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## **ORDINANCE #2025-06 OF DURHAM, NEW HAMPSHIRE**

**AMENDING CHAPTER 175, "ZONING," ARTICLE II, "DEFINITIONS," ARTICLE XII, "BASE ZONING DISTRICTS," SECTION 175-42, "CENTRAL BUSINESS DISTRICT, ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," SECTION 175-53, "TABLE OF LAND USES," AND SECTION 175-54, "TABLE OF DIMENSIONS," AND THE ZONING MAP OF THE TOWN CODE TO CREATE TWO NEW CENTRAL BUSINESS ZONING DISTRICTS.**

**WHEREAS**, it is desirable for the use Mixed-Use with Residential to be allowed by right rather than by conditional use in most of the Central Business District because it is the primary type of development appropriate in the Central Business District and the conditional use process can be cumbersome; and

**WHEREAS**, it is desirable to maintain Mixed-Use with Residential as a conditional use at Mill Plaza because of reasonable concerns from the adjacent residential neighborhood about allowing large multi-unit housing with less ability to manage the design for projects allowed by right; and

**WHEREAS**, separating the Central Business District into a Central Business-1 District and a Central Business-2 District will allow the Town to adjust zoning as appropriate for two very different sections – the main district and Mill Plaza which is not a typical downtown style site; and

**WHEREAS**, the Durham Downtown Zoning Subcommittee and the Durham Housing Task Force developed this proposed zoning amendment for the purpose of strengthening the downtown and enhancing housing opportunities; and

**WHEREAS**, the chair of the Housing Task Force presented this zoning amendment along with three other initiatives to the Town Council on March 3 and March 17, 2025; and

**WHEREAS**, the Town Council voted to initiate this zoning amendment; and

**WHEREAS**, the Planning Board held a public hearing on this amendment and notified the owners of all land within the Central Business District of the proposal, and voted unanimously to support the amendment; and

**WHEREAS**, the Town Council held a public hearing on this amendment and enthusiastically supports it as offering a significant boost to much needed new development in the downtown.

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt **Ordinance #2025-06** amending Chapter 175, "Zoning," Article II, "Definitions," Article XII, "Base Zoning Districts," Section 175-42, "Central Business District, Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Land Uses," and Section 175-54, "Table of Dimensions," and the Zoning Map of the Town Code to create two new Central Business Zoning Districts.

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*Proposed new text is shown like this*

~~Existing text proposed to be deleted is shown like this.~~

Throughout the ordinance change "Central Business District" to "Central Business Districts," or "Central Business District(s)" as appropriate, and change grammar accordingly with the change from a singular Central Business District to plural Central Business Districts. In the Table of Contents under Article XII Base Zoning Districts change "Central Business District (CB)" to "Central Business Districts (CB-1 and CB-2)."

- ❖ Change the definition for "Commercial Core" in **Article II Definitions** to read:

**COMMERCIAL CORE** – *The Commercial Core includes six zoning districts: the Central Business-1 District (CB-1), the Central Business-2 District (CB-2), the Church Hill District (CH), the Coe's Corner District (CC), the Courthouse District (C), and the Professional Office District (PO).*

## **ARTICLE XII BASE ZONING DISTRICTS**

**175-42. ~~Central Business District (CB)~~—Central Business-1 District (CB-1) and Central Business-2 District (CB-2)**

- A. Central Business-1 District (CB-1) and Central Business-2 District (CB-2)**  
*Central Business-1 District and Central Business-2 District are two separate zoning districts. However, all of the provisions in this ordinance referred to as "Central Business District(s)" apply to both Central Business-1 District and Central Business-2 District except where otherwise stated.*
- B. Purpose of the Central Business District.** The purpose of the Central Business District is to maintain the mixed-use, pedestrian-oriented character of the downtown area while accommodating new development, redevelopment, and enlargement of existing buildings in a manner that maintains and enhances the small town character of the downtown.



