



TOWN OF DURHAM

8 Newmarket Road

Durham, NH 03824

Tel: 603-868-5571

Fax: 603-868-1858

www.ci.durham.nh.us

NOTICE: Both the Consultation with legal counsel and regular meeting of the Town Council are being held **completely on-line using Zoom teleconferencing.** For the regular Council meeting beginning at 7PM, please refer to the "Zoom Call-in and Public Input Instructions" located at the end of the agenda.

6:00 PM

IAW RSA 91-A:2 I: (b) Consultation with legal counsel

NOTE: *This meeting is not open to the public*

AGENDA

DURHAM TOWN COUNCIL

MONDAY, OCTOBER 19, 2020

DURHAM TOWN HALL - COUNCIL CHAMBERS

7:00 PM

NOTE: *The Town of Durham requires 48 hours notice if special communication aids are needed.*

- I. Call to Order
- II. Approval of Agenda
- III. Special Announcements
- IV. Public Comments (*)
- V. Approval of Minutes - None
- VI. Councilor and Town Administrator Roundtable
- VII. Report from the UNH Student Senate External Affairs Chair or Designee
- VIII. **Unanimous Consent Agenda** (*Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote*)
 - A. Shall the Town Council approve the 4th Warrant for 2020 Water and Sewer totaling \$589,966.10 and authorize the Administrator to sign said warrant?

- B. Shall the Town Council grant an extension to the Planning Board on its review of a proposed Council-initiated Zoning Ordinance amendment, Ordinance #2020-10, with said extension to go until December 9, 2020?

IX. Committee Appointments

- A. Shall the Town Council appoint Raymond Philpot, 123 Mill Road, as an alternate member to the Planning Board?
- B. Shall the Town Council, upon recommendation of the Library Board of Trustees, appoint Stanley Reczek, 11 Fellows Lane, and Nicole Cardwell, 92 Madbury Road, as alternates to the Library Trustees for a one-year term to expire April 30, 2021?
- C. Shall the Town Council Appoint Anton Bekkerman, 2 Stonewall Way, to Fill the Unexpired Regular Member Term of David Potter on the Agricultural Commission?

X. Presentation Items - None

XI. Unfinished Business

PUBLIC HEARING AND ACTION ON ORDINANCE #2020-13 amending various sections of Chapter 175 “Zoning” of the Durham Town Code pertaining to Agriculture affecting Article II – Definitions, the Table of Uses, Article XX – Standards for Specific Uses, and several other articles and creating a new Article XX.1 – Standards for Agricultural Uses

XII. New Business

Other Business

XIII. Nonpublic Session (if required)

XIV. Extended Councilor and Town Administrator Roundtable (if required)

XV. Adjourn (NLT 10:30 PM)

() The public comment portion of the Council meeting is to allow members of the public to address matters of public concern regarding town government for up to 5 minutes. Obscene, violent, disruptive, disorderly comments, or those likely to induce violence, disruption or disorder, are not permitted and will not be tolerated. Complaints regarding Town staff should be directed to the Administrator.*

ZOOM VIDEO CALL-IN & PUBLIC INPUT INSTRUCTIONS

To Participate by Audio

AUDIO ONLY CALL-IN INSTRUCTIONS: In order to access any LIVE Zoom Public Meeting by telephone, you **MUST** be preregistered for that meeting. You may then call: **1-929-436-2866** then type in the **Meeting ID** and **Password**. Zoom Meeting ID's and Passwords are only available for **preregistered** participants. You can **preregister** [HERE](#)

To Participate by Video

VIDEO ONLY INSTRUCTIONS: In order to access any LIVE Zoom Public Meeting, you must be Preregistered. You can preregister for any Zoom Public Meetings by clicking [HERE](#).

IMPORTANT!

1. **Please be sure your full name is viewable, and you are identifiable when using Zoom.**
2. **You will be muted until the Public portion of the meeting opens.**
3. **If you're watching on Channel 22 or DCAT LiveStream be sure to mute when using Zoom.**

These are LIVE Public meetings and your audio and video should be muted when you enter the room (if not, the host will mute them for you). You will not be able to communicate directly with anyone in the Zoom meeting at this time. Participants will have the opportunity to comment during Public Comments, or when a Public Hearing is opened. We ask that you mute your audio and video after you've commented (if not, the host will mute them for you). If you wish to submit comments for public input, please submit them via email to council@ci.durham.nh.us by 5:00 PM on the day of the meeting.

If you should have difficulty, please send DCAT an email: dcat@ci.durham.nh.us or by calling **603-590-1383**.

PUBLIC INPUT INSTRUCTIONS: Due to the ongoing situation with COVID-19, the Town of Durham will be taking extra steps to allow for public input during public meetings while still ensuring participant safety and social distancing. Per Executive Order by Governor Sununu, scheduled gatherings of 10 or more people will be prohibited. Therefore, those wishing to share comments are required to do so via email to council@ci.durham.nh.us by 5:00 PM on the day of the meeting.

For Zoom Meeting **Preregistration** click [HERE](#).



TOWN OF DURHAM
8 NEWMARKET ROAD
DURHAM, NH 03824
Tel: 603/868-5571
Fax: 603/868-1858

8A

AGENDA ITEM:
DATE: October 19, 2020

COUNCIL COMMUNICATION

INITIATED BY: April Talon, Town Engineer

AGENDA ITEM: SHALL THE TOWN COUNCIL APPROVE THE 4TH 2020
WARRANT FOR WATER AND SEWER TOTALING \$589,966.10
AND AUTHORIZE THE ADMINISTRATOR TO SIGN SAID
WARRANT?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's approval is the 4th 2020 Warrant for Water and Sewer totaling \$589,966.10 in accordance with RSA 38:22 II (a) which states: "A municipality may commit bills for charges to the Tax Collector with a warrant signed by the appropriate municipal officials requiring the Tax Collector to collect them." The commitment list is available for viewing in the Town Clerk-Tax Collector's Office and will be available for viewing once the warrant is approved Monday evening.

LEGAL AUTHORITY:

RSA 38:22 II (a)

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

The warrant details are as follows:

Water \$	280,579.34
Sewer \$	309,386.76
Total \$	589,966.10

with interest at eight percent (8%) on all sums not paid thirty days (30) from the due date.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby approve the 4th 2020 Warrant for Water and Sewer totaling \$589,966.10, commits the bills for charges to the Tax Collector for collection, and authorizes the Administrator to sign said warrant on its behalf.

(ROLL CALL VOTE REQUIRED)

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___

STATE OF NEW HAMPSHIRE
WATER/SEWER – 4th WARRANT 2020

STRAFFORD SS

To Lorrie Pitt, Collector of Water and Sewer Taxes for the Town of Durham in said County.

In the name of said State, you are directed to collect the water and sewer taxes in the list herewith committed to you, amounting in all to the sum of

Five Hundred Eighty-Nine Thousand Nine Hundred Sixty-Six Dollars and Ten Cents (\$589,966.10)

Water \$	280,579.34
Sewer \$	<u>309,386.76</u>
Total \$	589,966.10

with interest at eight percent (8%) on all sums not paid thirty (30) days from the due date.

And we further order you to pay all monies collected to the Treasurer of said Town at least on a weekly basis.

As attested by the Town Clerk-Tax Collector, the list on the following pages is a correct list of the assessment of the 4th billing of 2020 computed from the 3rd Quarter water and sewer readings of 2020.

ATTEST: _____
Lorrie Pitt, Town Clerk-Tax Collector

Given under our hands and seal at Durham this 19th day of October, 2020.

Todd I. Selig, Administrator
Per Town Council vote on 10/19/20



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8B

AGENDA ITEM:
DATE: October 19, 2020

COUNCIL COMMUNICATION

INITIATED BY: Planning Board

AGENDA ITEM: SHALL THE TOWN COUNCIL GRANT AN EXTENSION TO THE PLANNING BOARD FOR ADDITIONAL TIME TO CONSIDER TOWN COUNCIL-INITIATED ZONING AMENDMENT (ORDINANCE #2020-10) PERTAINING TO STORIES, CONFIGURATION OF USES AND HEIGHT IN THE CENTRAL BUSINESS DISTRICT; METHOD FOR DETERMINING BUILDING HEIGHT; AND DRIVE-THROUGH FACILITIES?

CC PREPARED BY: Michael Behrendt, Planner

PRESENTED BY: Sally Tobias and Jim Lawson, Councilors

AGENDA DESCRIPTION:

BACKGROUND

**This is the second request for an extension.* The Town Council granted an extension to the October 28 Planning Board meeting but with its busy schedule the board may need some additional time to prepare its comments on the zoning amendment. The board requests one more extension to the December 9, 2020 Planning Board meeting.

The Town Council voted to initiate a zoning amendment on August 3, 2020 pertaining to stories, configuration of uses, and height in the Central Business District; the method for determining building height; and drive-through facilities. Subsection 175-14. B. of the ordinance states (The provision for an extension is underlined).

Amendments Initiated by the Town Council. The Town Council may, upon its own initiative, from time to time, consider changes to the Zoning Ordinance, including its overlay districts and the zoning map. All such Council-initiated changes shall be referred to the Planning Board for its review and study. The referral shall be made in writing by the Town Administrator. The Planning Board shall, after following the public notice and hearing requirements contained in Subsection D below, submit a recommendation regarding the changes to the Town Council members within sixty (60) days of their referral. (the date of the

Re: Extension for Zoning Changes for building height, stories, uses, and drive-through facilities

letter from the Town Administrator). The Town Council may grant extensions to this timeframe at its discretion.

The proposed amendment was presented to the Planning Board on August 12. The board held a public hearing on August 26. The public hearing was continued to September 23 but the board had to postpone that hearing due to the late hour. The board received additional comments at the public hearing on October 14. The board will discuss the amendment on October 28 but requests this extension in the event more time is needed. If the board proposes any substantive changes in the language a new public hearing would be needed on November 18. The following meeting is December 9.

LEGAL AUTHORITY:

Section 175-14. B.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby grant the extension to the December 9, 2020 Planning Board meeting, as requested by the Planning Board, to provide additional time for the board to review and provide comments on the Town Council-initiated zoning amendments pertaining to stories, configuration of uses, and height in the Central Business District; the method for determining building height; and drive-through facilities. (ROLL CALL VOTE REQUIRED).

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___

first meeting to serve, respectively, as primary and alternate ex officio members. These representatives shall have all the rights of membership including the right to hold office. The Council shall fill any vacancy for the period of the unexpired term. The Planning Board shall have all the powers granted to Planning Boards by state law.

Section 11.5 "Vacancies in Elected or Appointed Office" states that, "Unless otherwise specified in this Charter, in the event of a vacancy in an elected or appointed office, board, commission or committee of the town, the Town Council shall fill that vacancy by appointment, such appointment to continue until the next town election for elected positions or the remainder of a person's term if an appointed position."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby appoint Raymond Philpot, 123 Mill Road, to a vacant alternate member term on the Planning Board with a term expiration of April 30, 2023. (ROLL CALL VOTE REQUIRED).

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

Please provide a brief explanation for your interest in appointment to a particular board, commission or committee:

I would like to learn about the goals & objectives for the future of our town.

Please provide brief background information about yourself:

I am A professional Accountant/Auditor for the Judicial Branch of New Hampshire

Please provide below the names and telephone numbers of up to three personal references:

Name: Elbretia Banks Telephone: (910) 583-4092

Name: Vashta Dunlap Telephone: (917) 579-7778

Name: Colonel Samuel Whitley Telephone: (484) 678-7598



Thank you for your interest in serving the Town. Please return this application, along with a resume, if available, to: Town Administrator, 8 Newmarket Road, Durham, NH 03824, or email Jennie Berry at jberry@ci.durham.nh.us.

From: [paul rasmussen](#)
To: [Jen Berry](#)
Subject: Ray Philpott application
Date: Thursday, October 01, 2020 12:07:26 PM

To the Durham Town Council,

I have spoken with Ray Philpott on two occasions and endorse him to fill any current vacancies on the Planning Board.

Paul Rasmussen
Planning Board Chair



TOWN OF DURHAM
8 NEWMARKET ROAD
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9B

AGENDA ITEM: **9B**
DATE: October 19, 2020

COUNCIL COMMUNICATION

INITIATED BY: Durham Public Library Board of Trustees

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE DURHAM PUBLIC LIBRARY BOARD OF TRUSTEES, APPOINT STANLEY RECZEK 11 FELLOWS LANE, AND NICOLE CARDWELL, 92 MADBURY ROAD, AS ALTERNATES TO THE LIBRARY TRUSTEES FOR A ONE-YEAR TERM TO EXPIRE APRIL 30, 2021?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's information and consideration are applications for board appointments submitted by Stanley Reczek, 11 Fellows Lane, and Nicole Cardwell, 92 Madbury Road, requesting appointment as alternate members to the Library Trustees.

