

DURHAM HOUSING TASK FORCE

Proposed amendments to the Zoning Ordinance pertinent to housing

Endorsed unanimously by the Housing Task Force on August 22, 2022

Presented for Public Hearing on November 30, 2022

Proposed additions to current language are shown like this.

~~*Proposed deletions from current language are shown like this.*~~

➤ *Directions are shown like this*

[Comments are shown like this]

ARTICLE II – DEFINITIONS

175-7. Definitions.

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

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

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

AREA MEDIAN INCOME (AMI) -The median income of the greater region, the HUD Fair Market Rent Area to which Durham belongs, as is established and updated annually by the US Department of Housing and Urban Development. Income considers both wage income and assets.

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

BEDROOM – A fully enclosed room designed for sleeping.

BOARDING HOUSE – An owner-occupied residential building principally used, designed or adapted to provide living accommodations for not more than ten (10) occupants and having common cooking and dining facilities. *See “Rooming House.”*

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

COMMON OPEN SPACE – Land within or related to a subdivision that is set aside to conserve natural resource, scenic, cultural, historic, or archeological values, provide active or

passive recreation, or accommodate support facilities related to the subdivision, and that is restricted from significant development or intensive use except for approved recreational or support facilities and protected in perpetuity in a substantially undeveloped state through legally binding fee ownership, ~~or~~ conservation easements, or another effective method. Common open space is not part of any house lot or developable lot within the subdivision and it not owned by the developer nor another resident in the subdivision. Rather, common open space is owned by the Town, another government entity, a nonprofit organization, or jointly/in common by the lot (or unit) owners in the subdivision.

CONDITIONAL USE – Those uses that because of particular characteristics or because of size, technological processes or equipment or because of the exact location with reference to surroundings, streets and existing improvements or because of demands upon public facilities, require a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same area.

CONDOMINIUM – A building or group of buildings in which units are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional undivided basis. Condominiums shall be considered a subdivision and reviewed accordingly.

CONSERVATION ACTIVITIES – Non-structural activities involved with the maintenance of the natural resource value of land, including forest management activities that do not involve the creation of motorized vehicle ways or the disturbance of the soil. Activities to stabilize erosion or address emergency conditions are part of this use.

CONSERVATION SUBDIVISION – A subdivision meeting the requirements of Section 175-107 in which a substantial portion of the site is set aside as common open space.

DORMITORY – A building occupied by a resident manager and used, designed and adapted to provide housing for more than ten (10) occupants. Such units are distinguished by separate study and sleeping quarters for each individual or pair of individuals; common social assembly rooms; common toilet facilities; and common cooking and dining facilities, where provided.

DWELLING GROUP OR CLUSTER – A pattern of residential development where units are grouped together on a single lot around access courts with the remainder of the lot left in its natural condition or as common open space.

DWELLING UNIT – One (1) or more rooms arranged, designed or used for residential purposes for one (1) household and containing independent sanitary and cooking facilities. The presence of cooking and sanitary facilities conclusively establishes the intent to use for residential purposes.

FAMILY – *See “Household.”*

FLOOR AREA, GROSS – The sum of the areas of all floors of a building as measured from the exterior dimensions, but not including cellars, attics, porches, garages or areas occupied by heating and ventilating equipment.

FLOOR AREA, HABITABLE – Heated areas used daily for living, eating, cooking or sleeping, including bathrooms and bedroom closets; but excluding garages, circulation areas

(stairways, hallways, corridors), storage areas, (including but not limited to attics, unfinished basements, and utility rooms). For the purposes of this chapter, "habitable floor area" is deemed to be seventy (70) percent of the gross floor area of a given building unless evidence sufficient to rebut that presumption in the form of complete floor plans drawn to a standard scale is submitted to the Durham Code Enforcement Officer. This presumption shall not apply in any instance where the owner or occupant(s) of the building allow inspection and measurement of such interior floor areas by the Code Enforcement Officer. It is recognized that under this definition it is possible for the "habitable floor area" to exceed 70 percent of the gross floor area.

FRATERNITY/SORORITY – A fraternal organization officially recognized by the University of New Hampshire, and organized to benefit the Durham and University of New Hampshire communities through the efforts of its members, who are students currently enrolled at the University of New Hampshire.

FRATERNITY/SORORITY HOUSE – A building used to provide lodging facilities for the exclusive use of the bonafide members of a fraternity or sorority.

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

HOUSEHOLD – A group of occupants of a dwelling unit defined by one of the following two categories:

1. **FAMILY** – An individual or two (2) or more persons related within the second degree of kinship by civil law or by marriage or adoption or foster care arrangement living together as a single housekeeping unit, including necessary domestic help such as nurses or servants not to exceed three (3) in number.
2. **UNRELATED HOUSEHOLD** – Any household not conforming to the definition of a "family," above. (Note. See specific requirements for unrelated households in Section 175-56 - General Dimensional Standards.)

INN – An owner-occupied, single-family residence containing, in addition to living accommodations for the owner and his or her family, four (4) to six (6) sleeping rooms, without cooking facilities, for the purpose of providing to the general public, for compensation, lodging, bathroom facilities and breakfast to overnight patrons only and for less than thirty consecutive days.

LOT – A legally recorded and defined parcel of land or two (2) or more contiguous parcels to be used as a unit under the provisions of these regulations.

