home space or other structure or parking area within the park. Where the buffer yard is not naturally wooded, an appropriate wall, fence or hedge at least 6 feet high shall be provided as necessary to screen the mobile home park from view at all exterior lot lines. 1973

8.23 Area. The area of the mobile home park shall be large enough to accommodate:

- a. The designated number of mobile home spaces which shall not exceed one space per the same square foot requirement for a minimum lot (see 5.18). Areas of land which, by reason of poor drainage, are unsuitable for residential use shall be excluded from consideration in the overall area; 1973

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- a. The designated number of mobile home spaces which shall not exceed one space per the same square foot requirement for a minimum lot (see 5.18). Areas of land which, by reason of poor drainage, are unsuitable for residential use shall be excluded from consideration in the overall area; 1973

- b. necessary streets, walkways, and public utilities'
- c. parking areas for motor vehicles (see 8.40);
- d. necessary service buildings to house such facilities as are prescribed by applicable state and local ordinances and regulations; 1973
- e. recreational area (see 8.50).

8.30 : DESIGN OF MOBILE HOME SPACES

8.31 Area and Width. Each mobile home space shall be clearly defined and delineated. No mobile home shall occupy an area in excess of 10% of the mobile home space; however, each mobile home space shall contain a minimum of 10,000 square feet, and shall be at least 100 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. 1973

8.32 Internal Yards.

- a. there shall be a minimum of 20 feet clearance between each mobile home. No mobile home shall be located closer than 20 feet from any building within the park, or closer than 30 feet from any park road. 1973
- b. when applying the 20 foot clearance figure, awning, vestibules, patios or other attached added structures or accessory buildings shall be considered an integral part of the mobile home.

8.33 Access.

- a. 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.
- b. Walkways of not less than three feet in width shall be provided from the park roadway to each mobile home space and to the service buildings.

8.34 Administrative and/or Service Buildings. The administration and/or service building shall be located on a space which remains an integral part of the mobile home park. However, for dimensional control purposes it shall be treated as a building lot subject to the requirements of the zone in which it is located. The Planning Board requires a site review. 1973

8.40 PARKING SPACES

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.

8.41 Number and Location. Such facilities shall be provided at the rate of at least one and ½ 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. 1973

8.42 Design of Parking Bays. 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	9.0 feet	18 feet
60 degrees	12.5 feet	17 feet
45 degrees	13.5 feet	16 feet

*Perpendicular to curb line

8.50 RECREATIONAL AREA

Recreational areas shall be provided on land suitable for such use; 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 10,000 square feet. Recreational area requirements shall conform to the following minimum specifications: 10,000 square feet for every 20 mobile home spaces up to 100. For each additional mobile home space above 100, a minimum of 500 square feet of recreational area shall be provided. 1973

8.60 CONSTRUCTION

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.

8.61 Skirting. 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.

8.62 Fuel Pipes. All piping from outside fuel storage tanks or liquified 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 five (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.

8.63 Fire Protection. 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 open fires shall be permitted except in accordance with state and local statutes. 1973

8.64 Electrical Installations. 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. The line may, however, be buried underground in accordance with applicable regulations. In the absence of local or state codes, or where such codes are deemed inadequate by the Building Inspector, installations shall comply with the applicable provisions of the National Electrical Code unless otherwise modified herein. 1973

8.65 Telephone System. 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.

8.66 Landscaping. 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 such as garbage and trash cans; 1973
- b. adequate shade; and
- c. a suitable setting for the mobile homes and other facilities.

8.67 Paving and Lighting. All park roadways, walkways, and parking bays or spaces within the park shall be hard surfaced and lighted so as to reasonably provide for public safety.

8.70 OPERATION

8.71 Register. 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:

- a. the names of all mobile home occupants in the park; 1973
- b. the make, model and license number of motor vehicles; 1973
- c. the dates of arrival and departure of each mobile home.

8.72 Supervision. The owner, operator or other person responsible for the operation of a mobile home park shall visit the mobile 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.

8.80 LICENSING

8.81 License Required. 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.

8.82 License for Existing Parks. 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 passage of this ordinance. Upon issuance of such license, the aforesaid parks shall be deemed to be in conforming use.

8.83 License Fee. The annual license fee for each park shall be fifty dollars (\$50.00) for up to and including 40 mobile home spaces, plus two dollars for each additional mobile home space therein.

8.84 Application for License.

- a. 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 shall include the following:

1. the name and address of the person making application;
 2. the location and legal description of the mobile home park.
 3. a complete set of plans in conformity with the requirements of this ordinance;
 4. plans and specifications of all improvements, buildings, streets, recreational areas, walks, sewer, water and other facilities constructed within the park;
 5. the area and dimensions of the tract of land whereon the proposed park is to be located;
 6. 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 inspect the application and proposed plans and specifications. If 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 plans, shall issue the license.
- b. 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:
1. any change in the information submitted since the time the original license was issued or the latest renewal granted.
 2. such other information as the Board of Selectmen may require. Upon approval of the application for renewal of a license fee, the Board of Selectmen shall issue a certificate renewing such license for another year.

8.85 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 11 of this ordinance.

8.86 Posting of License. The license certificate shall be conspicuously posted in the office of or on the premises of the park at all times.

8.87 Notice of Transfer. No license shall be transferable. Every person holding a valid license shall give notice in writing to the Board of Selectmen thirty days prior to any proposed sale, 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.

8.88 Performance Bond. A bond will be posted with the Selectmen sufficient to cover the expenses which would be incurred for removing all physical improvements from the land, should the mobile home park be discontinued or abandoned. 1973

ARTICLE 9
EARTH REMOVAL REGULATIONS

9.10 APPLICABILITY

9.11 General. Whether or not a permit for earth removal is otherwise required, no premises shall be graded or stripped of sod in such a manner as to be detrimental or injurious to a developed neighborhood because of dust, erosion, standing water or uncontrolled drainage for a period of longer than reasonably necessary for completion of the project, or because of hours and manner of the operation of equipment or other cause.

9.12 Required Permit. The removal from any premises of more than ten cubic yards of sod, loam, sand, gravel or quarried stone in any one year shall be prohibited except when incidental to and in connection with the construction of a building or street or other activities legally permitted within Durham unless authorized by the Board of Selectmen in accordance with the following requirements.

9.20 REQUIRED PLAN

A plan of the land involved shall be prepared by a registered land surveyor or engineer showing all man-made features, property lines, vegetative cover, topography by five-foot contour intervals including land within 100 feet of the property where the proposed excavation is to take place and the area to be excavated. Said plan shall also show:

- a. temporary and permanent drainage and the proposed topography at two-foot contours upon completion of the excavation;
- b. the estimated quantity of loam to be stripped, stock-piled and replaced. The volume of the loam shall be measured.

9.30 CONDITIONS OF PERMIT

Any permission granted by the Selectmen shall specify the conditions pertaining to but not limited to:

- a. the finished level and grading; except in a stone quarry, the finished slopes shall not exceed a grade of one foot vertical distance for each two feet of horizontal distance unless the petitioner agrees to approve methods of sodding, grassing, riprapping, the use of retaining walls.

- b. the placing of loam upon completion of excavation, to a depth of not less than 4 inches, seeding, and planting with approved materials to restore the area to a usable condition; where slopes in a stone quarry exceed one foot vertical rise for each two feet of horizontal distance, such loam placement and planting shall not be required.
- c. control of temporary and permanent drainage;
- d. disposition of boulders, vegetation stumps and other debris including unused material and any structures used in connection with the operation;
- e. the construction of necessary fencing to protect against hazards;
- f. vegetation to remain as a visual barrier;
- g. hours of operation;
- h. routes for transportation of materials.

9.35 LIMITATIONS ON PERMIT

Any earth removal application proposing the removal of more than 500 cubic yards of sod, loam, sand, gravel or quarried stone in any one year will be granted only if the Selectmen specifically find, after public hearing pursuant to 9.51, that;

- a. such proposed earth removal will not be detrimental or injurious to the neighborhood,
- b. will not unreasonably strip the land nor unreasonably damage the local watershed,
- c. will not otherwise harm the future use potential of the land concerned.

9.40 LIMITATION ON EXISTING ACTIVITY

Earth removal activities in lawful operation at the time this ordinance is passed may continue on until abandoned for more than twelve consecutive months. However, unless specifically authorized by a new permit:

- a. the depth of the excavation shall not be increased below the grade of the lowest point excavated on the effective date of this ordinance;
- b. the total horizontal area of excavation shall not be increased by more than twenty-five percent of its area on said effective date.

9.50 ADMINISTRATION

9.51 Hearing on Permit. Earth shall not be removed from any area except in accordance with the provisions of this ordinance and the written permission of the Board of Selectmen, after a

public hearing is held upon 7 days due notice in a local newspaper having a circulation within the town and notices by registered or certified mail are sent to the abutters of record (as of the most recent tax list) from which such material is to be removed. The Selectmen shall impose any restrictions necessary to protect the interests of the town.

9.52 Record of Restrictions. Any restrictions or conditions imposed by the Board of Selectmen shall be attached to the letter of permit and copies of said permit and attached restrictions shall be sent to the Planning Board, the Superintendent of Public Works, the Zoning Board of Adjustment, the Conservation Commission, and the Health Officer.

9.53 Duration and renewal of Permit. No removal permit shall be issued for a period of less than six months or more than 24 months. A permit may be renewed without a public hearing by majority vote of the Board of Selectmen.

9.54 Performance Bond. The Board of Selectmen may, at its discretion, require a bond, certified check or some other security for compliance with the conditions of this ordinance.

9.55 Revocation of Permit. The Board of Selectmen may, after a public hearing on proof of violation of any condition of this ordinance or restriction imposed by the Board of Selectmen, revoke any permit or permits issued by them.

9.56 Penalty. The penalty for violation of this ordinance shall be as follows: Ten dollars for each offense, and for the second offense by the same person or permit holder, immediate revocation of permit.

ARTICLE 10
ADMINISTRATION

10.10 ENFORCEMENT

10.11 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.

10.12 Administrative Responsibility. Authority to administer these ordinances is hereby vested in the Board of Selectmen who are also empowered to appoint a Building Inspector annually and to fix his salary. 1971

10.13 Building Inspector Responsibilities. The Building Inspector shall be responsible for the performance of duties listed in Section 10.14 and such other duties pertinent to the enforcement of Zoning, Building, Fire and Health regulations as the Selectmen may determine. The salary or compensation of this officer shall be fixed by the Selectmen. 1971

10.14 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 or occupancy 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 permit applications are made to the Selectmen. 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. 1971, 1976

10.15 Violations. 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.

- a. Should the Building Inspector or Selectmen fail to take action on an application for a building or occupancy permit within 21 days of the filing, the applicant may apply to the Zoning Board of Adjustment for a building or occupancy permit. 1980
- b. A building permit, once issued, shall not be assignable nor shall it be revocable except on an appeal as authorized by Article 11 of this ordinance or as provided in Article 10.29 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 the appearance of a proposed structure as above indicated, is raised by a majority of 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) business 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.
- g. The building permit or site review fee shall cover the cost of obtaining the occupancy permit. 1976

10.16 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

Z.O. amended 1971, 1976

Revised 1981 to correct a noted error.

architect, builder, or any other person who knowingly commits, takes part or assists in any such violation, shall be liable on conviction thereof to a fine or penalty not exceeding \$50.00 or such other penalty which may, from time to time, be authorized by state law unless otherwise specified elsewhere in this ordinance, 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. 1971

- 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.

10.20 PERMITS

10.21 Permit Required. 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 approved by the Board of Selectmen. Occupancy permits shall be approved by the Building Inspector subject to review by the Board of Selectmen.

10.22 Site Review on Non-Residential Uses. No building permit shall be issued for the development of tracts for any non-residential use until the applicant has submitted his application and site plan to the Planning Board for site review in accordance with Section 10.30 of this Ordinance, and may not be issued in any case unless the Planning Board approved such site plans.

10.23 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 subdivision. 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.

10.24 Plot Plan. A plot plan shall accompany the application and shall show the following:

- a. lot dimensions and area;
- 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(s);
- 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. proposed use of building and land;
- i. rights-of-way and easements on or adjoining the lot;
- j. provision for parking and loading spaces where applicable;
- k. 5-foot contour lines, existing and proposed;
- l. such other information as may be required by the Building Inspector. The drawings shall be at the scale and in the form required by the Building Inspector.

10.25 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.

10.26 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.
- e. No building permit shall be issued or become effective for non-residential land use without site review by the Planning Board (see 10.30).

10.27 Permit Fees. The permit fee shall be based on the estimated cost of construction and shall be equal to one-tenth of one percent thereof, but in no case shall the permit fee be less than \$10.00.

10.28 Certification for Use. 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 with the plans and specifications of the building permit for the use concerned or, as to any other type of use that the Building Inspector shall have certified the proposed use of structure, when finished, complies with a use permitted in the zone concerned. 1971

10.29 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 11 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.

