

***\*WORKING DRAFT\****

**THE DURHAM ZONING ORDINANCE**

**Article II – DEFINITIONS and other sections**

Draft showing proposed changes by Planning Board through September 27  
*For Planning Board final review on February 14, 2024*

*Proposed additions are shown like this.*

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

➤ *Directions for other specific changes to be made to the ordinance are shown like this.*

*[Comments are shown like this.]*

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**\*NOTE. There are four sections for proposed changes:**

- 1) Changes to Article II. Definitions, below
- 2) Changes in other articles that are necessary to accommodate changes in Article I, below
- 3) A few changes to other articles, not related to the proposed changes to Definitions, that are fairly straightforward and worth processing now, below.
- 4) Changes in the Table of Uses that are necessary to accommodate changes in Article II included on a separate document. .

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**1) ARTICLE II. DEFINITIONS**

**175-6. Meaning of Words.**

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section. Words used in the present tense include the future. The singular number includes the plural, and the plural the singular. Where terms are not defined in this ~~section~~ *article*, they shall have their ordinary accepted meanings or such as the context may imply. The words "shall" and "must" are mandatory, the word "may" is permissive, and the word "should" indicates a preferred or encouraged, but not necessarily a required, course of action. *Some definitions may incorporate the term itself in the definition, in which case that term as referenced has the customary meaning (See "Nursing Home," for example).*

*Note that these definitions are descriptive and not prescriptive. They may, however, operate in a prescriptive manner in some cases. For example, a proposed home occupation using an area of 1,500 square feet would not meet the definition of Home*

*Occupation which is defined as having a maximum of 1,000 square feet, and would therefore not be permitted.*

#### **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 *necessarily* indicate that the use is allowed anywhere in the town of Durham; some terms are included for general reference only.

*Definitions pertinent to individual overlay districts and other specific topics (such as Agriculture and Signage) may be found in the article of this ordinance pertaining to that district and those topics.*

- ***Place all definitions in this section in alphabetical order once changes are made. Changes below would result in some terms being placed out of alphabetical order.***

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*~~ ***not attached to*** 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.

~~***ACCESSORY SHED – A small shed for the storage of items in conjunction with a residential use. See Article XX***~~

~~***ADAPTIVE REUSE – The repurposing of an existing building for a new type of use in which the exterior appearance and the structural and architectural elements of the building remain essentially unchanged except for minor renovations needed to provide access or to comply with code requirements.***~~

***ADAPTIVE REUSE – The repurposing of an existing building for a new use in which the overall form and exterior appearance remain largely unchanged except for changes needed to provide access or to comply with code requirements and other minor enhancements.***

ADULT DAY CARE FACILITY – ***See Day Care uses. A nonresidential facility for the care of adults.***

***[The following definitions for Agriculture are to be moved to Article XX.1 Standards for Agricultural Uses, at the bottom. No changes are made to these terms.]***

***AGRICULTURE – See Article XX.1. Standards for Agricultural Uses.***

~~AGRICULTURE—Including but not limited to all uses, accessory uses, structures, functions, and events as defined in RSA 21:34-a – Farm, Agriculture, Farming, as amended. (See the Table of Uses and Article XX.1 for specific standards and restrictions.)~~

~~Accessory Uses.—The following are considered accessory uses to an allowed agricultural use:~~

- ~~1) The storage, use of, and spreading of soil amendments, as defined in this section.~~
- ~~2) The use and application of agricultural chemicals pursuant to state requirements.~~
- ~~3) The preparation for market, delivery to storage or to market, and delivery to carriers for transportation to market of any products and materials from the farm.~~
- ~~4) The transportation of farm workers.~~
- ~~5) The marketing and selling at wholesale or retail of any products from the farm, on-site and off-site, where not otherwise prohibited or regulated.~~
- ~~6) Irrigation of growing crops from private water supplies or public water supplies.~~
- ~~7) The use of dogs or other livestock guard animals for herding, working, and guarding livestock.~~
- ~~8) The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.~~
- ~~9) A farmstand situated on farm land owned by the operator of the farmstand provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms owned by the operator of the farmstand. Items not produced on the farm or farms owned by the operator are limited to agriculture-related products, specialty foods, gift items, crafts, and items reflecting agriculture and rural America.~~
- ~~10) —Use of new technologies recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and appropriate agencies of the United States Department of Agriculture.~~
- ~~11) —Agritourism, as defined in this section.~~

~~Agricultural Sales, Commercial.—Sale of items specifically including agriculture-related products, trees, specialty foods, gift items, crafts, and items~~

~~reflecting agriculture and rural America. (This use need not be located on a farm property, in contrast to Farmstand, Accessory, below.)~~

~~Agritourism. Attracting visitors to a farm to attend events and activities that are accessory, related and subordinate to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, and active involvement in the activity of the farm.~~

~~Animal Feedlot. A commercial agricultural establishment consisting of confined feeding areas and related structures used for the finishing of livestock.~~

~~Aquaculture. The commercial raising, harvesting, and sale of fish and other aquaculture products.~~

~~Aquaculture Accessory Use. The noncommercial raising and harvesting of fish and other aquaculture products for personal consumption.~~

~~Bees, Keeping of. The raising of bees and cultivation and sale of bee products.~~

~~Bees, Keeping of Accessory Use. The raising and breeding of bees for noncommercial purposes, other than incidental sales of bee products produced on the premises, in conjunction with a residence.~~

~~Best Management Practices For Agriculture (BMPs) 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. BMPs also include other practices and procedures recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and the United States Department of Agriculture. Other documents providing guidance for agricultural practices and procedures endorsed by the Durham Agricultural Commission as appropriate references for best management practices are also deemed BMPs.~~

~~[Reference — <http://agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>]~~

~~Chickens and Turkeys, Keeping of Accessory Use. The breeding and raising of chickens and turkeys for noncommercial purposes in conjunction with a residence. (Note that Poultry, keeping of as a principal use is not restricted to chickens and turkeys.)~~

~~Crop Cultivation. The cultivation, conservation, and tillage of the soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, and horticultural crops and any other plant including greenhouse and high-tunnel crops and tree products and any other plant that can be legally grown and harvested extensively for profit or subsistence.~~

~~Farm or Farming. Any land, buildings, or structures on or in which agriculture and farming activities are conducted, including the residence(s) of owners, occupants, and employees located on the subject land. This includes all farm outbuildings and any other structures used in the farm operations. An operation may be deemed a commercial farm where at least \$10,000 of agricultural products is produced and sold in a year.~~

~~Farmers' Market. An event or series of events at which two or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale include, but are not limited to, products of agriculture, as defined in RSA 21:34-a. A farmers' market does not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.~~

~~Farmstand, Accessory. A farmstand as defined under Accessory Uses, above. (Contrast to Agricultural Sales, Commercial, above.)~~

~~Forestry. The production, cultivation, growing, harvesting, and sale of any trees or nursery stock.~~

~~Fur-bearing Animals, Keeping of. The raising, breeding, and sale of domesticated strains of fur-bearing animals, such as mink, ermine, and chinchilla.~~

~~Goats and Sheep, Keeping of. The raising, breeding, and sale of goats and sheep.~~

~~Goats and Sheep, Keeping of - Accessory Use. The raising and breeding of goats and sheep for noncommercial purposes in conjunction with a residence.~~

~~Horses, Keeping of. The commercial breeding, boarding, raising, training, riding instruction, and selling of horses, mules, donkeys, and other equidae.~~

~~Horses, Keeping of - Accessory Use. The noncommercial breeding, boarding, raising, and riding of horses, mules, donkeys, and other equidae.~~

~~Livestock - Large, Keeping of. The raising, breeding, or sale of beef and dairy cattle, steer, oxen, domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).~~

~~Livestock - Large, Keeping of - Accessory Use. The raising and breeding of large livestock, specifically including the animals listed above, for noncommercial purposes, other than incidental sales of any related products produced on the premises, in conjunction with a residence. This use includes one or two animals per lot.~~

~~Poultry, Keeping of. The raising, breeding, and sale of poultry, including chickens, turkeys, ducks, geese, and gamebirds. (Note that Chickens and~~

~~Turkeys, keeping of—Accessory Use is restricted to only those two types of poultry.)~~

~~Rabbits, Keeping of. The raising, breeding and sale of rabbits.~~

~~Rabbits, Keeping of—Accessory Use. The raising and breeding of rabbits for nonecommercial purposes in conjunction with a residence.~~

~~Soil Amendments. Including commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.~~

~~Swine, Keeping of. The raising, breeding, or sale of swine and swine products.~~

~~Swine, Keeping of—Accessory Use. The raising and breeding of swine for nonecommercial purposes, other than incidental sales of any related products produced on the premises, in conjunction with a residence. This use includes one or two animals per lot.~~

~~ALL TERRAIN VEHICLE—Any motor-driven vehicle designed or adapted for travel over surfaces other than maintained roads with one or more tires designed to hold not more than 10 pounds per square inch of air pressure, having capacity for passengers or other payloads, not to exceed 1,000 pounds net vehicle weight, and not to exceed 50 inches in width.~~

~~ALL TERRAIN VEHICLE/OFF HIGHWAY RECREATIONAL VEHICLE FACILITY—A facility or site where people who do not own the site or reside on the site are allowed to operate all-terrain vehicles or off highway recreational vehicles with or without compensation. A trail that crosses a parcel and that is used by all-terrain vehicle or off highway recreational vehicle operators that do not own or reside on the parcel is an all-terrain vehicle/off highway recreational vehicle facility.~~

~~ALTERATION—A change or rearrangement in the structural parts of a building or structure or in the means of egress or an enlargement, whether by an extension on a side or by an increase in height, or the moving from one location or position to another.~~

AND – When used in a series ~~of allowed activities~~, such as “Dogs may be used for herding, working, and guarding livestock,” means “and/or,” such that any and all of the ~~activities are allowed~~ **items are included**, individually or in combination. *(In general, a reasonable judgment should be made based on the context for the intention of the use of “and.”)*

~~ANIMAL FEEDLOT—A commercial agricultural establishment consisting of confined feeding areas and related structures used for the finishing of livestock in accordance with USDA regulations. 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.~~

**APARTMENT** – *See "Accessory Dwelling Unit." A residential dwelling unit contained within a multiunit residential building or a nonresidential building or situated on a lot with other uses.*

**AQUIFERS** – *See Article XVI. Aquifer Protection Overlay District.*

~~**AQUIFER**—A geologic formation, group of formations or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies. Aquifer includes both bedrock aquifers and stratified drift aquifers.~~

~~**AQUIFER, BEDROCK**—Bedrock comprised of a high concentration of interconnected fractures, fissures, or cracks that is able to produce a high quantity of water.~~

~~**AQUIFER, STRATIFIED DRIFT**—A geologic formation of predominantly well-sorted sediments deposited by or in bodies of glacial melt water, including gravel, sand, silt or clay, that contains sufficient saturated permeable materials to yield significant quantities of water to wells.~~

~~**AQUIFER PROTECTION DISTRICT**—The recharge area of designated aquifers. The "Aquifer Protection District" is shown on an overlay to the Official Zoning Map of the Town and is described in detail in Section 175-85 of this Ordinance.~~

~~**AQUIFER RECHARGE AREA**—The area in which water is absorbed that eventually reaches the zone of saturation in one or more aquifers.~~