Downtown Durham should be an attractive and vibrant community and commercial center where desirable residential, retail, office, and other nonresidential growth can occur in a clean, safe, pedestrian-friendly environment. The Central Business District is intended to accommodate a range of uses in a manner that encourages fuller utilization of the limited area of Downtown through denser building construction and modified parking requirements. *The Central Business District is separated into two zoning districts, Central Business-1 District and Central Business-2 District for the purpose of treating aspects of Central Business-2 District that vary from the character of Central Business-1 District differently, in particular the presence of large parking lots on the two sites in CB-2 and the specific character of a shopping plaza on one site and university buildings on the other. Central Business-2 District also functions as a transition zone between the traditional downtown commercial character of Central Business-1 District and the residential neighborhoods situated to the south.*

**C. Development Standards in the Central Business District** In addition to the dimensional standards, development in the Central Business District shall conform to the following additional requirements:

1. Building Setback – Along the westerly side of Madbury Road from Main Street to Pettee Brook Lane, the front wall of the principal building shall be located no closer than 15 feet to, and no farther than 20 feet from, the front property line. Along the westerly side of Madbury Road from Pettee Brook Lane to Garrison Avenue, the front wall of the principal building shall be located no closer than 20 feet to, and no farther than 30 feet from, the front property line. For corner lots, this requirement shall apply to all frontages abutting a public street. Up to 50 percent of the front façade may be recessed beyond the maximum setback distance if the space between the front wall and the front property line is used as pedestrian area in accordance with paragraph 4. below. The expansion or modification of an existing building shall be exempt from this requirement if the Planning Board finds that conformance with this requirement would not be consistent with the character of the existing building.
2. Pedestrian Area – The area directly in front of the front wall of the building and extending to the front property line shall be maintained as a pedestrian area and shall be improved with appropriate amenities to link the building with the sidewalk and to encourage pedestrian and/or customer use of this space. For corner lots, this provision shall apply only to the frontage on the street with a greater amount of pedestrian traffic.
3. Front Entrance – The front wall of the principal building shall contain a front door providing access to the building for tenants, customers, or other users of the building, unless the Planning Board determines that placement of the front door on another façade is a practical approach and the design of the front façade will engage the street in an effective and attractive manner. If the front wall of the building is located behind the front property line, a paved sidewalk or other appropriate pedestrian way shall be provided from the sidewalk to the front door. This provision shall not be interpreted to prevent the creation of other entrances to the building. For corner lots, this provision shall apply only to the frontage on the street with a greater amount of pedestrian traffic.
4. Storage and Service Areas – All storage and service areas and facilities including dumpsters shall be located to the side or rear of the principal building and shall not be

visible from a public street. Dumpsters and storage areas shall be screened or landscaped in accordance with the provisions of Article XXII and Chapter 118, Article 3, Section 118-18 of the Solid Waste Ordinance.

5. Minimum Building Height – All new principal buildings or additions to existing principal buildings that increase the building footprint by more than 20 percent, shall have a minimum of 2 usable stories or a height equivalent of 2 stories above adjacent grade at the front wall of the building.
6. Maximum number of stories – The maximum number of permitted stories is 4 except as restricted in sections 8 and 9 below. However, the maximum number of permitted stories in the remainder of the district outside of the area covered in sections 8 and 9 below, may be increased to 5 stories subject to all of the following provisions. *This allowance for a fifth story applies in the Central Business-1 District, but not in the Central Business-2 District:*
  - a. Adding a story is permitted by conditional use.
  - b. The provisions regarding percentage of office/retail use apply.
  - c. The additional fifth story must be set back from the first floor as follows:
    - i. by at least 10 feet where any side of the building faces a public street;
    - ii. by at least 20 feet where any side of the building faces Main Street; and
    - iii. by at least 25 feet where any side of the building faces an adjacent lot (not separated by a street) situated in the section of the Central Business District that is restricted to 3 stories (Section 175-42 B. 8. and 9., or as those subsections may be renumbered in the future).

The setback in i. and ii., above, also applies where they may be any intervening street or road that has never been built but which appears on an approved plat or other Town plan.
  - d. The Planning Board must determine that the additional story will not have an adverse impact upon the streetscape, giving particular consideration to scale and mass (See Architectural Regulations for guidance).
  - e. Building height. When an additional story is incorporated under this section the maximum building height is 60 feet.
7. Required office/retail uses for a mixed-use with residential building
  - a. One-story building: A mixed-use with residential use is not allowed in a one-story building.
  - b. Two-story building: The entire first floor must be office/retail.
  - c. Three- or four- story building: The entire first floor must be office/retail. Alternatively, office/retail uses may be located anywhere on the first, second, third, and fourth floors provided: 1) the amount of office/retail equals or exceeds the square footage of the first floor and 2) where the building fronts on a public road, the first floor of the portion of the building facing the road must be office/retail to a depth of at least 50 feet.
  - d. Five-story building: The entire first floor must be office/retail. Also, 1 additional floor (any floor) or an area equal to the square footage of the 1/5 story must be




office/retail. *(See subsection 6., above. A fifth story is not allowed in the Central Business-2 District.)*