10.30 SITE REVIEW

10.31 Authorization. In addition to its power to regulate residential subdivision, the Planning Board, in accordance with Chapter 36.19.a of the New Hampshire Revised Statutes Annotated, 1955, as amended, is empowered to review, and approve or disapprove, site plans for the development of tracts for non-residential uses whether or not such development includes a subdivision or re-subdivision of the site.

10.32 Site Review Required: Appeals. The Planning Board shall require site plans to be submitted to it for review by any applicant seeking any of the following:

- (a) The construction of any new or the enlargement of any existing nonresidential use.
- (b) The construction of any new or the enlargement of any existing multi-family dwelling units other than one and two-family dwellings.

- (c) The construction or conversion of any nonresidential use where a special exception or variance is required.
- (d) The construction or conversion of any multi-family dwelling units other than one and two-family dwellings where a special exception or variance is required.
- (e) The change within a structure from one permitted nonresidential use to another permitted nonresidential use where the new permitted use will have to meet requirements which will affect the site.

Planning Board approval of such site plans shall be a necessary prerequisite to issuance of any building permit, special exception or variance for such use. This approval of such site plans by the Planning Board shall be subject to appeal to the Superior Court in the same manner as provided for appeals from decisions of the Planning Board in RSA 36:34, as amended or revised, unless otherwise prescribed by law.

10.33 Standards.

(a) In reviewing site plans the planning board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the general public and, as a condition of approval may require such modifications of the proposed site plan as it deems necessary to comply with the spirit as well as the letter of these regulations. The planning board shall take into account the following objectives:

(1) Safe, adequate and convenient vehicular and pedestrian traffic circulation both within and without the site. At least the following aspects of the site plan shall be evaluated to determine the conformity of the site plan to this standard:

- (A) The effect of the proposed development on traffic conditions on abutting streets.
- (B) The number, locations and dimensions of vehicular and pedestrian entrances, exits, drives and walkways.
- (C) The visibility in both directions of all exit points of the site and visibility of a vehicle entering or exiting the site to the driver of a vehicle travelling on the street.
- (D) The location, arrangement and adequacy of off-street parking facilities.
- (E) Interconnection of parking areas via access drives within and between adjacent lots, in order to provide maximum efficiency, minimize curb cuts, and encourage safe and convenient traffic circulation.
- (F) The location, arrangement and adequacy of truck loading and unloading facilities.

- (G) Patterns of vehicular and pedestrian circulation both within the boundaries of the development and in relation to the adjoining street and sidewalk system.
- (H) The location arrangement and adequacy of landscaping within and bordering parking and loading facilities.

(2) The protection of environmental quality and the preservation and enhancement of property values. At least the following aspects of the site plan shall be evaluated to determine the conformity of a site plan to this standard:

- (A) The location, height and materials of the walls, fences and hedges and plantings so as to ensure harmony with adjacent development, screen parking and loading areas, and conceal storage areas, utility installations and other such features, all in conformity with the requirements of the applicable Building Regulations.
- (B) The prevention of dust and erosion through the planting of ground cover or installation of other surfaces.
- (C) The preservation of natural attributes and major features of the site such as wetlands, highly erodable areas, historic structures, major trees, and scenic views both from the site and onto or over the site.
- (D) The provision of adequate storm and surface water drainage facilities to properly drain the site while minimizing downstream flooding.
- (E) The protection of residential abutters against undue noise, glare, unsightliness or other nuisance detrimental to property values.

(b) In acting upon any site plan, the Planning Board may take into consideration the recommendations of the town planner, the building inspector, the public works director, the fire department, the conservation commission and any other town agencies or outside specialists with which it consults.

10.34 Site Review Regulations. The Planning Board is further empowered by this ordinance to adopt Site Review Regulations to establish procedures and such further standards and conditions for site review as it deems to be in reasonable conformity with the intent of this ordinance and with the comprehensive plan of the Town of Durham.

ARTICLE 11
ZONING BOARD OF ADJUSTMENT

11.10 ORGANIZATION

11.11 Members. The Zoning Board of Adjustment in office at the time of the passage of this ordinance is hereby continued, and its members shall continue in office for the remainder of their terms. 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.

11.12 Disqualification of Board Member. No member of the Zoning Board of Adjustment shall sit upon the hearing on any question which the Board is to decide in a judicial capacity who would be disqualified from any case, 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.

11.13 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. Meetings of the Board shall be held at the call of the chairman and at such 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.

11.14 Powers. 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. (See Article 10.32)

- 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 in 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. See Article 10.32.
- 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 31, Sections 60-89, and Chapter 36, Sections 26 and 31, of the Revised Laws of New Hampshire, as amended.

11.20 APPEALS

11.21 Method of Appeal. 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.

11.22 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.

11.23 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.

ARTICLE 12
CLUSTER DEVELOPMENT

12.10 PURPOSE AND OBJECTIVES

12.10 Purpose. As an alternative to the development of land for residential uses following strict adherence to basic provisions of this ordinance, an applicant may voluntarily elect to undertake a Cluster Development according to the standards of this Article. The purpose of making such a development possible is to encourage better site planning than would normally occur by the lot-by-lot method following conventional subdivision procedures, including the preservation of open space and the natural surface drainage system of an area.

12.10 Objectives. It is the objective of this ordinance to promote:

- a. Improved Residential Subdivision Design -- increased flexibility in subdivision design with preservation of natural and scenic qualities of the land being subdivided.
- b. Conservation -- preservation of open space for the benefit of the community at large.
- c. Efficiency -- a layout which may shorten streets and utility lines, lessen grading, respect the natural character of the land, and reduce Town problems of maintenance, drainage and erosion control.
- d. Adequate Sanitary Services -- provision for sewer and water services adequate to serve the density proposed.
- e. Wider Range of Housing Options -- increased flexibility in the grouping of the permitted number of dwelling units into one-family, two-family and townhouse structures when the required sanitary services are provided and other essential public services are within reasonable reach.
- f. Orderly Growth -- in relationship to the Durham Comprehensive Plan as adopted by the Planning Board.

12.20 DEFINITION OF TERMS

Cluster Development, Cluster Subdivision. A purely residential subdivision of a tract where, instead of dividing an entire tract into house lots of conventional size, the number of housing units permitted under Table 12.51 may be clustered on lots of reduced dimensions. The remaining land in the tract which has not been built upon is reserved for common area to be held in some form of ownership or easement which will prevent it from every being subdivided. Any open space under common ownership in a cluster development will not be eligible for discretionary easements or for current use taxation except where it is actively operated

farmland classified as "prime" or "unique" by the Durham Conservation Commission. The requirements of the Subdivision Regulations must be satisfied.

Common Area. Any parcel of land and/or area of water set aside as a result of the alternate dimensional controls and designed and intended for the benefit and enjoyment of the residents of a cluster development or the community at large. These areas may contain accessory structures and improvements necessary and appropriate for educational, recreational, cultural, social or other non-commercial uses, plus any utility services used by the owners of the common area, or may be Open Space as defined herein.

Conventional Lot Size, Frontage and Other Dimensional Controls. the prevailing zoning requirements for any particular district following regular lot-by-lot subdivision procedures.

Conservation Land. Land given to a public body dedicated to conservation of forests, park land, etc., or to a private conservation trust, with the intent of preserving it in its original ecological condition, safeguarding water supplies, or diminishing flood danger.

Developable Land. The area of the entire tract to be subdivided less that classified as "very Poorly Drained," "Poorly Drained," or as having slopes exceeding 25 percent, in the Strafford County Soil Survey (March 1973, or as amended, or as further delineated by qualified personnel after on-site inspection.)

Mandatory Home Association. A private, non-profit corporation, or other non-profit legal entity established by the developer for the benefit of the residents of the Cluster Development. Membership in said association shall be mandatory for property owners and made a required covenant in any deed issued or passed. It shall provide voting and use rights in the Common Area when applicable and may charge dues to cover expenses, which may include tax liabilities of common area, recreational or utility facilities. Articles of Association or Incorporation must be acceptable to the Planning Board after legal review.

Open Space. Land unbuilt upon must be kept permanently in that condition, and cannot be eligible for discretionary easements or for current use taxation except where it is actively operated farmland classified as "prime" or "unique" by the Durham Conservation Commission.

Open Space Easement. Land whose development rights have been legally restricted, either by deed or public purchase of those rights. The easement may be so worded as to permit or restrict public access, to allow or disallow recreational development, and so on. Easements are tied to the title of the land, regardless of its subsequent ownership.

Public Open Land. Land given to the Town of Durham for parks, playgrounds, or an undeveloped open space, generally with the intention of making it accessible for public use.

12.30 PERMITTED USES

Cluster developments shall be permitted only for the residential uses specified in Table 12.51 and defined in Sections 1.40 and 4.21 and for appropriate recreational uses specified by zoning district in Table 4.28 and defined in Section 4.22 as modified below.

12.31 Permitted Residential Uses:

- a. Single household
- b. Duplex household
- c. Townhouse, including Condominium Townhouse
- d. Apartment for Housing the Elderly, by Special Exception
- e. Accessory lodging use
 - (1) accessory apartment
 - (2) accessory boarding
- f. Accessory home occupation
 - (1) first class
- g. Accessory buildings.

12.32 Permitted Recreational Uses

- a. Outdoor recreation, such as a riding stable, golf course, swimming beach, skating rink and other forms of predominantly outdoor recreation, except shooting ranges, provided:
 - (1) spectator events are incidental and not operated as a business;
 - (2) accessory service buildings are limited to those necessary to the pursuit, on the premises of the sport;
 - (3) no area developed for active recreation is within 100 feet of any residential lot line. This buffer is a minimum. The actual siting of all outdoor recreational facilities is subject to Site Review procedures.
- b. The keeping of personal riding horses or other large animals (i.e., cattle, goats, sheep, etc.) for non-commercial purposes, provided:
 - (1) the keeping of such animals is ordinarily permitted in that zoning district.
 - (2) the exact area shall be appropriate for the size and number of said animals;
 - (3) no separate shelter for such animals or outdoor storage of odor-producing substances shall be less than 75 feet from any lot line;
 - (4) such use shall not result in noise, odors, unsightly or dangerous activities which are injurious or detrimental to the neighborhood;
 - (5) riding horses are maintained only for use of the owner's household and his personal non-paying guests.
- c. Commercial agriculture in Open Space rated as "prime" or "unique" farmland by the Durham Conservation Commission, provided it is a use permitted in the zoning district and provided the requirements of paragraph b. above are met.

12.40 GENERAL REQUIREMENTS

12.41 Special Exception. Cluster Developments as defined in this Article shall be allowed by Special Exception only. The Special Exception shall require prior approval of the Subdivision Application by the Planning Board and shall be passed in compliance with the requirements set forth in this Ordinance and the Durham Subdivision Regulations.

12.42. Location. A Cluster Development may be located in any residential district.

12.43 Minimum Size of Development. The tract of land on which a Cluster Development is located shall have an area at least equal to that of six conventional lots in the district.

12.44 Minimum Common Area. The Common Area for any Cluster shall not be less than 25 percent of the total area of the tract to be so subdivided and of this minimum, not less than 40 percent shall be developable land.

12.45 Minimum Buffer. All Cluster Developments shall have a minimum of a 75 foot perimeter buffer between any structure and a perimeter property line, including any street line, of the subdivision.

12.46 Utilities. Cluster Developments shall be allowed only if they meet the requirements of Table 12.51 for Town sewer and Town-approved water. "Town facilities shall include facilities which are constructed by the developer to standards set forth by the Town of Durham and the State of New Hampshire, if said facilities are deeded to and accepted by the Town of Durham or managed by another public authority acceptable to the Town.

12.50 CONTROLS OF DENSITIES, DWELLING TYPE AND LOTS (CLUSTER DEVELOPMENTS)

Table 12.51 -- Density, Dwelling Type and Lot Area Per Dwelling Unit (D.U.)

Zoning (See Sect 12.46)	Sewer	Water	Max.No. of D.U. on tract:		Permitted Dwelling Types & Min. Lot Area per D.U.			
			Total Area Sq. Ft.	Developable Area of area divided by	Single	Duplex	Town- House	Hsg. Eld.
Townhouse Elderly RA	yes	yes	10,000	---	no	no	yes	SE 2,000 ²
Singles & Duplexes	yes	yes	15,000	---	yes 7,500	yes 5,000	yes	SE 2,000 ²
RT-20	yes	yes	15,000	---	yes 7,500	yes 5,000	yes	SE 2,000 ²
Townhouse Elderly RT-40 RB	yes	no	30,000	---	yes 15,000	yes 7,500	Yes	SE 2,000 ²
Singles & Duplexes	no ³	yes	---	30,000 ⁴	yes 15,000 ⁴	no	no	no
RT-80	no ³	no	---	60,000 ⁴	yes 30,000 ⁴	no	no	no
Townhouse Elderly RC	yes	no	80,000	---	yes 40,000	no	no	no
Singles & Duplexes	no ³	no	---	80,000 ⁴	yes 40,000 ⁴	no	no	no
Townhouses & Elderly R	yes	no	80,000	---	yes 40,000	no	yes ⁵ 2,000 ²	no
Singles & Duplexes	no ³	no	---	80,000 ⁴	yes 40,000 ⁵	no	no	no

NOTES:

- Housing for Elderly by Special Exception.
- Plus off-street parking areas as required by Sections 6.30 and 6.40, which may be combined for several or all units, but not within the required minimum Common Area. See Sect. 5.31.b. for Exceptions for Housing for Elderly.