RSA 202-A:10 states the board of library trustees may recommend to the appointing authority names of persons for appointment to vacancies on expired terms. The board of library trustees may recommend to the appointing authority the names of no more than three persons who may serve as alternate members on the board when elected members of the board are unable to attend a board meeting. The alternate members shall be appointed to one-year terms. The Council appointed Martha (Marty) Gooze as an alternate to the Library Board earlier this year.

Attached is correspondence from Library Trustee chair, Charlotte Ramsay, endorsing the appointments of Mr. Reczek and Ms. Cardwell as alternate board members.

LEGAL AUTHORITY:

RSA 202-A:10

Re: Appoint Stanley Reczek & Nicole Cardwell as Alternates to the DPL Trustees

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon recommendation of the Durham Public Library Board of Trustees, appoint Stanley Reczek, 11 Fellows Lane, and Nicole Cardwell, 92 Madbury Road, as alternate members to the Library Trustees for a one-year term with a term expiration of April 30, 2021. (ROLL CALL VOTE REQUIRED)

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___



Town of Durham

8 Newmarket Road
Durham, NH 03824-2898
Tel: 603/868-5571
Fax 603/868-1858
jberry@ci.durham.nh.us

Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member New appointment/alternate member
Reappointment/regular member Reappointment/alternate member

NOTE: New applicants are asked to attend AT LEAST ONE meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, prior to submitting an application for appointment.

Applicant has:

____ ATTENDED A MEETING
____/✓ SPOKEN WITH CHAIR/V CHAIR
____ BEEN RECOMMENDED FOR MEMBERSHIP

Name: Stanley Reczek

Date: 9-24-2020

Address: 11 Fellows Lane

E-Mail Address: stan.reczek@gordon.edu

Telephone: (603) 397-5050

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. Durham Public Library
- 2.
- 3.

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee? YES NO

(Over)

Please provide a brief explanation for your interest in appointment to a particular board, commission or committee:

1. Fundamental belief in importance of the library to the well-being of the community — resulting in desire to support and serve its mission.
2. Hope that previous experiences and skills may be used to effectively support library governance and function.

Please provide brief background information about yourself:

1. Retired Health Care Executive (≈ 32 yrs)
2. Retired college prof. (≈ 16 yrs)
3. Experiences as member of NFP boards (e.g. private school, etc)

Please provide below the names and telephone numbers of up to three personal references:

Name: Jim Griffin Telephone: 603-397-5271

Name: Beth Newkirk Telephone: 603-868-6243

Name: Telephone:



Thank you for your interest in serving the Town. Please return this application, along with a resume, if available, to: Town Administrator, 8 Newmarket Road, Durham, NH 03824, or email Jennie Berry at jberry@ci.durham.nh.us.

Stanley Reczek

11 Fellows Lane, Durham NH

(603) 397-5050

stan.reczek@gordon.edu

Professional Experience

Associate Professor: Gordon College, Wenham, MA -- 2003 to 2018

- Taught general physics, courses supporting physics curriculum and core science.
- Developed and coordinated new science and physics courses.
- Served as Divisional Chemical Hygiene Officer.
- Implemented and coordinated college's May-Summer Term.
- Initiated and oversaw online learning program/courses.

Executive Positions: North Shore Medical Center, Salem, Massachusetts -- 1978 to 2002

Executive VP for Strategy and Corporate Development – 1999 to 2002

Responsible for mergers and acquisitions, corporate planning, marketing, communications and development functions at North Shore Medical Center, a multi-hospital, integrated health care system (for portions of this period, also responsible for human resources and information systems).

Acting COO/ President of Salem Hospital – 1998 to 1999

Oversaw operations of NSMC on an acting basis in 1998 (5,500 employees and annual budget of over \$300 million) and served as President and COO of Salem Hospital from November 1998 to July 1999 (approximately 3,600 employees and an annual operating budget of \$190 million). These responsibilities were assumed during a period immediately following corporate merger and subsequent changes in senior management.

Vice President for Strategic Services and Corporate Development -- 1978 to 1998

Developed and managed inter- and intra-organizational relationships and affiliations; coordinated a series of programs to restructure operating functions, enhance revenue, and improve productivity; and coordinated strategic and operational planning.

Executive Director of North Shore Health System – 1994 to 1998

Conceived and founded new entity to promote coordination and collaboration between medical center and affiliated physicians (e.g. affiliated medical group practice and physician hospital organization).

Community Service

The Waring School

- Member of Board of Trustees 1991 to 2003 (Vice Chair of Board 1994-2003)
- Chair of Committee on Trustees 1996-2003
- Served as member of Executive, Finance, Building & Grounds and Science Committees

Christ Church of Hamilton and Wenham

- Member of Vestry 2006-2010 (senior Warden 2009)
- Member of Finance Committee 1999-2005, Chair of Personnel Committee since 2002-2007, Member of Sabbatical Committee 2002, Co-Chair of Stewardship Committee from 1997 to 1999

Friends of Durham Public Library – 2019-

- Coordinated governance restructure and bylaw revision process -- 2019
- Coordinated process to establish MOU between Friends and Durham Public Library -- 2019
- Interim Secretary (October 2019 – June 2020).

Fellows Lane Condominium Association

- Coordinated Maintenance Committee and functions.
- Member of Finance Committee



Town of Durham

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Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member New appointment/alternate member
Reappointment/regular member Reappointment/alternate member

NOTE: New applicants are asked to attend AT LEAST ONE meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, prior to submitting an application for appointment.

Applicant has:

ATTENDED A MEETING (scheduled for 10/14/20)
 SPOKEN WITH CHAIR/V CHAIR
 BEEN RECOMMENDED FOR MEMBERSHIP

Name: Nicole T. Cardwell

Date: 10/2/2020

Address: 92 Madbury Road, Durham NH 03824

E-Mail Address: nicole.tocco@gmail.com

Telephone: 603-834-5452

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. Durham Public Library Board
- 2.
- 3.

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee? YES NO

(Over)

From: [Charlotte Ramsay](#)
To: [Jen Berry](#)
Cc: [Nicole Tocco Cardwell](#); [Stan Reczek](#)
Subject: Library Board Alternate Trustee recommendations
Date: Wednesday, October 14, 2020 9:08:02 PM

Hi Jen,

The DPL Board of Trustees, at its meeting tonight, unanimously agreed to recommend Nicole Tocco Cardwell and Stan Reczek to the Durham Town Council for appointment as Alternate Library Trustees.

You have Nicole's and Stan's application forms and our hope is that their appointment can be placed on the agenda for the October 19th meeting of the Town Council.

Thank you for your help on this matter. Please feel free to call me if you have any questions (315-854-1997).

Regards,

Charlotte Ramsay

Chair, DPL Board of Trustees



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8 NEWMARKET ROAD
DURHAM, NH 03824
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Fax: 603/868-1858

9C

AGENDA ITEM:
DATE: October 19, 2020

COUNCIL COMMUNICATION

INITIATED BY: Anton Bekkerman, 2 Stonewall Way

AGENDA ITEM: SHALL THE TOWN COUNCIL APPOINT ANTON BEKKERMAN, 2 STONEWALL WAY, TO FILL THE UNEXPIRED REGULAR MEMBER TERM OF DAVID POTTER ON THE AGRICULTURAL COMMISSION?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's information and consideration is an application for board appointment submitted by Anton Bekkerman, 2 Stonewall Way, requesting appointment to the Agricultural Commission.

There is currently one regular member vacancy on the board created by the recent resignation of former member David Potter (see attached). The term expiration for this vacancy is April 2022.

Mr. Bekkerman has met with Ag Commission Chair Theresa Walker, and has attended/observed at least one meeting of the commission. Attached is correspondence from Ms. Walker endorsing Mr. Bekkerman's appointment.

LEGAL AUTHORITY:

Section 11.5 "Vacancies in Elected or Appointed Office" states that, "Unless otherwise specified in this Charter, in the event of a vacancy in an elected or appointed office, board, commission or committee of the town, the Town Council shall fill that vacancy by appointment, such appointment to continue until the next town election for elected positions or the remainder of a person's term if an appointed position."

Re: Appoint Anton Bekkerman as Regular Member to the Ag Commission

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby appoint Anton Bekkerman, 2 Stonewall Way, to fill the unexpired regular member vacancy of David Potter on the Agricultural Commission with a term expiration of April 30, 2022. (ROLL CALL VOTE REQUIRED)

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___



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Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member New appointment/alternate member
Reappointment/regular member Reappointment/alternate member

NOTE: New applicants are asked to attend AT LEAST ONE meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, **prior to submitting an application for appointment.**

Applicant has:

ATTENDED A MEETING
 SPOKEN WITH CHAIR/V CHAIR
 BEEN RECOMMENDED FOR MEMBERSHIP

Name: Anton Bekkerman

Date: October 13, 2020

Address: 2 Stonewall Way, Durham, NH 03824

E-Mail Address: anton.bekkerman@unh.edu

Telephone: 406-589-0079

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. Durham Agricultural Commission
- 2.
- 3.

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee? YES NO

(Over)

Please provide a brief explanation for your interest in appointment to a particular board, commission or committee: *I am the director of the NH Agricultural Experiment Station, which represents the ag and food research arm of the UNH land-grant mission. I'd like to join the Ag Comm to be able to better connect and engage the research at the Ag Experiment Station with the needs and issues facing the community where many of the researchers live and work.*

Please provide brief background information about yourself:

In addition to my NHAES director role I am also an agricultural economist by training, focusing on food production and marketing topics. A big professional goal for me is to increase science communication in ag and natural resource. And while I didn't grow up in production ag, I have dipped my toes into that arena by keeping a flock of 6 hens while living in Bozeman, MT before moving to Durham.

Please provide below the names and telephone numbers of up to three personal references:

Name: *Anita Klein* Telephone: *781-4555*

Name: Telephone:

Name: Telephone:



Thank you for your interest in serving the Town. Please return this application, along with a resume, if available, to: Town Administrator, 8 Newmarket Road, Durham, NH 03824, or email Jennie Berry at jberry@ci.durham.nh.us.

ANTON BEKKERMAN

G15 RUDMAN HALL · 46 COLLEGE ROAD · DURHAM, NH 03824
603-862-1676 · ANTON.BEKKERMAN@UNH.EDU

EDUCATION

North Carolina State University, 2009 <i>Doctorate in Economics</i>	Raleigh, NC
North Carolina State University, 2007 <i>Masters in Economics</i>	Raleigh, NC
Loyola College in Maryland, 2005 <i>Bachelors of Business Administration, summa cum laude</i>	Baltimore, MD

PROFESSIONAL EXPERIENCE

2020–present <i>Director, New Hampshire Agricultural Experiment Station</i> <i>Associate Dean, College of Life Sciences and Agriculture</i> <i>Professor, Dept. of Agriculture, Nutrition, and Food Systems</i>	University of New Hampshire	Durham, NH
2009–2020 <i>Associate Director, Montana Agricultural Experiment Station, 2018–2020</i> <i>Research Fellow, Initiative for Regulation & Applied Economic Analysis, 2016–2020</i> <i>Associate Professor, Dept. of Agricultural Economics and Economics, 2015–2020</i> <i>Assistant Professor, Dept. of Agricultural Economics and Economics, 2009–2015</i>	Montana State University	Bozeman, MT

SUMMARY OF LEADERSHIP AND ADMINISTRATIVE EXPERIENCE

Director, New Hampshire Agricultural Experiment Station

Responsible for helping facilitate research, outreach, and engagement success of faculty and staff associated with the New Hampshire Agricultural Experiment Station. Specific duties include: administer Stations \$6.5 million budget and resource allocation and Stations facilities maintenance and development; facilitate efforts to increase Stations visibility within the University and community; facilitate and help review all Hatch, Multistate, and McIntire-Stennis projects; represent the Station at state, national, and international events; regularly interact with the Stations advisory board, stakeholder groups, and College of Agriculture department heads; interact with University facilities services to review and assess maintenance needs at research farms; serve on the ESCOP Budget and Legislative committee; serve on the Northeastern Regional Aquaculture Center Board of Directors.