MANUFACTURED HOUSING – Any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing,

heating and electrical heating systems contained therein. Manufactured housing shall not include pre-site built housing as defined in RSA 674:31-a. *See Article XX*

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

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

NEIGHBORHOOD – An area of land local to the use concerned, generally lying within a radius of one thousand (1,000) feet, which has a set of unifying characteristics such as housing style or quality, ~~similar income strata~~, topographic features, water features, local recreational facilities or convenience shopping. Factors such as a railroad and highway rights-of-way, major streets, rivers, water bodies and severe topographic constraints may form boundaries and serve to separate "neighborhoods."

NURSING HOME – A facility licensed by the State of New Hampshire as a nursing home and that provides intermediate and/or skilled nursing care to individuals, who by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

OCCUPANCY – The predominant use classification of a building, structure or land.

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

PERMITTED USE – A use specifically permitted or analogous to those specifically permitted as set forth in the Table of Uses or the zoning district standards.

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

PRESITE BUILT HOUSING – Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this subdivision, pre-site built housing shall not include manufactured housing as defined in RSA 674:31.

PRINCIPAL USE – The primary or predominant use to which the property is or may be devoted and to which all other uses on the premises are accessory.

PROHIBITED USE – A use which is not specifically permitted.

REASONABLE AND REALISTIC OPPORTUNITIES FOR THE DEVELOPMENT OF WORKFORCE HOUSING - Opportunities to develop economically viable workforce housing within the framework of Durham's municipal ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e.

RESIDENCE, DUPLEX – A building and accessories thereto principally used, designed or adapted with two (2) dwelling units, each of which is completely separate.

RESIDENCE, MULTI-UNIT – A building and accessories thereto principally used, designed or adapted with three (3) or more dwelling units. A multi-unit residence includes “townhouse” style attached dwelling units even if the units are separated by a fire wall.

RESIDENCE, SINGLE-FAMILY – A building and accessories thereto principally used, designed or adapted as a single dwelling unit. A single-family residence is situated on its own separate lot with no other dwelling units nor nonresidential uses other than those that are accessory to the single-family use, including accessory dwellings/apartments and home occupations, where allowed.

ROOMING HOUSE – An owner-occupied building principally used, designed or adapted to provide living accommodations for not more than ten (10) occupants and without individual or owner-provided cooking and dining facilities. *See “Boarding House.”*

SENIOR CARE FACILITY – Housing principally used, designed, or adapted for use by citizens fifty-five (55) years of age and older who are not capable of living independently and who require assistance in activities of daily living. Residents of a senior care facility receive a package of services to meet their needs. A senior care facility may be contained in a single building or group of buildings and may include assisted living, memory care, and/or nursing home facilities. A “life care community” or other retirement community that provides a continuum of care including both independent living units and units for residents that require assistance, is considered to be a senior care facility.

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

SETBACK – The required minimum (except where “maximum” is specified) horizontal distance in feet from a lot line, shoreline, or other designated line to any structure. Where eaves, overhangs, cladding materials, and architectural details on a building project 18” or less from the building face, the setback is measured from the applicable building foundation. Where eaves, overhangs, cladding materials, and architectural details on a building project more than 18” from the building face, the setback is measured from the furthest point where those elements extend from the building. Table 175-54, Table of Dimensions, gives front, side, and rear setbacks, which are measured from front, side, and rear lot lines, respectively. *See “Building” and “Structure.”*

SETBACK AREA – The section of the front, side, or rear of a lot corresponding to the area within which structures may not be placed in accordance with front, side, or rear setbacks, respectively.

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

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

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

SUBDIVISION – The division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

The division of a parcel of land, held in common and subsequently divided into parts among the several owners, shall be deemed a subdivision under these regulations.

The granting of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters, and supporting apparatus, including any unstaffed structure which is less than 500 square feet, shall not be construed as a subdivision under these regulations, and shall not be deemed to create any new division of land for any other purpose.

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

UNRELATED HOUSEHOLD – See “*Household.*”

UNSUITABLE AREA – The area of a parcel that must be subtracted from the gross area of the parcel to determine the usable area of the parcel. See “*Usable Area.*”

USE – The specific purpose for which a building or lot is arranged, intended, designed, occupied or maintained.

USABLE AREA – The area of any conservation subdivision, that is suitable, in its natural state, for development or intensive use and, therefore, can be used in determining the

allowed density of development. The usable area of a parcel of land shall be determined in accordance with the provisions of Section 175-56(E).

WETLAND – An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soils. Wetlands include, but are not limited to, swamps, marshes, bogs, vernal pools, and similar areas.

WORKFORCE HOUSING – (Pursuant to RSA 674:58, as amended) 1. Housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the Portsmouth – Rochester, NH – Maine Primary Metropolitan Statistical Area as published annually by the United States Department of Housing and Urban Development. 2. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household in the Portsmouth – Rochester, NH – Maine Primary Metropolitan Statistical Area as published annually by the United States Department of Housing and Urban Development. [Note. The definition under RSA 674:58 states that housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, do not constitute workforce housing. This definition in the Durham zoning ordinance, herein, does not include this provision].

[According to Sarah Wrightsman of the NH Housing Finance Authority, the Town does not need to include the provision in brackets above. We can discuss whether or not we want to include it. A specific development that does not adhere to this provision should still be considered workforce housing but it would not be subject to the particular benefits under the state definition.]

ZONING DISTRICTS

ARTICLE XII - BASE ZONING DISTRICTS

175-38. Rural District (R).