12.50 CONTROLS OF DENSITIES, DWELLING TYPE AND LOTS (CLUSTER DEVELOPMENTS)

Table 12.51 -- Density, Dwelling Type and Lot Area Per Dwelling Unit (D.U.)

Zoning (See Sect 12.46) District	Max.No. of D.U. on tract:				Permitted Dwelling Types & Min. Lot Area per D.U.			
	Sewer	Water	Total Area Sq. Ft. of area divided by	Developable Area	Single	Duplex	Town- House	Hsg. Eld.
Townhouse Elderly <u>RA</u>	yes	yes	10,000	---	no	no	yes	SE 2,000 ²
Singles & Duplexes	yes	yes	15,000	---	yes 7,500	yes 5,000	yes	SE 2,000 ²
<u>RT-20</u>	yes	yes	15,000	---	yes 7,500	yes 5,000	yes	SE 2,000 ²
Townhouse Elderly <u>RT-40 RB</u>	yes	no	30,000	---	yes 15,000	yes 7,500	yes	SE 2,000 ²
Singles & Duplexes	no ³	yes	---	30,000 ⁴	yes 15,000 ⁴	no	no	no
<u>RT-80</u>	no ³	no	---	60,000 ⁴	yes 30,000 ⁴	no	no	no
Townhouse Elderly <u>RC</u>	yes	no	80,000	---	yes 40,000	no	no	no
Singles & Duplexes	no ³	no	---	80,000 ⁴	yes 40,000 ⁴	no	no	no
Townhouses & Elderly <u>R</u>	yes	no	80,000	---	yes 40,000	no	yes ⁵	no 2,000 ²
Singles & Duplexes	no ³	no	---	80,000 ⁴	yes 40,000 ⁵	no	no	no
Mobile Home Subdivision	no ³	no	---	80,000 ⁴	yes 40,000			

NOTES:

1. Housing for Elderly by Special Exception
2. Plus off-street parking areas as required by Sections 6.30 and 6.40, which may be combined for several or all units, but not within the required minimum Common Area. See Sect. 5.31.b. for Exceptions for Housing for Elderly.

3. Residential units clustered without Town sewer must have septic disposal systems delineated on final plat showing percolation rates meeting state requirements and local regulations. A single water source may service all units. The location of all water sources must also be shown on the final plat.
4. The Board of Health may require fewer units and larger lots in order to ensure conformance with Note 3 above.
5. Townhouses in R districts must have access to an arterial road.

Table 12.52. Other Dimensional Controls for Cluster Development Lots.

Maximum Coverage restrictions do not apply. See also Section 5.30.

Cluster Development Lots, All Zoning Districts	Minimum Frontage ¹ Per Dwelling Unit	Minimum Yards ²			Max. Height in ft.; stories
		Street	Side ³	Rear	
Single household	75	30	10	20	35 2.5
Duplex household	50	30	10	20	35 2.5
Townhouse or Housing for the Elderly	40	30	10	20	35 2.5

NOTES:

1. The minimum frontage requirements may be further reduced for wedge or irregularly shaped lots.
2. Except where Minimum Buffers are required by Section 12.45.
3. But no principal building may be closer to one on an adjoining lot than as follows: 30 feet in an RA or RT district; 40 feet in an RB district, or 50 feet in an RC or R district.

12.60 SPECIFIC DESIGN REQUIREMENTS

12.61 Ownership of Common Area. The Common Area within a Cluster Development shall be owned and bound by one or more of the following:

- a. A Mandatory Home Association which may use it for common recreational facilities, or designate it as Open Space, or may grant a public body an Open Space Easement. The specific designation must be made prior to approval of the subdivision application by the Planning Board.
- b. A public body which shall use it as Conservation Land or Public Open Land. Accessory structures which are appropriate to the area may be provided.

Provisions for common land ownership shall be part of the site review or subdivision approval by the Planning Board, and must be in effect before any dwelling unit is leased or sold. The Common Area provisions must be in perpetuity. Any proposed changes require review and approval of the Planning Board.

3. Residential units clustered without Town sewer must have septic disposal systems delineated on final plat showing percolation rates meeting state requirements and local regulations. A single water source may service all units. The location of all water sources must also be shown on the final plat.
4. The Board of Health may require fewer units and larger lots in order to ensure conformance with Note 3 above.
5. Townhouses in R districts must have access to an arterial road.

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Single household	75	30	10	20	35 2.5
Duplex household	50	30	10	20	35 2.5
Townhouse or Housing for the Elderly	40 ⁴	30	10	20	35 2.5
Mobile Home Subdivision	75	30	10	20	35 2.5

NOTES:

1. The minimum frontage requirements may be further reduced for wedge or irregularly shaped lots.
2. Except where Minimum Buffers are required by Section 12.45.
3. But no principal building may be closer to one on an adjoining lot than as follows: 30 feet in an RA or RT district; 40 feet in an RB district, or 50 feet in an RC or R district.
4. The Planning Board has the power to vary this requirement.

12.60 SPECIFIC DESIGN REQUIREMENTS

12.61 Ownership of Common Area. The Common Area within a Cluster Development shall be owned and bound by one or more of the following:

- a. A Mandatory Home Association which may use it for common recreational facilities, or designate it as Open Space, or may grant a public body an Open Space Easement. The specific designation must be made prior to approval of the subdivision application by the Planning Board.
- b. A public body which shall use it as Conservation Land or Public Open Land. Accessory structures which are appropriate to the area may be provided.

Provisions for common land ownership shall be part of the site review or subdivision approval by the Planning Board, and must be in effect before any dwelling unit is leased or sold. The Common Area provisions must be in perpetuity. Any proposed changes require review and approval of the Planning Board.

12.62 Site Design. A Cluster Development shall comply with all applicable requirements of the Subdivision Regulations and other pertinent ordinances, regulations and policies of the Town of Durham. The following features shall be part of the site design:

- a. Undergrounding -- All service utilities shall be installed underground wherever possible.
- b. Drainage -- Natural surface drainage channels shall be either incorporated into the overall design, or shall be preserved as part of the Common Area. Other requirements for drainage shall be as set forth in the Subdivision Regulations. All surfaces shall be treated to prevent the erosion of soil.
- c. Parking -- Parking requirements shall be as specified in Sections 6.41 and 6.42.
- d. Walkways, Bicycle Paths -- The Planning Board is empowered to require pedestrian walks and/or bicycle paths which shall interconnect all dwelling units and the Common Area(s) and, as appropriate, link up to similar facilities outside the Cluster Development.
- e. Spacing of Buildings -- Lines shall be shown on each lot plan to indicate the area in which principal buildings may be placed in such a way as to conform to the requirements of Table 12.52, Note 3.

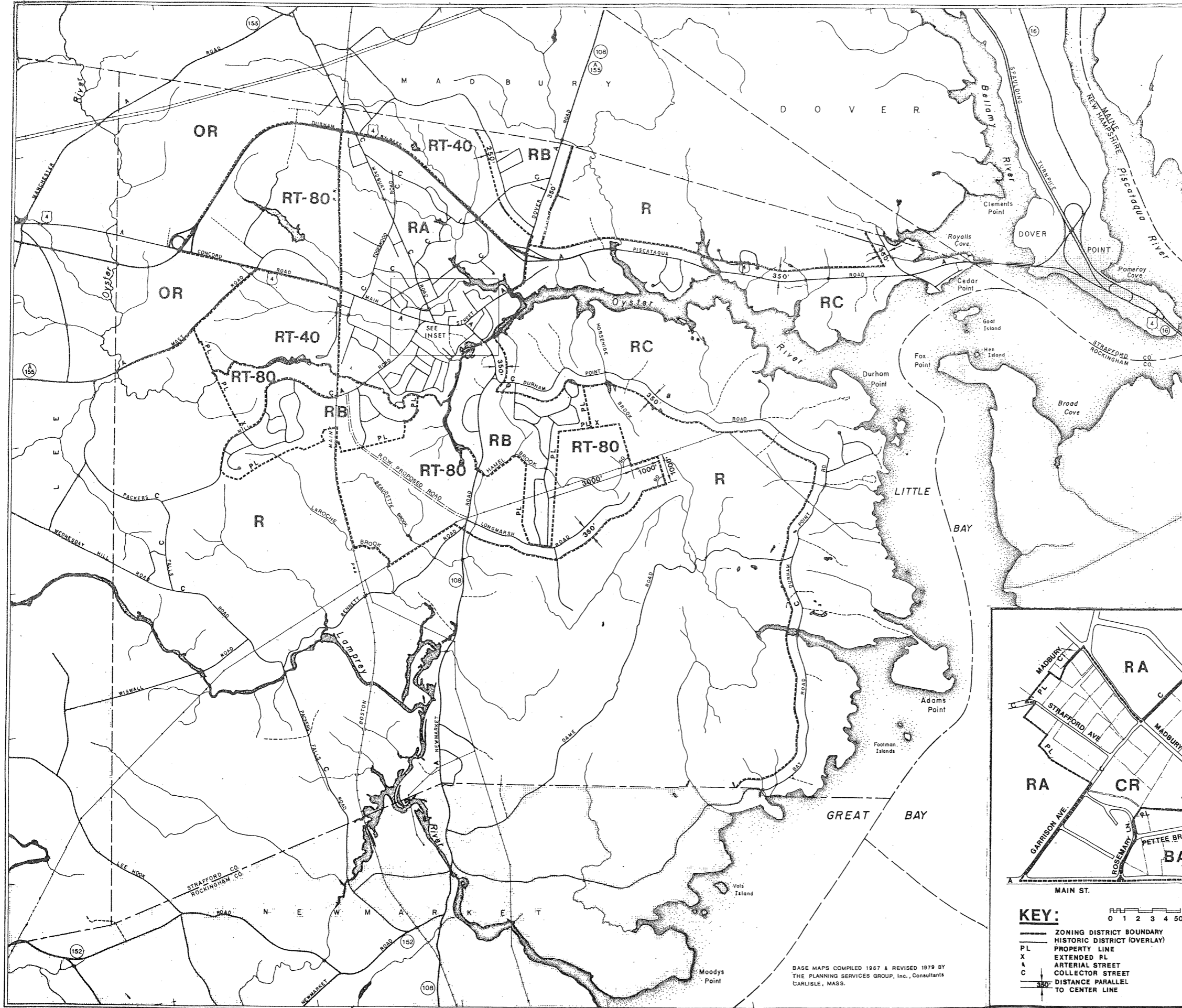
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- d. Walkways, Bicycle Paths -- The Planning Board is empowered to require pedestrian walks and/or bicycle paths which shall interconnect all dwelling units and the Common Area(s) and, as appropriate, link up to similar facilities outside the Cluster Development.
- e. Spacing of Buildings -- Lines shall be shown on each lot plan to indicate the area in which principal buildings may be placed in such a way as to conform to the requirements of Table 12.52, Note 3.
- f. Where a Mobile Home Subdivision abutts a Scenic Road a visual buffer shall be provided. Where the visual buffer is not naturally wooded, an appropriate wall, fence or hedge at least six (6) feet in height shall be provided as necessary to screen the subdivision from the view of a Scenic Road.