- e. For a building where there are distinct sections with a different number of stories and for sites where there are multiple buildings, the required minimum overall office/retail gross square footage is determined by the sum of the minimum office/retail area required by each distinct section, or by each separate building, using the required office retail space specified above. For these sites, the disposition of office/retail and residential space on the site is flexible provided the minimum overall amount of office/retail required is included and the Planning Board determines that the configuration of the building and its uses meets the intent of this subsection 7.
  - f. Outdoor public use areas. Outdoor space on the subject property that is dedicated in perpetuity to public use may be used to meet the office/retail square footage requirement on a one-to-one basis provided that: a) the Planning Board determines that the design, location, management, and other aspects of the space will add a significant public amenity to the project; and b) the outdoor space may be used to meet a maximum of 50 percent of the overall required office/retail square footage.
8. Maximum Height of Mixed-Use Buildings, Section of Main Street – No building in the Central Business District on any lot with frontage along either side of Main Street, from and including Tax Map 109, Lot 104 (A-E) to the easterly boundary of the district, shall exceed 3 stories. This provision specifically includes the following properties: Tax Map 109, Lot 104 (A-E); Tax Map 109, Lot 106; Tax Map 109, Lot 107; Tax Map 109, Lot 108; Tax Map 109, Lot 109; Tax Map 109, Lot 110; Tax Map 108, Lot 18; Tax Map 108, Lot 19; Tax Map 109, Lot 3; Tax Map 109, Lot 2; Tax Map 109, Lot 1; Tax Map 108, Lot 17; Tax Map 108, Lot 16; Tax Map 108, Lot 15; Tax Map 108, Lot 14; and Tax Map 108, Lot 13.
  9. Maximum Height of Mixed-Use Buildings, Madbury Road – No building in the Central Business District on any lot with frontage along Madbury Road shall exceed 3 stories. This provision specifically includes the following properties: Tax Map 2, Lot 12-0; Tax Map 106, Lot 48; Tax Map 106, Lot 49; Tax Map 106, Lot 44; Tax Map 108, Lot 19; Tax Map 106, Lot 40; Tax Map 106, Lot 39; Tax Map 106, Lot 66; and Tax Map 108, Lot 20.
  10. Number of bedrooms – There shall be a maximum of 2 bedrooms in any dwelling unit within a mixed use with residential building or development.

**PASSED AND ADOPTED** by the Town Council of the Town of Durham, New Hampshire this 19th day of May, 2025 by 8 affirmative votes, 0 negative votes, and 0 abstentions.

  
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Joe Friedman, Chair  
Durham Town Council

**ATTEST:**

  
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Rachel Deane, Town Clerk-Tax Collector

175-53 TABLE OF USES (only relevant pages)

CATEGORY OF USES	RESIDENTIAL ZONES			COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES				
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)-(CB-1 and CB-2) See Note 4	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
I. NATURAL RESOURCE USES													
Principal Uses													
Conservation activities	P	P	P	P	P	P	P	P	P	P	P	P	P
Excavation and/or mining	CU	X	X	X	X	X	X	X	X	X	X	X	X
II. AGRICULTURAL USES (See Article XX.1)													
Principal Uses													
Agricultural Sales, Commercial	P	SE	SE	P	P	P	P	P	P	P	P	P	P
Aquaculture	P	X	X	SE	X	X	X	X	P	P	P	P	P
Bees, keeping of	P	X	X	SE	P <sup>3</sup>	P	P	P	P	P	P	P	P
Crop Cultivation	P	P	P	P	P	P	P	P	P	P	P	P	P
Farmers' Market	SE	X	X	SE	P	P	P	P	P	P	P	P	P
Forestry	P	P	P	P	P	P	P	P	P	P	P	P	P
Fur-bearing animals, keeping of	P <sup>2</sup>	X	X	X	X	X	X	X	X	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
Goats and sheep, keeping of	P <sup>2</sup>	X	X	SE <sup>2</sup>	X	X	X	X	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>





#### Notes

1. For the use "Mixed use with residential (office/retail down, multi-unit residential up)," see the definition. The layout of uses within the building or lot may also be specified by zone in Article XII, including some flexibility allowed by conditional use in the Central Business District under Development Standards
2. The use is permitted only on lots of 3 acres or greater. Roosters are permitted only in the Rural District.
3. In the Central Business District the use is permitted only on rooftops.
4. *All uses under Central Business District (CB) apply to both Central Business-1 District (CB-1) and Central Business-2 District (CB-2) except where otherwise noted.*
5. *Mixed use with residential is P in CB-1 and CU in CB-2*