A. Purpose of the Rural District.

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

B. *Development Standards in the Rural District.*

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

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

175-39. Residence A District (RA).

A. *Purpose of the Residence A District.*

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

B. *Development Standards in the Residence A District.*

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

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

175-40. Residence B District (RB).

A. Purpose of the Residence B District.

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

B. Development Standards in the Residence B District.

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

1. All residential subdivisions shall be developed as “Conservation Subdivisions” in accordance with Article XIX and the provisions of the Subdivision Regulations, unless the subdivision is exempt from the requirement as set forth in Article XIX. As part of any conservation subdivision in the Residence B District, common open space shall be set aside and permanently protected. ~~*The minimum amount of common open space shall be equal to one hundred percent (100%) of the “unsuitable areas” plus at least forty percent (40%) of the “usable area” of the parcel.*~~

175-41. Residence Coastal District (RC).

A. Purpose of the Residence Coastal District.

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

B. Development Standards in the Residence Coastal District.

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

1. All residential subdivisions shall be developed as Conservation Subdivisions in accordance with Article XIX and the provisions of the Subdivision Regulations, unless the subdivision is exempt from the requirement as set forth in Article XIX. As part of any conservation subdivision in the Residence Coastal District, common open space shall be set aside and permanently protected. ~~*The minimum amount of common open space shall be equal to one hundred percent (100%) of the “unsuitable areas” plus at least fifty percent (50%) of the “usable area” of the parcel.*~~

175-43. Professional Office District (PO)

A. Purpose of the Professional Office District

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

175-44. Church Hill District (CH)

A. Purpose of the Church Hill District

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

175-45. Courthouse District (C)

A. Purpose of the Courthouse District

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

175-46. Coe's Corner District (CC)

A. Purpose of the Coe's Corner District

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

for non-residential uses and the construction of new buildings should maintain the character of the area.

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

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

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

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

A. Purpose of the Mixed Use and Office Research District

The purpose of the Mixed Use and Office Research District is to provide an area in the community for high-quality office development, mixed uses including residential uses, and comparable uses which maintain the rural appearance of the district and a sense of open space.

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

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

The purpose of the Office, Research and Light Industry District is to provide areas in Durham to accommodate mixed uses including residential uses and a wide range of businesses that create employment and contribute to the town’s economic vitality while maintaining the rural appearance of the district and a sense of open space.

175-52. Durham Business Park District (DBP)

A. Purpose of the Durham Business Park District

The purpose of the Durham Business Park District is to provide an area for the development of high-quality office and research uses in a business park environment with the possibility of complementary recreational uses and senior care facilities and mixed uses including residential uses while maintaining the rural appearance of the corridor and a sense of open space. ~~to accommodate a senior care facility.~~

ARTICLE XII.1 - USE AND DIMENSIONAL STANDARDS

175-53. Table of Land Uses.

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

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

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
Uses Accessory To a Single Family Residential Use Accessory dwelling unit – <u>Attached</u> <i>See Article XX</i>	P	P	P	P	X	P	P	X	X	X <u>P</u>	P	P	X <u>P</u>
Accessory apartment <u>dwelling unit</u> – <u>Detached</u> <i>See Article XX</i>	P	X <u>SE</u>	X <u>SE</u>	P	X	P	P	X	X	X <u>P</u>	P	P	X <u>P</u>
Child care home for not more than six children <i>See Article XX</i> ➤ Delete line with duplication of Child care home	P	P	P	P	P	P	P	P	P	P	P	P	X <u>P</u>
Short-term rental	SE	SE	SE	SE	P	P	P	P	P	SE	SE	SE	X
Mixed Use with residential (office/retail down, multiunit residential up) (See Note 1)	X	X	X	X	C U	X	X	X	X	X <u>CU</u>	X <u>CU</u>	X <u>CU</u>	X <u>CU</u>
IV. INSTITUTIONAL USES Child care center or child care nursery <i>See Article XX</i>	P	X	X	P	P	P	CU <u>P</u>	P	CU <u>P</u>	P	CU <u>P</u>	CU <u>P</u>	CU <u>P</u>

175-54. TABLE OF DIMENSIONS.

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

TABLE 175-54 TABLE OF DIMENSIONS

STANDARD	ZONING DISTRICTS												
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI.)	Durham Business Park (DBP)
Minimum Lot Size in Square Feet													
- Single-Family Residence (that is not part of a Conservation Subdivision)	20,000 <u>15,000</u>	40,000 <u>30,000</u>	150,000 <u>100,000</u>	150,000 <u>80,000</u>	NA	10,000	5,000	5,000	30,000	40,000 <u>30,000</u>	40,000 <u>30,000</u>	150,000 <u>30,000</u>	40,000 <u>30,000</u>
- Multiunit Housing	NA <u>15,000</u>	NA <u>30,000</u>	NA <u>100,000</u>	NA <u>80,000</u>	5,000	10,000	5,000	5,000	30,000	80,000 <u>30,000</u>	40,000 <u>30,000</u>	150,000 <u>30,000</u>	40,000 <u>30,000</u>
- Allowed Nonresidential Use	20,000 <u>15,000</u>	40,000 <u>30,000</u>	150,000 <u>100,000</u>	150,000 <u>80,000</u>	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000
- Any Other Allowed Use	20,000 <u>15,000</u>	40,000 <u>30,000</u>	150,000 <u>100,000</u>	150,000 <u>80,000</u>	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000
Minimum Lot Area Per Dwelling Unit ^{2,3} in Square Feet	20,000 <u>10,000</u>	40,000 <u>20,000</u>	150,000² <u>65,000</u>	150,000² <u>55,000</u>	NA	3,000	4,200	4,200	4,200	4,200	40,000 <u>20,000</u>	150,000 <u>20,000</u>	20,000
Minimum Usable Area Per Dwelling Unit in a Conservation Subdivision ^{2,3} in Square Feet	20,000 <u>10,000</u>	40,000 <u>20,000</u>	150,000 <u>65,000</u>	150,000 <u>55,000</u>	1,200 <u>NA</u>	3,000 <u>NA</u>	4,200 <u>NA</u>	4,200 <u>NA</u>	4,200 <u>NA</u>	4,200 <u>NA</u>	40,000 <u>20,000</u>	150,000 <u>20,000</u>	NA