TOWN OF
DURHAM
 New Hampshire
**PROPOSED
 ZONING MAP**

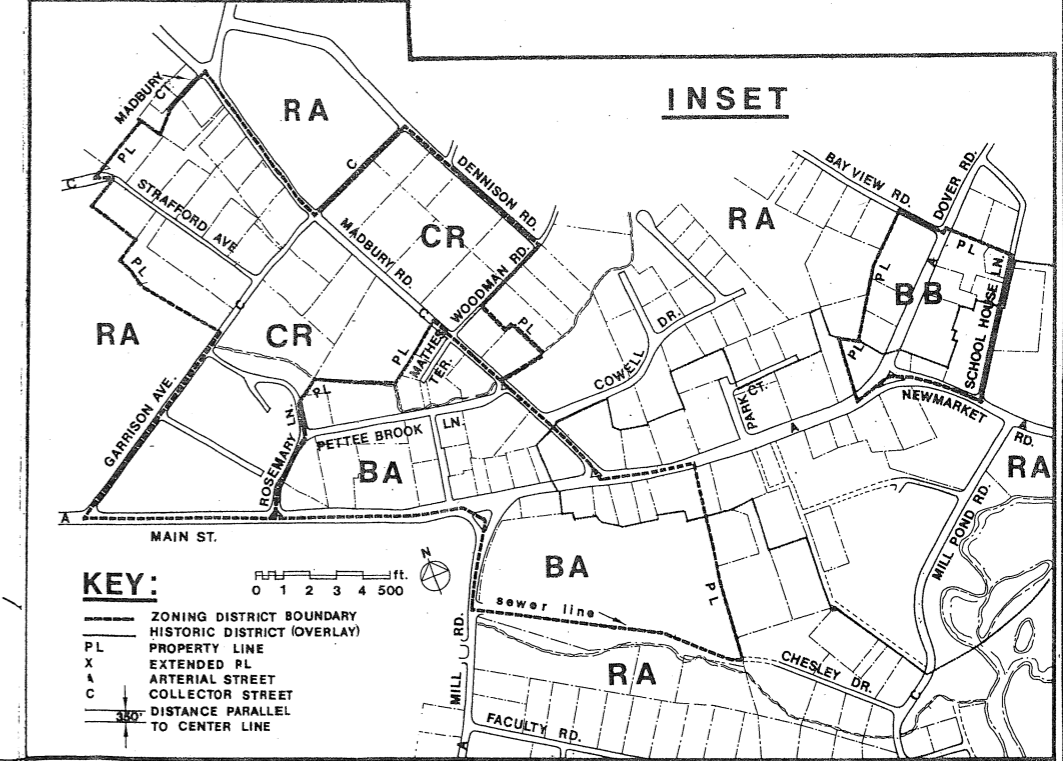
SEE SEPARATE MAPS FOR OVERLAY ZONES: WETLAND CONSERVATION, SHORELAND CONSERVATION, FLOOD HAZARD AREA, HISTORIC DISTRICT

MARCH 11, 1980



Zoning District Key	Minimum Area for single lot* in 1,000 sq. ft.
RA - RESIDENCE A	20
RB - RESIDENCE B	40
RESIDENCE TRANSITION:	
RT-20	20
RT-40	40
RT-80	80
RC - RESIDENCE COASTAL	120
R - RURAL	120
BA - BUSINESS A	-
BB - BUSINESS B	-
OR - OFFICE & RESEARCH	80
CR - COMMERCIAL RESID.	10*

*see Zoning Ordinance for multi-family, porkchop and cluster lots



BASE MAPS COMPILED 1967 & REVISED 1979 BY THE PLANNING SERVICES GROUP, Inc., Consultants CARLISLE, MASS.

ARTICLE 13
WETLAND CONSERVATION DISTRICT

13.10 DESCRIPTION

The Wetland Conservation Overlay* District is hereby determined to be those areas identified as poorly drained or very poorly drained soils, defined in the publication, "Soil Survey of Strafford County, New Hampshire," issued March 1973. The Wetland Conservation District as herein defined*, is shown on a map or maps designated as the Town of Durham Wetland Conservation Overlay District Map and is a supplement to the Zoning Map of the Town of Durham, New Hampshire.

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Durham, the regulations of both districts shall apply, but any conflict between such regulations shall be resolved by applying the more restrictive regulation

*See appendix definitions

13.20 PURPOSE

In the interest of wise land use, public health, safety, and welfare, the regulations of this district are intended to guide the use of areas of land with extended periods of high water tables. The regulations are intended to:

1. Control and regulate the development of structures, and of land use on naturally occurring wetlands which could contribute, if uncontrolled, to pollution of surface and ground water by sewage or septic systems;
2. Prevent unnecessary or excessive expenses to the Town in providing and maintaining essential services and utilities as a result of inharmonious use of wetlands;
3. Prevent the destruction of natural wetlands which provide flood protection and water storage, provide recharge of groundwater supply, and provide augmentation of stream flow during dry periods;
4. Encourage those uses that can be appropriately and safely located in wetland areas;
5. Protect presently existing natural wetland wildlife habitats.

13.30 PERMITTED USES

13.31 For very poorly drained soil group areas:

- a. Any use that does not involve the erection of a structure, or that does not alter the surface configuration of the land by the addition of fill or dredging, except common agricultural land drainage provided such use is otherwise permitted in the Use District which this District overlays;
- b. Forestry or tree farming;
- c. Agriculture, including grazing, farming, truck gardening and harvesting of crops;
- d. Water impoundments and the construction of well water supplies;
- e. Drainage ways such as streams, creeks, or other paths of normal runoff;
- f. Wildlife habitat development and management;
- g. Parks and recreation uses, excepting such as may be inconsistent with the purpose and intentions of 13.20;
- h. Conservation areas and nature trails;
- i. Open space in accordance with subdivision regulations and other sections of this ordinance.

13.32 For poorly drained soil group areas:

- a. Any use (including habitable structures) that is compatible with the intent and purpose of this ordinance is permitted, provided such use is otherwise permitted in the Use District which this District overlays. However, for any use other than the permitted uses, review and approval by the Durham Planning Board in consultation with a qualified soil scientist*, is required.
- b. Forestry or tree farming;
- c. Agriculture, including grazing, farming, truck gardening and harvesting of crops;
- d. Water impoundments and the construction of well water supplies;
- e. Drainage ways such as streams, creeks, or other paths of normal runoff;
- f. Wildlife habitat development and management;

*Qualified soil scientist is interpreted to mean a person qualified in soils classification and who is recommended or approved by the Strafford County Conservation District Supervisors.

- g. Parks and recreation uses, excepting such as may be inconsistent with the purpose and intentions of Section 13.20;
- h. Conservation areas and nature trails;
- i. Open space in accordance with subdivision regulations and other sections of this ordinance.

13.33 For both soil groups areas the following uses may be permitted after site review and approval by the Planning Board:

- a. Streets, roads and other access ways if essential to the productive use of land;
- b. Utility rights of way easements including power lines and pipelines.

13.40 RECLASSIFICATION OF SOILS

If the soil classification is challenged by the applicant, an abutter, or the Planning Board and adequate evidence to support that challenge is presented to the Planning Board by a qualified soil scientist*, the Planning Board may determine that the restrictions pertaining to the challenged soil classifications in this ordinance do not apply.

13.50 APPENDIX

13.51 Definitions.

a. Wetlands

The United States Soil Conservation Service has defined wetlands as those areas composed of wetland soils. These are mineral and organic soils which are rated as poorly or very poorly drained; that is, those soils having a water table at or near the ground surface for seven or more months of the year.

The soils identified as very poorly drained are:

<u>Soil Symbol</u>	<u>Soil Name</u>
BE	Biddeford
Fa	Fresh Water Marsh
MI	Mixed Alluvial Land
Mp	Muck and Peat
Ru	Rumney
Ta	Tidal Marsh

*Qualified soil scientist is interpreted to mean a person qualified in soils classification and who is recommended or approved by the Strafford County Conservation District Supervisors.

The soils identified as poorly drained are:

<u>Soil Symbol</u>	<u>Soil Name</u>
LeA	Leicester
LrB	Leicester Ridgebury
Sb	Saugatuck
ScA, ScB	Scantic
SwA	Swanton

Very poorly drained soils, in this classification, are those in areas of periodic flooding and/or those having the most severe limitations because of high water table.

Poorly drained soils are those characterized as having high water tables, within which may be areas suitable for habitable development if well-planned drainage can be accomplished.

NOTE: Buxton (Bza-B) soils are borderline but not included in this wetlands definition although they have slow internal drainage.

A detailed description of soils is included in the publication, "Soil Survey of Strafford County, New Hampshire," issued March 1973 which is on file with the Town Clerk, the Planning Board and the Zoning Board of Adjustment.

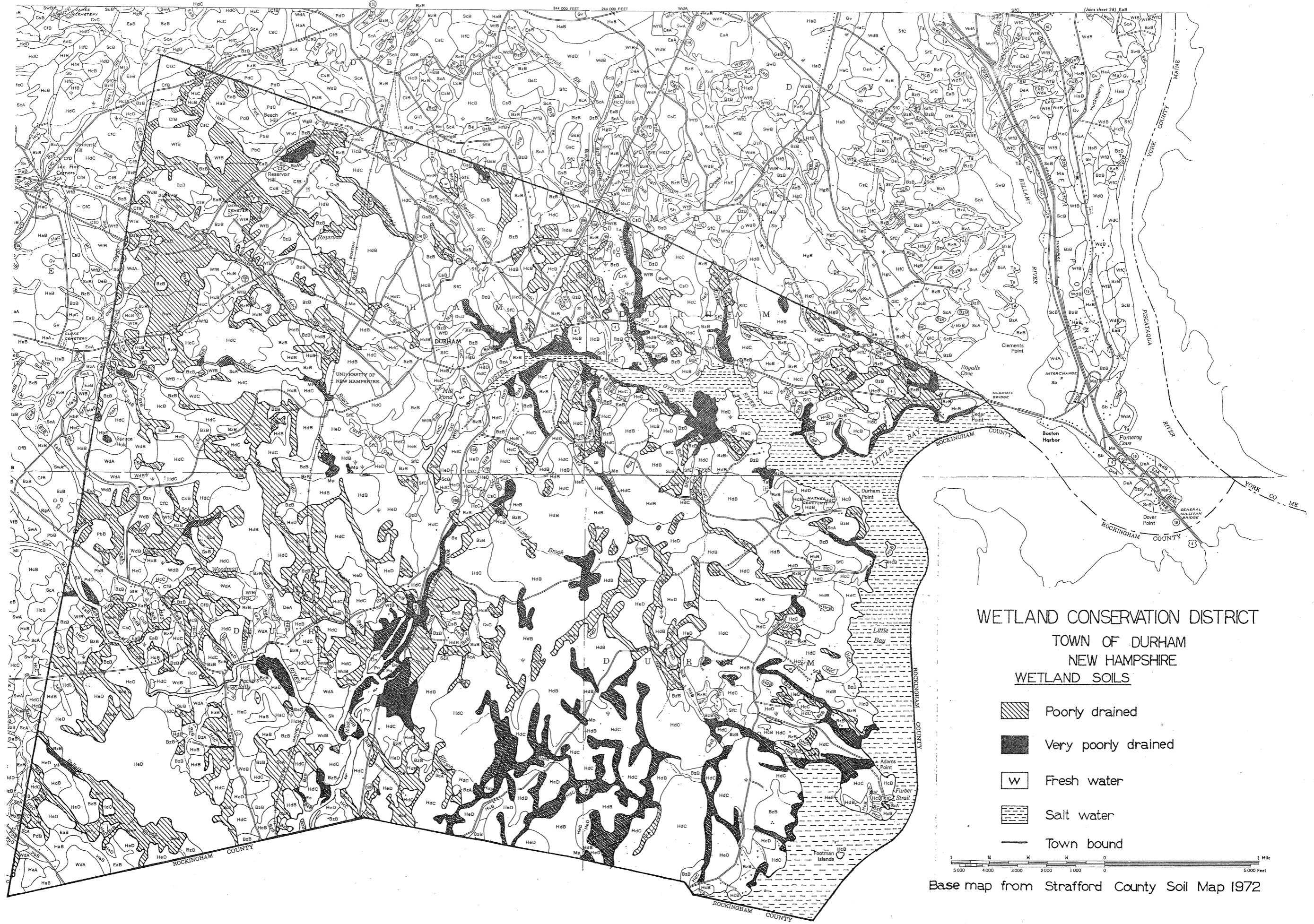
All pertinent notations, soil mapping unit designations, and other information shown in this publication, shall be as much a part of this ordinance as if the matters and things set forth by this document were fully described herein.

13.60 OVERLAY DISTRICT:






Refers to those areas in the Town as outlined on the Official Town Wetland Map, based on the U.S.D.A. Soil Survey of Strafford County, 1973 and as superimposed on other Use Districts under this Zoning Ordinance. For the purposes of this, and any other overlay district, where two or more district boundaries overlap, or are superimposed one upon another, the regulations of all such districts shall apply, and wherever there is a conflict between applicable regulations of different overlapping districts, the more restrictive regulation shall be applied.

13.70 INHARMONIOUS USE OF WETLANDS

Defined as those uses incompatible with the purposes of this ordinance; i.e., the regulations listed in Section 13.20, provided that, in cases of uncertainty, the use shall be denied, and determined upon appeal to the Board of Adjustment in the usual manner provided by statute.



WETLAND CONSERVATION DISTRICT
 TOWN OF DURHAM
 NEW HAMPSHIRE
 WETLAND SOILS

-  Poorly drained
-  Very poorly drained
-  Fresh water
-  Salt water
-  Town bound

5000 4000 3000 2000 1000 0 5000 Feet
 Base map from Strafford County Soil Map 1972

ARTICLE 14
SHORELAND CONSERVATION ZONE

14.10 DESCRIPTION

The Shoreland Conservation Zone shall be all land within fifty feet of the shores of Great and Little Bays and of the shore of year round natural flowing streams as designated by a qualified hydrologist. For the purposes of this ordinance shore shall be defined as the mean high water line of the said bodies of water at the water's edge.