**ART CENTER** – *A facility for the display or sale of objects of art, the teaching of art, or the creation of works of art. A facility focused on arts education or small-scale arts and crafts production which may include classrooms, studios, workshops, exhibit spaces, and retail spaces related to its primary functions.*

~~**AUTOMOBILE CAR WASH**—A facility equipped for washing cars manually or automatically.~~

*[Car wash added below.]*

~~**AUTOMOTIVE SERVICE STATION**—Any building or premises used primarily for the retail sale of gasoline and lubricants but which may also provide for the incidental servicing of motor vehicles and small engine repair, including grease racks, tire repairs, battery charging, hand-washing of automobiles and the sale of merchandise and supplies related to the servicing of motor vehicles, but excluding body and fender work, engine overhauling, painting, storage of autos not in operating condition or other work involving noise, fumes, glare or smoke.~~

**AUTOMOTIVE USES** – *See Motor Vehicle definitions.*

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

*AWNING – A structure made of cloth or similar material supported on a frame and attached to a building projecting over a public way. It may be used for signage, for decorative purposes, or to protect pedestrians from adverse weather.*

*BASEMENT – That portion of a building that is fully below **existing finished** grade or partly below and up to two feet above **existing finished** grade. (Also, see Story.)*

~~*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.”*~~

*BOARDING HOUSE – A residential building providing living accommodations in multiple rooms or units that are not full dwelling units. Bathrooms may be provided in the units or in common areas. There may be limited kitchen facilities, such as a sink and microwave, provided in the units. There may or may not be common cooking and dining facilities. (Also called a “Rooming House.”)*

*BOATYARD/~~BOAT CLUB~~ – Waterfront facilities for recreational boating, launching facilities and other water-related activities, ~~but excluding the sale of products and accessories associated with boating needs.~~*

~~*BOG—A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil and/or water conditions.*~~

~~*BUFFERING—The use of landscaping (other than grass on flat terrain), or the use of landscaping along with berms, walls or fences that at least partially and periodically obstructs the view.*~~

*BUFFER (or BUFFERING) – The use of landscaping, earthen berms, walls, fences or some combination serving to partially block or soften the view and mitigate the impacts from one site to another.*

~~*BUILDABLE AREA—That portion of a building site, exclusive of the required yard areas, on which a structure or building improvement may be erected.*~~

*BUILDABLE AREA – That portion of a lot, exclusive of required setback areas and buffers, in which a building or structure may be erected.*

*BUILDING – Any structure with walls and a roof designed or intended for the continuous support, enclosure, shelter or protection of persons, domestic animals, or property. For purposes of determining exterior measurements or footprint in order to locate the setback line, "building" shall include includes all attached structures such as open or closed porches, carports, garages, balconies, stairways and other similar structures. See “Setback.”*

~~*BUILDING INSPECTOR—All references to Building Inspector are the same as if they were to the Code Enforcement Officer.*~~



~~**BUSINESS SERVICES**—Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance, employment service, management and consulting services, protective services, office equipment rental and leasing, commercial research, development and testing, photo finishing and personal supply services.~~

~~**CAMPGROUND**—Any area or tract of land used or designed to accommodate two (2) or more camping parties, including tents, camping trailers, recreation vehicles or other camping outfits, and includes the necessary accessory uses normally associated with such use.~~

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

~~**CANOPY**—A structure projecting from a building, constructed of a frame and cloth or hard materials, used for signage, decorative purposes, or protecting pedestrians from the weather. A canopy is usually placed above a window or entryway. A canopy usually extends over a public way. (A canopy is often referred to also as an awning or marquee.)~~

~~**CAR WASH** – A facility equipped for washing cars and other vehicles manually or automatically.~~

~~**CAR SALES AND SERVICE** – See Motor Vehicle definitions.~~

~~**CARETAKER APARTMENT**—A dwelling unit that is incorporated into, and is accessory to, a nonresidential use and is occupied by an owner or an employee of the business occupying the principal use and having a gross floor area of less than two thousand (2,000) square feet.~~

~~**CARETAKER APARTMENT** – An on-site dwelling unit that is accessory to a principal use and occupied by the person(s) maintaining the property.~~

~~**CATEGORY OF USE**—Any use listed in Section 175-53, the Table of Land Uses or listed as permitted or conditional use in a zoning district.~~

~~**CHILD CARE** – See Day Care Center and Day Care Home.~~

~~**CHILD DAY CARE CENTER** – A *nonresidential* facility for the *daytime* care of *preschool and/or school-aged* children *or adults* that is not located within *a home or other residence* the residence of the primary care provider. A day care center includes a nursery or a nursery school. See Article XX~~

~~**CHILD-DAY CARE HOME** – A *nonresidential* facility for the *daytime* care of *preschool and/or school-aged* children that is located within the residence *in which* of the primary care provider *resides*. See Article XX~~

~~**CHILD CARE NURSERY**—A nonresidential facility for the care of children under~~

CINEMA – ~~A motion picture theater~~ See Theater.

~~CLUB—A building or portion thereof used by a group of people organized as a non-profit organization for a common purpose to pursue common goals, interests or activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. A club includes the facilities occupied by a fraternal or similar organization.~~

CLUB – A building or portion of a building used by a group of people established as a not-for-profit organization to pursue common goals, interests and activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

~~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.~~

~~COMMERCIAL USE—A nonresidential use operated for profit or compensation.~~

~~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, conservation easements. 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 owners in the subdivision.~~

COMMUNITY CENTER – A building that accommodates recreational, educational, entertainment, and/or cultural activities ~~primarily for use by residents of a subdivision or by residents of the community-at-large.~~

~~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.~~

CONDITIONAL USE – See Article VIII.

~~**CONDITIONAL USE PERMIT**—An authorization to conduct a conditional use when such authorization is required by these regulations and when established according to the procedures outlined in Article VII of these regulations.~~

~~**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.~~

**CONDOMINIUM** – A building, group of buildings or site in which units or portions of the building(s) or site are owned individually, and the larger structure, common areas, facilities and land are owned jointly by all of the owners on a proportional undivided basis. Condominiums are considered a subdivision and are reviewed accordingly.

**CONFERENCE CENTER** – A facility used for conferences, seminars, and other gatherings. It does not include accommodations for sleeping. ~~A facility used for conferences and seminars which may include accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms. If sleeping accommodations are part of the facility, transients who are not attending activities at the center may occupy not more than fifty percent (50%) of the accommodations at any time.~~

**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~~ trails 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.

**CONTIGUOUS** – Touching at a point or along a boundary; ~~Adjoining.~~

~~**CONTRIBUTING STRUCTURE**—A property or structure in the Historic Overlay District that is part of Durham’s heritage and contributes to the district’s sense of time, place and historical development by virtue of its age, historical use, location, design, setting, materials, workmanship, aesthetics, or association.~~

~~**CONVENIENCE STORE WITH GASOLINE SALES**—A retail store with less than five thousand (5,000) square feet of gross floor area that includes the retail sales of gasoline and similar petroleum products but provides no other automobile services such as repairs or washing.~~

**CONVENIENCE STORE** – See Motor Vehicle Gas Station and Retail Store, Small.

**CONVENTIONAL RESIDENTIAL SUBDIVISION** – A **residential** subdivision in which all or most of the area of the parcel is put into lots and roads, **and any other allowed uses**, with little or no common open space. *(In contrast to a Conservation Subdivision.)*

~~**CORNER CLEARANCE**—An unobstructed area at street intersections free from any object, vegetation or slope that impedes visibility within a triangle, two (2) of whose sides extend twenty (20) feet from the intersection along the street lines and between two (2) planes three (3) feet and seven (7) feet above the level of the traveled way.~~

~~**CRAFTSHOP WITH ACCESSORY PRODUCTION**—A studio of a crafts person or group of crafts people. A craftshop may include the sale of crafts and the production of crafts for sale on the premises.~~

~~**CURB LEVEL**—The elevation of the street curb as established in accordance with an ordinance.~~

~~**CURB LINE**—The vertical plane of the street side of a curb.~~

~~**DAY CARE**—A use which provides daytime care and supervision of any number of children or handicapped, disabled or elderly adults not related by blood or marriage and licensed by the appropriate state agency.~~

DEVELOPER – An owner, the owner’s agent, or any other person, firm or organization with authorization from the owner, who intends to **improve alter** or to construct improvements upon ~~his or her~~ **their** property.

~~**DEVELOPMENT**—Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.~~

**DEVELOPMENT** – Significant construction, reconstruction, alteration, or enlargement of any building or structure; a significant change of use; the subdivision, resubdivision, or combination of lots or other units of a building or land; and mining, excavation, landfill, and significant land disturbance.

DISTURBED AREA – An area where natural vegetation is removed, exposing the underlying soil or where the ground surface is altered, ~~in any significant manner~~.

DORMITORY – A building occupied by a resident manager and used, designed and adapted to provide housing for ~~more than ten (10) occupants~~ **employees or students or people otherwise connected to an institution, such as a school, hospital, or church**. 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.

~~**DRIVEWAY**—A private, vehicular access connecting a house, parking area, garage or other building with the street.~~

**DRIVEWAY** – A private, vehicular access connecting the street to one or more dwelling units, houses, parking areas, garages or other buildings or sites.

~~**DUST-FREE SURFACE**—The top of a road, driveway, parking area, walkway or other area covered in bituminous paving, concrete, compacted crushed rock or gravel, or other such stable materials.~~

~~**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 *the space* for residential purposes.

EDUCATIONAL ~~**FACILITIES FACILITY**~~ – ~~A building or part thereof principally used, designed or adapted for educational use or instruction and operated by an educational institution approved by the New Hampshire Postsecondary Educational Commission.~~ *A facility principally used, designed or adapted for educational use or instruction, including a trade school, and operated by an educational institution accredited by the New Hampshire Department of Education.*

EXCAVATION – A land area that is used, or has been used, for the commercial ~~*taking removal*~~ of earth, including all slopes. This includes removal from its natural location of soil, sand, gravel, rock, topsoil, loam, clay, peat, or other mineral deposits. This does not include the excavation of material incidental to approved construction of buildings, driveways, or parking areas; or the excavation of material incidental to and at the site of construction or repair of streets.