STANDARD	ZONING DISTRICTS												
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI.)	Durham Business Park (DBP)
Minimum Lot Frontage in Feet See note 8	100	150 <u>125</u>	300 <u>200</u>	300 <u>150</u>	50	100	50	50	100	50 100 200	100 100 200	150 <u>125</u>	150
Minimum Front Setback in Feet - Minor Street ¹ - Collector Street - Arterial Street	30 30 40	30 30 40	30 30 40	30 30 40	None – except per Note 5	30 30 50	15 15 15	15 15 15	30 30 50	50 50 See Note 6	30 30 100	30 30 50	30 30 50
Minimum Side Setback ⁴ in Feet	10	20	50 <u>35</u>	50 <u>35</u>	NA	15	5	10	15	25	20	20	20
Minimum Rear Setback ⁴ in Feet	20	30	50	50	NA	20	15	15	20	25	20	20	20
Maximum Permitted Building Height in Feet	30	30	30	30	30	30	30	30	30	50	40	40	40
Maximum Permitted Building Height in Feet by Special Exception in the Four Residential Zones and by Conditional Use in Other Zones.	35	35	35	35	60 See Note 7	35	35	35	35	75	50	50	50
Maximum Impervious Surface Ratio	33%	30%	20%	20%	100%	50%	80%	80%	30%	50 %	50%	50%	50%

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

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

~~3.~~ 2. See 175-57(A) for the special density requirements for senior housing, eldercare facilities, ~~and~~ nursing homes and workforce housing.

8. The minimum lot frontage along a cul de sac may be reduced to 2/3 the ordinary required frontage as part of subdivision review where the side lots lines are perpendicular to the curve and the Planning Board determines that the reduced frontage will maintain a regularity and balance in the lot layout.

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

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

175-56. General Dimensional Standards.

- G. **Calculation of usable area.** The usable area of a parcel of land shall be determined by subtracting the following unsuitable areas from the gross area of the parcel. A High Intensity Soil Survey (HISS) shall be used to determine the unusable areas of soils set forth below.

The unsuitable areas shall be deducted in the following order and no geographic area shall be deducted more than once:

1. All wetlands and very poorly drained, and poorly drained, ~~and somewhat poorly drained~~ soils ~~as identified on the HISS.~~
2. All floodways and all non-wetland portions of the 100-year floodplain.
- ~~3. All areas with ledge outcroppings, shallow depth-to-ledge soils (0” to 20” to bedrock), and variable depth-to-ledge soils (0” to 40” to bedrock) as identified on the HISS if the site will use on-site sewage disposal.~~
- ~~4. Fifty (50) percent of the area with moderate depth-to-ledge soils (20” to 40” to bedrock) as identified on the HISS if the site will use on-site sewage disposal.~~
5. All areas with a slope of twenty-five (25) percent or greater ~~as identified on the HISS.~~
6. Fifty (50) percent of the area with a slope equal to or greater than ~~between~~ fifteen (15) percent and less than twenty-five (25) ~~twenty-four (24)~~ percent ~~as identified on the HISS.~~

7. Areas within rights-of-way or easements that impose restrictions on the use of the area such as to make it unavailable for building purposes or intensive use as part of the development.

8. Stream channels, ponds, ~~as measured from the top of the banks~~ and other water bodies as measured by the normal high water mark.

~~9.—Any otherwise usable area that is fragmented or isolated by unsuitable areas such that the contiguous area of usable land is less than five thousand (5,000) square feet or is narrower than fifty (50) feet.~~

175-57. Special Situations Affecting Dimensions.

A. *Density*.

1. Density for senior residential uses and workforce housing units. In determining the maximum density for Senior Housing, Senior care Facilities, Nursing Homes, and Workforce Housing units the following provisions shall apply to the entire development.

These provisions apply to rental units and units that are available for purchase.

- a dwelling unit containing one bedroom or a studio unit without a separate bedroom shall count as ~~0.33 dwelling units~~ 1/3 of a dwelling unit for the purpose of the density calculation
- a dwelling unit containing two or more bedrooms shall count as ~~0.50 dwelling units~~ 1/2 of a dwelling unit for the purpose of the density calculation
- four (4) beds or accommodations for four (4) residents in those facilities that do not provide dwelling units shall count as one (1) dwelling unit for the purpose of the density calculation (not applicable to workforce housing).

ARTICLE XIX CONSERVATION SUBDIVISIONS

175-107. Conservation Subdivisions.

