

PROPOSED AMENDMENTS REGARDING THE KEEPING OF POULTRY
Amendments to the Durham Town Code: Chapter 175 - Zoning
January 15, 2013

Proposed additions are shown like this.

~~*Proposed deletions are shown like this.*~~

Pertinent excerpts from the Durham Zoning Ordinance follow.

DURHAM ZONING ORDINANCE – Chapter 175

**ARTICLE II
DEFINITIONS**

175-7. Definitions.

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

ANIMAL HUSBANDRY - *LIVESTOCK*, ACCESSORY – The breeding and/or raising of livestock ~~*or fowl*~~, *not including poultry (as defined herein)*, for noncommercial purposes in conjunction with a residence. (See Section 175-109(B))

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

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

BEST MANAGEMENT PRACTICES FOR AGRICULTURE (BMPs) – Refers to those practices and procedures described in the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, distributed and periodically updated by the New Hampshire Department of Agriculture, Markets, and Food, as revised

[Reference - <http://agriculture.nh.gov/divisions/markets/documents/bmp.pdf>]

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

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

POULTRY – For the purpose of this ordinance the term “poultry” refers to chickens and turkeys only.

CATEGORY OF USES	RESIDENTIAL ZONES				RETAIL/COMMERCIAL ZONES					RESEARCH/INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Multiunit Dwelling Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
II. RURAL USES													
A. Principal Uses													
Commercial agriculture	P	X	X	P	X	X	X	X	X	P	P	P	X
Commercial animal husbandry	P	X	X	P	X	X	X	X	X	P	P	P	X
B. Uses Accessory to Commercial Agriculture and Animal Husbandry													
Retail sales of farm products	P	X	X	P	X	X	X	X	X	CU	CU	CU	X
III. RESIDENTIAL USES													
A. Principal Uses													
Residence, single-family	P	P	P	P	X	P	P	X	X	X	CU	CU	X
Residence, duplex	X	X	X	X	X	X	X	X	X	X	CU	CU	X
Residence, multi-unit	X	X	X	X	X	CUA	X	X	X	X	CU	CU	X
Elderly housing, single family	P	P	P	P	X	X	P	X	P	CU	CU	CU	X
Elderly housing, duplex	P	P	P	P	X	X	P	X	CU	CU	CU	CU	X

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	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Multunit Dwelling Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
Elderly housing, multiunit	P	P	P	P	CU	P	P	P	CU	CU	P	CU	X
Manufactured housing	P	X	X	X	X	X	X	X	X	X	X	X	X
Eldercare facility	P	X	CU	P	X	X	P	P	P	P	P	P	P
Nursing Home	X	X	X	X	X	X	P	P	P	P	P	P	CU
B. Uses Accessory to Any Residential Use													
Accessory agricultural activities in accordance with the provisions of Article XX	P	P	P	P	X	X	X	X	X	P	P	P	X
Accessory animal husbandry <u>= livestock</u> - in accordance with the provisions of Article XX	P	P	P	P	X	X	X	X	X	CU	CU	CU	X
<u>Accessory animal husbandry - poultry - in accordance with the provisions of Article XX</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>

ARTICLE XX
PERFORMANCE STANDARDS

175-109. Compliance Required.

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

A. ***Accessory Agricultural Activities.*** Accessory Agricultural Activities shall conform to the following standards:

1. The total area cultivated shall not be more than thirty-five (35) percent of the total lot area.
2. The amount of herbicides, pesticides, and similar chemicals stored on the property shall not be greater than the amount associated with normal residential usage.
3. Any facilities for the sale of excess agricultural products shall be temporary, shall be located so as not to create a traffic hazard or obstruct vehicular or pedestrian traffic, and shall be used only during the period of the actual harvesting of the product.
4. No products that are not grown, raised, or produced on the premises shall be displayed or sold.

B. ***Accessory Animal Husbandry – Livestock, not including poultry.*** Accessory Animal Husbandry – Livestock shall conform to the following standards:

1. The lot on which the use is located shall have a minimum lot size of one hundred twenty thousand (120,000) square feet of area
2. No area or structure for the housing, stabling, or feeding of animals shall be located within one hundred (100) feet of any property line
3. No animals shall be pastured within twenty-five (25) feet of any property line

C. ***Accessory Animal Husbandry – Poultry. The following terms and conditions apply to Accessory Animal Husbandry – Poultry:***

1. ***Roosters. Roosters are permitted only in the Rural Zoning District. However, they are not permitted on lots in the Rural Zoning District smaller than 20,000 square feet that were/are created as part of a conservation subdivision.***

2. Single/Two Family. Poultry is permitted as an accessory use only to single family and duplex residences.
3. Number of animals. A maximum of 12 animals may be maintained per lot. There is no limit on the number of animals in the Rural Zoning District, except on lots smaller than 20,000 square feet that were/are created as part of a conservation subdivision.
4. Housing structure. An appropriate fully-enclosed structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Poultry shall be maintained in the structure from sunset to sunrise.

[Reference - http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]
5. Housing structure setbacks. The structure for housing animals shall meet all setbacks applicable to structures under this zoning ordinance. The structure shall be placed in the rear yard or side yard and may not be placed closer to any public street than the primary facade of the house facing that street (including for corner lots). However, in the Rural Zoning District the structure may be placed forward of the primary facade of the house provided it is set back at least 50 feet from the front (or side, for corner lots) property line.
6. Manure. Manure, compost from manure, and odor from the animals shall be handled in accordance with best management practices as specified in Best Management Practices for Agriculture in New Hampshire, as revised. Manure must be removed from the structure and immediate area housing the animals and composted or disposed of in a timely manner.
7. Feed. Feed shall be stored in fully enclosed and secured containers in order to prevent pests and predators.
8. Yards. Animals shall be confined to the rear yard and side yard, and may not go closer to any public street than the primary facade of the house facing any public street. However, in the Rural Zoning District animals may inhabit the area forward of the primary facade of the house provided they are kept at least 50 feet from the front (or side, for corner lots) property line. Animals shall be kept away from the street, maintained on the subject property, and kept under the control of the owner. However, animals may be allowed onto an adjacent property if the affected neighbor does not object.

9. Fencing. Poultry owners may install a chicken wire fence or other appropriate barrier in the rear and side yards (as delineated above) on their property. In the Rural Zoning District the fencing or barrier may be placed forward of the primary façade of the house provided it is set back at least 50 feet from the front property line. Otherwise, there is no required setback for such fence or barrier. Any such fence or barrier shall not exceed 6 feet in height.

10. Slaughtering. Any slaughtering of poultry on the subject property must be carried out in accordance with best management practices.

11. Selling. Eggs may be sold on the premises provided the activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs. The commercial sale of live poultry and poultry products other than eggs is prohibited.

[Reference - <http://agriculture.nh.gov/divisions/markets/documents/egg-guidelines.pdf>]

12. Complaints. When a complaint is issued regarding the keeping of poultry as an accessory use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law. The Town's enforcement official and the Agricultural Commission may refer to the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, as revised, and pertinent NH RSA's for guidance in this process, as appropriate.

13. Best Management Practices. The enforcement official shall use his/her reasonable judgment in applying the required best management practices (BMPs) that are referred to in this section C. Practices included in the BMP's which clearly should not pertain in the implementation of this ordinance, based upon his/her reasonable judgment, shall not apply. Where the relevance of a particular practice is debatable, the enforcement official, at his option, may consult with the Agricultural Commission for nonbinding guidance, as appropriate.

14. Permits. Please note that a building, fence, and/or sign permit may be required depending on specific circumstances. See the Code Enforcement Officer for clarification, where appropriate.