~~**EXTERIOR ARCHITECTURAL APPEARANCE**—The architectural character, general composition, and arrangement of the exterior of the structure, including the kind, color, and texture of the building materials and type and character of windows, doors, light fixtures, signs, and appurtenant elements.~~

~~**FAMILY**—See “Household.”~~

FINANCIAL INSTITUTION – A business or nonprofit organization providing retail financial services, including ~~*but not limited to*~~ banks, credit unions ~~*and financial exchanges.*~~ *, financial exchanges, free-standing Automatic Teller Machines (ATM), and check-cashing facilities.*

*[These definitions below are being moved to Article XV. Flood Hazard Overlay District at the bottom. No changes are being made.]*

*FLOOD HAZARDS. See Article XV. Flood Hazard Overlay District.*

~~**FLOOD HAZARD OVERLAY DISTRICT**—Specific definitions pertinent to the Flood Hazard Overlay District follow:~~

~~Area Of Special Flood Hazard~~ – ~~The land in the floodplain within the Town of Durham subject to a one percent or greater possibility of flooding in any given year. The area is designated as Zones A and AE on the (FIRM).~~

~~Base Flood~~ – ~~The flood level having a one percent possibility of being equaled or exceeded in any given year.~~

~~Base Flood Elevation~~ – ~~The water surface elevation having a one percent possibility of being equaled or exceeded in any given year.~~

~~Basement~~ – ~~Any area of a building having its floor subgrade on all sides.~~

~~Building~~ – ~~Any structure designed or intended for the support, enclosure, shelter or protection of persons, domestic animals, chattels or property. For purposes of determining exterior measurements or footprint in order to locate the setback line, "building" shall include all attached structures such as open or closed porches, carports, garages, balconies, stairways and other similar structures. (Also see "Structure" for floodplain management purposes.)~~

~~Development~~ – ~~Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.~~

~~FEMA~~ – ~~The Federal Emergency Management Agency.~~

~~Flood or Flooding~~ – ~~A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.~~

~~Flood Insurance Rate Map (FIRM)~~ – ~~The official map incorporated with this ordinance, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.~~

~~Flood Insurance Study~~ – ~~An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.~~

~~Floodplain or Flood-Prone Area~~ – ~~Any land area susceptible to being inundated by water from any source. See "flood or flooding."~~

~~Floodproofing~~ – ~~Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.~~

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

~~Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.~~

~~Historic Structure – Any structure that is:~~

~~a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~

~~b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~

~~c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or~~

~~d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:~~

~~(i) by an approved state program as determined by the Secretary of the Interior, or~~

~~(ii) directly by the Secretary of the Interior in states without approved programs.~~

~~Lowest Floor – The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's "lowest floor," provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.~~

~~Manufactured Home – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.~~

~~Manufactured Home Park Or Subdivision~~ – ~~A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.~~

~~Mean Sea Level~~ – ~~The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.~~

~~New Construction~~ – ~~For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.~~

~~Recreational Vehicle~~ – ~~A vehicle which is: (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.~~

~~Special Flood Hazard Area~~ – ~~See "Area of Special Flood Hazard."~~

~~Start Of Construction~~ – ~~Includes substantial improvements, and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement occurs within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of manufactured housing or pre-site built housing on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.~~

~~Structure (For Floodplain Management Purposes)~~ – ~~A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.~~



~~**Substantial Damage** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.~~

~~**Substantial Improvement** – Any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure shall be the appraised value prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~

~~**Violation** – The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.~~

~~**Water Surface Elevation** – The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains.~~

FLOOR AREA, HABITABLE – Heated areas used daily for living, eating, cooking or sleeping, including bathrooms and bedroom ~~closets;~~ **closets**. **Habitable floor area does not include but excluding** garages, circulation areas **outside of individual units** (stairways, hallways, corridors), **and** storage ~~areas;~~ **areas** (including ~~but not limited to~~ attics, unfinished basements, and utility rooms). ~~For the purposes of this chapter,~~ **"habitable floor area"** **Habitable floor area** is deemed to be ~~seventy (70)~~ **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~~ **does** not apply in any instance where the owner or occupant(s) of the building ~~allow~~ **allows** 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.

~~**FRANCHISE ARCHITECTURE**—A stylized building design in which the shape, detailing, ornamentation, materials, or use of color is clearly identified with a specific brand or company.~~

~~**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. An organization officially recognized as such by 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.

**FRONTAGE** – See "**lot frontage.**" **Lot Frontage.**

**FUNERAL HOME** – An establishment where the dead are prepared for burial or cremation and where wakes and **funerals funeral services** may be held. A funeral home may include a chapel and/or facilities for the storage of vehicles used in the business.

~~**GALLERY**—A business involving the display and sale of objects of art such as paintings, sculpture, assemblages, and collages. A gallery may include the studio of one or more artists.~~

**GAS STATION** – See **Motor Vehicle uses.**

~~**GOLF COURSE**—A tract of land laid out with at least nine holes for playing the game of golf and improved with fairways, greens, landscaping, and/or hazards. A golf course may include a club house that provides services to golfers and/or members including, but not limited to, the sale and repair of golf equipment and food and beverage service, and accessory buildings and structures necessary for the operation of the course.~~

~~**GOVERNMENT FACILITY**—A structure or parcel of land the use of which is governmental, as defined in RSA 674:54. As stated therein, the use, construction or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, or by a county, town, city, school district or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.~~

**GOVERNMENTAL USE** – The use or development of a parcel of land or building by a governmental body, agency, or organization or by a quasi-governmental agency or organization carrying out a recognized governmental function.

**GRADE (noun)** – *The elevation (vertical location) of the land at a particular point, along a particular line, or within a particular area. Where there are variations within the section of land being considered, the grade is the average of all points within that*

*section of land. The grade is given in feet, usually above sea level. (See Slope which measures the percent of rise over run of a surface.)*

*GRADE (or GRADING) (verb) – Changing the surface of the ground, often in preparation for construction, including stripping of vegetation, cutting/removing earth, filling of earth, and leveling a site.*

*GRADE, EXISTING or NATURAL – The grade prior to prospective development or other ground disturbance.*

*GRADE, FINISHED – The grade adjoining a building or within other areas of a site after development.*

~~*GREENWAY – A network of connected common open spaces and/or other conservation land that typically extends along or around a natural feature such as a stream, pond, wetland, or wildlife travel corridor, or includes an area with significant scenic, historic, archeological, or cultural value, or provides for passive or active recreation such as trails or similar linear facilities.*~~

*HIGH INTENSITY SOIL SURVEY – See “Soil Survey, High Intensity.”*

~~*HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.*~~

~~*HIGH-WATER LEVEL – On saltwater bodies, the seasonal high-water level (the wrack line where tidal debris is deposited at seasonal high tides); on freshwater rivers and streams, the average springtime high-water level, including contiguous wetlands; or for dammed streams, the height of the dam.*~~

HOME OCCUPATION – Any occupation, profession, activity or use which is clearly an incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. *It is further defined as follows: and is further defined as follows:*

1. HOME OCCUPATION-1 – A home occupation *meeting with* the following *requirements characteristics*:
  - a. It occupies no more than ~~*five-hundred (500)*~~ *500* square feet of floor area.
  - b. The principal operator resides on the premises, has not more than one ~~*(1)*~~ other person employed on-site and does not sell on-site any *principal* manufactured products prepared by others. Services provided electronically and off-site employees who interact electronically with the home occupation are not limited.
  - c. The activity is completely enclosed in a primary or accessory structure. There is no indication of such occupation visible on the exterior of the building or on the lot, except permitted signs.

- d. The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.
2. HOME OCCUPATION-2 – A home occupation *meeting with the following requirements characteristics:*
- a. It occupies no more than ~~one thousand (1,000)~~ *1,000* square feet of floor area, with the exception of existing farm structures, which may utilize ~~one hundred (100)~~ *100* percent of the floor area.
  - b. The principal operator resides on the premises, has not more than three ~~(3)~~ other persons employed on-site and does not sell on-site any *principal* manufactured products prepared by others. Services provided electronically and off-site employees who interact electronically with the home occupation are not limited.
  - c. The activity, except for outdoor storage, is completely enclosed in a primary or accessory structure. Outdoor storage of materials or equipment ~~shall not be is~~ located *in-outside of* any required setback or yard area and shall be at least ~~ten (10)~~ *10* feet from any lot line and so screened as not to be visible from any public way or shoreline or public park.
  - d. The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.

HOTEL – ~~A building containing seven (7) or more~~ *A commercial operation offering multiple* 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 ~~30~~ *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.)

IMPERVIOUS SURFACE – A material with low permeability that impedes the natural infiltration of moisture into the ground so that the majority of the precipitation that falls on the surface runs off or is not absorbed into the ground. Common impervious surfaces include, but are not limited to, roofs, concrete or bituminous paving, sidewalks, patios, driveways, roads, parking spaces or lots, and storage ~~areas;~~

*areas*; compacted gravel including drives and parking ~~areas, areas; and oiled-or~~ compacted earthen materials, stone, concrete or composite pavers, wood, and swimming pools.

IMPERVIOUS SURFACE AREA – The total area of a site or parcel that is covered by impervious surfaces. The area covered by a deck or similar structure ~~shall be~~ *is* included in the impervious surface area unless the surface of the deck or structure provides for precipitation to pass through it and reach the ground in a dispersed pattern and the material under the deck or structure is not an impervious surface.

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

JUNKYARD – An area of land used for the exterior storage (i.e., not contained within a completely enclosed ~~structure~~) ~~building~~ of used and discarded materials, including but not limited to wastepaper, rags, metal, building materials, furnishings, machinery, vehicles or parts thereof. "Junkyard" also means any business or any place of storage or deposit which has stored or deposited two ~~(2)~~ or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles, or old iron, metal, glass, paper, cordage or other waste, or discarded or secondhand material which has been a part or is intended to be a part of any motor vehicle, the sum of which parts shall be equal in bulk to two ~~(2)~~ or more motor vehicles.

KENNEL – Any lot or premises on which ~~four (4)~~ *4* or more dogs, cats or similar small animals, or a combination thereof, which are ~~in excess of four (4) months of age, at least 4 months old~~ are boarded for compensation or bred for sale. A kennel ~~shall~~ *does* not include licensed veterinary medical facilities.

~~LANDSCAPE BUFFER—See "solid planting" in landscaping definitions.~~

*[Most of the definitions below related to landscaping are eliminated as landscaping is generally addressed under the Site Plan Regulations. Some requirements pertinent to the Wetland and Shoreland Overlay Districts are addressed in those articles.]*

LANDSCAPING – Some combination of planted, living trees, shrubs, hedges, vines, ground cover and flowers suitable for the climate, exposure and site condition. In addition, ~~the combination or design~~ *landscaping* may include earth sculpture, cobbles, bark, mulch, edgers, flower tubs, rock and such structures as fountains, pools, artworks, screens, walls, fences or benches, but such objects alone ~~do not define landscaping. shall not meet the requirements of this provision. The selected combination of objects and plans for landscaping purposes shall be arranged in a manner compatible with the building and its surroundings. Specific definitions pertinent to landscaping, buffers,~~

~~the Wetland Conservation Overlay District, and the Shoreland Protection Overlay District follow:~~

~~Damage – Includes any intentional or negligent act which will cause vegetation to decline and die within a period of five (5) years, including but not limited to such damage inflicted upon the root system by the operation of heavy machinery, the change of the natural grade above the root system or around the trunk of a tree and damages from injury or from fire inflicted on vegetation which results in or permits infection or pest infestation.~~

~~Diameter at Breast Height (DBH) – The diameter of a tree trunk at a height of four and one-half (4.5) feet.~~

~~Ground Cover – Low-growing plants, below the shrub layer, that grow to form a continuous cover over the ground, such as grasses, vinca, English ivy or like material.~~

~~Hazard Tree – Any tree that has the potential to have parts of or the entire tree fall under moderate to mild environmental changes, conditions or man-made forces.~~

~~Historic or Special-Interest Tree – A tree which has been found by the Tree Warden to be of notable interest because of its age, type, size or historic association.~~