Associate Director, Montana Agricultural Experiment Station

Responsible for helping facilitate research, outreach, and engagement success of the approximately 200 faculty and staff associated with the Montana Agricultural Experiment Station. Specific duties include: advise in Station's \$15 million budget management and resource allocation; lead College of Agriculture and Montana Agricultural Experiment Station strategic plan development; leading role in developing Station's facilities' major maintenance and long-range building program development proposal; leading role in developing a portfolio of new College- and Station-wide faculty and staff awards; lead effort on increasing Station's visibility within the University; review all Hatch and Multistate projects; represent the Station at state, national, and international events; regularly interact with the Station's advisory council, stakeholder groups, and College of Agriculture department heads; advise Director on information presented to the legislature and producer groups; lead the Fertilizer Assessment Committee, tasked with allocating assessment funds for research; interact with University facilities services to review and assess maintenance needs at research farms; serve as Administrative Adviser for two multistate projects.

Board of Directors and Council Member, Western Agricultural Economics Association

Help manage association's budgets, annual conference organization, award selection processes; lead transition to a new conference management system; play a role in association's transition to a new fiscal management partner; helped initiate creation of the Publications committee for liaising between the association's Board of Directors and its two journals.

Leadership Training

LEAD21 training, class 13; continuing training through LEAD21 alumni program; Montana State University's DEAL (Developing Excellence in Academic Leadership) program.

Leadership in the Professional Community

Chair and meeting organizer for regional multistate coordinating committee (NCCC-134; five-year appointment); chair and conference organizer, chair-elect, and secretary for regional multistate project (NC-213); president and secretary/treasurer for North American Branch of Australian Agricultural and Resource Economics Society; secretary/treasurer for Food and Agricultural Marketing and Policy Section of AAEA; external reviewer for academic programs in the Applied Economics Department at Utah State University; served on numerous award selection committees for regional, national, and international professional associations.

Editor, Journal of Agricultural and Research Economics

Oversee management and review process of submitted manuscripts; lead website and communication redevelopment to increase the Journal's visibility and accessibility; represent Journal at annual professional conferences.

Public Outreach and Engagement

Led development and provide ongoing oversight for AgEconMT.com outreach project, providing weekly blog and podcast posts for agricultural and natural resource economics information in the northern Great Plains; author of popular blog with extensive readership in northern Great Plains; regular contributor to agricultural news, TV, and radio outlets; serve on the Montana Agricultural Land Valuation Advisory Council (Montana Department of Revenue); served on the Bozeman Public Library bookmobile planning committee; developed multiple web-based data tools for agricultural data.

University and Department Service and Leadership

Organized and led three international experiential learning courses (Ukraine, Italy and France, Great Britain); chaired the undergraduate program committee; served on the University Research Council; chair for six graduate committees and member of twelve graduate committees; chair of thesis receiving the 2019 Western Agricultural Economics Association Outstanding Masters Thesis Award; chair of thesis receiving the 2020 Agricultural and Applied Economics Association Outstanding Masters Thesis Award; led departmental scholarship committee and member of College scholarship committee; served as member of department promotion and tenure committee.

RESEARCH SUMMARY

I am an agricultural economist who is interested in agricultural marketing, farm management, policy, and agribusiness risk management. My published and on-going research focuses on a broad range of issues, including crop price dynamics and forecasting, market valuation of food quality characteristics, management of invasive species and pests, farm policy analysis, crop insurance, fertilizer market dynamics, wine pricing, co-operatives, among others. I also work with interdisciplinary teams of scientists to analyze the agronomic and economic effectiveness of alternative cropping systems, trade-offs of alternative soil management strategies, and cover crops. My last research area has involved broader economic topics, including the economics of education, economics of public libraries, and economic information.

From: [Theresa Walker](#)
To: [Jen Berry](#)
Subject: Request appointment of Anton Bekkerman to the Durham Agricultural Commission
Date: Thursday, October 15, 2020 9:18:04 AM

Dear Town Council – I am writing to you to respectfully request Anton Bekkerman’s appointment to the Durham Agricultural Commission as a regular member. The Agricultural Commission’s mission to promote, enhance, and encourage agriculture, agricultural resources, and agricultural-based economic opportunities will be strengthened by Anton’s participation as he will bring much needed expertise to the Commission as an economist and Director of the New Hampshire Agricultural Experiment Station. Thank you, Theresa Walker, Chair, Durham Agricultural Commission, 603-534-3913



TOWN OF DURHAM
8 NEWMARKET ROAD
DURHAM, NH 03824
Tel: 603/868-5571
Fax: 603/868-1858

AGENDA ITEM: # **11**
DATE: October 19, 2020

COUNCIL COMMUNICATION

INITIATED BY: Planning Board

AGENDA ITEM: PUBLIC HEARING AND ACTION ON ORDINANCE #2020-13 AMENDING VARIOUS SECTIONS OF CHAPTER 175 "ZONING" OF THE DURHAM TOWN CODE PERTAINING TO AGRICULTURE AFFECTING ARTICLE II – DEFINITIONS, THE TABLE OF USES, ARTICLE XX – STANDARDS FOR SPECIFIC USES, AND SEVERAL OTHER ARTICLES AND CREATING A NEW ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

CC PREPARED BY: Michael Behrendt

PRESENTED BY: Sally Tobias, Jim Lawson, and Michael Behrendt

AGENDA DESCRIPTION:

The Planning Board voted to formally initiate an extensive set of amendments to the Durham Zoning Ordinance pertaining to Agriculture on September 9, 2020. This proposal is presented to the Town Council on October 5. Sally Tobias and Jim Lawson, the Council's representatives on the Planning Board, and I can explain the changes. Theresa Walker, chair of the Agricultural Commission, and other members of the commission, should be available as well to explain the changes or to speak at a public hearing. The Council can set a public hearing on the amendments if it deems appropriate.

The Durham Agricultural Commission completed an extensive overhaul of the provisions in the Zoning Ordinance dealing with agriculture over many months. I worked closely with the commission in crafting the amendments. The amendments are significantly different from the current provisions in the ordinance.

The commission's draft was presented to the Planning Board on January 8, 2020. The board then held a public hearing on the draft. After the hearing the Planning Board made a number of changes to the document. That revised draft was presented at a new public hearing on September 9 and the board then voted to formally initiate those amendments with a few minor adjustments. Much of the board's discussion focused on the table of uses. There were some concerns about expanding agricultural uses, especially for keeping animals in the residential zones.

However, ultimately the board thought the proposed table was reasonable and approved it with only minor changes. Note that for several types of animals/livestock a minimum of three acres of land is required.

The purpose of the changes is to: a) encourage and facilitate agriculture pursuant to the Agricultural Resources Master Plan; b) enhance the ordinance, much of which is out of date and burdensome; c) align with the state's definition of agriculture. The state added a *definition* of agriculture a number of years ago (enclosed).

Municipalities must allow agricultural uses in conformance with this definition, though there is allowance for reasonable judgment in implementing the statute. I believe that the proposed amendments address the expectations of the statute.

The following documents are included:

- 1) *Proposed amendments to the ordinance*, showing additions and deletions from the current ordinance in color.
- 2) *Proposed amendments to the Table of Uses* showing additions and deletions from the current table in color.
- 3) Proposed new language only for the ordinance in black and white. This is not the complete set of amendments but is presented for ease of reading only.
- 4) Proposed new text only for the Table of Uses in black and white. This is not the complete set of amendments but is presented for ease of reading only.
- 5) State statute giving the "definition" of agriculture.

The amendments are incorporated mainly into three parts of the zoning ordinance: a) Article II - Definitions, b) Article XII.1 - the Table of Uses, and c) Article XX - Standards for Specific Uses along with a new proposed Article XX.1 - Standards for Agricultural Uses. There are also minor changes proposed in Article XIII - Wetland Conservation Overlay District, Article XIV - Shoreland Preservation Overlay District, and Article XXII - Landscaping.

On October 5, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading, and scheduled a Public Hearing on the ordinance for October 19, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, October 8, 2020. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

LEGAL AUTHORITY:

RSA (Revised Statutes Annotated) 21:34-a, RSA 425:2-a, RSA 425 through 439, RSA 672:1, RSA 674:32-a through d, and RSA 674:44-e. Durham Zoning Ordinance Section 175-14.

LEGAL OPINION:

The proposed amendments were developed pursuant to the key statutes supporting agriculture, above.

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION 1:

The Durham Town Council does hereby, in accordance with Section 175-14 F. of the Durham Zoning Ordinance, OPEN the public hearing on Ordinance #2020-13, an amendment formally initiated by the Durham Planning Board pertaining to Agriculture affecting numerous articles in Chapter 175 "Zoning" of the Durham Town Code. (ROLL CALL VOTE REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

MOTION 2:

The Durham Town Council does hereby, in accordance with Section 175-14 F. of the Durham Zoning Ordinance, CLOSE the public hearing on Ordinance #2020-13, an amendment formally initiated by the Durham Planning Board pertaining to Agriculture affecting numerous articles in Chapter 175 "Zoning" of the Durham Town Code. (ROLL CALL VOTE REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

MOTION 3:

The Durham Town Council does hereby, in accordance with Section 175-14 F. of the Durham Zoning Ordinance, ADOPT (as presented) (as amended) Ordinance #2020-13, an amendment formally initiated by the Durham Planning Board pertaining to Agriculture affecting numerous articles in Chapter 175 "Zoning" of the Durham Town Code. (ROLL CALL VOTE REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

ORDINANCE #2020-13 OF DURHAM, NEW HAMPSHIRE

AMENDING VARIOUS SECTIONS OF CHAPTER 175 “ZONING” OF THE DURHAM TOWN CODE PERTAINING TO AGRICULTURE AFFECTING ARTICLE II – DEFINITIONS, THE TABLE OF USES, ARTICLE XX – STANDARDS FOR SPECIFIC USES, AND SEVERAL OTHER ARTICLES AND CREATING A NEW ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

WHEREAS, numerous state statutes promote and protect agriculture, in particular RSA 21:34-a, RSA’s 425 through 439, RSA 672:1, RSA 674:32-a through d, and RSA 672:1; and

WHEREAS, RSA 21:34-a, the state’s definition of Agriculture, requires that the uses included in the definition be permitted in a community, subject to reasonable restrictions; and

WHEREAS, The Town Council established a Agricultural Commission on July 11, 2011 whose purpose included, among other things, conducting “activities to recognize, promote, enhance, and encourage agriculture, agricultural resources, and agricultural-based economic opportunities”; and

WHEREAS, the Agricultural Resources Chapter of the Durham Master Plan, adopted in 2015, encourages agriculture throughout the community; and

WHEREAS, The Agricultural Commission worked over many months, in coordination with the Durham Town Planner and other parties, to develop an extensive set of amendments to the Zoning Ordinance pursuant to the various state statutes listed above and the Durham Master Plan, and the Agricultural Commission held several public hearing to solicit input on the proposed amendments; and

WHEREAS, The Agricultural Commission presented its draft to the Planning Board on January 8, 2020, the Planning Board held a public hearing on the draft on February 12, 2020, the Planning Board discussed the draft and comments received from the public over several subsequent meetings, the Planning Board then revised the draft accordingly and held a new public hearing on September 9, and that same evening the Planning Board made several minor adjustments to the draft and voted to formally initiate the amendments,

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt Ordinance #2020-13 pertaining to Agriculture. The amendments are incorporated into seven articles in the zoning ordinance: a) Article II - Definitions; b) Article XII.1 - the Table of Uses; c) Article XX - Standards for Specific Uses; d) a new proposed Article XX.1 - Standards for Agricultural Uses; e) Article XIII - Wetland Conservation Overlay District; f) Article XIV - Shoreland Preservation Overlay District; and g) Article XXII - Landscaping.

Existing wording proposed to be deleted is shown in this manner: ~~to be deleted~~. New wording proposed to be added is shown in this manner: to be added.