This section was adopted pursuant to the Town of Durham's 2000 Master Plan which recommended that conservation subdivisions, in which a **substantial** portion of the site is set aside as permanent, common open space, be the primary form of residential development in the community. The provisions of this section govern the design and development of conservation subdivisions. The process for the design of conservation subdivisions, as set forth in the Town's Subdivision Regulations, requires that key natural, historic, archeological, and cultural features on the site be identified for protection and the development planned to protect these resources. (See provisions pertaining to Conservation Subdivisions in the Durham Subdivision Regulations <https://www.ci.durham.nh.us/planning/subdivision-regulations>.)

A. **Purpose**. The purposes of these provisions are to assure that conservation subdivisions developed in the Town of Durham:

1. Preserve those areas of the site that have the highest value for conservation purposes;

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

with and incorporated into the long range plan as part of a conservation subdivision, and no additional lots will be created in the future that are not part of a conservation subdivision, or

3. One lot each ~~7~~ 3 years. The subdivision will create not more than one additional lot accommodating one (1) dwelling unit and no other lots have been created from the parcel within the preceding ~~seven (7)~~ three (3) year period. This exemption allows for the subdivision of one lot at a time, leaving residual land for potential future subdivisions, provided that at least ~~7~~3 years pass between subdivisions.
- D. **Maximum Development Density.** The maximum number of dwelling units that may be developed in a Conservation Subdivision shall be determined by dividing the calculated Usable Area of the parcel by the required Minimum Usable Area Per Dwelling Unit for the district in which the subdivision is located (see Section 175-54, Table of Dimensions) and rounding ~~down~~ up to the maximum allowed whole number of units. If the parcel is located in more than one district, the maximum number of units allowed on the portion of the parcel in each district shall be calculated separately and the allowed maximum number of units (including fractional units) in each district shall be added together and then rounded ~~down~~ up to the allowed number of whole units. If the subdivision involves only part of a parcel, the Usable Area shall be calculated for that portion of the parcel proposed to be included in the subdivision and the determination of the maximum number of dwelling units within the subdivision determined based upon that Usable Area. ~~The Planning Board shall not approve a plan for a Conservation Subdivision that provides for the development of more dwelling units than the maximum number determined by this section.~~ (See Section 175-57. A. pertaining to density bonuses.)
- E. **Lots in a Conservation Subdivision.** Residences in a Conservation Subdivision may be located on individual residential lots, or on common lots with more than one dwelling unit on a lot, or a combination thereof. If more than one dwelling unit will be located on a lot, the ownership and management arrangements for that lot, and the units thereon, shall be detailed as part of the subdivision application and those arrangements shall be subject to approval by the Planning Board in accordance with the Subdivision Regulations.
- F. **Individual Lot Sizes.** If individual lots are created as part of a Conservation Subdivision, the lots shall conform to the following minimum lot size requirements:
1. Any lot that has its required lot frontage on a public street that existed as of July 1, 2003 shall conform to the minimum lot size requirement for the district in which it is located (see Section 175-54, Table of Dimensions).
 2. Any lot that has its required lot frontage on a public street created after July 1, 2003, including streets to be developed as part of the subdivision or private ways, may be smaller than the required minimum lot size for the district in which it is located. The size of the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot sizes will allow for the

creation of a high quality living environment for the residents of the subdivision and provide for adequate sewage disposal, but in no case shall any lot served by a private wastewater disposal system located on that lot be less than ten thousand (10,000) square feet in area.

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

1. Any lot that has its required lot frontage on a public street that existed as of July 1, 2003 shall conform to the minimum lot frontage requirement for the district in which it is located (see Section 175-54, Table of Dimensions).
 1. Lots that have frontage on a public street shall be laid out to minimize the number of curb cuts onto the public street through the use of shared or common driveways or other methods. In no case, shall two adjacent driveways be located on a public street that existed as of July 1, 2003 unless the driveways are separated by at least ~~one hundred (100)~~ twenty (20) feet or such other greater distance as required by the Planning Board ~~other provisions of this ordinance~~.
3. Any lot that has its required lot frontage on a public street created after July 1, 2003, including streets to be developed as part of the subdivision or private ways, may have less frontage than the required minimum lot frontage for the district in which it is located. The amount of frontage for the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot frontages will allow for the creation of a high quality living environment for the residents of the subdivision and provide adequate access to the residences and other facilities, but in no case shall any lot have less than fifty (50) feet of lot frontage.

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

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

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

Residence A District	<u>Twenty (20)</u> Thirty (30) percent
Residence B District	<u>Thirty (30)</u> Forty (40) percent
Residence Coastal District	<u>Forty (40)</u> Fifty (50) percent

Rural District	<u>Forty (40)</u> Fifty (50) percent
All other districts	<u>Thirty (30)</u> Fifty (50) percent

However, the maximum area that may be required to be set aside as common open space is 60% of the gross acreage of the parcel. However, if the unsuitable area of the parcel exceeds 60% of the gross acreage then the amount required to be set aside may equal the percentage of the parcel that is unsuitable. If the parcel is located in two or more districts, the percentage of the usable area located in each district shall be calculated and the required minimum percentage of the usable area set aside for open space determined based upon the weighted average of the percentages for the various districts.

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

- f. Individual or group underground wastewater disposal systems or parts thereof, provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities
- g. Other appropriate uses that are compatible with the overall scale and character of the subdivision and that are specifically approved by the Planning Board

4. *The creation of connected greenways for pedestrian use and wildlife use is strongly encouraged.*

5. Permanent provisions for the use, ownership, and maintenance of the common open space including provisions for screening and buffering shall be established subject to approval by the Planning Board as part of the approval of the subdivision in accordance with the Subdivision Regulations.