~~Landscaped Area – That area within the boundaries of a given lot devoted to and consisting of landscaping material, including but not limited to grass, trees, shrubs, flowers, vines and other ground covers, native plant materials, planters, brick, stone, natural forms, water forms, aggregate and other landscape features; provided, however, that the use of brick, stone, aggregate or other inorganic materials shall does not predominate over the use of organic plant material.~~

~~Landscape Development – Trees, shrubs, ground cover, vines, grass and other materials as listed in the definition of "landscaped area" above, installed in planting areas for the purpose of fulfilling the requirements of these regulations.~~

~~Landscaped Street Yard – The area of a lot which lies between the street right-of-way line and the actual front wall line of the building, parallel to the street, until such imaginary extensions of such front building wall line intersect the side property lines. In determining the actual building wall of the building for the purposes of this definition, steps and unenclosed porches shall be excluded, but such building wall line shall follow and include the irregular indentations of the building. Further, for the purposes of these regulations, canopies, gas pump islands, overhangs and similar extensions will be figured as part of the "landscaped street yard." A front building wall is a building wall fronting on a street or publicly used area.~~

~~A. On corner lots, the "landscaped street yard" shall consist of all of the area of such lot between all abutting street right-of-way lines and their corresponding~~

~~actual front building wall lines, as such lines are imaginarily extended in the manner provided above.~~

~~B. When there are multiple buildings on a lot, the "landscaped street yard" shall consist of all the area of the lot between the street right-of-way line(s) and an imaginary line beginning at one side of the property line, running parallel to the street, connecting to the front most corner of the building wall, fronting the street and nearest such side property line, then following and connecting the front most walls of all buildings fronting on the street and then extending to the other side property line, running parallel to the street. If a building has a rounded front, the front building wall corners shall be the points closest to the side boundaries.~~

~~C. Notwithstanding all of the foregoing, on land used only for parking purposes or only as a commercial or private parking lot, the "landscaped street yard" shall consist of the area between the street right-of-way line and the back property line.~~

~~Landscaped Yard Area – The front, side and rear yard areas as established below. In defining the side and rear yard area, the property line shall replace the street right-of-way line defined in the landscaped street yard.~~

~~Maintenance (or Maintain) – In reference to landscaping, includes pruning, mulching, mowing, spraying, fertilizing, propping, bracing, treating for disease or injury, snow removal and any other similar act which promotes the life, growth, health or beauty of the landscape vegetation.~~

~~Natural Woodland Buffer – A forested area consisting of various species of trees, saplings, shrubs and ground covers in any combination and at any stage of growth.~~

~~Public Area – Includes parks, playgrounds, areas around public buildings and all other areas under the supervision and maintenance of the town.~~

~~Removal (or Removed) – Cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.~~

~~Sapling – Any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4-1/2 feet above the ground.~~

~~Shrub – Bushy, woody plant, usually with several permanent stems and usually not over ten (10) feet high at its maturity.~~

~~Solid Planting – A planting of evergreen trees and/or shrubs which will prevent the penetration of sight and light to a minimum height of five (5) feet.~~

~~Specimen Tree – A tree which has been determined by the judgment of the Tree Warden to be of high value because of its type, age or other professional criteria.~~

~~*Tree*—Any self-supporting, woody perennial plant which has a trunk diameter of two (2) inches or more when measured at a point of four and one-half (4 1/2) feet above the ground level and which normally attains an overall height of at least ten (10) feet at maturity, usually with one (1) main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of ash and others.~~

~~*Tree Warden* — The person whose duties shall include the inspection of landscaping installations according to the Town of Durham performance guaranty guidelines, and ensuring that the landscaping provisions of this chapter are being carried out and installed according to the plans submitted and approved.~~  
*TREE WARDEN* - The person designated by the Town Administrator to assist the Town boards, residents, and other Town staff in any appropriate matters related to the conservation, protection, and enhancement of native and naturalized trees and other vegetation located on both public and private property I Durham, in furtherance of the goals of this Zoning Ordinance and other Town ordinances and regulations, and pursuant to RSA 231:139 (II).

~~*Vegetation*—Includes a tree, plant, shrub, vine or other form of plant growth.~~

~~*LEACHABLE WASTES*—Waste materials, including but not limited to solid wastes, sewage sludge and agricultural wastes, that are capable of leaching contaminants to groundwater or surface water sources.~~

[This definition above is moved to the Aquiver Protection District at the bottom]

~~*LIBRARY*—A place in which literary and artistic materials, such as books, periodicals, newspapers, pamphlets, and prints are kept for reference or reading.~~

LIGHT MANUFACTURING – ~~See "manufacturing, light."~~ As described in Article XX.

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.~~

LOT AREA – The total area within ~~the confines of~~ the boundary lines of a lot. The "lot area" ~~shall does~~ not include any part of a ~~public road~~ right-of-way ~~which it fronts or abuts.~~

LOT, CORNER – A lot abutting ~~on~~ two (2) or more intersecting streets where the interior angle of intersection does not exceed ~~one hundred thirty five (135)~~ 135 degrees. A "corner lot" ~~shall be is~~ considered to be in that block in which the lot fronts. [See "lot line," Subsection (1)(a).]

~~*LOT COVERAGE*—The aggregate gross ground floor area of all buildings on a lot expressed as a percentage of the total lot area, excluding parking facilities, sidewalks and driveways.~~



LOT FRONTAGE – ~~A lot line dividing the lot from a street right-of-way. The lot line shared with a street right-of-way. In cases where an existing or proposed lot line is squiggly the frontage is measured along one or more chords from end point to end point of the lot line.~~

LOT LINE:

1. **LOT FRONT LOT LINE** – The front property line of a lot **shall be is** determined as follows:

a. CORNER LOT **or LANDLOCKED LOT** – The front property line on a corner lot is as determined by the Zoning Administrator based upon a reasonable consideration of the following: location of the front door, location of the driveway and garage, configuration of other buildings in the vicinity, the lot layout (generally, the shorter lot line is the front lot line as lots tend to be deep and narrow rather than wide and shallow), and other pertinent issues.

b. INTERIOR LOT – The front property line of an interior lot **shall be is** the line bounding the street frontage.

c. THROUGH LOT – The front property line of a through lot **shall be is that line where the house or building faces or is proposed to face. A through lot has frontage on opposite streets. that line which is obviously the front by reason of the prevailing custom of the other buildings in the block.**

➤ **Switch the order of Rear Lot Line and Side Lot Line, below.**

2. **LOT REAR LOT LINE** – The rear property line of a lot is that lot line opposite to the front property line. Where the side property lines of a lot meet in a point, the rear property line **shall be is** assumed to be a line not less than ten (10) feet long lying within the lot and parallel to the front property line. In the event that the front property line is a curved line, then the rear property line shall be assumed to be a line not less than ten (10) feet long lying within the lot and parallel to a line tangent to the front property line at its midpoint.

3. **LOT SIDE LOT LINE** – The side property lines of a lot are those lot lines connecting the front and rear property lines of a lot.

~~**LOWEST FLOOR** – The lowest floor of the lowest enclosed area, including the basement. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's "lowest floor," provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.~~

MANUFACTURED HOUSING (**formerly known as a mobile home**) – 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 does* not include *pre-site built, modular or pre-site built prefabricated* housing as defined in RSA 674:31-a. See Article XX

~~*MANUFACTURING, LIGHT—An establishment engaged in the production, packaging, and/or distribution of products or components of products involving processing, fabrication, and/or assembly of parts or components produced off the site that meets the performance standards for a light manufacturing use. See Article XX.*~~

MARINE SALES AND SERVICE – A business establishment located on a navigable water ~~*within the Town of Durham*~~ providing boat sales, rental and storage, marine supplies and equipment, marine engine and hull repairs, construction and outfitting of commercial or pleasure craft, fuel and oil, electricity, freshwater, ice, and other supplies for owners and crew.

MASTER PLAN – The Town of Durham Master Plan, and any amendments which may be made thereto, adopted by the Durham Planning Board as a guide to the prudent development and protection of the resources of the community, *as laid out in RSA 674:2 Master Plan.*

~~*MEDICAL CLINIC—A structure or group of structures occupied by one or more medical practitioners for the purpose of providing health services to people on an outpatient basis.*~~

~~*MINING—Activities performed in the extraction of minerals including the excavation of pits, removal of minerals, removal of dimension stone, removal or quarrying for the production of construction aggregate, disposal of overburden, and the construction of roads for the haulage of mining materials but not including removal activities that are part of development projects that have received site plan or subdivision approval or that are undertaken only for the purpose of improvement of or use on the owner's property in which there will be no removal of materials from the site.*~~

*MINING – Commercial extraction of materials from the earth.*

MINOR SITE COMMITTEE. A staff committee empowered to review minor site plan applications pursuant to RSA 674:43 III. (See Section 175-17 *and the Durham Site Plan Regulations.*)

MIXED USE WITH RESIDENTIAL (~~*OFFICE/RETAIL DOWN, MULTIUNIT RESIDENTIAL UP*~~) (*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. (*This definition may be slightly altered in specific applications as described elsewhere in this ordinance, such as in the Central Business District.*)

MIXED USE WITH PARKING (~~PARKING AND OFFICE/RETAIL~~) (*Parking and Office/Retail*) – A building in which all or part ~~of the first floor or ground floor~~ is used for parking and ~~the upper floor(s) part~~ is used for office/retail (*as defined in this article*). ~~If only part of the first or ground floor is used for parking, the remainder is used for office/retail.~~

~~MIXED USE WITH PARKING (PARKING AND OFFICE) – A building in which all or part of the first floor or ground floor is used for parking and the upper floor(s) is used for office or similar non-residential uses. (If only part of the first or ground floor is used for parking, the remainder is used for office or other non-residential uses.)~~

*MODULAR HOUSING – See “Pre-site Built Housing.”*

MOTEL – ~~A building containing seven (7) or more sleeping rooms~~ *A commercial operation offering guest 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 *a parking lot the outside* or from exterior corridors or walkways. See Article XX

*MOTOR VEHICLE GAS STATION – The conventional gas station with gas sold and dispensed at pumps, but with no servicing or repairs performed. This use may include a retail store (small) with up to 5,000 square feet.*

MOTOR VEHICLE SALES ~~FACILITY AND SERVICE~~ – The use of any building or land area for the ~~display and sale~~ *display, sale, and lease* of new or used automobiles, trucks, vans, trailers, recreation vehicles, motorcycles, or similar motorized vehicles. This use may include repair facilities, *but only for vehicles offered for sale, lease or trade in for such vehicles.*

MOTOR VEHICLE SERVICE FACILITY – A business that provides service, maintenance, and repairs for motor vehicles *and engines*, including the accessory sale of parts and supplies. ~~This use includes muffler, transmission, and brake shops, tune-up centers, repair garages, and similar uses but shall not include operations involving body work, painting, structural repairs or alterations.~~

~~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."~~

*NEIGHBORHOOD – A contiguous (or semi-contiguous) area of a community with: a) some defining characteristics such as an integrated network of streets, walkability within the area, similar architecture or period of development, a compatible mix of*

*uses and b) one or more distinct boundaries such as major roads, railroads, other physical barriers, or natural features like streams, woods, and steep topography.*

~~*NEON—Any tubular gas filled light or lighting device.*~~

NONCONFORMING **STRUCTURE BUILDING** – A structure or building, the size, dimensions and location of which were lawful prior to the adoption, revision or amendment of **a this** Zoning Ordinance but which fails, by reason of **such said** adoption, revision or amendment, to conform to the present requirements of the zoning **ordinance district**.