14.20 PERMITTED USES:

14.21 The intent is to protect the shoreland from structures used for temporary or permanent habitation; from the cutting of trees over 10 inches in diameter, and from destruction of the aesthetic qualities of the shore, for which purposes the following additional restrictions apply within the shoreland zone, namely:

- a. No structure to have running water or toilet facilities (see item 14.24);
- b. No standing live trees shall be cut that are over 10 inches in diameter. This does not include orchard trees (see item 14.24);
- c. No structure to be used for habitation (see item 14.24);
- d. No permanent structures shall be built within the conservation area except those which are necessary for the legitimate use of the waters.

14.22 Landowners would be allowed use of shoreland river frontage sufficient for developing one access point to the waters not to exceed twenty percent of the total owned frontage for boat dock, ramp, or other facility. Any such facilities must conform to all other town, state, and federal requirements applicable.

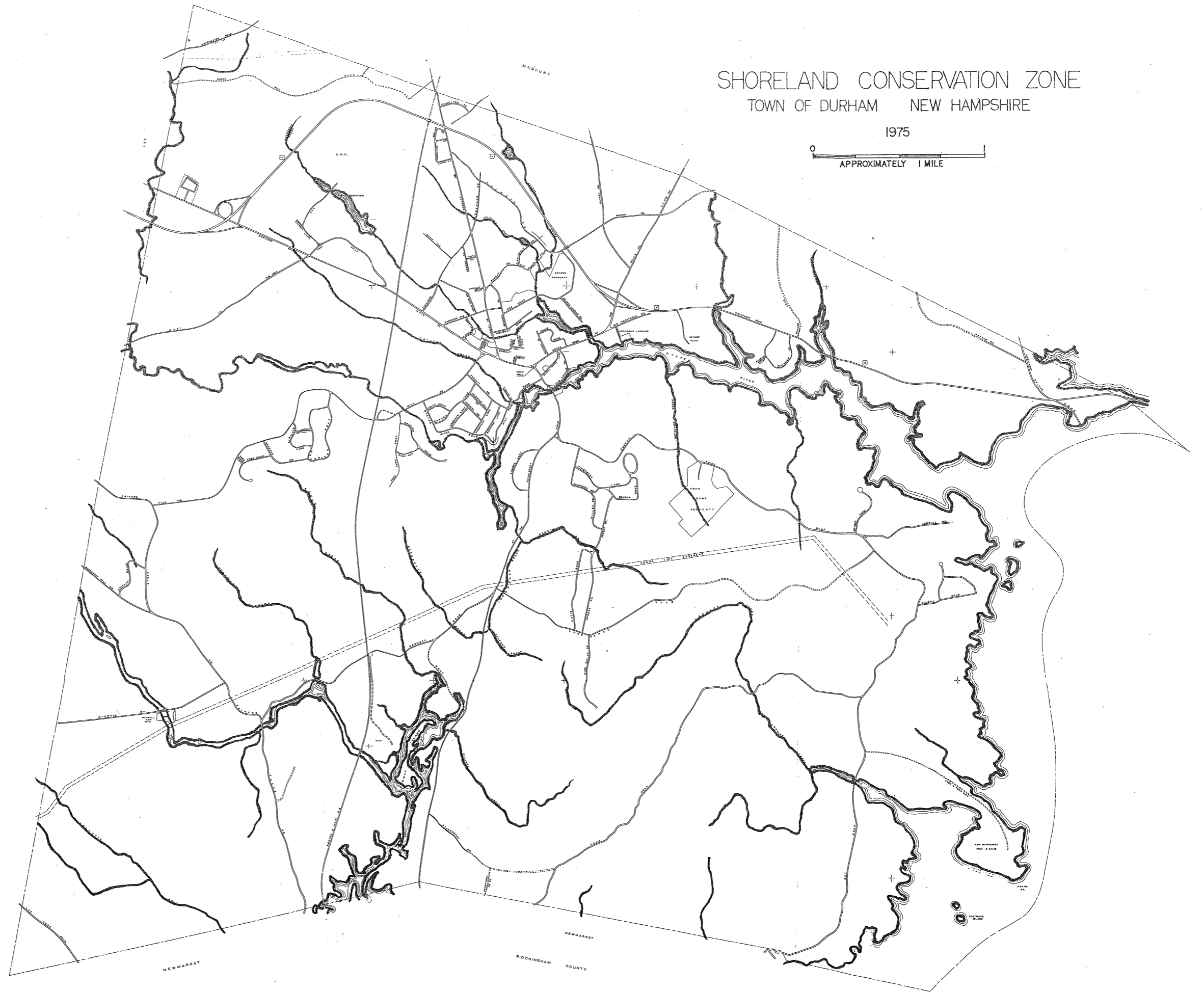
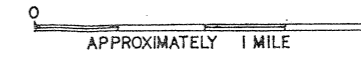
14.23 Land in shoreland conservation area may be considered as part of a minimum lot size are required in Article 5 of this ordinance.

14.24 Existing lots of record with a depth of less than 150 feet from the shore of any such waters (as determined by a perpendicular line drawn from a straight line averaging the course of the shore) may have a special exception to the requirements of Section 14.21 above, provided the site and the building or structure proposed complies with all other terms of this ordinance, and if it does not, a variance shall be required for this purpose. A condition of any such special exception consideration shall be that the lot of record is a lot approved by the Planning Board on a plan duly recorded.

14.25 Building or structure permit applications shall comply with the requirements of Article 10 of this ordinance, and non-residential uses require site review by the Planning Board pursuant to Article 10, section 10.22 and 10.30. Appeals shall initially be to the Board of Adjustment for special exception provided in 14.24 above, or for variance, or otherwise.

SHORELAND CONSERVATION ZONE
TOWN OF DURHAM NEW HAMPSHIRE

1975



ARTICLE 15
DURHAM HISTORIC DISTRICT

15.10 PURPOSE AND INTENT

1. To safeguard the heritage of the Town as it is represented in structures of historical and architectural value.
2. To preserve a District in the Town which reflects elements of its cultural, social, economic, and political history.
3. To foster civic beauty.
4. To promote the use of an Historic District for the education, pleasure, and welfare of the citizens of our Town.

15.20 QUALIFICATIONS

The Historic District established herewith and from time to time amended in the manner prescribed by New Hampshire law has one or more or any combination of the following characteristics and qualifications, without limitations as to cultural or chronological period.

15.21 Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of the Durham Historic District and the nation, including sites and buildings at which visitors may gain insight or see examples either of particular items or of larger patterns in the North American heritage.

15.22 Structures or sites importantly associated with historic personages.

15.23 Structures or sites importantly associated with historic examples of a great idea or ideal.

15.24 Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period style or method of building construction, of community organization and living, or of landscaping; or a single notable structure or a single site representing the work of a master builder, master designer, architect, or landscape architect.

15.25 Structures contributing to the visual continuity of the District.

15.30 HISTORIC DISTRICT BOUNDARIES

The Durham Historic District is defined as that area made up of the following lots, as defined on the Durham tax map.

Sheet 4: Lots 1, 59, 56, 55, 54-3, 54-4, 53, 52

Sheet 5: Lots 1-4 through 1-10, 1-12, 2-0 through 2-6, 3-1, 3-2 4-0, 4-2 (seventy-five feet from the center line of the Newmarket Road), 4-10, 4-11, 5-11, 5-10.

Sheet 6: Lots 9-1 through 9-5, 9-6 and 9-8 (two hundred and fifty feet from the centerline of Newmarket Road), 9-7, 11-1, 11-2, 11-6, 11-3 (two hundred and fifty feet from the centerline of Newmarket Road and Durham Point Road), 11-4, 11-5, 12-1 through 12-8.

Sheet 15: Lot 17-1

This district is also to include all Town property necessary to make a continuous District.

15.40 HISTORIC DISTRICT COMMISSION

1. Members of the Historic District Commission shall be appointed by the Board of Selectmen, and shall initiate appropriations each year for the activities of the Commission.
2. The membership of such commission shall consist of not less than five nor more than seven members. All members shall be residents of the city or town, and one shall be a member of the Board of Selectmen, and one shall be a member of the Planning Board. In determining the qualifications of a member of said commission, the appointing authority shall take into consideration her/his demonstrated interest and ability to understand, appreciate, and promote the purpose of this subdivision.

The members of said commission shall be appointed for three-year terms except the initial appointments shall be staggered so that subsequent appointments shall not recur at the same time. Members of said commission shall serve without compensation and shall serve no more than two successive terms. In the event of a vacancy on the commission, interim appointments may be made by the appointing authority to complete the unexpired term of such position.

3. Such commission shall elect annually a chairman, vice-chairman, and secretary from among its own membership. The decisions of the commission shall be by vote of a majority of the whole number of commission members.

4. Said commission for its purposes shall adopt and may from time to time amend rules and regulations not inconsistent with the intention of this ordinance and of the state enabling legislation.
5. The Durham Historic District Commission may, subject to appropriations or other income, employ clerical and technical assistants or consultants, and may accept money gifts, or gifts of services, grants, and may hold or expend the same for all or any of the purposes of the Durham Historic District.

15.50 AUTHORITY GRANTED

The Historic District Commission is empowered to regulate the construction, alteration, repair, moving, or demolition of structures within the Historic District. (RSA 31:89B)

15.60 USES PERMITTED

Uses permitted in the Historic District shall be those set forth in the Durham Zoning Ordinance provisions for the district except that within Historic Districts, no buildings or structures shall be constructed, reconstructed, altered, restored, moved or demolished unless a certificate of approval has been issued by the Durham Historic District Commission.

15.70 CERTIFICATES OF APPROVAL

In this Historic District, no building permit shall be issued for any construction, alteration, or demolition until a corresponding certificate of approval has been issued by the Durham Historic District Commission:

- a. Certificates of approval are required before the construction, alteration, repair, moving, or demolition of any structure within the Historic District, even though a permit may not be required under the Zoning Ordinance of the Town of Durham.
- b. Application for Certificate of Approval will be obtained from the Board of Selectmen when obtaining a building permit.
- c. In cases where no building permit is required, the application for Certificate of Approval will be obtained from the Historic District Secretary.

15.71 Application Procedure. Written application for the Certificate of Approval shall be submitted to the Durham Historic District Commission stating the location, use, and nature of the matter or item for which such certificate is sought. Any site plans, building plans, elevations, samples, photographs, sketches, or other information reasonably required by the Commission to determine the "appropriateness" in question shall be made available to the Commission by the applicant.

1. The Historic District Commission in considering each such application shall consider the appropriateness of proposed features where such features are subject to public view.

In determining appropriateness, it shall be the duty of the Commission to seek advice from such professional, educational, cultural, or other groups or persons as may be deemed necessary for the determination of a reasonable decision. The commission shall have the power to engage such technical assistance and consultants as may be deemed necessary to carry out the purpose of the District.

The Commission shall not make any recommendations or requirements except for the purposes of historic preservation and of preventing developments, constructions, or changes incongruous with the Historic District, its buildings, sites, and surroundings.

2. The Commission may, if deemed necessary, hold a public hearing prior to acting on the application for approval in the following manner; within ten (10) days after the filing of the application for approval, the Commission shall determine the estates considered to be materially affected by such application and shall send notice by mail of a public hearing to be held for the purpose of hearing reasons why the application should or should not be approved. Notice of such public hearing shall be sent not less than ten (10) days prior to the hearing date.

15.72 Granting of Certificates of Approval.

1. Within a period of forty-five (45) consecutive calendar days after the filing of such application, or within such further time as the applicant may in writing allow, the Commission shall determine whether the action or usage proposed will be appropriate in its opinion in the Historic District in accordance with the purposes of this section, and shall file a Certificate of Approval or Disapproval with the Durham Board of Selectmen. No building permit shall be issued without a Certificate of Approval. Failure to file said certificate by the commission within the specified period of time shall be deemed to constitute approval.
2. Notwithstanding that the action or usage proposed may be deemed inappropriate, owing to conditions especially affecting the lot, building, or structure involved, but not affecting the Historic District generally, the Commission may find that failure to issue a Certificate of Appropriateness will involve a peculiar and unusual hardship, (physical, financial, or otherwise) to the applicant, and that such Certificates may be issued without substantial derogation from the intent and purposes of historic preservation in Durham as stated above.

If the Commission determines that a proposed activity is not appropriate, owing to conditions aforesaid but that failure to issue a certificate causes substantial hardship, the Commission shall forthwith approve such application and shall issue to the applicant a Certificate of Appropriateness in which the Commission may impose conditions.