6. Appropriate legal *and financial* mechanisms for the on-going maintenance and stewardship of the common open space shall be established, ~~*including the creation of a stewardship account or payment to the Town's Stewardship Fund as set forth in the Subdivision Regulations,*~~ subject to approval by the Planning Board as part of the approval of the subdivision ~~*in accordance with the Subdivision Regulations.*~~ *The Planning Board may require that a stewardship fund be established for the project with a contribution from the developer if it determines that a particular project warrants such a fund and if the Planning Board is able to define the necessary parameters for the fund.*

I. ***Front Yard Setbacks.***

1. The minimum front yard setback for any lot with its required lot frontage on a public street in existence as of July 1, 2003 shall be the required minimum setback for the type of street and the district in which the subdivision is located (see Section 175-54, Table of Dimensions) ~~*or thirty (30) feet whichever is greater.*~~

2. The minimum front yard setback for any lot with its required lot frontage on a public street created after July 1, 2003, including streets to be developed as part of the subdivision or private ways, may be less than that required by the district regulations. The size of the minimum setback shall be shown on the subdivision plan, may vary from lot to lot or in different areas of the subdivision, and shall be subject to Planning Board approval based upon its finding that the setbacks will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate privacy and public safety.

3. If the approved front yard setback for any lot is less than that required by the requirements of the district in which the subdivision is located (see Section 175-54, Table of Dimensions), any garage with garage doors that face the street, whether attached or detached, shall be located so that the front wall of the garage is located at

least two (2) feet behind the front wall of the principal building. This requirement shall not apply to a garage located in the basement of a single-family home.

4. If the approved front yard setback for any lot is less than that required by the requirements of the district in which the subdivision is located (see Section 175-54, Table of Dimensions), any accessory building shall be located so that the front wall of the accessory building is located at least two (2) feet behind the front wall of the principal building.

J. ***Side and Rear Yard Setbacks.***

1. When a side or rear yard of a lot containing a residence or other building abuts the external perimeter or property line of a Conservation Subdivision, the minimum side and rear yard setbacks shall be the required minimum setback for the district in which the subdivision is located (see Section 175-54, Table of Dimensions) unless the streetscape buffer requirements of L. result in a greater setback .
2. The minimum side and rear yard setbacks from internal property lines within a Conservation Subdivision may be less than the required setbacks established by the district regulations (see Section 175-54, Table of Dimensions). The size of the minimum setbacks shall be shown on the subdivision plan, may vary from lot to lot or in different areas of the subdivision, and shall be subject to Planning Board approval based upon its finding that the setbacks will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate privacy and public safety.
3. In all cases, the separation distance between principal buildings within the subdivision, whether on the same lot or on different lots, shall conform to the requirements of the Town's building code and the NFPA fire protection codes based upon the type of construction and the use of the buildings.

- K. ***Streetscape Buffer Adjacent to Existing Public Streets.*** A 100-foot wide vegetated buffer strip shall be maintained along any scenic road (See Chapter 102 of the Town Code). ~~any public street existing as of July 1, 2003 that is adjacent to a Conservation Subdivision to minimize the visual impact of the Conservation Subdivision on the streetscape. The depth of the buffer strip shall be at least three times the minimum front yard setback requirement for the zoning district in which the parcel is located and the type of street (see Table of Dimensions) or one hundred (100) feet whichever is greater. This provision shall be reduced to twenty five (25) feet for individual residential lots that front on public streets that existed as of July 1, 2003. No parking, buildings, structures, or recreational facilities shall be permitted within this buffer strip but accessory structures such as signs, walls, underground utility structures, and drainage facilities may be located within this buffer. The buffer strip may be crossed by driveways or access drives that run essentially perpendicular to the street. The buffer strip shall be naturally vegetated or landscaped in accordance with the landscaping provisions of Article XXII and the treatment shall be subject to approval~~

~~by the Planning Board as part of the approval of the subdivision. Appropriate legal mechanisms shall be established by the subdivider, subject to approval by the Planning Board as part of the approval of the subdivision, to assure that the buffer strip will be permanently protected and maintained.~~

- L. **Perimeter Buffer.** A 50-foot wide vegetated buffer strip shall be maintained along the external perimeter or property line of the Conservation Subdivision in the Residence Coastal and Rural Districts. ~~to minimize the impact of the Conservation Subdivision on abutting properties. The width of the buffer strip shall be at least the minimum setback requirement for the zone in which the subdivision is located. If the subdivision abuts a water body or wetland, the width and treatment of the buffer shall be consistent with the requirements of the Wetland Conservation Overlay District and/or the Shoreland Protection Overlay District. No parking, buildings, structures, access roads or driveways, or recreational facilities shall be permitted within this buffer strip but accessory structures such as walls, underground utility structures, and drainage facilities may be located within this buffer. The buffer strip shall be naturally vegetated or landscaped in accordance with the landscaping provisions of Article XXII and the treatment shall be subject to approval by the Planning Board as part of the approval of the subdivision. Appropriate legal mechanisms shall be established by the subdivider, subject to approval by the Planning Board, to assure that the buffer strip will be permanently protected and maintained.~~