NONCONFORMING LOT – A lot, the area, dimensions and location of which were lawful prior to the adoption, revision or amendment of **the this** Zoning Ordinance but which fails, by reason of **such said** adoption, revision or amendment, to conform to the present requirements of the zoning district.

NONCONFORMING USE – *A use of a building, structure or parcel of land which was lawful prior to the adoption, revision or amendment of this Zoning Ordinance but which fails, by reason of said adoption, revision or amendment, to conform to the present requirements of the zoning ordinance. A lawful use of a building, other structure or use of land which predated the adoption of the zoning use regulations now and/or previously in effect and which would not be a use authorized in the district designation currently applied to that site.*

~~*NONCONTRIBUTING STRUCTURE—A property or structure which, due to its recent vintage, incompatible design, incompatible and irreversible alterations, or secondary or incidental use, would not be considered to contribute to that character or quality of the Historic Overlay District that the Town seeks to preserve.*~~

~~*NONMUNICIPAL WELL—Any well not owned and operated by the Town of Durham or its agent.*~~

~~*NURSERY OR PRE-SCHOOL—A school for children primarily between the ages of three and five that provides preparation for elementary school.*~~

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. *(See Senior Care Facility.)*

~~*OCCUPANCY—The predominant use classification of a building, structure or land.*~~

OFF HIGHWAY RECREATIONAL VEHICLE – *See All-Terrain Vehicle. —Any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, belts, cleats, tracks, skis or cushion of air and dependent on the ground or surface for travel, or other unimproved terrain whether covered by ice or snow or not, where the operator sits in or on the vehicle. All legally registered motorized vehicles when used for off highway recreational purposes shall fall within the meaning of this definition;*

~~provided that, when said motor vehicle is being used for transportation purposes only, it shall be deemed that said motor vehicle is not being used for recreational purposes.~~

*OFFICE* – A place of business, including for nonprofit and governmental organizations, which includes these types of operations and practices: accounting, architecture, bookkeeping, business services, dentistry, engineering, financial services, general management, general sales, insurance, law, medicine, minor repair services (such as for bicycles, scooters, and lawnmowers but not including automotive engines or comparable components), personal services, professional services, real estate, research and development, telephone sales, and telecommunications. An “office” does not include uses that involve the sale of goods and materials or the physical production of goods and materials, other than those that are incidental to the primary office use, above.

~~*OFFICE, BUSINESS*—A place of business where activities such as general management, bookkeeping, accounting, telephone sales, and telecommunications take place, but where no “walk-in” consumer retail sales of physical products occur. A business office may include research and development activities, software development, and information transfer and management activities but shall not include the production of physical products for sale or distribution.~~

~~*OFFICE, PROFESSIONAL*—A building containing one (1) or more offices in which there is no display of unrelated stock or wares in trade commodity sold, nor any commercial use conducted other than the professional offices of a doctor, dentist, lawyer, architect, engineer and related laboratories, insurance agent, realtor or other similar professional services, but excluding barbershops, beauty salons or similar services.~~

*OLDER SINGLE-FAMILY RESIDENCE* – A single-family residence that has been at its current location since *at least* 1950. *See Reuse of an Older Single-Family Residence in* Article XX.

~~*OPACITY, VERTICAL VERTICAL OPACITY*~~ – The percentage of the area of a fence or wall, covered by boards, slats, metal links, and other materials, through which one cannot see. Vertical opacity is measured from an elevation drawing.

~~*OPEN SPACE*—Land such as, but not limited to, recreational areas, playgrounds, and conservation land that contains no structures other than those incidental to recreation or agriculture.~~

*OPEN SPACE* – Forests, fields, wetlands, and other undeveloped lands that contribute to the rural and pastoral character of Durham. Open space may include, but is not limited to, conservation areas, public lands, undeveloped land in private ownership whether protected or not, land being used for passive recreation, and agricultural lands (both cropland and grazing land). (Common Open Space is defined separately in Article XIX. Conservation Subdivisions.)

*OR – When used in a series of two or more allowed activities, such as “Dogs may be used for herding, working, or guarding livestock,” means “and/or,” such that any and all of the activities are allowed, individually or in combination. (In general, a reasonable judgment should be made based on the context for the intention of the use of “or.”)*

ORDINARY HIGH WATER MARK – The line on the shore, running parallel to the main stem of ~~the river~~ *a river or stream*, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the NH Department of Environmental Services (NH DES).

*OVERLAY DISTRICT - A defined area(s) of the town within which an additional set of standards is applied to all property, independent of the standards established in the underlying base zoning district. Overlay districts are typically identified on Town maps though some, including the Wetland Conservation Overlay District and the Personal Wireless Service Facilities Overlay District, are not. Six overlay districts are established as described in Articles XIII-XVIII.”*

~~*OVERSTORY—Vegetation ranging from fifteen (15) feet to the top of the forest canopy.*~~

~~*OWNER—An individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest to seek development of land*~~

*PARKING. See Parking Garage and Parking Lot.*

~~*PARKING SPACE—A space within or outside of a building, exclusive of driveways, meeting the minimal requirements of this chapter, used to temporarily park a motor vehicle and having access to a public street or driveway.*~~

~~*PERENNIAL STREAM—A stream or brook that, under normal circumstances, runs all year long.*~~

PERFORMANCE GUARANTY – Any security acceptable *by the town to the Town* as a guaranty that improvements required as part of an application for development *are will be* satisfactorily completed.

~~*PERSONAL SERVICES—Establishments primarily engaged in providing services involving the care of a person or his or her apparel. Personal Services includes fitness centers.*~~

*(This set of definitions below is moved to Article XVII, at the bottom. No changes are made.)*

*PERSONAL WIRELESS SERVICE FACILITY – See definitions in Article XVIII. Personal Wireless Service Facilities Overlay District.*

~~**PERSONAL WIRELESS SERVICE FACILITY**— Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service facilities include a mount, antenna, equipment shelter, and other related equipment. Specific definitions pertinent to Personal Wireless Service Facilities follow.~~

~~Alternative Tower Structure – Innovative siting structures that include artificial trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.~~

~~Antenna – The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.~~

~~Antenna Array – A collection of antennas attached to a mount to send and receive radio signals.~~

~~Average Tree Canopy Height – An average height found by inventorying the height at above ground level (AGL) of all trees over twenty (20) feet in height for a defined area, such as the area delineated in Section 175-103.A.4.~~

~~Camouflaged – A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.~~

~~Carrier – A company that provides personal wireless services, also sometimes referred to as a provider.~~

~~Co-location – The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.~~

~~Concealment – The enclosure of a personal wireless service facility within a natural or human-made feature resulting in the facility being not visible from the outside or being part of the feature enclosing it.~~

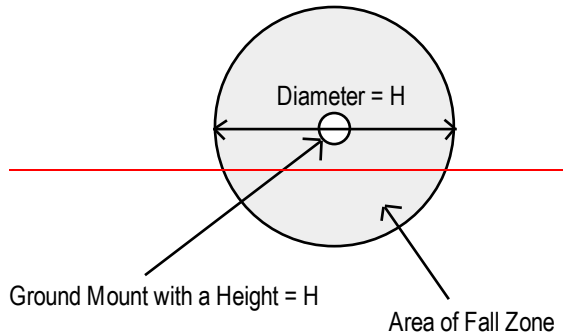
~~Disguise – Changing the appearance of a PWSF to appear to be something it is not.~~

~~Environmental Assessment (EA) – A document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.~~

~~Equipment Shelter – An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.~~

~~***Fall Zone*** – The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a diameter equal the height of the facility, including any antennas or other appurtenances, as set forth in Figure II-1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.~~

~~Figure II-1~~



~~***Guyed Tower*** – A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.~~

~~***Height*** – The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.~~

~~***Lattice Tower*** – A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and free-standing.~~

~~***Mast*** – A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.~~

~~***Monopole*** – A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel, concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.~~

~~***Mount*** – The structure or surface upon which antennas are mounted, including the following four types of mounts:~~

- ~~A. — Roof-mounted. Mounted on the roof of a building.~~
- ~~B. — Side-mounted. Mounted on the side of a building.~~
- ~~C. — Ground-mounted. Mounted on the ground.~~
- ~~D. — Structure-mounted. Mounted on a structure other than a building.~~

~~***Personal Wireless Services*** – The three types of services regulated by this Ordinance: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.~~



~~*Radio Frequency (RF) Engineer – An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.*~~

~~*Radio Frequency Radiation (RFR) – The emissions from personal wireless service facilities.*~~

~~*Security Barrier - A wall, fence, or berm that restricts an area from unauthorized entry or trespass.*~~

~~*Separation – distance between one carrier's array of antennas and another carrier's array.*~~

*PLANNED UNIT DEVELOPMENT (PUD) - A Planned Unit Development is an innovative planning tool that allows a landowner to propose their own development project with a fair degree of independence from zoning, site plan, and subdivision requirements otherwise applicable to that property. A PUD master plan functions as a special zoning district designation for a particular tract of land in terms of uses, dimensions, and other development standards.*

*PREFABRICATED HOUSING – See “Presite Built Housing.”*

PREMISES – A lot, parcel, tract, *site* or plot of land together with the buildings and structures thereon. ~~*Premises may be further defined as the principal use dwelling unit/residence, or non-residential building, and any accessory structures to that principal use, where there are multiple principal buildings on a single lot.*~~

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*~~ *Presite built housing does* not include manufactured housing as defined in RSA 674:31. *Presite built housing is also called “Modular Housing” or “Prefabricated Housing.” (Presite built housing is not regulated under this Zoning Ordinance.)*

~~*PRIMARY BUILDING LINE – The setback from the reference line.*~~

~~*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.*~~

*PRINCIPAL USE – The primary or predominant use(s) on a property to which all other uses are accessory. There is typically, but not necessarily, one principal use on a property.*

~~*PROHIBITED USE – A use which is not specifically permitted.*~~

~~*PUBLIC UTILITY – A public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing*~~

~~similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, telephone, television cable, gas and transportation for persons and freight.~~

**PUBLIC UTILITY** – A public service corporation, municipal body, or authority providing a specific public service subject to special governmental regulations, where the recipients pay for the service directly. Utilities typically include water supply, sewer service, piped gas, electric supply, telephone, television cable, internet access, and sometimes transportation services.

**PUBLIC WAY** – A road, sidewalk, footpath, trail, ~~or~~ navigable waterway, *or right of way* accessible to the public.