The amendments to the ordinance, including the Table of Uses, are attached to this Ordinance as a matter of final record

PASSED AND ADOPTED this ____ day of ___, **2020** by a ___ to ___ roll call vote of the Durham Town Council as follows:

Sally Tobias	_____	Wayne Burton	_____
Dinny Waters	_____	James Lawson	_____
Al Howland	_____	Sally Needell	_____
Katherine Marple	_____	Andrew Corrow	_____
Carden Welsh	_____		

Katherine Marple, Chair
Durham Town Council

ATTEST:

Lorrie Pitt, Town Clerk

Proposed Amendments to the Durham Zoning Ordinance
Agriculture

Initiated by Planning Board on September 9, 2020

Proposed additions to the current ordinance are shown like this

~~*Proposed deletions from the current ordinance are shown like this*~~

ARTICLE II – DEFINITIONS. Section 175-7

- ❖ Delete all of the following existing definitions:

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

~~*AGRICULTURAL BUILDING, EXISTING—Any building or structure constructed prior to the adoption of this chapter and designed, used or adapted for agricultural purposes. (See Article XX)*~~

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

~~*ANIMAL HUSBANDRY – GOATS, ACCESSORY—The breeding and/or raising of goats for noncommercial purposes in conjunction with a residence. (See Article XX).*~~

~~*ANIMAL HUSBANDRY – LIVESTOCK, ACCESSORY—The breeding and/or raising of livestock, not including poultry (as defined herein), for noncommercial purposes in conjunction with a residence. (See Article XX)*~~

~~*ANIMAL HUSBANDRY – POULTRY, ACCESSORY—The breeding and/or raising of poultry for noncommercial purposes in conjunction with a residence. (See Article XX)*~~

~~*AQUACULTURE—The commercial growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.*~~

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

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

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

~~**FORESTRY**—Forestry shall include the growing, stocking, cutting, or sale of forest trees of any size for habitat management, for producing timber, or for other forest products; and pre-commercial silvicultural activities including but not limited to timber stand improvement. (See Article XX)~~

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

~~**LIVESTOCK**—Horses, ponies, mules, donkeys, oxen, cattle, sheep, goats, swine, buffalo, llamas, emus, ostriches, alpacas, and any other large animal raised primary in the outdoors or in unheated structures and that serve as a beast of burden or a source of meat or wool.~~

~~**PLANT NURSERY**—The commercial cultivation and/or raising of flowers, ornamental and greenhouse plants, and other vegetation including the necessary accessory structures and uses normally associated with such uses. A plant nursery may include the retail sale of plant materials raised on the premises together with related accessory items.~~

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

~~**RETAIL SALE OF FARM PRODUCTS**—The sale directly to the consumer of agricultural products grown or raised on the premises or on other land that is part of the same agricultural business including processed products that are made from products grown or raised on the premises or related land.~~

~~**SLUDGE**—Residual materials produced by the sewage treatment process.~~

~~**STABLE**—Any lot or premises on which four (4) or more horses, ponies, or similar equines, or combination thereof, are boarded for compensation or bred for sale.~~

~~*TIMBER HARVESTING—The cutting and removal of trees from their growing site, the production of cord wood in conjunction with such harvesting, and/or the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and haul roads. (See Article XX)*~~

- ❖ Create the following new subsection under Section 175-7 with all definitions under AGRICULTURE. Underline each individual term at the beginning of the definition (Accessory Uses; Agricultural Sales, Commercial; Agritourism; Animal Feedlot, etc.):

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.

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

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.

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, swine, as well as 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*).

Poultry, Keeping of. The raising, breeding, and sale of poultry, including chickens, turkeys, ducks, geese, and gamebirds.

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

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.

❖ Add the following definitions as separate entries:

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, individually or in combination.

OPACITY, VERTICAL – 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.

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.)

SEWAGE - The water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present. (As defined in RSA 485-A:2.)

SHALL – Where the term “shall” is used, the person or party is required to do what is referred to.

SLUDGE - The solid or semisolid material produced by water and wastewater treatment processes, but not including domestic septage. However, sludge which is disposed of at solid waste facilities as permitted by the New Hampshire Division of Environmental Services is considered solid waste. (As defined in RSA 485-A:2.)

TABLE OF USES

- ❖ See separate document.
-

ARTICLE XX – STANDARDS FOR SPECIFIC USES Section 175-109

- ❖ Delete all of the following subsections under Section 175-109 and reletter remaining subsections accordingly.

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

~~*1. The total area cultivated shall not be more than thirty five (35) percent of the total lot area.*~~

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

~~B. Accessory Animal Husbandry—Goats. The following terms and conditions apply to Accessory Animal Husbandry—Goats:~~

- ~~1. Single/Two Family. The keeping of goats is permitted as an accessory use to Single-Family and Duplex Residences only.~~
- ~~2. Number of animals. There shall be a minimum of two goats kept on the property (Goats are herding animals and need companionship). No more than two goats may be kept on the property except: a) On lots at least 40,000 square feet in size, three goats may be kept; and b) For each additional 5,000 square feet of lot area beyond 40,000 square feet, one additional goat may be kept (for example, four goats may be kept on a 45,000 square foot lot). New offspring shall not count toward the maximum allowed number of goats for the first 12 weeks after birth.~~
- ~~3. Permitted goats. On lots under 80,000 square feet only miniature, dwarf, or pygmy goats may be kept. On lots of 80,000 square feet or greater any kind of goat may be kept. In all districts except for Residence C and Rural, all goats must be dehorned and all male goats must be neutered. On lots of 120,000 square feet or greater, goats may be permitted under the provisions of either Accessory Animal Husbandry—Livestock or Accessory Animal Husbandry—Goats.~~
- ~~4. Housing structure. An appropriate enclosed structure for housing goats shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines, below. The minimum size of the structure is 40 square feet, with an additional 20 square feet required for each~~

~~additional goat beyond two that is kept on the property. The structure shall provide direct access to the fenced outdoor area and shall be predator proof, vented, waterproof, and easily accessed for cleaning. Goats shall be sheltered in the structure from sunset to sunrise.~~

~~—[Reference http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]~~

- ~~5. Housing structure setbacks. The structure for housing animals shall meet all minimum setbacks applicable to structures under this zoning ordinance. The structure shall be placed in the rear yard or side yard and may not be placed closer to~~

~~any public street than the primary facade of the house facing that street (including for corner lots). However, in the Rural Zoning District the structure may be placed forward of the primary facade of the house provided it is set back at least 50 feet from the front (or side, for corner lots) property line.~~

- ~~6. Fenced Outdoor Area. Goats shall be confined to an outdoor area that is fully enclosed by fencing. This fenced outdoor area must be situated in the rear or side yards on the property and may not be closer to any public street than the primary facade of the house. However, in the Rural Zoning District, the fenced outdoor area may be situated forward of the primary facade of the house provided it is set back at least 50 feet from the front property line. All fencing shall be set back at least 10 feet from all property lines. The minimum size of the fenced outdoor area is 200 square feet, with an additional 50 square feet required for each additional goat beyond two that is kept on the property.~~
- ~~7. Fencing. All fencing enclosing the outdoor area shall be at least five feet in height and designed and sited so that goats may not break through or climb over it. The fencing shall be woven wire fencing or a comparable metal fencing appropriate for containing livestock.~~
- ~~8. Manure. Manure, compost from manure, and odor from the goats shall be handled in accordance with best management practices as specified in Best Management Practices for Agriculture in New Hampshire, as revised. Manure must be removed from the structure and immediate area housing the animals and composted or disposed of in a timely manner.~~
- ~~9. Feed. Feed shall be stored in fully enclosed and secured containers in order to prevent pests and predators.~~
- ~~10. Slaughtering. Slaughtering of goats on the subject property is prohibited.~~
- ~~11. Selling Products. Milk, cheese, and other goat products may be sold on the premises provided the activity is conducted in accordance with New Hampshire RSA 184. Inspection and Sale of Dairy Products, with specific reference to RSA 184:84.V. Any signage shall conform with the standards for residential accessory signs.~~

~~[Reference – <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XIV-184.htm>]~~

- ~~12. Complaints. When a complaint is issued regarding the keeping of goats as an accessory use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law. The Town's enforcement official and the Agricultural Commission may refer to the~~

~~Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, as revised, and pertinent RSA's for guidance in this process, as appropriate.~~

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

~~14. Permits. A building, fence, and/or sign permit may be required depending on specific circumstances. See the Building Official for clarification.~~

~~C. Accessory Animal Husbandry—Livestock, not including poultry. Accessory Animal Husbandry—Livestock shall conform to the following standards:~~

~~1. The lot on which the use is located shall have a minimum lot size of one hundred twenty thousand (120,000) square feet of area~~

~~2. No area or structure for the housing, stabling, or feeding of animals shall be located within one hundred (100) feet of any property line~~

~~3. No animals shall be pastured within twenty five (25) feet of any property line~~

~~D. Accessory Animal Husbandry—Poultry. The following terms and conditions apply to Accessory Animal Husbandry—Poultry:~~

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

~~2. Single/Two Family. The keeping of poultry is permitted as an accessory use only to single family and duplex residences.~~

~~3. Number of animals. A maximum of 12 animals may be maintained per lot. There is no limit on the number of animals in the Rural Zoning District, except on lots smaller than 20,000 square feet that were/are created as part of a conservation subdivision.~~

~~4. Housing structure. An appropriate fully enclosed structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Poultry shall be maintained in the structure from sunset to sunrise.~~

~~[Reference—http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]~~

- ~~5. Housing structure setbacks. The structure for housing animals shall meet all setbacks applicable to structures under this zoning ordinance. The structure shall be placed in the rear yard or side yard and may not be placed closer to any public street than the primary facade of the house facing that street (including for corner lots). However, in the Rural Zoning District the structure may be placed forward of the primary facade of the house provided it is set back at least 50 feet from the front (or side, for corner lots) property line.~~
- ~~6. Manure. Manure, compost from manure, and odor from the animals shall be handled in accordance with best management practices as specified in Best Management Practices for Agriculture in New Hampshire, as revised. Manure must be removed from the structure and immediate area housing the animals and composted or disposed of in a timely manner.~~
- ~~7. Feed. Feed shall be stored in fully enclosed and secured containers in order to prevent pests and predators.~~
- ~~8. Yards. Animals shall be confined to the rear yard and side yard, and may not go closer to any public street than the primary facade of any house facing any public street (including for corner lots). However, in the Rural Zoning District animals may inhabit the area forward of the primary facade of the house provided they are kept at least 50 feet from the front (or side, for corner lots) property line. Animals shall be maintained on the subject property and kept under the control of the owner.~~
- ~~9. Fencing. Poultry owners may install a chicken wire fence or other appropriate barrier in the rear and side yards (as delineated above) on their property. In the Rural Zoning District the fencing or barrier may be placed forward of the primary facade of the house provided it is set back at least 50 feet from the front property line. Otherwise, there is no required setback for such fence or barrier. Any such fence or barrier shall not exceed 6 feet in height.~~
- ~~10. Slaughtering. Any slaughtering of poultry on the subject property must be carried out in accordance with best management practices.~~
- ~~11. Selling. Eggs may be sold on the premises provided the activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs. The commercial sale of live poultry and poultry products other than eggs is prohibited.~~

~~[Reference – <https://www.agriculture.nh.gov/publications-forms/documents/shell-egg-guidelines.pdf>]~~

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

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

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

~~J.—Forestry. All forestry activities shall be conducted in accordance with RSA 227-J, the Basal Area Law RSA 227-J:9 in particular, and notice of intent to cut RSA 79:10, and shall use as guidance for best forest management practices the “Best Management Practices for Erosion on Timber Harvesting Operations in New Hampshire” 2004 as amended, Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended, and Good Forestry in the Granite State (DRED). Where forestry activity or significant tree removal has occurred within 200 feet of any public street or property boundary, the property owner shall reclaim the area—including removal of logs, wood debris, and stumps, as appropriate—within 60 days.~~

❖ Create a new Article XX.1 – Standards for Agricultural Uses to read as follows.

ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

175-109.1. Purpose.

The purpose of this article and of other provisions in this chapter related to agriculture is to:

- A. Help preserve a working landscape of farms, gardens, and forests;
- B. Support local farms, farmers, and food production;
- C. Foster long-term economic and environmental sustainability and resilience; and
- D. Fulfill the goals included in the Agricultural Resources Master Plan and those pertinent to agriculture established by the Durham Town Council

175.109.2. Compliance Required.

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

A. General Provisions. The following provisions apply to all agricultural uses and activities:

1. See definitions of various agricultural activities under AGRICULTURE in Article II. See Agricultural Uses in the Table of Uses. There is no set limit on the number of principal and accessory uses related to agriculture that may be established on a lot (though other requirements may effectively serve to limit the number of uses). Some of the agricultural uses included under Principal Uses in the Table of Uses may also be considered accessory uses subject to the same requirements as principal uses, as reasonably determined by the Zoning Administrator.
2. Best management practices. Best management practices shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture (per RSA 21:34-a). Best management practices shall be applied to all pertinent aspects of the farm, including but not limited to the following:
 - a. Manure, compost from manure, and odor from animals. Manure must be removed from the structure and immediate area housing animals and composted or disposed of in a timely manner.
 - b. Feed. Feed should be stored in fully enclosed and secured containers in order to prevent pests and predators.
 - c. Slaughtering of animals.
3. Site plan review.
 - a. Site plan review is required as specified in the text of Section 175-53 – Table of Land Uses and in the Site Plan Regulations (except as specified in b., below).