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

➤ **Relocate this entire section below, Section 175-137, to a new ARTICLE XXIV - WORKFORCE HOUSING, make the changes shown, and add this new article to the Table of Contents.**

~~175-107.1~~ 175-137 Workforce Housing Option

- A. **Purpose.** The purpose of this Section is to provide an option for including workforce housing in residential developments, where they are allowed, in Conservation Subdivisions that is consistent with the requirements of RSA 674:58-61 and will:
1. provide reasonable and realistic opportunity for the development of workforce housing;
 2. ensure the continued availability of a diverse supply of home ownership and rental opportunities;
 3. meet the goal of providing an adequate supply of affordable housing in Durham as set forth in the town's Master Plan; and
 4. address the regional need for workforce housing as documented in the Strafford Regional Planning Commission's Housing Needs Assessment, as updated.
- B. **Authority.** This section is adopted under the authority of RSA 674:21, Innovative Land Use Controls, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I)(k) and 674:21(IV)(a), as well as RSA 672:1, III-e.
- C. **Applicability.**
1. Development in accordance with the provisions of this **Section Article** is permitted in zoning districts in the same manner as development that is not workforce housing, i.e. based upon the housing type and general parameters specified in each district except as otherwise provided in this article. as a Conditional Use in the Rural (R), Residential A (RA), Residential B (RB) and Office Research/Light Industry (ORLI) Districts as an option to Article XIX, Conservation Subdivision.
 2. **Permitted Applicable** Uses. The workforce housing option may be used with any allowed residential uses, including a single subdivision Single family, duplexes, multifamily, mixed use, or any combination of these uses. multi-units not to exceed four (4) units, accessory apartments, and accessory dwelling units. A mix of housing types within the same subdivision is permitted within an application under this Section. Any housing type that exceeds more than two (2) units shall be designated as workforce housing.
- D. **Procedural Requirements.** Any applicant, who applies to the Planning Board for approval of a development that is intended to qualify as workforce housing under this **section article**, shall follow the same procedure as outlined in the Town of Durham Site Plan Regulations and Subdivision Regulations and as provided for in the *Developer's Guidance Document for Affordable Housing*, January, 2011 as updated. Any such applicant shall also file a written statement of such intent as part of the application as per RSA 674:60.
- E. **Definitions:** See definitions for Area median income, Reasonable and realistic opportunities for the development of workforce housing, and Workforce housing in Article II – Definitions. ~~The following terms as used in this section shall have the following definitions:~~

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

F. ~~Density Incentive. Any Conservation Subdivision that seeks to include workforce housing shall be permitted to increase the number of market units by 20% above the Maximum Development Density as calculated per Section 175-107 E (2) and that will guarantee an additional 20% of units above the Maximum Development Density to be designated as workforce housing~~ See section 175-57. A. Density.

G. **General Requirements of Workforce Housing Units.**

1. The workforce housing units should be interspersed to the greatest extent **possible** practical throughout the overall development and not concentrated in a separate area of the ~~Subdivision~~ Development.
2. Phasing—The phasing plan for the development shall provide for the construction of workforce housing units concurrently with the market-rate units.
- ~~3. More than fifty percent of the workforce housing units in the development shall contain two or more bedrooms.~~

[See definition of Workforce Housing under Definitions, above.]

4. The subdivision plan must also adhere to the standards outlined in Section H and satisfactorily meet the following criteria:

a. The dwellings qualifying as workforce housing shall be compatible in exterior appearance and reasonably consistent with the market rate dwellings in the proposed Subdivision.

~~*b. Incorporate the equivalent of the Energy Star rating in all building designs or the current requirements outlined within Chapter 38 “Building Construction” of the Town of Durham Code, whichever performs better energy efficiency.*~~

5. Alternative Lot Sizing: The Planning Board may authorize variations from the minimum lot sizes and lot dimensions specified by standards of the underlying zone through the Conditional Use Permit, provided the Planning Board determines that the following conditions are met:

a. All lots comply with the New Hampshire Department of Environmental Services requirements (RSA 485: A) for subsurface wastewater management (developments may utilize individual or community wells and/or septic systems) and private water wells within the decreased lot size; and

b. The objectives and standards of this article and the Subdivision Regulations are otherwise achieved.

7. If an undergraduate college student lives in the unit then the parent or guardian of the student must live in the unit in order for the workforce housing bonus to apply. This provision must be included in the deed for any designated workforce housing unit.

G. Assurance of Affordability.

1. Certification of Income Levels

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

2. Assurance of Continued Affordability

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

I. **Administration.** This Section shall be administered by the Planning Board, and if the board deems appropriate, in cooperation with a third party property management entity that will be responsible for income verification and ongoing affordability compliance.

J. **Conflict.** If any provision of this Section is in conflict with the provisions of any other provisions of this ordinance, the more restrictive provision shall apply, except for any

provision relating to reductions in standards for lot size, setbacks, or density, in which case the provisions of this Section shall apply.

~~175-108. Stewardship Fund.~~

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

ARTICLE XX - STANDARDS FOR SPECIFIC USES

175-109. Compliance Required.