**QUALIFIED CONSERVATION ORGANIZATION** (~~See Article XIX – Conservation Subdivisions~~) – As defined in Section 170(h)(3) of the Internal Revenue Code of 1986 or any successor section, and the regulations promulgated thereunder, an organization that is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of that Code. (*See Article XIX – Conservation Subdivisions.*)

~~**RARE AND EXEMPLARY COMMUNITY** – A natural community that has been identified by the New Hampshire Natural Heritage Bureau as being an exemplary example of a particular type of community and/or location of rare plants or animals.~~

~~**RECREATION, ACTIVE** – Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed sites, locations, or fields. Active recreation includes, but is not limited to, swimming, tennis and other court games, baseball, track and field sports, and playground activities. Active recreation generally requires altering the land for recreational use.~~

~~**RECREATION, PASSIVE** – Non-motorized recreational activities that typically occur in a natural setting, that do not have significant adverse impacts to natural, cultural, scientific, or agricultural values of the setting, and do not require structures. Such passive recreation uses include, but are not limited to, walking, hiking, picnicking, nature observation, and cross-country skiing.~~

**RECREATIONAL FACILITY, INDOOR** – A building designed and equipped for leisure and recreational activities. ~~A building or structure enclosed by walls and a roof designed and equipped for the conduct of indoor sports, leisure activities, and other customary and usual recreational activities. These include, by way of example only, skating rinks, gymnasia, bowling alleys, fitness centers, and arcades.~~

**RECREATIONAL FACILITY, OUTDOOR** – A *place or structure site* designed and equipped for *the conduct of* outdoor sports, *leisure activities, and other customary and usual outdoor leisure and* recreational activities. ~~An outdoor recreational facility shall not involve~~ *It does not include* the use of individual motorized vehicles, all-terrain vehicles, off highway recreational vehicles, motorized rides (*except for electronic*

bicycles), or fire arms. ~~Outdoor recreation facilities include, by way of example only, miniature golf courses, cross country ski centers, stadia, tennis courts, and ball fields.~~

RECREATIONAL PLAYING FIELDS, OUTDOOR – Noncommercial **outdoor** playing fields for ~~organized practices like soccer, field hockey, baseball and similar~~ outdoor sports ~~as approved by the Planning Board of the Town of Durham through Site Plan Review~~. No structures **allowed are included** except for necessities like small sheds for maintenance and portable toilets. No lighting, voice amplification equipment or paved parking lots or areas ~~shall be permitted are included~~.

~~RECREATIONAL VEHICLE – A vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.~~

**RECREATIONAL VEHICLE** – A vehicle which is built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use. (Also called an “RV” or a “Motor Home.”)

[Reference line is being moved to the Wetland/Shoreland Overlay District being rewritten by a committee now.]

~~REFERENCE LINE – The regulatory limit of a surface water or wetland determined as follows:~~

- ~~1. For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by NHDES~~
- ~~2. For artificially impounded water bodies with established flowage rights, the limit of the flowage rights and for water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest.~~
- ~~3. For coastal waters the highest observable tide line, which means a line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.~~
- ~~4. For rivers and streams, the ordinary high water mark.~~

~~REPAIR – Work conducted to restore an existing legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.~~

~~REPAIR SERVICES – Businesses providing for the repair of personal and business property such as radios and televisions; electrical and electronic equipment; watches,~~

~~clocks, and jewelry; furniture and upholstery; sporting equipment; small engines and equipment; and similar items but not including the repair of motor vehicles, boats, or heavy equipment. Retail sales of parts and supplies shall be allowed provided such sales are accessory to the repair service.~~

~~RESEARCH FACILITY—A facility for the investigation into the natural, physical, or social sciences, and other such disciplines, including commercial product development and testing.~~

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

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.~~ A building with three or more dwelling units.

RESIDENCE, MULTI-UNIT COMPLEX – Two or more buildings of any residential type (single unit, duplex or multi-unit) with a total of three or more dwelling units.

RESIDENCE, SINGLE-FAMILY – A building *with a single dwelling unit 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.

RESTAURANT – A commercial establishment open to the general public where food and beverage are prepared, served and consumed *on site, primarily within the principal building.* ~~Adequate seating shall be provided.~~

~~RESTAURANT, CARRYOUT—A commercial establishment open to the general public which, by design of physical facilities or by service or packaging procedures, permits or encourages the purchase, either within or outside the premises, of prepared ready-to-eat foods intended to be consumed either on or off the premises.~~

RESTAURANT OR CAFETERIA ACCESSORY TO ~~AN OFFICE BUILDING~~ A *NONRESIDENTIAL USE* – A food service establishment that primarily serves occupants and other users of ~~an office building or complex~~ *a nonresidential use* rather than the general public.

RETAIL STORE, MEDIUM *SIZED* – ~~An establishment~~ A *retail store* with ~~five thousand (5,000) to twenty thousand (20,000)~~ *5,000 to 20,000* square feet of gross floor area ~~engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.~~

RETAIL STORE, SMALL – A retail store with less than ~~five thousand (5,000)~~ *5,000* square feet of gross floor area.

~~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.”~~

SCHOOLS – See "~~educational facilities.~~" "Educational Facility."

~~SCREENING—A device or materials used to conceal one (1) element of a site from other elements or from adjacent or contiguous sites. Screening may include one (1) or a combination of the following materials of sufficient mass to be opaque or which shall become opaque after twelve (12) months and which shall be maintained year-round in an opaque condition: walls, fences, berms or plantings.~~

SCREEN (or SCREENING) – A device or materials used to visually shield one site or one element of a site from a neighboring site or the street. Screening devices may include walls, fences, berms, plantings or a combination. Effective screening incorporates a high year-round vertical opacity. (Also see “Buffer.”)

~~SEASONAL HIGH WATER TABLE—The highest level of the groundwater table during the wettest season of the year, usually in the spring.~~

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”~~ *life-care community, continuous care retirement community (CCRC)* 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. (See *Nursing Home.*)

SENIOR HOUSING – ~~In accordance with~~ Pursuant to RSA 354-A:15, *senior housing refers to a development in which* 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. *In any development or portion of a development in Durham referred to as “senior housing” 100% of the units include at least one person 55 years of age or older, unless otherwise specified.*

SEPTAGE - Material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, but not including sewage sludge from public treatment works and industrial waste and any other sludge. (As defined in RSA 485-A:2.)

*[For setbacks, below, a new subsection is added under Section 175-56 Dimensional Standards at the bottom to better address where setbacks apply.]*

SETBACK – The required minimum (except where “maximum” is specified) horizontal distance in feet from a lot line, shoreline, or other ~~designated~~ *referenced* line *or point* to

~~any a structure. See The Table of Dimensions and Subsection 175-56. D. Setbacks. 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. (Also called “Yard.”)

~~SHOREFRONTAGE~~ SHORE FRONTAGE – The width of a lot bordering ~~on a waterbody or wetland~~ on the following waterbodies, measured in a straight line between the intersections of the lot lines with the reference line (See definition): Great Bay, Little Bay, the Oyster River, the Lamprey River, Johnson Creek, Bunker Creek, Folletts Brook, and the tidal sections of their tributary streams.

*[The ordinance does not define which waterbodies the shore frontage requirement in the Table of Uses refers to. I believe the intent of the provision and the practice of the Town is to apply it to these waterbodies.]*

~~SHORELAND PROTECTION ZONE—Encompasses all land within two hundred fifty (250) feet of the reference line of Great and Little Bays, the Oyster River, the Lamprey River, Durham Reservoir, Moat Island Pond, Johnson and Bunker Creeks, and Follett’s Brook including the tidal sections of their tributary streams; and within seventy-five (75) feet of all other perennial brooks. These water bodies are designated on the Durham Shoreland Protection Zone Overlay Map, which is based on United States Geological Survey quadrangle maps covering the Town of Durham.~~

SHORT-TERM RENTAL – An accessory use to an owner-occupied single-family residence containing, in addition to living accommodations for the owner and the owner’s family, not more than three sleeping rooms, for the purpose of providing to the general public, for compensation, lodging, with or without breakfast, for less than thirty consecutive days. A short-term rental is not considered a home occupation. (See Article XX.)

~~SIDEWALK—Any public or private way or thoroughfare, paved or unpaved, intended for the use of pedestrians or foot traffic.~~

*[This set of definitions for Signs below is moved to Article XXIII. No changes are proposed.]*

SIGN – See definitions in Article XXIII. Signs.

~~SIGN—Any exterior or exterior-oriented structure, or part thereof, or device attached thereto, or other outdoor surface including billboards or any combination of one or~~

~~more of the foregoing containing any word, letter, symbol, drawing, model, banner, flag, picture or design, or any device used for visual communication which identifies or calls attention to any premises, person, product activity, or business, directing the subject thereof to the attention of the public. Specific definitions pertinent to signage follow.~~

~~Accessory Sign – Any sign relating to a business on the premises on which the sign is located.~~

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

~~Combination Sign – Any sign which combines the characteristics of two or more types of signs.~~

~~Flashing Sign – Any sign that moves, flashes, contains traveling lights, or gives the impression of any movement or flashing.~~

~~Freestanding Sign – Any sign which is not a part of or attached to any building but is located elsewhere on a lot.~~

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

~~Illuminated Sign – Any sign that is lit by electricity either directly or indirectly.~~

~~Monument Sign – A type of freestanding sign that is anchored to the ground without poles or posts, often with a masonry surround.~~

~~Neon Sign – Any light sign using exposed neon tubes for illumination or display.~~

~~Non-Accessory Sign – Any sign advertising a business or businesses at other locations.~~

~~Private Directional Sign – Any sign of a permanent nature that directs the traveling public to specific buildings, areas, people or things.~~

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

~~Public Clock and Thermometer – Any time piece or thermometer erected upon a structure upon the sidewalk or ground or on the exterior of a building or structure for the convenience of the public.~~

~~*Pole Sign – A type of freestanding sign supported by or suspended from a freestanding column or columns of structural steel, pipe or poles.*~~

~~*Reader Board – A sign that is flush mounted, does not exceed three (3) square feet in size and provides a fixed location for the advertisement of daily specials.*~~

~~*Roof Sign – Any sign erected upon or over the roof of any building.*~~

~~*Sandwich Board Sign – A portable sign with an A-frame shape intended to be placed in a front yard or on a public sidewalk.*~~

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

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

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

*SLOPE – A measurement of the deviation of a ground surface from horizontal measured in percent (rise over run) or in degrees. (See Grade.)*

*SOIL SURVEY, HIGH INTENSITY – A soils map and related materials prepared and certified by a New Hampshire Certified Soil Scientist in accordance with ~~the most recent standards for high intensity soils surveys and/or mapping published by the~~ *The Society of Soil Scientists of Northern New England (SSSNNE) Special Publication - No.1, High Intensity Soil Maps for New Hampshire ([www.sssnne.org](http://www.sssnne.org)), as amended.**

*SOLID WASTE – Any discarded or abandoned material, including refuse, putrescible material, septage or sludge, as defined by New Hampshire Solid Waste Rule He-P 1901.03. ~~"Solid waste"~~ *Solid Waste* includes solid, liquid, semisolid or gaseous waste material resulting from residential, industrial, commercial, mining and agricultural operations.*

*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.~~ See Article VIII. Variances and Special Exceptions.*

~~*SPECIAL FLOOD HAZARD AREA – See "Area of Special Flood Hazard."*~~

~~*START OF CONSTRUCTION – The date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other*~~



~~improvement occurs within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of manufactured housing or pre-site built housing on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations on the property or accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.~~

**STEEP SLOPE** – A slope exceeding 15%. See Slope.

**STREET, COLLECTOR** – A middle-order street which is functionally classified as a “collector” and ~~that~~ collects local traffic from neighborhoods and moves it to an adjacent neighborhood or transfers the traffic to the arterial system. *Bagdad Road*, Bay Road, Bennett Road, Durham Point Road, *Emerson Road*, Madbury Road, Main Street (from Newmarket Road to Mast Road), Mill Road, and Packers Falls Road are considered collector streets.