Site plan review is required for all buildings, driveways, parking areas, public use areas, and significant structures and for site changes that are part of any commercial agricultural operation. Site plan review is not required for non-commercial agriculture.

- b. Site plan review is not required for uses that are accessory to single-family and duplex residences nor for temporary farmstands. The establishment, expansion, or change of the uses specified under Agricultural Uses in the Table of Uses is exempt from site plan review (though physical changes to the site ordinarily reviewed, such as building construction, are subject to review), with the exception of Farmers' Markets; Agricultural Sales, Commercial; and Aquaculture which are subject to site plan review.
- c. Applicants for projects related to agriculture may request waivers from specific provisions of the site plan requirements as allowed. Such projects may also be eligible for review under the Minor Site Plan process.
4. Minimum acreage is established in the Table of Uses for specific agricultural uses (Additional standards are given in Table 109.1E). In cases where minimums are established for more than one use occurring on a property, the minimum acreages are not added together. For example, if 3 acres is required for each of two uses, then 3 acres will be sufficient to accommodate both uses.
5. All animals must be contained on the subject lot. It is the responsibility of the property owner to contain the animals through appropriate means which may or may not include fencing.
6. Fences used for agricultural purposes, such as the containment of livestock and poultry or the protection of crops, may be located at the property line and need not meet setbacks otherwise applicable to fencing. The vertical opacity of any such fences that are higher than six feet shall not exceed 25% (for the purpose of maintaining an open view through the fence).
7. Keeping at least two of any species of animal is strongly encouraged, but not mandatory (except where specifically required). Virtually all animals will be healthier in the presence of companions.
8. Housing structure. An appropriate fully-enclosed structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Chickens and turkeys shall be maintained in the structure from sunset to sunrise.

[\[Reference: http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf\]](http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf)

9. Housing structure setbacks. Structures for housing animals shall meet all setbacks applicable to structures. The structure shall not be placed in the front court (including for corner lots). However, in the Rural Zoning District the structure may be placed in the front court provided it is set back at least 50 feet from the front (or side, for corner lots) property line. In the Residence A and Residence B Districts, the structure shall be reasonably screened from the road. All requirements in this subsection may be changed by special exception.

10. Guidance from Agricultural Commission. Landowners and others with questions or concerns related to this ordinance and to agriculture in general are encouraged to speak with the Durham Agricultural Commission. Interested parties should contact the Town Planning Department.

11. Complaints. When a complaint is issued regarding any agricultural use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law.

12. Housing and Land Area Standards. See Section E below.

13. Irrigation. Irrigation is subject to applicable water withdrawal and use restrictions of the State of New Hampshire and the Town of Durham.

14. Number of Buildings. There is no set limit on the number of allowed agricultural buildings, whether principal or accessory buildings, on lots of three acres or greater (This provision overrides several general limitations included elsewhere in this ordinance).

15. Permits. A building, fence, and/or sign permit may be required depending on specific circumstances. See the Code Administrator for clarification, where appropriate.

B. Chickens and Turkeys, Keeping of – Accessory Use. The following terms and conditions apply to the keeping of chickens and turkeys as an accessory use:

1. Single/Two Family. The keeping of chickens and turkeys is permitted as an accessory use to single-family and duplex residences only.

2. *Roosters. Roosters are permitted only on lots greater than 20,000 square feet located in the Rural Zoning District.*
3. *Number of animals. A maximum of 12 animals may be maintained per lot.*
4. *Selling Products. Eggs, chickens and turkeys may be sold on the premises provided the products are produced on the subject property and activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs.*

Reference - <https://www.agriculture.nh.gov/publications-forms/documents/shell-egg-guidelines.pdf>

C. *Goats and Sheep, Keeping of – Accessory Use. The following terms and conditions apply to the keeping of Goats and Sheep – Accessory Use:*

1. *Single/Two Family. The keeping of goats and sheep is permitted as an accessory use to Single-Family and Duplex Residences only.*
2. *Number of animals. There shall be a minimum of two goats or two sheep kept on the property (Goats and sheep are herd animals and need companionship). No more than two goats or two sheep may be kept on the property in the Residence A and Residence B districts. See Table 175-109.1 E – Housing and Land Area Standards for Livestock for requirements in other districts.*
3. *Permitted goats. In all zones, with the exception of the Residence Coastal and Rural Districts, only miniature, dwarf, or pygmy breed of goats may be kept on lots that are smaller than 80,000 square feet. Any kind of goat may be kept in the Residence Coastal and Rural Districts and on lots in other zones that are 80,000 square feet or larger. In all zones, with the exception of the Residence Coastal and Rural Districts, all goats must be dehorned and all male goats must be neutered.*
4. *Selling Products. Milk, cheese, wool, live goats and sheep, and other goat and sheep products may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with New Hampshire RSA 184. Inspection and Sale of Dairy Products (with specific reference to RSA 184:84.V). Any signage shall conform with the standards for residential accessory signs.*

[Reference - <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XIV-184.htm>]

D. *Forestry. All forestry activities shall be conducted in accordance with RSA 227-J, the Basal Area Law and RSA 227-J:9 in particular and RSA 79:10 Notice of intent to cut, and shall use as guidance for best forest management practices the “New Hampshire*

Best Management Practices for Erosion Control on Timber Harvesting Operations” 2016, as amended; Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended; and Good Forestry in the Granite State (DRED). Where forestry activity or significant tree removal has occurred within 200 feet of any public street or property boundary, the property owner shall reclaim the area – including removal of logs, wood debris, and stumps, as appropriate – within 60 days.

E. Housing and Land Area Standards for Livestock. The standards given in Table 175-109.1 E. –Housing and Land Area Standards shall be met for all sites except for the accessory keeping of chickens and turkeys and of goats and sheep.

1. Structures for housing animals must have a roof and be enclosed on at least three sides.
2. All undeveloped land on the subject parcel, including fields and woods and any structures built for the animals, but excluding wetlands, counts toward the minimum area of land per animal.
3. The minimum area of land per animal may be reduced by special exception. When such an application for a special exception is received, the Planning and Zoning Department shall promptly notify the Agricultural Commission which shall have a reasonable opportunity to provide input on the application prior to the Zoning Board of Adjustment making a decision. The Agricultural Commission shall allow for all interested parties to comment on the application.
4. For animals not listed in the table and animals that are not standard-size animals which are permitted in the zoning district, the minimum area of housing per animal and the minimum land area per animal shall be established by the Zoning Administrator after consulting with the Agricultural Commission. The applicant is encouraged to present information on best management practices for the animal to the Agricultural Commission.
5. NH Code of Administrative Rules regulate the possession of wildlife, including the raising of deer, elk, and game birds. Annual permits to raise these animals, and others, are required by NH Fish and Game.
http://www.gencourt.state.nh.us/rules/state_agencies/fis800.html

Table 175-109.1 E. - Housing and Land Area Standards for Livestock

<u>ANIMAL</u>	<u>HOUSING - minimum area per animal (in square feet)</u>	<u>LAND - minimum area per animal (in square feet)</u>
<u>Horse</u>	<u>Box stalls: 45 square feet; 5 x 9 feet recommended</u>	<u>40,000</u>
<u>Cow</u>	<u>No requirement</u>	<u>40,000</u>
<u>Buffalo and Bison</u>	<u>No requirement</u>	<u>40,000</u>
<u>Ox and Steer</u>	<u>No requirement</u>	<u>40,000</u>
<u>Goat</u>	<u>20</u>	<u>8,500</u>
<u>Sheep</u>	<u>20</u>	<u>8,500</u>
<u>Pig</u>	<u>48</u>	<u>3,000</u>
<u>Llama</u>	<u>40</u>	<u>20,000</u>
<u>Alpaca</u>	<u>18</u>	<u>10,000</u>
<u>Chicken</u>	<u>3</u>	<u>No requirement</u>
<u>Turkey</u>	<u>6</u>	<u>100</u>
<u>Duck</u>	<u>3</u>	<u>15</u>
<u>Goose</u>	<u>6</u>	<u>18</u>
<u>Guinea Fowl</u>	<u>3</u>	<u>No requirement</u>
<u>Pheasant</u>	<u>5</u>	<u>25</u>
<u>Pigeon</u>	<u>2</u>	<u>No requirement</u>
<u>Quail</u>	<u>1</u>	<u>4</u>

ARTICLE XIII – WETLAND CONSERVATION OVERLAY DISTRICT

❖ Make the following addition to **Section 175-60. Permitted Uses in the WCOD.**:

175-60. Permitted Uses in the WCOD.

...B. The following uses or activities, including any necessary grading, shall be permitted in the WCOD if they are permitted in the underlying zoning district provided that the Zoning Administrator issues a permit for the activity after the Planning Board, with the advice of the Conservation Commission, determines that: a.) appropriate erosion control measures will be used, b.) any disturbed area will be restored, and c.) the activity will be conducted in a manner that minimizes any impact on the wetland:

...12. Aquaculture.

❖ Make the following changes to **Section 175-65. Performance Standards in the WCOD.**:

...C. *Agricultural Activity*

No soil disturbance, manure spreading, or mowing in conjunction with either commercial agriculture or accessory agricultural activities shall occur within the wetland or within seventy-five (75) feet of the reference line of the wetland. Commercial agriculture within the WCOD (except for aquaculture when approved under 175-60 B and by the appropriate state agency) shall be conducted in accordance with a management plan approved by the Strafford County Resource Conservation District as demonstrating Best Management Practices as set forth in “Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire” 2017, as amended (New Hampshire Department of Agriculture, ~~1993~~) and “Best Management Wetlands Practices for Agriculture,” as amended (New Hampshire Department of Agriculture, ~~1993~~).

D. *Forestry*

Any forestry activity-within the WCOD shall be in accordance with the Basal Area Law RSA 227-J:9 and shall use as guidance for best forest management practices ~~the~~ “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations ~~in New Hampshire~~” Department of Resources and Economic Development (~~DRED~~) 2004 as amended, and University of New Hampshire Cooperative Extension 2016, as amended; Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as ~~amended~~, amended; and “Good Forestry in the Granite State” (DRED).

ARTICLE XIV – SHORELAND PROTECTION OVERLAY DISTRICT

❖ Make the following addition to **Section 175-60. Permitted Uses in the WCOD.**:

175-71. Permitted Uses in the SPOD.

...B. The following uses or activities, including any necessary grading, shall be permitted in the SPOD provided that the Zoning Administrator issues a permit for the activity after the Planning Board, with the advice of the Conservation Commission, determines that: a) appropriate erosion control measures will be used, b) any disturbed area will be restored, and c) the activity will be conducted in a manner that minimizes any impact on the shoreland:

...11. Aquaculture.

- ❖ Make the following changes to **Section 175-76. Performance Standards in the SPO.**:

...B. Agriculture

In no case shall any soil disturbance or animal grazing occur within seventy-five (75) feet of the reference line. No fertilizers (including manure), pesticides, or herbicides shall be applied within seventy-five (75) feet of the reference line. Any commercial agricultural activity within the SPO (except for aquaculture when approved under 175-60 B and by the appropriate state agency) shall be conducted in accordance with a management plan approved by the Strafford County Natural Resources Conservation Service as demonstrating Best Management Practices.

C. Forestry

Any forestry activity within the SPO shall be conducted in accordance with a forest management plan prepared by a New Hampshire state licensed professional forester and shall be in accordance with the Basal Area Law RSA 227-J:9 and shall use as guidance for best forest management practices ~~the~~ “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations ~~in New Hampshire~~” Department of Resources and Economic Development and University of New Hampshire Cooperative Extension 2016, DRED-2004 as amended, Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as “Good Forestry in the Granite State” (DRED). In no case shall any harvesting or clearing, except for the removal of dead or diseased trees, occur within fifty (50) feet of the reference line. If there is conflict among the standards, the most restrictive shall apply.

ARTICLE XXII – LANDSCAPING

- ❖ Make the following addition to **Sections 175-114 and 175-115.**

175-114. Purpose and Intent.