3. If the Commission determines that a Certificate of Approval should not be issued, it shall place upon its records the reasons for such determination and may include recommendations respecting the proposed reconstruction, alteration, moving, or demolition.
4. Whatever its findings, the Commission shall forthwith notify the applicant and the Board of Selectmen of its determination and shall furnish the applicant in writing a copy of the reasons therefore and its recommendations, if any, as appearing in the records of said Commission.

15.80 HISTORIC DISTRICT APPEALS

Appeals may be taken to the Board of Adjustment by any owner or tenant of property wholly or partly within an Historic District, and by any other person, agency, or group, if aggrieved by a ruling of the Historic District Commission. The Board of Adjustment shall hear and act upon such appeals within the periods of time prescribed by the New Hampshire Statute. (RSA 31:66 -- 31:39)

15.90 GUIDELINES

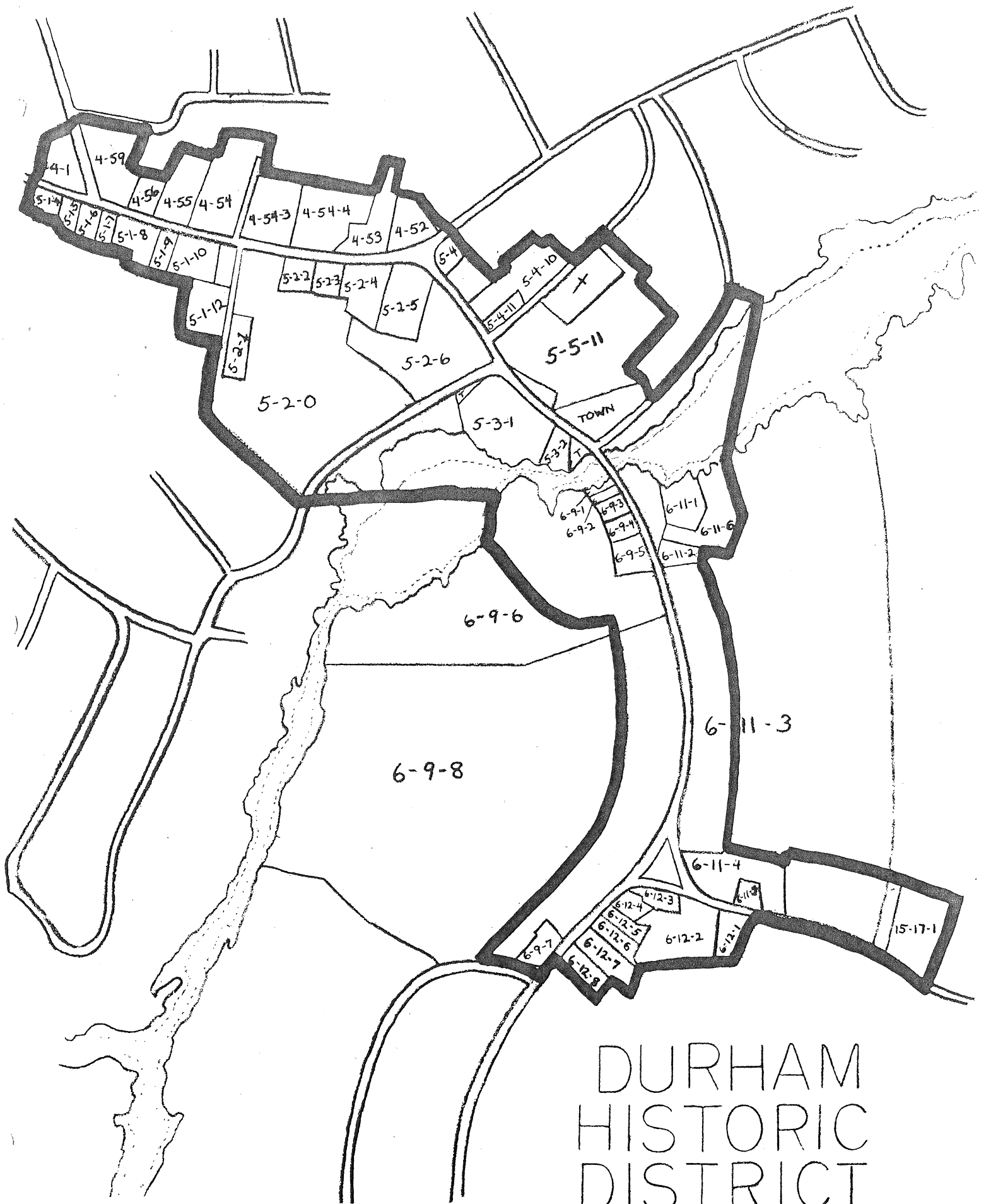
The following are guidelines which shall be initially used by the Historic District Commission:

1. If the proposed construction will not have any visible impact on the exterior of the building or structure it shall be deemed of no interest.
2. Painting and other routine repair to existing structures not involving any other exterior changes shall be deemed of no interest. Parties interested in promoting the spirit and intent of the District are encouraged to come before the Commission for informal guidance in the selection of historically appropriate colors or details.
3. When determining the appropriateness of all other alterations, restorations, or remodeling of existing structures, the following criteria shall be used: it is possible that in some instances several criteria will be appropriate, in which case the applicant shall state the criteria he is using and the Commission shall decide accordingly:
 - a. Structures of importance because of a moment in history, be it the date of occupancy by a celebrated personage, or the happening of an event, should be altered (only) so as to be more in conformity with the appearance at that moment in time.
 - b. Structures of importance because of their date of construction should be altered to restore features of their original appearance -- unless the structure has been altered at some later time, and that alteration is in keeping with the character of the District, or is notable in its own right, in which case as an alternative, such altered appearance shall be maintained.

- c. Structures which are important in the history of architecture as unique or exceptionally fine example of their style should be altered only so as to retain their original appearance.
 - d. Structures merely typical of their age and style should be altered in a fashion of that age or style, if in keeping with the character of the District.
4. New structures and buildings and those being moved into the district from outside the district must conform in general size and scale but need not conform in precise architectural style to the existing structures within the district. Such a structure must be within 10% variation of the average of its nearest neighbors in the following specifications:
- a. Overall height and width;
 - b. Street frontage;
 - c. Setback from the street;
 - d. Number of stories.

In addition, it shall conform to the general style of the district by being similar to the neighboring structures in three of five of the following criteria:

- a. Openings within the facade as a percentage of the facade; i.e., doors and windows;
 - b. Similarity of construction materials and surface texture; i.e., rough, smooth, wood, brick, etc.
 - c. Similarity of roofs; i.e., slopes and shapes;
 - d. Similarity of architectural details; i.e., cornices, lintels, arches, porches, balustrades, wrought iron work, chimneys, etc.
 - e. Similarity of landscaping and ground coverings; i.e., grass, brick, granite, etc.
5. Before a building or other structure is demolished or moved out of the district, the applicant shall in good faith prepare a detailed plan for the reuse of the site which the Commission determines will meet the requirements for a Certificate of Approval. Such Certificate of Approval for demolition and reuse shall only be granted upon a showing by the applicant that to deny such Certificate would result in a hardship unique to the property in question, and that such hardship is not common to neighboring properties within the district.
6. These guidelines may be from time to time changed by the Historic District Commission after due notice and public hearing.



DURHAM
HISTORIC
DISTRICT
AS PER TAX MAP

ARTICLE 16
PIPELINE CODE

16.10 ADMINISTRATION

This pipeline code shall be administered by the Board of Selectmen, and the Board is hereby given the power and authority to enforce the provisions of this ordinance.

16.12 Administrative Responsibility

Administration of this code is vested in the Board of Selectmen, but they are empowered to appoint a Pipeline Inspector, an Interference Committee, and such other temporary inspectors as they deem necessary from time to time to police and enforce the provisions of this code.

16.13 Inspection Procedures and Fees.

Primary responsibilities for inspections under this code are vested in the Pipeline Inspector, but may be delegated by such inspector to one or more technicians or engineers specially qualified to make any specialized pipeline inspection. The pipeline applicant or owner shall pay a filing fee of \$1.00 per \$1,000.00 estimated value of any pipeline project on permit applications, and for all inspections required under the terms of this code, shall pay the Town \$25.00 per hour for the time of one inspector, including travel time, plus the amount of any fees or charges assessed by any technician or engineer reasonably retained by the Town to carry out any specialized inspection required under the terms of this code.

16.14 Permits.

16.14a Construction Permit. No pressure pipeline which falls within the scope of the various sections of the American National Standard Code for Pressure Piping (ANSI B31) shall hereafter be laid or extended in the Town of Durham without first having applied for and received a permit under this code.

The Board of Selectmen shall receive a permit application and may prescribe rules, regulations and fees for such applications, hearings and permits in applying the terms of this code.

The applicant shall also be required to file an application for site review to the Planning Board, pursuant to usual site review procedures as prescribed by the Durham Zoning Ordinance. In addition to required site plans, for the pipelines route plan and lay out, the applicant shall include a proposed classification of locations and potential hazards for the pipeline route within the Town of Durham. (Sections 16.40 and Sections 16.50 of this ordinance.) Copies of the proposed site plan and classification of locations and hazards shall be submitted to the Conservation Commission and Historic District Commission for advisement to the Planning Board's site review on interpretation of location and hazard requirements. The Selectmen shall hold a public hearing upon approval of site review for any pipeline permit application.

The issuance of a permit shall be made by the Selectmen contingent on the terms of this code and site review approval.

16.14b Certificate of Use. No pipeline or pipeline extension shall be put into operation without a Certificate of Use, which may be issued by the Pipeline Inspector upon satisfactory evidence that the pipeline has been laid or extended in accordance with terms of site review approval and pipeline permit, and has passed all inspections required by this Code. Such a Certificate of Use shall also apply to any renewal of use of a pipeline after any rupture or explosion or other shutdown of use caused by accident or peril which might, unless corrected, endanger the area or inhabitants.

16.15 Enforcement and Penalties.

This pipeline code shall be enforced in the first instance by the Pipeline Inspector, or by the Interference Committee, either of whom shall be empowered to enter all desirable summary orders to pipeline owners, operators, contractors, and any person concerned. Upon complaint of the Pipeline Inspector, or of the Interference Committee, or of any person, or upon their own initiative, the Board of Selectmen may initiate action to impose fines, enter cease and desist orders, commence proceedings at law or equity for injunction, fines, or other relief, as the circumstances may warrant. Violations of this code are subject to penalties not exceeding the maximum permitted by state law for each offense; such penalties shall enure to the use of the Town of Durham unless otherwise required by court.

Pipeline owners, operators and contractors, necessarily assume all liability for damage resulting from pipeline construction or breach of pipeline integrity. To include:

- a. spill containment and recovery;
- b. site restoration;
- c. liability for long term damage to water supplies.

16.20 MINIMUM REQUIREMENTS

This code prescribes minimum requirements for the design, materials, construction, assembly, inspection and testing of piping transporting liquid petroleum and petroleum products, combustible gasses, and hazardous liquids, gasses and slurries. The scope is as stated in the various sections of the American National Standard Code for Pressure Piping (ANSI B31). The minimum requirements are set forth in ANSI B31 including all referenced standards, and as amended and extended herein.

16.30 CLASSIFICATION OF STEEL PIPE CONSTRUCTION

Steel pipe and pipeline components for the transport of all materials within the scope of this Code shall be constructed using Design Factors (safety factors) no larger than the values defined in ANSI B31.841.11 for each Construction type.

- 16.31 Construction Type A. The Design Factor is 0.72.
- 16.32 Construction Type B. The Design Factor is 0.60.
- 16.33 Construction Type C. The Design Factor is 0.50.
- 16.34 Construction Type D. The Design Factor is 0.40.

16.40 CLASSIFICATION OF POTENTIAL HAZARD

The applicant for a permit shall include in his application a proposed Hazard Type Classification for each of the materials he will transport. Sufficient technical documentation shall be included to permit realistic evaluation of the degree of hazard.

16.41 Type 1 Hazard

The nature of Type 1 Hazard materials is such that their accidental release would have only minor impact upon human activities and health at the time of their release, and no detectable impact after 1 year. These materials are either self-dispersing or amenable to total cleanup. With assured clean-up capability, liquid fuel having high flash temperatures may be considered for inclusion in this classification.

16.42 Type 2 Hazard.

The nature of Type 2 Hazard materials is such that their accidental release would present a hazard to human activities and/or health. This classification includes but is not limited to combustible gasses, liquid fuels with low flash temperatures, materials whose vapors are toxic, or which leave toxic residues.

16.43 Type 3 Hazard.

The nature of Type 3 Hazard materials is such that their accidental release would have minor impact upon biologically sensitive areas at the time of their release and no detectable impact after 1 year. These materials are either self-dispersing or amenable to total clean-up without ecological damage by the clean-up methods. Combustible gasses which do not leave toxic residues with or without combustion may be considered for this classification.