C. ~~Accessory Dwelling Units – attached and detached~~ and Accessory Apartments. Accessory dwelling units ~~and accessory apartments~~ shall ~~conform to meet~~ the following standards:

1. Only one accessory dwelling unit ~~or one accessory apartment~~ shall be located on a lot with a single-family residence. ~~The location of an accessory dwelling unit and an accessory apartment in conjunction with one single-family residence shall not be permitted.~~
2. An accessory dwelling unit shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
3. ~~An accessory apartment shall contain a minimum of 300 and a maximum of 850 square feet of floor space.~~
4. In zoning districts where no more than three unrelated persons may occupy a dwelling unit (as specified in subsection 175-56 General Dimensional Standards), there shall be no more than three unrelated occupants in total for the single-family dwelling and the accessory dwelling unit combined ~~or for the single-family dwelling and the accessory apartment combined~~.
5. The location and design of the accessory dwelling unit ~~or accessory apartment~~ shall maintain the single-family character and appearance of the premises.
6. An interior door shall be provided between the single-family dwelling and the attached accessory dwelling unit, but the door may be locked or not at the option of the property owner.
7. One parking space shall be provided for the accessory dwelling unit ~~or accessory apartment~~, in addition to parking required for the single-family dwelling. The parking space may be situated within a driveway along with other vehicles provided it is readily accessed.

8. The property owner shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit ~~or accessory apartment~~ in accordance with RSA 485-A:38. However, systems for the accessory dwelling unit ~~or accessory apartment~~ separate from those serving the single-family dwelling are not required.
9. There are no additional requirements for lot size, frontage, space limitations, or other dimensional controls for an accessory dwelling unit ~~or accessory apartment~~ beyond what would be required for a single-family residence without an accessory dwelling unit ~~or accessory apartment~~.

10. No site plan review is required to install an accessory dwelling unit.

- I. **Manufactured Housing.** A manufactured housing unit shall conform to the following construction and siting standards in addition to any state requirements:
 1. It was constructed after June 15, 1975, and certified as meeting the mobile home construction and safety standards of the Department of Housing and Urban Development.
 2. It is at least twenty (20) feet wide at the narrowest point.
 3. The roof pitch shall be not less than a two-foot rise for each twelve (12) feet of horizontal run [two to twelve (2:12)], and the roof shall have minimum six-inch eaves or eaves and gutter.
 4. It has roofing materials which are generally acceptable for site-built housing. Any roofing material may be used, provided that it has the appearance of a nonmetallic shingle, shake or tile roof.
 5. It has siding material which has the appearance of wood, masonry or horizontal metal siding. Reflection from horizontal metal siding shall be not greater than that from siding coated with white gloss enamel.
 6. It has a perimeter skirting that resembles a conventional house foundation and is constructed of brick, concrete, concrete block or pressure-treated wood.
 7. It is placed on a permanent foundation approved by the Code Enforcement Officer.
 8. The hitch and tongue of the manufactured home shall be removed.
- J. **Porkchop Subdivision.** A porkchop subdivision is allowed in the RC and R Districts and in the four Research-Industry Districts. The purpose of a porkchop subdivision is to allow limited subdivision of relatively large lots where there is significant back land but not sufficient street frontage to provide the minimum required frontage for each new lot. Developers of residential subdivisions of two (2) or three (3) lots in ~~the RC and R~~ these six Districts on existing town roads as of the date this chapter is enacted that are not conservation subdivisions, may elect to follow the requirements for porkchop subdivisions in Table 4-1, provided that at least two of the lots are entered from a common driveway whose maintenance is guaranteed in the deeds to the lots concerned. A common driveway to a

porkchop subdivision will *only* serve a maximum of three (3) lots. Adjacent porkchop subdivisions will not share a common driveway. Each porkchop subdivision will have a common driveway independent from any other subdivision. Other than the possibility that the rear lot (or lots) may take on somewhat of a porkchop shape, the lots shall not be unduly gerrymandered to take advantage of this section.

Table 4-1. Requirements for Optional Porkchop Subdivisions

Porkchop subdivision lots	Minimum area (square feet)	Minimum frontage area (feet)
Each lot	80,000 <u>30,000</u>	50
Average, all lots	120,000 <u>the minimum</u>	125* <u>one half the</u>
	<u>lot size for the district.</u>	<u>Minimum frontage for the district</u>

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

1. A short-term rental may not be established until a permit to operate a short-term rental has been issued by the Zoning Administrator. The property owner shall submit an application to operate a short-term rental to the Zoning Administrator. The proposal shall be reviewed for compliance with all Building, Fire, and Life Safety Codes. Site plan review is not required for a short-term rental.
2. Special Exceptions. In those districts where a short-term rental is allowed by special exception, the property owner shall obtain a special exception prior to issuance of a permit to operate a short-term rental. The following specific requirements apply to special exceptions for short-term rentals:
 - a. ZBA Hearing. For notification purposes, abutting properties shall include those lots within 300 feet of the subject property.
 - b. Other Conditions. The Zoning Board of Adjustment may set additional conditions on the special exception based upon potential impact of the proposal to the neighborhood.
3. The site where the short-term rental is located must be the property owner’s primary residence.
4. The property owner or a member of the property owner’s family must be on the premises overnight each night while the property is rented.

5. Those areas of the premises open to use by lodgers remain subject to periodic safety inspections per state law.
6. No recreational vehicle, travel trailer, tent, or other temporary shelter may be used by the renter(s) on the premises in conjunction with the short-term rental.
7. Signage is restricted to the following:
 - a. One non-illuminated sign not exceeding two square feet. If ground mounted the sign must be set back at least 10 feet from all lot lines and be no taller than three feet. If mounted on the house no part of the sign may be higher than the top of the first floor windows.