The purpose of this Landscaping Article is to establish procedures and practices governing the protection, installation and long-term maintenance of trees, vegetation and other landscape elements ~~within the limits of the Town of Durham.~~ Except where otherwise specifically stated, this article applies only to ~~for~~ subdivisions of land where a new street is involved, ~~until such time as appropriate provisions are added to the Subdivision Regulations.~~

~~175-115. —General Requirements.~~

~~This article applies specifically to subdivisions of land and the construction of single-family and duplex dwellings.~~

175-115. Invasive Species.

No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant species, including all of their cultivars

and varieties, included in Table 3800.1, New Hampshire prohibited invasive species list, as amended, or included in Env-Wq 1303.02 list of Prohibited Exotic Aquatic Weeds as published by the New Hampshire Division of Environmental Services. This restriction does not apply to the removal or eradication of any invasive species in accordance with best management practices. This provision applies to all property in Durham.

[Reference: <https://www.agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf>;
<https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-wq1300.pdf>

AGRICULTURAL AMENDMENTS
PROPOSED

CATEGORY OF USES

II. RURAL AGRICULTURAL
USES See Article XX.1

Principal Uses

Crop Cultivation

Forestry

Farmers' Market

Livestock – large, keeping of

Horses, keeping of

Poultry, keeping of

Goats and sheep, keeping of

Fur-bearing animals, keeping of

Rabbits, keeping of

Bees, keeping of

Aquaculture

Agricultural Sales, commercial

Commercial agriculture

RESIDENTIAL ZONES

Rural (R)
Residence A (RA)
Residence B (RB)
Residence C (RC)

COMMERCIAL CORE ZONES

Central Business (CB)
Professional Office (PO)
Church Hill (CH)
Courthouse (C)
Coe's Corner (CC)

RESEARCH-INDUSTRY ZONES

Office Research - Route 108 (OR)
Mixed Use and Office Research (MUDOR)
Office Research Light Industry (ORLI)
Durham Business Park (DBP)

<i>Crop Cultivation</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Forestry</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Farmers' Market</i>	<i>SE</i>	<i>X</i>	<i>X</i>	<i>SE</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Livestock – large, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Horses, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Poultry, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Goats and sheep, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Fur-bearing animals, keeping of</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Rabbits, keeping of</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Bees, keeping of</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P³</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Aquaculture</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Agricultural Sales, commercial</i>	<i>P</i>	<i>SE</i>	<i>SE</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Commercial agriculture</i>	<i>P</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>X</i>

AGRICULTURAL AMENDMENTS
PROPOSED

CATEGORY OF USES

RESIDENTIAL ZONES

COMMERCIAL CORE ZONES

RESEARCH-INDUSTRY ZONES

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
<i>Commercial animal husbandry</i>	P	X	X	P	X	X	X	X	X	P	P	P	X
<i>Plant nursery</i>	P	X	X	P	X	X	X	X	X	P	P	P	X
Kennel	CU	X	X	CU	X	X	X	X	X	CU	X	CU	X
<i>Stable</i>	P	X	X	P	X	X	X	X	X	CU	CU	CU	X
<i>Forestry See Article XX</i>	P	P	P	P	X	X	X	X	P	P	P	P	P
Temporary sawmill <i>See Article XX</i>	P	P	P	P	X	X	X	X	X	P	P	P	P
Reuse of existing agricultural building <i>See Article XX</i>	CUA	X	X	CUA	X	X	X	X	X	P	P	P	P
Uses Accessory to <i>Commercial Agriculture and Animal Husbandry Residential Uses</i>													
<i>Retail sales of farm products</i>	P	X	X	P	X	X	X	X	X	CU	CU	CU	X
<i>Chickens and Turkeys, keeping of</i>	P	P	P	P	X	X	X	X	P	P	P	P	X
<i>Goats and Sheep, keeping of</i>	P	P	P	P	X	X	X	X	P	P	P	P	X
<i>Horses, keeping of</i>	P ²	P ²	P ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
<i>Uses Accessory to Farms</i>													
<i>Farmstand</i>	P	X	X	P	P	X	X	P	P	P	P	P	X

AGRICULTURAL AMENDMENTS
PROPOSED

CATEGORY OF USES

RESIDENTIAL ZONES

COMMERCIAL CORE ZONES

RESEARCH-INDUSTRY ZONES

III. RESIDENTIAL USES

Uses Accessory To Any Residential Use

- ~~Accessory agricultural activities See Article XX~~
- ~~Accessory animal husbandry-livestock See Article XX~~
- ~~Accessory animal husbandry-goats See Article XX~~
- ~~Accessory animal husbandry-poultry See Article XX~~

	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
Accessory agricultural activities See Article XX	P	P	P	P	X	X	X	X	X	P	P	P	X
Accessory animal husbandry-livestock See Article XX	P	P	P	P	X	X	X	X	X	CU	CU	CU	X
Accessory animal husbandry-goats See Article XX	P	P	P	P	X	X	X	X	X	P	P	P	X
Accessory animal husbandry-poultry See Article XX	P	P	P	P	X	X	X	X	X	P	P	P	X

Notes:

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.

***Please note:**

- Proposed additions to the current table are shown like this.*
- ~~*Proposed deletions from the current table are shown like this.*~~

**Changes initiated by the Planning Board on September 9, 2020*

Proposed Amendments to the Durham Zoning Ordinance
Agriculture

****New language only as initiated by Planning Board on September 9, 2020****

This document includes only the new language proposed by the Planning Board for convenience only. One should review the full set of legal amendments which shows precisely the existing language to be removed and the proposed new language. Also, see the separate Table of Uses for proposed changes. Numbering for the various sections below is corrected on the complete set of amendments.

ARTICLE II – DEFINITIONS. Section 175-7

- ❖ Create the following new subsection under Section 175-7 with all definitions under AGRICULTURE:

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.

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

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.

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, swine, 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*).

Poultry, Keeping of. The raising, breeding, and sale of poultry, including chickens, turkeys, ducks, geese, and gamebirds.

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

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.

❖ Add the following definitions as separate entries:

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, individually or in combination.

OPACITY, VERTICAL – 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.

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.)

SEWAGE - The water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present. (As defined in RSA 485-A:2.)

SHALL – Where the term “shall” is used, the person or party is required to do what is referred to.

SLUDGE - The solid or semisolid material produced by water and wastewater treatment processes, but not including domestic septage. However, sludge which is disposed of at solid waste facilities as permitted by the New Hampshire Division of Environmental Services is considered solid waste. (As defined in RSA 485-A:2.)

TABLE OF USES

❖ See separate document.

❖ Create a new Article XX.1 – Standards for Agricultural Uses to read as follows.

ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

175-109.1. Purpose.

The purpose of this article and of other provisions in this chapter related to agriculture is to:

- A. Help preserve a working landscape of farms, gardens, and forests;
- B. Support local farms, farmers, and food production;
- C. Foster long-term economic and environmental sustainability and resilience; and
- D. Fulfill the goals included in the Agricultural Resources Master Plan and those pertinent to agriculture established by the Durham Town Council

175.109.2. Compliance Required.

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

A. **General Provisions.** The following provisions apply to all agricultural uses and activities:

1. See definitions of various agricultural activities under AGRICULTURE in Article II. See Agricultural Uses in the Table of Uses. There is no set limit on the number of principal and accessory uses related to agriculture that may be established on a lot (though other requirements may effectively serve to limit the number of uses). Some of the agricultural uses included under Principal Uses in the Table of Uses may also be considered accessory uses subject to the same requirements as principal uses, as reasonably determined by the Zoning Administrator.
2. **Best management practices.** Best management practices shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture (per RSA 21:34-a). Best management practices shall be applied to all pertinent aspects of the farm, including but not limited to the following:
 - a. Manure, compost from manure, and odor from animals. Manure must be removed from the structure and immediate area housing animals and composted or disposed of in a timely manner.
 - b. Feed. Feed should be stored in fully enclosed and secured containers in order to prevent pests and predators.
 - c. Slaughtering of animals.

2. Site plan review.
 - a. Site plan review is required as specified in the text of Section 175-53 – Table of Land Uses and in the Site Plan Regulations (except as specified in b., below). Site plan review is required for all buildings, driveways, parking areas, public use areas, and significant structures and for site changes that are part of any commercial agricultural operation. Site plan review is not required for non-commercial agriculture.
 - b. Site plan review is not required for uses that are accessory to single-family and duplex residences nor for temporary farmstands. The establishment, expansion, or change of the uses specified under Agricultural Uses in the Table of Uses is exempt from site plan review (though physical changes to the site ordinarily reviewed, such as building construction, are subject to review), with the exception of Farmers' Markets; Agricultural Sales, Commercial; and Aquaculture which are subject to site plan review.
 - c. Applicants for projects related to agriculture may request waivers from specific provisions of the site plan requirements as allowed. Such projects may also be eligible for review under the Minor Site Plan process.
3. Minimum acreage is established in the Table of Uses for specific agricultural uses (Additional standards are given in Table 109.1E). In cases where minimums are established for more than one use occurring on a property, the minimum acreages are not added together. For example, if 3 acres is required for each of two uses, then 3 acres will be sufficient to accommodate both uses.
4. All animals must be contained on the subject lot. It is the responsibility of the property owner to contain the animals through appropriate means which may or may not include fencing.
5. Fences used for agricultural purposes, such as the containment of livestock and poultry or the protection of crops, may be located at the property line and need not meet setbacks otherwise applicable to fencing. The vertical opacity of any such fences that are higher than six feet shall not exceed 25% (for the purpose of maintaining an open view through the fence).
6. Keeping at least two of any species of animal is strongly encouraged, but not mandatory (except where specifically required). Virtually all animals will be healthier in the presence of companions.

7. Housing structure. An appropriate structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Chickens and turkeys shall be maintained in the structure from sunset to sunrise.

[Reference -

http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]

8. Housing structure setbacks. Structures for housing animals shall meet all setbacks applicable to structures. The structure shall not be placed in the front court (including for corner lots). However, in the Rural Zoning District the structure may be placed in the front court provided it is set back at least 50 feet from the front (or side, for corner lots) property line. In the Residence A and Residence B Districts, the structure shall be reasonably screened from the road. All requirements in this subsection may be changed by special exception.
9. Guidance from Agricultural Commission. Landowners and others with questions or concerns related to this ordinance and to agriculture in general are encouraged to speak with the Durham Agricultural Commission. Interested parties should contact the Town Planning Department.
10. Complaints. When a complaint is issued regarding any agricultural use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law.
11. Housing and Land Area Standards. See section E below.
12. Irrigation. Irrigation is subject to applicable water withdrawal and use restrictions of the State of New Hampshire and the Town of Durham.
13. Number of Buildings. There is no set limit on the number of allowed agricultural buildings, whether principal or accessory buildings, on lots of three acres or greater (This provision overrides several general limitations included elsewhere in this ordinance).

14. Permits. A building, fence, and/or sign permit may be required depending on specific circumstances. See the Code Administrator for clarification, where appropriate.

B. **Chickens and Turkeys, Keeping of – Accessory Use.** The following terms and conditions apply to the keeping of chickens and turkeys as an accessory use:

1. Single/Two Family. The keeping of chickens and turkeys is permitted as an accessory use to single-family and duplex residences only.
2. Roosters. Roosters are permitted only on lots greater than 20,000 square feet located in the Rural Zoning District.
3. Number of animals. A maximum of 12 animals may be maintained per lot.
4. Selling. Eggs, chickens and turkeys may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs.

Reference - <https://www.agriculture.nh.gov/publications-forms/documents/shell-egg-guidelines.pdf>

C. **Goats and Sheep, Keeping of – Accessory Use.** The following terms and conditions apply to the keeping of Goats and Sheep – Accessory Use:

1. Single/Two Family. The keeping of goats and sheep is permitted as an accessory use to Single-Family and Duplex Residences only.
2. Number of animals. There shall be a minimum of two goats or two sheep kept on the property (Goats and sheep are herd animals and need companionship). No more than two goats or two sheep may be kept on the property in the Residence A and Residence B districts. See Table 175-109.1 E – Housing and Land Area Standards for Livestock for requirements in other districts.
3. Permitted goats. In all zones, with the exception of the Residence Coastal and Rural Districts, only miniature, dwarf, or pygmy breed of goats may be kept on lots that are smaller than 80,000 square feet. Any kind of goat may be kept in the Residence Coastal and Rural Districts and on lots in other zones that are 80,000 square feet or larger. In all zones, with the exception of the Residence Coastal and Rural Districts, all goats must be dehorned and all male goats must be neutered.
4. Selling Products. Milk, cheese, wool, live goats and sheep, and other goat and sheep products may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with New Hampshire

RSA 184. Inspection and Sale of Dairy Products, ~~with specific reference to RSA 184:84.V~~ (with specific reference to RSA 184:84.V). Any signage shall conform with the standards for residential accessory signs.