16.44 Type 4 Hazard.

The nature of Type 4 Hazard materials is such that their accidental release would present a hazard to biologically sensitive areas. This classification includes but is not limited to liquid petroleum and petroleum products and materials which leave a toxic residue.

16.45 Type 5 Hazard.

The nature of Type 5 Hazard materials is such that if released into a public water supply, prudent water supply management would require suspension of use of the supply for more than 6 hours or would require purging of either the supply or distribution system. This category includes but is not limited to liquid petroleum and petroleum products, refinery wastes, and gasses which leave a toxic residue after dissipating.

16.50 CLASSIFICATION OF LOCATIONS.

Location classifications 1 through 4 as defined in ANSI B31.841 specifically include the following locations. The applicant for a permit shall include with his application complete construction drawings to scale of the entire proposed construction. A proposed Classification of Locations must be clearly indicated according to the following criteria.

16.51 Class 1 Locations.

No part of the Town is a Class 1 location.

16.52 Class 2 Locations.

Class 2 locations include areas within the R zone that do not meet the criteria for higher classes.

16.53 Class 3 Locations.

Class 3 locations include areas in zones RB and RC which do not meet the criteria for higher classes.

16.54 Class 4 Locations.

Class 4 locations include zones RA, BA, BB, CR, OR and areas closer than 350 feet to any area of concentrated human occupancy, including but not limited to schools, churches, dormitories, labor-intensive offices, laboratories and factories, and athletic fields with facilities to accommodate spectators. In the case of liquids being pipelined, this distance may be required to be increased on the downgrade side and allowed to be decreased on the upgrade side providing evacuation routes are not infringed upon.

16.55 Class 5 Locations.

Class 5 locations include areas of biological sensitivity such that the particular material being transported, if it escaped, would cause major ecological upset for a period of more than one growing year, over an area larger than 0.3 acres. In determining the potential impact, consideration will be given to the flow rate, the volume of the pipeline block, the valve shut-off time, and the maximum time between occurrence of upset and the execution of the shut-down command.

16.56 Class 6 Locations.

Class 6 locations include the watersheds of public water supplies, including the Oyster River upstream from the Durham Waterworks Dam, and the Lamprey River. Only that portion of the watershed is included from which a spill might reasonably be expected to sooner or later reach the water supplies, given the nature of the material being transported, the flow rate, the volume of the block, the valve shut-off time, and the maximum time between occurrence of an upset and the execution of the shut-down commands.

16.57 Class 7 Locations.

Class 7 locations include areas of special sensitivity and/or uniqueness, including biological, zoological, geological, and historical. Included within this class are the oyster beds of Great Bay, Little Bay and the Oyster River, any Historical Districts, and the areas within 350 feet from the fringes of the so-called "College Woods" and "Spruce Hole."

16.60 MINIMUM TYPE OF CONSTRUCTION.

The minimum type of construction is determined by the Location Class and the Hazard Type according to Table I.

TABLE I

Location Class Section 4	Minimum Construction Type	
	Hazard Type Section 3	Minimum Construction Type Section 2
2	1,2,3,4,5	B
3	1,3	B
3	2,4,5	C
4	1,3,4,5	C
4	2	D
5	1,2,3,5	B
5	4	C
6	5	D
6	1,2,3	B
6	4	C
7	No construction permitted	

16.70 SPECIAL CONSIDERATION

16.71 Valves and Instrumentation.

Notwithstanding zoning restrictions on business and business related facilities, proposals may be submitted for locating valves and instrumentation in any zone, in accordance with best pipelining practice.

16.72 Induced Electrical Currents.

Pipelines installed parallel to electrical power lines shall be so designed as to be free from deleterious effects from induced electrical currents. If the net current or voltage along a parallel power line is increased, or if a parallel railroad is electrified the pipeline owner must ascertain the effects on the pipeline and report these to the Town together with proposed steps to mitigate the effects, if required to maintain pipeline integrity. Extraordinary measures or abandonment may be required in the case of a pipeline parallel to an electrified railroad using direct current with ground or rail return.

16.73 Materials Traceability.

No Certificate of Use will be issued until the mill source has been established for all pipe, weld filler metal, coating materials, rock shields, valves, instruments and any other materials connected with pipeline integrity. The records delivered to the Town shall include the specific location of each item,

and shall be in the form of originals, or certified copies, or certified microfilm copies. In the case of used or rebuilt materials the organization certifying the materials as complying may be listed as the source.

16.74 Cathodic Protection.

If cathodic protection is used the Town will convene from time to time a mandatory Interference Committee of all parties with underground crossings. This Committee will recommend to the Town practices for the mutual protection of all underground facilities. The Town may then set mandatory requirements for each crossing. Bonding, if used, shall be accomplished in such a way that it will not interfere with coating resistance measurements.

16.80 PIPELINE INTEGRITY

Of particular concern to pipeline integrity are interior corrosion and/or erosion, exterior corrosion, stress, and mechanical damage. An annual report of pipeline integrity shall be submitted to the Town. One or more of the following forms of evidence shall be submitted.

16.81 Direct Inspection and Operating Records.

Whenever the line is opened whether accidentally or in the course of normal operation, locally or within 100 miles of the Town, the Town shall be given the opportunity to examine and make appropriate tests of the integrity. In addition the operating and maintenance records shall be made available to the Town. Failure to provide notice and the opportunity to examine any opening, or failure to make records available, or missing records invalidate Direct Inspection and Operating Records as a means to assure integrity.

16.82 Pipeline Logger.

For pipeline logger evidence to be acceptable all points on the line not accessible to the logger shall be accessible to 100% manual ultrasonic wall thickness measurement, and these data shall be presented with the logger data.

16.83 Hydrostatic Test.

Hydrostatic testing according to ANSI B31.437 and/or ANSI B31.841 is acceptable for assurance of integrity except that all waivers such as ANSI B31.841.413 shall require permission of the Town before becoming acceptable.

16.84 Coating Integrity.

All steel pipelines shall have protective coatings. Electrical test leads shall be installed at all cased crossings and at regular intervals along the line. Resistance measurements shall be annually witnessed by and reported to the Town. If the Inspectors doubt the integrity of the coating they may require submission of resistance measurements at shorter intervals. The integrity of the coating is in doubt if there occurs either a drop in resistance or low resistance. Low resistance at cased crossings may also indicate increased stress on the pipe.

16.85 Reduced or Uncertain Integrity.

Town Inspectors may conclude that the pipeline integrity has been reduced or is uncertain on the basis of the annual integrity report, or inspection of openings, or tests or evidence of stress, or dynamic soil conditions, or earthquake, or lightning, or digging in juxtaposition to the pipe. If prompt corrective action is not taken to correct the problem the Inspectors may require that the last operating pressure shall be considered to be a test pressure, and the operating pressure shall immediately be reduced by a factor of 1.25 and automatic reliefs and cut-offs shall be reset to that value. If the threat to the public welfare is sufficiently serious the Inspectors may require that use of the line be discontinued.

ARTICLE 17
FLOOD HAZARD DISTRICT

17.10 PURPOSES AND AUTHORITY

In accordance with New Hampshire RSA 156, the Town of Durham hereby adopts the following regulations for flood hazard areas, for the purposes of preserving the public health, safety, welfare and convenience and insuring that any proposed building site is reasonably safe from flood hazard. 1978

The Flood Hazard Boundary Map #H-01-11, dated September 13, 1974, as promulgated by the Department of Housing and Urban Development, as amended, shall be an overlay to the Town of Durham Zoning Map. When a property is located in a Flood Hazard District, all new construction and substantial improvements shall conform to the requirements for the Flood Hazard District, as enumerated, as well as those for the underlying zone. 1978

17.20 DEFINITIONS

Applicant - means any individual, group of individuals, corporation, partnership, association, or any other organization of persons including State and local governments and agencies thereof desiring to construct, assemble, or erect any structure (including prefabricated or mobile homes) for residential, commercial agricultural, religious or other purpose, anywhere within the Town of Durham.

Building Inspector - shall be an officer appointed by the Selectmen to fulfill the duties as outlined herein, including inspection of buildings and building sites and issuance of building permits subject to final approval of the Board of Selectmen.

Erosion - means the process of gradual wearing away of land masses. 1978

Flood or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland water.

Flood Hazard Boundary Map or Flood Hazard Area Map - means an official map or plat of a community, issued or approved by the Federal Insurance Administrator on which the boundaries of the flood plain and/or mudslide areas having special hazards have been drawn.

Flood Plain or Flood-Prone Area - means a land area adjoining a river, stream, watercourse, ocean, bay or lake, which is likely to be flooded.

Flood Plain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including -- but not limited to -- emergency preparedness plans, flood control works, and land use and control measures.

Floodproofing - means any combination of structural and non-structural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water, and sanitary facilities, structures, and contents of buildings.

Flood related erosion - means the collapse or subsidence of land along the shore of a water body as a result of flooding. 1978

Land Use and Control Measures - means zoning ordinances, subdivision regulations, building codes, health regulations, and other applications and extensions of the normal police power, to provide standards and effective enforcement provisions for the prudent use and occupancy of flood-prone and mudslide areas.

Mobile Home - means a structure transportable in one or more sections which is built on a permanent chassis and designed to be used with or without foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. 1978

Mudslide - means a general and temporary movement down a slope of a mass of rock or soil, artificial fill, or a combination of these materials, proximately caused or precipitated by the accumulation of water on or under the ground. 1978

100-Year Flood - means the highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a 1 percent chance of occurring each year).

Regulatory Floodway - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. 1978

State of Construction - means the first placement of permanent construction on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling, excavation for basement, footings, piers, or foundations; erection of temporary forms, the installation of piling under proposed subsurface footings, installation of sewer, gas, and water pipes, or electric or other service lines from the street; or the existence on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure.

Structure - means a building which is used for residential, business, agricultural, or religious purposes, or which is occupied by a private, non-profit organization, or which is owned by a State or local government or an agency thereof. The term includes a building while in the course of construction, alteration, or repair, unless such material or supplies are within an enclosed building on the premises.

Substantial Improvement - means any repairs, reconstruction, or improvement of a structure, the value of which equals or exceeds fifty percent of the actual cash value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences. 1978

17.30 GENERAL BUILDING PERMIT AND PERMIT APPLICATION PROCEDURE

Upon passage of this code, it shall be unlawful to start any construction in the

Town of Durham without first obtaining from the Building Inspector either a Building Permit or a Flood Hazard Area Permit, according to the following procedure:

17.31 Applicant supplies Building Inspector with location of building site, type of construction contemplated, and proposed starting date.

17.32 Applicant is informed within two weeks if his proposed site is located within the Flood Hazard Area or not.

17.33a. If proposed building site is not within the Flood Hazard Area, the Building Inspector will issue a building permit immediately upon receipt of fee as outlined in Article IV: 4.50.

b. If proposed building site is within a Flood Hazard Area, the Building Inspector will furnish the applicant with a copy of the provisions of this Building Code and await completion of a full Flood Hazard Area Building Permit Application (See Article IV).

c. The Building Inspector shall maintain a record of all information required for approval of a Building Permit. 1978

17.34 Flood Hazard Area Building Permit and Application

a. No building permit shall be issued by the Building Inspector for any new construction or substantial improvement (including prefabricated or mobile homes) on any proposed building site which lies within the area delineated on the "Flood Hazard Boundary Map" of the Town of Durham unless such construction or substantial improvement: (1) is designed or modified and anchored to prevent flotation, collapse, or lateral movement of the structure; (2) uses construction materials and utility equipment which are resistant to flood damage; and (3) uses construction methods and practices which will minimize flood damage.

b. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 on the Flood Hazard Boundary Maps, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. 1978

c. All mobile homes within Zone A on the Flood Hazard Boundary Maps shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (1) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long requiring one additional tie per side; (2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than fifty feet long requiring four additional ties per side; (3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (4) any additions to the mobile home be similarly anchored. 1978

d. Within Zones A1-30 on the Flood Hazard Boundary Maps new mobile home parks and mobile home subdivisions, expansions to existing mobile home parks and mobile home subdivisions, and existing mobile home parks and mobile home subdivisions where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction, or improvement has commenced, shall have (1) stands or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level; (2) adequate surface drainage and access for a hauler provided; and (3) in the instance of elevation on pilings, lots large enough to permit steps piling foundations placed in stable soil no more than ten feet apart, and reinforcement provided for pilings more than six feet above the ground level. 1978

e. All mobile homes to be placed within Zones A1-30 on the Flood Hazard Boundary Maps but not into a mobile home park or mobile home subdivision shall have (1) stands or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, (2) adequate surface drainage and access for a hauler provided; and (3) in the instance of elevation on pilings, lots large enough to permit steps, piling foundations placed in stable soil no more than ten feet apart, and reinforcement provided for piers more than six feet above ground level. 1978

f. An evacuation plan indicating alternative vehicular access and escape routes shall be filed with the Civil Defense Office, Fire Department, and Police Department, for all mobile home parks and mobile home subdivisions any portion of which lies in a Flood Hazard Area. 1978

17.40 APPLICATION PROCEDURE

The following information, including all required approvals from State and/or Federal agencies, (which includes Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S. C. 1334): as well as any other information the Building Inspector may require, shall be submitted with the application for a building permit, prior to any new construction or substantial improvement to any structure within the Flood Hazard Area. 1978

17.41 Existing Site Information

a. A plan bearing the seal of an engineer or surveyor registered with the State of New Hampshire which accurately locates the proposed building site with respect to the Flood Hazard Area Map.

b. Contours, elevations or profiles which show the proposed building site and corresponding elevation of the 100 year flood elevation for that particular area.

c. Location of existing structures, streets, utility lines, fill areas, drainage ways and other pertinent data.