### 175-54. TABLE OF DIMENSIONS.

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

**TABLE 175-54 TABLE OF DIMENSIONS**

STANDARD	ZONING DISTRICTS													Attainable Housing Overlay District (AHOD)
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB) (CB-1 and CB-2)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	
<b>Minimum Lot Size in Square Feet</b> - Single-Family Residence (that is not part of a Conservation Subdivision) - Multi-unit Housing - Allowed Nonresidential Use - Any Other Allowed Use	20,000	40,000	150,000	150,000	NA	10,000	5,000	5,000	30,000	40,000	40,000	150,000	40,000	NA
	NA	NA	NA	NA	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000	5,000
	20,000	40,000	150,000	150,000	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000	5,000
	20,000	40,000	150,000	150,000	5,000	10,000	5,000	5,000	30,000	80,000	40,000	150,000	40,000	5,000
<b>Minimum Lot Area Per Dwelling Unit<sup>3</sup> in Square Feet</b>	20,000	40,000	150,000 <sup>2</sup>	150,000 <sup>2</sup>	NA	3,000	4,200	4,200	4,200	4,200	40,000	150,000	20,000	4,200 (The density bonus under footnote 3 does not apply in the AHOD)
	20,000	40,000	150,000	150,000	1,200	3,000	4,200	4,200	4,200	4,200	40,000	150,000	NA	NA
<b>Minimum Usable Area Per Dwelling Unit in a Conservation Subdivision<sup>3</sup> in Square Feet</b>	20,000	40,000	150,000	150,000	1,200	3,000	4,200	4,200	4,200	4,200	40,000	150,000	NA	NA

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB) <i>(CB-1 and CB-2)</i>	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	Attainable Housing Overlay District (AHOD)
Minimum Lot Frontage in Feet - Minor Street - Collector Street - Arterial Street	100	150	300	300	50	100	50	50	100	50 100 200	100 100 200	150	150	50
Minimum Front Setback in Feet - Minor Street <sup>1</sup> - Collector Street - Arterial Street	30 30 40	30 30 40	30 30 40	30 30 40	None – except per Note 5	30 30 50	15 15 15	15 15 15	30 30 50	50 50 See Note 6	30 30 100	30 30 50	30 30 50	50 50 50
Maximum Front Setback in Feet	NA	NA	NA	NA	See Note 5	NA	NA	25	NA	NA	NA	NA	NA	NA
Minimum Side Setback <sup>4</sup> in Feet	10	20	50	50	NA	15	5	10	15	25	20	20	20	25
Minimum Rear Setback <sup>4</sup> in Feet	20	30	50	50	NA	20	15	15	20	25	20	20	20	25
Minimum Shoreland Shore frontage in Feet	200	200	200	200										See underlying zone
Maximum Permitted Building Height in Feet	30	30	30	30	30	30	30	30	30	50	40	40	40	NA – See AHOD ordinance
Maximum Permitted Building Height in Feet by Special Exception in the Four Residential Zones and by Conditional Use in Other Zones.	35	35	35	35	60 See Note 7	35	35	35	35	75	50	50	50	NA – See AHOD ordinance
Maximum Impervious Surface Ratio	33%	30%	20%	20%	100%	50%	80%	80%	30%	50 %	50%	50%	50%	50%



## **CHANGES TO THE ZONING MAP**

- Rezone all of the existing Central Business District, except for the Mill Plaza lot, Map 109, Lot 3 and the Main Street island, Map 109, Lot 103, from Central Business District (CB) to a new zone - Central Business-1 District (CB-1).
- Rezone the Mill Plaza lot, Map 109, Lot 3 from Central Business District (CB) to a new zone - Central Business-2 District (CB-2).
- Rezone the small parcel on the island between Main Street and Mill Road, Map 109, Lot 103, owned by the Town of Durham, from Central Business District (CB) to a new zone – Central Business-2 District (CB-2).
- Rezone this parcel of land owned by the University of New Hampshire from Residence A (RA) to a new zone - Central Business-2 District (CB-2): land bound on the easterly side by the westerly right of way of Mill Road, on the northerly side by the southerly right of way of Main Street, on the westerly side by the centerline of the Quad Way right of way, and on the southerly side by a line commencing at the intersection of the westerly right of way of Mill Road and the easterly corner of Map 109, Lot 102, thence extending in a westerly direction along the northerly side lot line of Map 109, Lot 102, thence extending in a straight line to the centerline of the Quad Way right of way.



**Town of Durham, NH**  
Central Business District  
Prospective Zoning Amendment