[Reference - <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XIV-184.htm>]

- D. **Forestry**. All forestry activities shall be conducted in accordance with RSA 227-J, the Basal Area Law and RSA 227-J:9 in particular and RSA 79:10 Notice of intent to cut, and shall use as guidance for best forest management practices the “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” 2016, as amended; Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended; and Good Forestry in the Granite State (DRED). Where forestry activity or significant tree removal has occurred within 200 feet of any public street or property boundary, the property owner shall reclaim the area – including removal of logs, wood debris, and stumps, as appropriate – within 60 days.
- E. **Housing and Land Area Standards for Livestock**. The standards given in Table 175-109.1 E. –Housing and Land Area Standards shall be met for all sites except for the accessory keeping of chickens and turkeys and of goats and sheep.
1. Structures for housing animals must have a roof and be enclosed on at least three sides.
 2. All undeveloped land on the subject parcel, including fields and woods and any structures built for the animals, but excluding wetlands, counts toward the minimum area of land per animal.
 3. The minimum area of land per animal may be reduced by special exception. When such an application for a special exception is received, the Planning and Zoning Department shall promptly notify the Agricultural Commission which shall have a reasonable opportunity to provide input on the application prior to the Zoning Board of Adjustment making a decision. The Agricultural Commission shall allow for all interested parties to comment on the application.
 4. For animals not listed in the table and animals that are not standard-size animals which are permitted in the zoning district, the minimum area of housing per animal and the minimum land area per animal shall be established by the Zoning Administrator after consulting with the Agricultural Commission. The applicant is encouraged to present information on best management practices for the animal to the Agricultural Commission.

5. NH Code of Administrative Rules regulate the possession of wildlife, including the raising of deer, elk, and game birds. Annual permits to raise these animals, and others, are required by NH Fish and Game.
http://www.gencourt.state.nh.us/rules/state_agencies/fis800.html

(over)

Table 175-109.1 E. - Housing and Land Area Standards for Livestock

ANIMAL	HOUSING - minimum area per animal (in square feet)	LAND - minimum area per animal (in square feet)
Horse	Box stalls: 45 square feet; 5 x 9 feet recommended	40,000
Cow	No requirement	40,000
Buffalo and Bison	No requirement	40,000
Ox and Steer	No requirement	40,000
Goat	20	8,500
Sheep	20	8,500
Pig	48	3,000
Llama	40	20,000
Alpaca	18	10,000
Chicken	3	No requirement
Turkey	6	100
Duck	3	15
Goose	6	18
Guinea Fowl	3	No requirement
Pheasant	5	25
Pigeon	2	No requirement
Quail	1	4

ARTICLE XIII – WETLAND CONSERVATION OVERLAY DISTRICT

See full set of draft amendments for specific changes.

ARTICLE XIV – SHORELAND PROTECTION OVERLAY DISTRICT

See full set of draft amendments for specific changes.

(over)

ARTICLE XXII – LANDSCAPING

❖ Reword these two sections as follows.

175-114. Purpose and Intent.

The purpose of this Landscaping Article is to establish procedures and practices governing the protection, installation and long-term maintenance of trees, vegetation and other landscape elements. Except where otherwise specifically stated, this article applies only to subdivisions of land where a new street is involved.

175-115. Invasive Species.

No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant species, including all of their cultivars and varieties, included in Table 3800.1, New Hampshire prohibited invasive species list, as amended, or included in Env-Wq 1303.02 list of Prohibited Exotic Aquatic Weeds as published by the New Hampshire Division of Environmental Services. This restriction does not apply to the removal or eradication of any invasive species in accordance with best management practices. This provision applies to all property in Durham.

[Reference: <https://www.agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf>;

<https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-wq1300.pdf>]

*****NEW TEXT ONLY FOR
AGRICULTURE AMENDMENTS
INITIATED BY THE PLANNING
BOARD**

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
<i>Uses Accessory to Residential Uses</i>													
Chickens and Turkeys, keeping of	P	P	P	P	X	X	X	X	P	P	P	P	X
Goats and Sheep, keeping of	P	P	P	P	X	X	X	X	P	P	P	P	X
Horses, keeping of	P ²	P ²	P ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
<i>Uses Accessory to Farms</i>													
Farmstand	P	X	P	P	P	X	X	P	P	P	P	P	X

Notes

- 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.**

**The proposed table of uses was initiated by the Planning Board on September 9, 2020*

STATE DEFINITION OF AGRICULTURE

21:34-a Farm, Agriculture, Farming.

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming operations or activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock; in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in the operations or activities named in paragraph II(a) or (b) of this section or any combination of such individual operations or activities.

II. The words "agriculture" and "farming" mean all operations or activities of a farm, including:

(a)(1) The cultivation, conservation, or tillage of the soil.

(2) The storage and use of or spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.

(3) The use of or application of agricultural chemicals.

(4) The husbandry of livestock which shall include but not be limited to all beef or dairy cattle, steer, oxen, goats, sheep, swine, horses, mules or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), or reindeer (*Rangifer tarandus*).

(5) The husbandry, boarding, training, or riding instruction of equines.

(6) The husbandry and harvesting aquaculture products including fresh or salt water finfish, shellfish, or other aquatic organisms grown for consumption or processing.

(7) The husbandry of poultry or game birds or production of eggs.

(8) The husbandry of bees or production of honey.

(9) The husbandry of domesticated strains of fur-bearing animals.

(10) The production of greenhouse crops.

(11) The production, cultivation, growing, or harvesting of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees or tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any plant that can be legally grown or harvested extensively for profit or subsistence.

(over)

(b) Any practice or activity on the farm incident to, ancillary to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.

(2) The transportation to the farm of supplies and materials.

(3) The transportation of farm workers.

(4) Forestry or lumbering operations.

(5) Marketing or selling at wholesale or retail, regardless of the manner or form of the transaction, any livestock or products derived principally from the production of the farm, including, but not limited to items listed in subparagraph (a), whether on-site or off-site, provided that marketing such products is not specifically prohibited by local regulations. For the purposes of this section marketing shall include agritourism, which means attracting visitors to a farm to attend events or activities that are accessory uses to the primary farm operation, including, but not limited to, being provided a meal, making overnight stays, enjoyment of the farm environment, education which shall be instruction or learning about the farm's operations, or active involvement in the activities of the farm.

(6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

(7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II(a)(4).

(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.

III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

IV. Management practices on the farm shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture.

V. The term "farmers' market" means an event or series of events at which 2 or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to, products of agriculture, as defined in paragraphs I-IV. "Farmers' market" shall not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.

From: [Todd Selig](#)
To: [Jen Berry](#)
Subject: Jennie - FW: Agriculture Ordinance - question about housing
Date: Thursday, October 15, 2020 2:23:41 PM

Dear Jennie,

Please include with the Council packet on this item.

Todd

[Todd I. Selig](#), Administrator

Town of Durham, NH

a: 8 Newmarket Rd., Durham, NH 03824 USA

t: 603.868.5571 | **m:** 603.817.0720 | **w:** www.ci.durham.nh.us

He/him/his pronouns

To view suggestions from the CDC on how to protect yourself and your family from **COVID-19**, click [HERE](#).

From: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Date: Thursday, October 15, 2020 at 12:17 PM

To: Todd Selig <tselig@ci.durham.nh.us>

Cc: Theresa Walker <theresawalker@comcast.net>

Subject: Agriculture Ordinance - question about housing

Todd,

Please share this information with the Town Council. I conveyed the Town Council's question below to Theresa and incorporated her suggested change into this table. Thank you.

ANIMAL	HOUSING - minimum area per animal (in square feet)	LAND - minimum area per animal (in square feet)
Horse, Dairy Cow, Ox and Steer	Box stalls: 45 square feet; 5 x 9 feet recommended	40,000
Beef Cow	No requirement	40,000
Buffalo and Bison	No requirement	40,000
Ox and Steer	No requirement	40,000
Goat	20	8,500

Sheep	20	8,500
Pig	48	3,000
Llama	40	20,000
Alpaca	18	10,000
Chicken	3	No requirement
Turkey	6	100
Duck	3	15
Goose	6	18
Guinea Fowl	3	No requirement
Pheasant	5	25
Pigeon	2	No requirement
Quail	1	4

Michael Behrendt

Durham Town Planner

Town of Durham

8 Newmarket Road

Durham, NH 03824

(603) 868-8064

www.ci.durham.nh.us

From: Theresa Walker [mailto:theresawalker@comcast.net]
Sent: Tuesday, October 13, 2020 11:24 AM
To: Michael Behrendt
Subject: RE: Agriculture Ordinance - question about housing

Hi Michael – The Ag Comm recommends the following additions to the proposed Housing Table:

Dairy Cattle, Oxen, Steer – same as horse

Beef Cattle and Bison – no shelter needed (which is standard practice. Dave Langley adds that bison would destroy any shelter)

Thank you, Theresa

From: Michael Behrendt <mbehrendt@ci.durham.nh.us>
Sent: Tuesday, October 6, 2020 5:55 PM
To: Theresa Walker (theresawalker@comcast.net)
<theresawalker@comcast.net>
Cc: Todd Selig <tselig@ci.durham.nh.us>
Subject: Agriculture Ordinance - question about housing

Hi Theresa,

One particular question arose during the Town Council's discussion about the Agriculture Ordinance last night. The Housing Table does not include any minimum area for housing for cows, buffalo and bison, and ox and steer. If I recall correctly the Agricultural Commission did not think these animals needs

to have indoor shelter. Councilor Sally Needell checked with a source (I don't remember who) that said those animals should have shelter provided for them as well. I told the Council I would check with you on this. Can you provide some information about this question? Thank you.

Michael Behrendt

Durham Town Planner

Town of Durham

8 Newmarket Road

Durham, NH 03824

(603) 868-8064

www.ci.durham.nh.us

From: [Todd Selig](#)
To: [Jen Berry](#)
Cc: [Durham Town Council](#)
Subject: Jennie - FW: Agricultural Amendments
Date: Friday, October 16, 2020 9:20:53 AM
Attachments: [aqamedtable2.docx](#)
[Aqamendoc2.docx](#)

Dear Jennie,

Please include this email as well as the attachments with the Council packet on this topic.

Todd

[Todd I. Selig](#), Administrator

Town of Durham, NH

a: 8 Newmarket Rd., Durham, NH 03824 USA

t: 603.868.5571 | **m:** 603.817.0720 | **w:** www.ci.durham.nh.us

He/him/his pronouns

To view suggestions from the CDC on how to protect yourself and your family from **COVID-19**, click [HERE](#).

From: Carden Welsh <cardentc2@gmail.com>
Date: Thursday, October 15, 2020 at 10:14 PM
To: Todd Selig <tselig@ci.durham.nh.us>
Subject: Agricultural Amendments

Hi Todd,

In preparation for Monday, I have prepared some recommended changes to the proposed agricultural amendments to our zoning ordinance. I certainly appreciate all the time, effort and expertise that the agricultural commission has put into these; having gone through this process myself with the short-term rental ordinance I know how much effort and time it requires.

Nevertheless, my primary concern with the amendments is that they may not adequately protect the residential zones from the incursion of commercial ventures. To address this, the proposed changes would adopt an "accessory use" for animal-related agriculture in residential zones A and B, and add a CU (conditional use) to animal-related agriculture in residential zone C. Definitions for these accessory uses are included under Article II.

To me, these seem to be reasonable approaches to limiting commercial agriculture in the residential zones. They would not be dissimilar to the decision to limit roosters in the residential zones; we permit certain things (chickens) but avoid conflicting uses (roosters).

Further, to the extent that, as even Agricultural Commission members have stated, no one wants large scale pig and poultry farms in the town of Durham, I have proposed further limiting the raising of pigs to 1 per 40k square feet, to

a maximum of 6 on a lot, and limiting the maximum number of poultry as a principle use to 100 animals per lot.

Town planner Michael Behrendt has assisted me by incorporating the proposed changes into the attached documents.

I do believe that commercial agriculture, other than on a limited scale, is inconsistent with the neighborhoods in residential zones A and B, and depending on location, in residential zone C.