17.42 Construction Plans

a. A plan showing the finished grades and elevations of the proposed

building site, as well as the location, levels and elevations of the lowest floor of any building including the basement and any proposed fill areas. If the lowest floor is below grade on one or more sides, the elevation above mean sea level must also be recorded. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated to or above the base flood level. 1978

b. Plans showing the location and elevation of proposed streets or driveways, utility lines, drainage ways, water supply and sewage disposal facilities.

c. Specifications for building construction and site improvement including: materials, landscaping, proposed method of water supply and sewage disposal, and floodproofing measures, (including the elevation to which the structure is to be floodproofed.) 1978

d. The proposed site alterations and improvements will be reasonably safe from flood-related hazards and will not otherwise aggravate the existing flood-related erosion and will not cause flood-related erosion hazard. 1978

e. If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, the improvement must be relocated or adequate protective measures taken; which will not aggravate the existing erosion hazard. 1978

f. All new construction and substantial improvements within Zone A shall:

1. Be elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. 1978

2. A registered professional engineer or architect shall certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash. 1978

3. The space below the lowest floor shall be free of obstructions or be constructed with "break-away walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven waters is minimized. Such temporarily-included space shall not be used for human habitation. 1978

4. The use of fill for structural support of buildings shall be prohibited. 1978

17.43 Decision

The Building Inspector shall, within 30 days of receipt of a completed Flood Hazard Area Building Permit Application, with the consultation of the Selectmen, review such application and either issue or refuse to issue a Building Permit to the applicant. In the case of refusal to issue a permit, the Building Inspector shall return reasons for such refusal and may include suggestions for future compliance with provisions of this Code.

17.44 Resubmission

Applicants may resubmit refused applications which have been revised to conform to this Code's provisions.

17.45 Fee

The permit fee shall be based on a charge of 2¢ per square foot for the 1st floor of habitable construction, 1¢ per square foot for finished sub-grade construction, 2nd floor and 3rd floor of habitable construction, and 1¢ per square foot for non-habitable buildings; all other permits at \$1.00 per \$1,000 of construction cost. In no case shall the permit fee be less than \$10.00.

17.50 FLOODPROOFING MEASURES

The following floodproofing measures may be required of all new construction or substantial modification on any building site within the Flood Hazard Area:

- a. Structures shall have the first floor or basement floor constructed at or above the 100-year flood level, if known.
- b. Structures will be situated on the building site to offer the minimum obstruction to flood waters.
- c. Structures will be firmly anchored to resist flotation and lateral movement.
- d. Reinforcement of walls to resist water pressures and use of paints, membranes or mortars to reduce seepage of water through walls.
- e. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination during flooding.
- f. Installation of pumps to lower water levels in structures and to relieve external foundation wall pressures.
- g. Installation of valves or controls on sanitary drains to prevent backup into structure.
- h. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding.
- i. Location of any structural storage facilities for chemicals, flammable liquids, buoyant materials or other toxic materials which could be hazardous to public health, safety and welfare at or above the 100-year flood level, if known.
- j. Fills shall be the minimum amount necessary and shall not be less than one (1) foot below the 100-year flood level, if known.
- k. Fill shall be located so as to offer the minimum obstruction to flood waters.

l. Fill shall be protected against erosion by "rip-rap," vegetative cover, or other suitable method of erosion control.

m. That all building proposals are consistent with the need to minimize flood damage; that all public utilities and facilities such as sewer, gas, electrical and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and, adequate drainage is provided so as to reduce exposure to flood hazards.

n. If any party proposes to alter or relocate a water course, the Building Inspector shall notify the New Hampshire Water Supply and Pollution Control Commission, the New Hampshire Water Resources Board, the Special Board, and the Administrator of the F.I.A. 1978

o. No permit shall be given for a project which reduces the flood-carrying capacity of a water course. 1978

17.60 ADMINISTRATION

17.61 Responsibility

The Building Inspector shall not issue Flood Hazard Area Building Permits without the approval of the Board of Selectmen.

17.62 Enforcement

Any person or persons, or corporation who violates any provision of this Code may be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) and each day's failure to comply with such provisions may constitute a separate violation.

17.63 Amendments

This Code may be amended in accordance with the provisions of Chapter 156-A, New Hampshire Revised Statutes Annotated.

17.64 Validity

If any article, section, sub-section, sentence, clause or phrase of this Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Code.

17.65 Conflict with Other Regulations

Whenever the requirements of this Code conflict with any other duly adopted rules, regulations or ordinances, the more restrictive shall govern.

17.66 Appeal

Any person aggrieved by a decision of the Building Inspector may appeal such decision to the Superior Court.

ARTICLE 18
RESIDENTIAL GROWTH MANAGEMENT

18.10 PURPOSE

The purpose of this Article is to moderate spurts of residential development which exceed Durham's historical share of regional growth by a substantial and consistent rate, so that the Town may provide for expansion of related public services in an orderly manner and so that a reasonable balance between single-family development, alternative forms of housing and open space may be encouraged within developing areas. Since it is not intended to unduly limit individual options to live in an urban or rural setting, the provisions below are designed only to provide a balance between major subdivisions and other forms of residential development; building on a single lot, in small subdivisions of 4 lots or less, or of multi-family housing is not hereby restricted.

18.11 Definitions. For the purposes of this Article, words shall be construed as follows:

- a. Single credit: a separate credit for each one-family unit in a single detached house, in a single attached house or townhouse, or in a duplex house.
- b. Minor subdivision: a tract divided into not more than 4 lots, not contiguous with another tract controlled by the same developer.
- c. Major subdivision: a tract divided into 5 lots or more, whether or not intended for phased development.
- d. Open space: as defined in Article 12.
- e. Prime or unique farmland: as classified by the Soil Conservation Service.
- f. Distance: distances specified in the point system of Sec. 18.40 as measured along the road to the lot for which a single credit is sought.

18.20 Prerequisites for Applicability. In accordance with RSA 31.62-a as amended, this Article shall not be in effect unless the Planning Board has adopted:

- a. A Comprehensive Plan for Durham, as amended from time to time; and
- b. The current annual update for a 6-year Capital Improvement Plan (C.I.P.)

18.21 Minimum Content of the C.I.P. The C.I.P. shall project the estimated costs and general locations of the following projects for the next six (6) years and shall be annually updated.

Proposed construction, extensions and major improvements to, and general location of:

- a. sewer mains
- b. water mains
- c. roads
- d. sidewalks and bicycle paths/lanes

- e. public open space and recreation facilities
- f. new police and fire stations
- g. new regional public school sites, with expected opening date, but without cost estimate.

Whenever the Point System set forth in Section 18.40 is amended to relate to another service provided by the Town, the C.I.P. shall be expanded to include any projects related thereto.

18.22 Preparation of the C. I. P. The preparation and annual update of the C.I.P. shall involve review by the Planning Board in the manner determined from time to time by the Board of Selectmen. However, if no C.I.P., or annual update, has thus been substantially completed by January 1, the Planning Board is authorized to call upon the necessary departmental assistance to complete the items required under Section 18.21 before Annual Town Meeting.

18.30 QUOTAS FOR SINGLE CREDITS TO MAJOR SUBDIVISIONS

The following limitations apply only to single credits for locations within major subdivisions.

18.31 Basic Allowance. Any major subdivision scoring at least 25 points under the point system of Section 18.40 shall be entitled to not more than 10 single credits in each calendar year, except as otherwise provided in Section 18.41.c, governing allocation of credits during years in which the quota applies. However, in major subdivisions scoring at least 100 points, single credits for use in townhouses and any permitted apartments shall be counted as one-half credit.

18.32 Quota for Current Year. The Planning Board shall monitor the Town total of single credits contained in the building permits issued in the most recent six years and shall ascertain whether a "fair share" housing program applicable to the region has been adopted by statute. The quota for all single credits issued to major subdivisions during the current year shall be determined by the applicable paragraph:

- a. 75 percent of the annual average of all single credits issued in Durham during the preceding 6 years; and
- b. if the total number of single credits issued in Durham during the preceding year is found to differ from Durham's "fair share" of single family houses for that year, the difference shall be added to, or subtracted from, the quota so as to compensate for the deficiency or surplus.

The Board shall notify the Building Inspector of the quota by February 1.

18.33 Trigger for Imposition of Quota. At the beginning of each calendar year, the Planning Board shall review all previously approved major subdivisions to ascertain the number of lots remaining in each for which no building permit has as yet been

been issued. It shall then determine the total of such lots eligible for single credits in the current year (assuming one single credit per lot) under Section 18.31, up to 10 lots per major subdivision. The same process shall be applied to new major subdivisions as they are approved during the year. When the pool of previously and currently approved lots eligible for single credits reaches the figure set by the quota of Section 18.32, the Board shall notify the Building Inspector, who shall thereupon cease to issue building permits for use in major subdivisions except as allocated by the Board under the Point System of Section 18.40. All major subdivisions shall continue to be subject to the allocation system until the pool of eligible lots has again dropped below the current quota, at which time the basic allowance of 10 single credits per major subdivision per year shall again take effect.

18.34 Validity of Single Credits.

- a. Any single credits available under the quota which are not applied for within the current year shall lapse on December 31.
- b. Single credits granted under this quota which are not utilized shall lapse when the related building permit expires.
- c. Any applications not granted during the current year because of quota limitations may be resubmitted during the following year and shall be reconsidered in the order of original filing.

18.40 POINT SYSTEM FOR ALLOCATION OF SINGLE CREDITS

The point system described herein shall be used to determine eligibility for the Basic Allowance of single credits in Section 18.31 and to establish priorities for the allocation of single credits when the quota has been triggered.

18.41 Application of Point System. After activation of the quota trigger of Section 18.33, the remaining single credits of the quota shall be allocated by rank order in the point score, as determined by the Planning Board.

- a. The Planning Board may require a Preliminary Lay-Out covering the potential subdivision of the entire tract of a major subdivision prior to evaluating the point score for the single credits being sought for a portion of the tract.
- b. The allocation shall be determined at a regular date each month for all applications so far submitted.
- c. The highest-ranking subdivision shall receive all single credits applied for, within the limits of the quota, then the next highest-ranking, and so on, until the quota has been exhausted. In case of a tie, the application filed first shall have precedence.

18.42 Point System. Points shall be scored as follows:

<u>a. Availability of Public Services</u>	<u>POINTS</u>
1. Within 1000 feet of existing sewer and water mains adequate to serve the subdivision.....	100
2. Within 1000 feet of sewer and water mains as programmed in the first three years of adopted Capital Improvements Program.....	75
3. As for (1), either sewer or water.....	75
4. As for (2), either sewer or water.....	50
5. Elsewhere in Residence Transition district.....	25
6. Within 1 mile of public school present or proposed site.....	25
7. More than 1.5 miles to public school, present or proposed site.....	-50
8. More than 3 miles to Durham Fire Station.....	-25
<u>b. Provision of On-Site Amenities</u>	
1. Minimum 25 percent of tract in Open Space, including minimum of 15 percent of tract usable for passive recreation.....	25
2. Open Space sufficient to protect prime or unique farmland.....	25
3. Facility for active recreation serving entire subdivision.....	15
4. Provision for internal bikepath system, plus right-of-way for bikepaths along public roads adjoining subdivision.....	15
5. Development on soils classified as having slight limitations by the Strafford County Soil Survey.....	15
6. Public access to shore frontage usable for swimming, boating, or passive recreation.....	10
7. Trail linkages to public or common Open Space outside the subdivision.....	10
8. Energy-efficient siting.....	5
9. Development of soils classified by the Strafford County Soil Survey as having greater than 25 percent slopes.....	-10
10. Development on areas classified as having high potential water yield by the U.S. Department of Interior Water Resources Division, or later authoritative study.....	-25
<u>c. Provision for Alternative Housing</u>	
1. At least 10 percent of dwelling units are suitable and available for sale or rent to low-to-moderate income families under a subsidized housing program.....	50
2. At least 25 percent of dwelling units are in townhouses and/or housing for the elderly, where otherwise permitted in the zoning district.....	50