~~**STREET LINE** – The line dividing a lot from a street right-of-way.~~

*[Street Line moved after Street, Public, below]*

**STREET, PRIVATE** – A private right-of-way for vehicles which provides a principal means of access to two (2) or more lots and is subject to an easement for ingress and egress running with the land to the benefit of all lots having frontage thereon. ~~Such easement shall define the parties responsible for maintenance, the collection of trash and recyclables, and snow removal.~~

**STREET, PUBLIC** – A dedicated public right-of-way for vehicles which affords a principal means of access to abutting properties.

**STREET LINE** – The street right of way line/lot boundary line separating the street right of way from the lot.

**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, *fence, wall*, swimming pool, mobile home, *freestanding sign*, billboard, pier, wharf, septic system, ~~parking space/parking lot, parking space, parking lot, deck, patio, and minor installations such as a light pole, flag pole, and mailbox. See Section 175-56. D. for setbacks applicable to structures. 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.~~

*[This definition below is moved to the Article for the Historic District.]*

~~STRUCTURE—(For Historic Overlay District purposes) Anything within the Historic Overlay District that is built or constructed with a fixed location on the ground or attached to anything with a fixed location on the ground including but not limited to buildings, fences, walls, signs, light fixtures, decks, porches, and steps.~~

~~STRUCTURED PARKING—A structure or portion of a structure that provides parking. The parking may be above or below grade, may be covered or uncovered, and may be on multiple levels. See “Surface Parking”~~

~~PARKING GARAGE – A building or portion of a building that includes two or more levels of parking or a mixed-use building with two or more levels where parking is situated on at least one level. A parking garage may be completely enclosed or supported with open columns and the parking or portions of the parking may be situated below ground.~~

~~STUDENT HOUSING – A development designed for and occupied primarily by full-time undergraduate college students. Student housing developments typically or frequently have these features: a) spaces are rented by the bed; b) occupants within dwelling units are not related; c) there is limited shared living space and limited cooking facilities; d) each bedroom has its own bathroom; and e) leases are guaranteed by parents or guardians.~~

~~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 or resubdivision of a lot into two or more lots, a lot line adjustment, the creation of a condominium, or the conversion of land or a building(s) to a condominium form of ownership.~~

~~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.~~

~~SUBSTANTIAL DAMAGE—Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.~~

~~SUBSTANTIAL IMPROVEMENT—Any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure shall be the appraised value prior to the start of the initial repair or~~

~~improvement or, in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~

~~**SURFACE PARKING**—A parking lot or similar uncovered, single-level parking facility that provides at-grade parking that is not located within a structure.~~

**PARKING LOT** – An open-air parking area situated on the ground, at grade, on a single level and not within a garage or parking structure. “Surface parking” may incorporate one or more retaining walls to provide an adequate finish grade. A car port and a parking lot covered with solar panels are considered “surface parking.”

**THEATER** – A building or part of a building **devoted to** whose principal use is showing motion pictures or **providing** live **dramatic or musical** performances.

~~**TREATED SOILS**—Soils decontaminated by a treatment process and certified for distribution and use as soil under NH Env-Wm 3203.11, having originally been contaminated with liquids or materials not regulated by the State of New Hampshire as hazardous waste defined under NH Env-Wm 2603.01.~~

~~**TRUCKING AND DISTRIBUTION FACILITY**—A facility for the short-term storage and trans-shipment of materials or goods including express delivery, common carriers, oil terminals, moving companies, and similar operations.~~

~~**UNDERSTORY**—Vegetation ranging from three (3) feet to fifteen (15) feet in height.~~

**USE** – The specific purpose(s) for which a building or lot **or a portion thereof** 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~~ **is** determined in accordance with the provisions of Section 175-56(E).

**VARIANCE** – A **variation deviation** from the terms of this chapter, ~~not otherwise permitted within the district concerned, which may be granted by the Zoning Board of Adjustment pursuant to its discretionary power allowed when the Zoning Board of Adjustment determines that the required criteria are met.~~ **See Article VIII.**

**[Vernal pool is moved to proposed revised Wetland and Shoreland Overlay District]**

~~VERNAL POOL—A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, Identification and Documentation of Vernal Pools in New Hampshire, rev 2004, as amended.~~

~~VETERINARY CLINIC/GROOMING ANIMAL CARE~~ – A facility where animals or pets are given medical or surgical treatment, *provided with grooming, or provided with training or where animals and pets are groomed*, and in which the boarding of animals is short-term and incidental to the ~~medical care or grooming~~ *medical care, grooming, or training*.

~~WAREHOUSE, MINI STORAGE SELF STORAGE FACILITY~~ – Any self-service facility composed of individual units or lockers rented to the public for storage of personal or business belongings. ~~Any self-service storage building housing individual storage units or lockers, each of which is accessible through a private entrance, and rented to the public for storage of personal or business belongings.~~

~~WATER-DEPENDENT STRUCTURE—A structure that services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.~~

[The term related to Wetlands below are being moved to the proposed revised Wetland and Shoreland Overlay District.]

~~WETLAND – See the Wetland and Shoreland Overlay District. 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.~~

~~WETLAND, NON-TIDAL—A wetland that is not subject to periodic inundation by tidal waters.~~

~~WETLAND, PRIME—A wetland designated by the Town Council in accordance with RSA 482-A:15 as having one or more of the values set forth in RSA 482-A:1 and that, because of its size, unspoiled character, fragile condition or other relevant factors, makes it of substantial significance.~~

~~WETLAND, TIDAL—A wetland whose vegetation, hydrology, or soils are influenced by periodic inundation of tidal waters.~~

~~WHOLESALE SALES—Trade that involves the sale of merchandise, in bulk or large quantities, exclusively to retailers for resale or to industrial, commercial, or institutional users.~~

*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].*

*WORKFORCE HOUSING CONSERVATION SUBDIVISION – A conservation subdivision that provides housing for rent and/or for sale which meets the standards for Workforce Housing.*

YARD – See Setback Area.

## 2) **PROPOSED CHANGES TO OTHER ARTICLES RELATED TO THE PROPOSED CHANGES ABOVE**

### ❖ **Article XII.1. Use and Dimensional Standards**

#### 175-53. Table of Land Uses.

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

#### 175-56. General Dimensional Standards.

- ***Change “D. Permitted uses in setback areas.” to “D. Setbacks. Setbacks apply to all structures with the following exceptions and additional provisions:”***
- ***Add the following provisions under D. Setbacks:***
- 3. *Setbacks do not apply to the following structures unless another provision provides setbacks specifically to those structures: fences, retaining walls less than six feet in height, signs, light poles, utility poles, flagpoles, structures such as piers and docks where the setback would prevent installation of the structure where it must inherently be situated, driveways, and minor installations like mailboxes,*
- 4. *Where eaves, overhangs, cladding materials, and architectural details on a building project 18” or less from the building face, the setback is measured from the applicable*

*building foundation. Where eaves, overhangs, cladding materials, and architectural details on a building project more than 18” from the building face, the setback is measured from the furthest point where those elements extend from the building.*

❖ **Article XV. Flood Hazard Overlay District**

➤ **Add a new Section 175-77.1. Definitions as follows:**

*175-77.1 Definitions. Specific definitions pertinent to the Flood Hazard Overlay District, as defined by the Federal Emergency Management Agency, follow:*

*Area of Special Flood Hazard - The land in the floodplain within the Town of Durham subject to a one percent or greater possibility of flooding in any given year. The area is designated as Zones A and AE on the Flood Insurance Rate Map (FIRM).*

*Base Flood - The flood level having a one-percent possibility of being equaled or exceeded in any given year.*

*Base Flood Elevation - The water surface elevation having a one percent possibility of being equaled or exceeded in any given year.*

*Basement - Any area of a building having its floor subgrade on all sides.*

*Building - Any structure designed or intended for the support, enclosure, shelter or protection of persons, domestic animals, chattels or property. For purposes of determining exterior measurements or footprint in order to locate the setback line, "building" includes all attached structures such as open or closed porches, carports, garages, balconies, stairways and other similar structures. (Also see “Structure” for floodplain management purposes.)*

*Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*

*FEMA - The Federal Emergency Management Agency.*

*FIRM – See Flood Insurance Rate Map.*

*Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.*

*Flood Insurance Rate Map (FIRM) - The official map incorporated with this ordinance, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.*

**Flood Insurance Study** - An examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

**Floodplain or Flood-Prone Area** - Any land area susceptible to being inundated by water from any source. See "flood or flooding."

**Floodproofing** - Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

**Highest Adjacent Grade** - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** - Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) by an approved state program as determined by the Secretary of the Interior, or
  - (ii) directly by the Secretary of the Interior in states without approved programs.

**Lowest Floor** - The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's "lowest floor," provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

**Manufactured Home** - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management

*purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.*

*Manufactured Home Park or Subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.*

*Mean Sea Level - The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.*

*New Construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.*

*Recreational Vehicle (RV) - A vehicle which is: (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.*

*Special Flood Hazard Area - See "Area of Special Flood Hazard."*

*Start Of Construction - Includes substantial improvements, and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement occurs within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of manufactured housing or ~~pre-site~~ presite built housing on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.*

*Structure (for Floodplain Management Purposes) - A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.*



*Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.*

*Substantial Improvement - Any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure shall be the appraised value prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a "historic structure."*

*Violation - The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.*

*Water Surface Elevation - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains.*

❖ **Article XVI. Aquifer Protection Overlay District**

➤ **Insert a new Section 175-84.1 Definitions as follows:**

*175-84.1. Definitions.*

*The following definitions apply in this overlay district:*

*Aquifer. A geologic formation, group of formations or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies. Aquifer includes both bedrock aquifers and stratified drift aquifers.*

*Aquifer Recharge Area. The area in which water is absorbed that eventually reaches the zone of saturation in one or more aquifers.*

*Leachable Wastes. Waste materials, including but not limited to solid wastes, sewage sludge and agricultural wastes, that can leach contaminants into the groundwater or surface water resources.*

❖ **Article XVII. Durham Historic Overlay District**

➤ **Create a new Section 175-90.1 Definitions with new definitions as follows:**

*175-90.1 Definitions. The following definitions apply within the Historic Overlay District:*

*Contributing Structure. A property or structure in the Historic Overlay District that is part of Durham's heritage and contributes to the district's sense of time, place and historical development by virtue of its age, historical use, location, design, setting, materials, workmanship, aesthetics, or association, as determined by the Historic District Commission.*

*Exterior Architectural Appearance. The architectural character, general composition, and arrangement of the exterior of the structure, including the kind, color, and texture of the building materials and type and character of windows, doors, light fixtures, signs, and appurtenant elements.*

*Noncontributing Structure. A property or structure which, due to its recent vintage, incompatible design, or incompatible alterations would not be considered to contribute to that character or quality of the Historic Overlay District that the Town seeks to preserve.*

*Structure. Anything that is built or constructed with a fixed location on the ground or attached to anything with a fixed location on the ground including but not limited to buildings, fences, walls, signs, light fixtures, decks, porches, and steps.*

❖ **Article XVIII. Personal Wireless Service Facilities Overlay District.**

➤ **Add new Section 175-100.1 Definitions, as follows:**

*175-100.1. Definitions.*

*The following terms apply to personal wireless service facilities.*

*Alternative Tower Structure - Innovative siting structures that include artificial trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.*

*Antenna - The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.*

*Antenna Array - A collection of antennas attached to a mount to send and receive radio signals.*

Average Tree Canopy Height - An average height found by inventorying the height at above ground level (AGL) of all trees over twenty (20) feet in height for a defined area, such as the area delineated in Section 175-103.A.4.

Camouflaged - A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

Carrier - A company that provides personal wireless services, also sometimes referred to as a provider.

Co-location - The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

Concealment - The enclosure of a personal wireless service facility within a natural or human-made feature resulting in the facility being not visible from the outside or being part of the feature enclosing it.

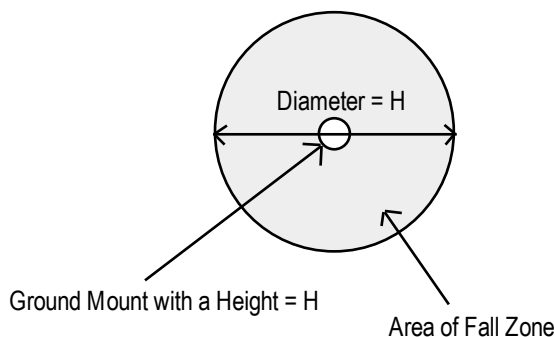
Disguise - Changing the appearance of a PWSF to appear to be something it is not.

Environmental Assessment (EA) - A document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

Equipment Shelter - An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Fall Zone - The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a diameter equal the height of the facility, including any antennas or other appurtenances, as set forth in Figure II-1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Figure XVIII-1



*Guyed Tower* - A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

*Height* - The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

*Lattice Tower* - A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and free-standing.

*Mast* - A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

*Monopole* - A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel, concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

*Mount* - The structure or surface upon which antennas are mounted, including the following four types of mounts:

- A. *Roof-mounted. Mounted on the roof of a building.*
- B. *Side-mounted. Mounted on the side of a building.*
- C. *Ground-mounted. Mounted on the ground.*
- D. *Structure-mounted. Mounted on a structure other than a building.*

*Personal Wireless Service Facility* – Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service facilities include a mount, antenna, equipment shelter, and other related equipment. Specific definitions pertinent to Personal Wireless Service Facilities follow.

*Personal Wireless Services* - The three types of services regulated by this Ordinance: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

*Radio Frequency (RF) Engineer* - An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

*Radio Frequency Radiation (RFR)* - The emissions from personal wireless service facilities.

*Security Barrier* - A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

*Separation* - distance between one carrier's array of antennas and another carrier's array.

- **Change the label for the figure in Section 175-104 A. 7. from “Figure XVIII” To “Figure XVIII-2**

❖ **Article XX.1 Standards for Agricultural Uses.**

- **Add a new Section 175-109.2 Definitions as follows (and renumber the current section 175-109.2 to 175-109.3):**

*175-109.2 Definitions. The following definitions apply to this article:*

*AGRICULTURE – Including but not limited to all uses, accessory uses, structures, functions, and events as defined in RSA 21:34-a - Farm, Agriculture, Farming, as amended. (See the Table of Uses and Article XX.1 for specific standards and restrictions.)*

*Accessory Uses. The following are considered accessory uses to an allowed agricultural use:*

- 1. The storage, use of, and spreading of soil amendments, as defined in this section.*
- 2. The use and application of agricultural chemicals pursuant to state requirements.*
- 3. The preparation for market, delivery to storage or to market, and delivery to carriers for transportation to market of any products and materials from the farm.*
- 4. The transportation of farm workers.*
- 5. The marketing and selling at wholesale or retail of any products from the farm, on-site and off-site, where not otherwise prohibited or regulated.*
- 6. Irrigation of growing crops from private water supplies or public water supplies.*
- 7. The use of dogs or other livestock guard animals for herding, working, and guarding livestock.*
- 8. The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.*
- 9. A farmstand situated on farm land owned by the operator of the farmstand provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms owned by the operator of the farmstand. Items not produced on the farm or farms owned by the operator are limited to agriculture-related products, specialty*

*foods, gift items, crafts, and items reflecting agriculture and rural America.*

10. *Use of new technologies recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and appropriate agencies of the United States Department of Agriculture.*

11. *Agritourism, as defined in this section.*

*Agricultural Sales, Commercial.* *Sale of items specifically including agriculture-related products, trees, specialty foods, gift items, crafts, and items reflecting agriculture and rural America. (This use need not be located on a farm property, in contrast to Farmstand, Accessory, below.)*

*Agritourism.* *Attracting visitors to a farm to attend events and activities that are accessory, related and subordinate to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, and active involvement in the activity of the farm.*

*Animal Feedlot.* *A commercial agricultural establishment consisting of confined feeding areas and related structures used for the finishing of livestock.*

*Aquaculture.* *The commercial raising, harvesting, and sale of fish and other aquaculture products.*

*Aquaculture – Accessory Use.* *The noncommercial raising and harvesting of fish and other aquaculture products for personal consumption.*

*Bees, Keeping of.* *The raising of bees and cultivation and sale of bee products.*

*Bees, Keeping of - Accessory Use.* *The raising and breeding of bees for noncommercial purposes, other than incidental sales of bee products produced on the premises, in conjunction with a residence.*

*Best Management Practices For Agriculture (BMPs)* – *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. BMPs also include other practices and procedures recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and the United States Department of Agriculture. Other documents providing guidance for agricultural practices and procedures endorsed by the Durham Agricultural Commission as appropriate references for best management practices are also deemed BMPs.*

[Reference: <http://agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>]

Chickens and Turkeys, Keeping of - Accessory Use. *The breeding and raising of chickens and turkeys for noncommercial purposes in conjunction with a residence. (Note that Poultry, keeping of as a principal use is not restricted to chickens and turkeys.)*

Crop Cultivation. *The cultivation, conservation, and tillage of the soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, and horticultural crops and any other plant including greenhouse and high-tunnel crops and tree products and any other plant that can be legally grown and harvested extensively for profit or subsistence.*

Farm or Farming. *Any land, buildings, or structures on or in which agriculture and farming activities are conducted, including the residence(s) of owners, occupants, and employees located on the subject land. This includes all farm outbuildings and any other structures used in the farm operations. An operation may be deemed a commercial farm where at least \$10,000 of agricultural products is produced and sold in a year.*

Farmers' Market. *An event or series of events at which two or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale include, but are not limited to, products of agriculture, as defined in RSA 21:34-a. A farmers' market does not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.*

Farmstand, Accessory. *A farmstand as defined under Accessory Uses, above. (Contrast to Agricultural Sales, Commercial, above.)*

Forestry. *The production, cultivation, growing, harvesting, and sale of any trees or nursery stock.*

Fur-bearing Animals, Keeping of. *The raising, breeding, and sale of domesticated strains of fur-bearing animals, such as mink, ermine, and chinchilla.*

Goats and Sheep, Keeping of. *The raising, breeding, and sale of goats and sheep.*

Goats and Sheep, Keeping of – Accessory Use. *The raising and breeding of goats and sheep for noncommercial purposes in conjunction with a residence.*

Horses, Keeping of. *The commercial breeding, boarding, raising, training, riding instruction, and selling of horses, mules, donkeys, and other equidae.*

Horses, Keeping of - Accessory Use. *The noncommercial breeding, boarding, raising, and riding of horses, mules, donkeys, and other equidae.*

Livestock - Large, Keeping of. *The raising, breeding, or sale of beef and dairy cattle, steer, oxen, domesticated strains of buffalo, bison, llamas, alpacas, emus,*

*ostriches, yaks, elk (Cervus canadensis), fallow deer (Dama dama), red deer (Cervus elephus), and reindeer (Rangifer tarandus).*

*Livestock – Large, Keeping of – Accessory Use.* *The raising and breeding of large livestock, specifically including the animals listed above, for noncommercial purposes, other than incidental sales of any related products produced on the premises, in conjunction with a residence. This use includes one or two animals per lot.*

*Poultry, Keeping of.* *The raising, breeding, and sale of poultry, including chickens, turkeys, ducks, geese, and gamebirds. (Note that Chickens and Turkeys, keeping of – Accessory Use is restricted to only those two types of poultry.)*

*Rabbits, Keeping of.* *The raising, breeding and sale of rabbits.*

*Rabbits, Keeping of – Accessory Use.* *The raising and breeding of rabbits for noncommercial purposes in conjunction with a residence.*

*Soil Amendments.* *Including commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.*

*Swine, Keeping of.* *The raising, breeding, or sale of swine and swine products.*

*Swine, Keeping of – Accessory Use.* *The raising and breeding of swine for noncommercial purposes, other than incidental sales of any related products produced on the premises, in conjunction with a residence. This use includes one or two animals per lot.*

❖ **Article XXIII. Signs and Communications Devices.**

- ***Change the name of this Article from “Article XXIII. Signs and Communications Devices” to “Article XXIII. Signs.” wherever the name of this article appears in the Zoning Ordinance.***

*[The following terms are in the current Definitions article. They are not being included below because they do not appear in the ordinance: Advertising Sign, Combination Sign, Identifying Sign, Illuminated Sign, Monument Sign, Non-Accessory Sign, Private Directional Sign, Public Clock and Thermometer, and Size of Sign. Some provisions under Size of Sign are being incorporated into Section 175-120 General Provisions for signage below.]*

- ***Insert a new Section 175-119.1 Definitions as follows:***

***175-119.1 Definitions.***



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

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

Freestanding Sign - Any sign which is not a part of or attached to any building but is located elsewhere on a lot.

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

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

Pole Sign - A type of freestanding sign supported by or suspended from a freestanding column or columns of structural steel, pipe or poles.

Reader Board - A sign that is flush mounted, does not exceed three (3) square feet in size and provides a fixed location for the advertisement of daily specials.

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

Sandwich Board Sign - A portable sign with an A-frame shape intended to be placed in a front yard or on a public sidewalk.

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

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

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

➤ **Add this new language to Section 175-120. General Provisions. 2.**

2. In measuring signage, the square footage shall be computed based on the smallest rectangle (or other appropriate regular shape) that will encompass the outer limits of the writing, representation, logo, and other images, along with any material or color forming an integral part of the background of the sign. *Where a sign is composed of fabricated letters attached to a wall, the size of the sign is determined as twice the average height of the letters times the length of the message.* A conventional

border around the sign panel shall not count toward the sign size except if the size of the border is unusually large or prominent in which case it shall count toward sign size. In unusual circumstances, the Zoning Administrator may make reasonable adjustments in determining how to measure the sign.

4) **PROPOSED CHANGES TO OTHER ARTICLES NOT RELATED TO THE PROPOSED CHANGES ABOVE**

❖ **Article IV. Interpretation, Amendments, and Legal Provisions**

**175-14. Amendment Procedure.**

**D. Public Notice and Hearing Requirements.**

1. Notice. Notice shall be given for the time and place of the public hearing at least ten (10) days before the hearing. The notice required under this section shall not include the day notice is posted or published or the day of the public hearing. Notice of ~~each the~~ public hearing shall be *posted prominently on the Town's website and published in a newspaper of general circulation in the municipality and shall be posted* in at least two (2) *other* public places.