All the best,

Carden

Proposed Amendments to the Durham Zoning Ordinance
Agriculture

****New language only as initiated by Planning Board on September 9, 2020****

SHOWING CHANGES SUGGESTED BY CARDEN WELSH – October 15, 2020

This document includes only the new language proposed by the Planning Board for convenience only. One should review the full set of legal amendments which shows precisely the existing language to be removed and the proposed new language. Also, see the separate Table of Uses for proposed changes. Numbering for the various sections below is corrected on the complete set of amendments.

ARTICLE II – DEFINITIONS. Section 175-7

- ❖ Create the following new subsection under Section 175-7 with all definitions under AGRICULTURE:

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.

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, ~~swine~~, 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. **This use includes up to 100 animals.**

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

Rabbits, Keeping of – Accessory Use. The raising and breeding of rabbits for noncommercial purposes, other than incidental sales of rabbits and related products produced on the premises, in conjunction with a residence. This use includes up to 12 rabbits per lot.

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. This use includes a maximum of six animals on a lot.

❖ Add the following definitions as separate entries:

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, individually or in combination.

OPACITY, VERTICAL – 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.

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.)

SEWAGE - The water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present. (As defined in RSA 485-A:2.)

SHALL – Where the term “shall” is used, the person or party is required to do what is referred to.

SLUDGE - The solid or semisolid material produced by water and wastewater treatment processes, but not including domestic septage. However, sludge which is disposed of at solid waste facilities as permitted by the New Hampshire Division of Environmental Services is considered solid waste. (As defined in RSA 485-A:2.)

TABLE OF USES

❖ See separate document.

❖ Create a new Article XX.1 – Standards for Agricultural Uses to read as follows.

ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

175-109.1. Purpose.

The purpose of this article and of other provisions in this chapter related to agriculture is to:

- A. Help preserve a working landscape of farms, gardens, and forests;
- B. Support local farms, farmers, and food production;
- C. Foster long-term economic and environmental sustainability and resilience; and
- D. Fulfill the goals included in the Agricultural Resources Master Plan and those pertinent to agriculture established by the Durham Town Council

175.109.2. Compliance Required.

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

- A. **General Provisions.** The following provisions apply to all agricultural uses and activities:

1. See definitions of various agricultural activities under AGRICULTURE in Article II. See Agricultural Uses in the Table of Uses. There is no set limit on the number of principal and accessory uses related to agriculture that may be established on a lot (though other requirements may effectively serve to limit the number of uses). ~~Some of the agricultural uses included under Principal Uses in the Table of Uses may also be considered accessory uses subject to the same requirements as principal uses, as reasonably determined by the Zoning Administrator.~~
2. Best management practices. Best management practices shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture (per RSA 21:34-a). Best management practices shall be applied to all pertinent aspects of the farm, including but not limited to the following:
 - a. Manure, compost from manure, and odor from animals. Manure must be removed from the structure and immediate area housing animals and composted or disposed of in a timely manner.
 - b. Feed. Feed should be stored in fully enclosed and secured containers in order to prevent pests and predators.
 - c. Slaughtering of animals.
2. Site plan review.
 - a. Site plan review is required as specified in the text of Section 175-53 – Table of Land Uses and in the Site Plan Regulations (except as specified in b., below). Site plan review is required for all buildings, driveways, parking areas, public use areas, and significant structures and for site changes that are part of any commercial agricultural operation. Site plan review is not required for non-commercial agriculture.
 - b. Site plan review is not required for uses that are accessory to single-family and duplex residences nor for temporary farmstands. The establishment, expansion, or change of the uses specified under Agricultural Uses in the Table of Uses is exempt from site plan review (though physical changes to the site ordinarily reviewed, such as building construction, are subject to review), with the exception of Farmers’ Markets; Agricultural Sales, Commercial; and Aquaculture which are subject to site plan review.

- c. Applicants for projects related to agriculture may request waivers from specific provisions of the site plan requirements as allowed. Such projects may also be eligible for review under the Minor Site Plan process.
3. Minimum acreage is established in the Table of Uses for specific agricultural uses (Additional standards are given in Table 109.1E). In cases where minimums are established for more than one use occurring on a property, the minimum acreages are not added together. For example, if 3 acres is required for each of two uses, then 3 acres will be sufficient to accommodate both uses.
4. All animals must be contained on the subject lot. It is the responsibility of the property owner to contain the animals through appropriate means which may or may not include fencing.
5. Fences used for agricultural purposes, such as the containment of livestock and poultry or the protection of crops, may be located at the property line and need not meet setbacks otherwise applicable to fencing. The vertical opacity of any such fences that are higher than six feet shall not exceed 25% (for the purpose of maintaining an open view through the fence).
6. Keeping at least two of any species of animal is strongly encouraged, but not mandatory (except where specifically required). Virtually all animals will be healthier in the presence of companions.
7. Housing structure. An appropriate structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Chickens and turkeys shall be maintained in the structure from sunset to sunrise.

[Reference

http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf -

8. Housing structure setbacks. Structures for housing animals shall meet all setbacks applicable to structures. The structure shall not be placed in the front court (including for corner lots). However, in the Rural Zoning District the structure may be placed in the front court provided it is set back at least 50 feet from the front (or side, for corner lots) property line. In the Residence A and Residence B Districts, the structure shall be reasonably screened from the road. All requirements in this subsection may be changed by special exception.

9. Guidance from Agricultural Commission. Landowners and others with questions or concerns related to this ordinance and to agriculture in general are encouraged to speak with the Durham Agricultural Commission. Interested parties should contact the Town Planning Department.
10. Complaints. When a complaint is issued regarding any agricultural use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law.
11. Housing and Land Area Standards. See section E below.
12. Irrigation. Irrigation is subject to applicable water withdrawal and use restrictions of the State of New Hampshire and the Town of Durham.
13. Number of Buildings. There is no set limit on the number of allowed agricultural buildings, whether principal or accessory buildings, on lots of three acres or greater (This provision overrides several general limitations included elsewhere in this ordinance).
14. Permits. A building, fence, and/or sign permit may be required depending on specific circumstances. See the Code Administrator for clarification, where appropriate.

B. **Chickens and Turkeys, Keeping of – Accessory Use.** The following terms and conditions apply to the keeping of chickens and turkeys as an accessory use:

1. Single/Two Family. The keeping of chickens and turkeys is permitted as an accessory use to single-family and duplex residences only.
2. Roosters. Roosters are permitted only on lots greater than 20,000 square feet located in the Rural Zoning District.
3. Number of animals. A maximum of 12 animals may be maintained per lot.
4. Selling. Eggs, chickens and turkeys may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs.

Reference - <https://www.agriculture.nh.gov/publications-forms/documents/shell-egg-guidelines.pdf>]

C. **Goats and Sheep, Keeping of – Accessory Use.** The following terms and conditions apply to the keeping of Goats and Sheep – Accessory Use:

1. Single/Two Family. The keeping of goats and sheep is permitted as an accessory use to Single-Family and Duplex Residences only.
2. Number of animals. There shall be a minimum of two goats or two sheep kept on the property (Goats and sheep are herd animals and need companionship). No more than two goats or two sheep may be kept on the property in the Residence A and Residence B districts. See Table 175-109.1 E – Housing and Land Area Standards for Livestock for requirements in other districts.
3. Permitted goats. In all zones, with the exception of the Residence Coastal and Rural Districts, only miniature, dwarf, or pygmy breed of goats may be kept on lots that are smaller than 80,000 square feet. Any kind of goat may be kept in the Residence Coastal and Rural Districts and on lots in other zones that are 80,000 square feet or larger. In all zones, with the exception of the Residence Coastal and Rural Districts, all goats must be dehorned and all male goats must be neutered.
4. Selling Products. Milk, cheese, wool, live goats and sheep, and other goat and sheep products may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with New Hampshire RSA 184. Inspection and Sale of Dairy Products, ~~with specific reference to RSA 184:84.V~~ (with specific reference to RSA 184:84.V). Any signage shall conform with the standards for residential accessory signs.

[Reference - <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XIV-184.htm>]

D. **Forestry.** All forestry activities shall be conducted in accordance with RSA 227-J, the Basal Area Law and RSA 227-J:9 in particular and RSA 79:10 Notice of intent to cut, and shall use as guidance for best forest management practices the “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” 2016, as amended; Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended; and Good Forestry in the Granite State (DRED). Where forestry activity or significant tree removal has occurred within 200 feet of any public street or property boundary, the property owner shall reclaim the area – including removal of logs, wood debris, and stumps, as appropriate – within 60 days.

E. **Housing and Land Area Standards for Livestock.** The standards given in Table 175-109.1 E. –Housing and Land Area Standards shall be met for all sites except for the accessory keeping of chickens and turkeys and of goats and sheep.

1. Structures for housing animals must have a roof and be enclosed on at least three sides.
2. All undeveloped land on the subject parcel, including fields and woods and any structures built for the animals, but excluding wetlands, counts toward the minimum area of land per animal.
3. The minimum area of land per animal may be reduced by special exception. When such an application for a special exception is received, the Planning and Zoning Department shall promptly notify the Agricultural Commission which shall have a reasonable opportunity to provide input on the application prior to the Zoning Board of Adjustment making a decision. The Agricultural Commission shall allow for all interested parties to comment on the application.
4. For animals not listed in the table and animals that are not standard-size animals which are permitted in the zoning district, the minimum area of housing per animal and the minimum land area per animal shall be established by the Zoning Administrator after consulting with the Agricultural Commission. The applicant is encouraged to present information on best management practices for the animal to the Agricultural Commission.
5. NH Code of Administrative Rules regulate the possession of wildlife, including the raising of deer, elk, and game birds. Annual permits to raise these animals, and others, are required by NH Fish and Game.
http://www.gencourt.state.nh.us/rules/state_agencies/fis800.html

(over)

Table 175-109.1 E. - Housing and Land Area Standards for Livestock

ANIMAL	HOUSING - minimum area per animal (in square feet)	LAND - minimum area per animal (in square feet)
Horse	Box stalls: 45 square feet; 5 x 9 feet recommended	40,000
Cow	No requirement	40,000
Buffalo and Bison	No requirement	40,000
Ox and Steer	No requirement	40,000
Goat	20	8,500
Sheep	20	8,500
Pig Swine	48	3,000 40,000
Llama	40	20,000
Alpaca	18	10,000
Chicken	3	No requirement
Turkey	6	100
Duck	3	15
Goose	6	18
Guinea Fowl	3	No requirement
Pheasant	5	25
Pigeon	2	No requirement
Quail	1	4

ARTICLE XIII – WETLAND CONSERVATION OVERLAY DISTRICT

See full set of draft amendments for specific changes.

ARTICLE XIV – SHORELAND PROTECTION OVERLAY DISTRICT

See full set of draft amendments for specific changes.

(over)

ARTICLE XXII – LANDSCAPING

❖ Reword these two sections as follows.

175-114. Purpose and Intent.

The purpose of this Landscaping Article is to establish procedures and practices governing the protection, installation and long-term maintenance of trees, vegetation and other landscape elements. Except where otherwise specifically stated, this article applies only to subdivisions of land where a new street is involved.

175-115. Invasive Species.

No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant species, including all of their cultivars and varieties, included in Table 3800.1, New Hampshire prohibited invasive species list, as amended, or included in Env-Wq 1303.02 list of Prohibited Exotic Aquatic Weeds as published by the New Hampshire Division of Environmental Services. This restriction does not apply to the removal or eradication of any invasive species in accordance with best management practices. This provision applies to all property in Durham.

[Reference: <https://www.agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf>;

<https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-wq1300.pdf>]

*****NEW TEXT ONLY FOR
AGRICULTURE AMENDMENTS**

*Changes Suggested by
Carden Welsh*

CATEGORY OF USES

Uses Accessory to Residential Uses

Chickens and Turkeys, keeping of

Goats and Sheep, keeping of

Horses, keeping of

Livestock – large, keeping of

Rabbits, keeping of

Bees, keeping of

Aquaculture

Uses Accessory to Farms

Farmstand

RESIDENTIAL ZONES

Rural (R)
Residence A (RA)
Residence B (RB)
Residence C (RC)

COMMERCIAL CORE ZONES

Central Business (CB)
Professional Office (PO)
Church Hill (CH)
Courthouse (C)
Coe's Corner (CC)

RESEARCH-INDUSTRY ZONES

Office Research - Route 108 (OR)
Mixed Use and Office Research (MUDOR)
Office Research Light Industry (ORLI)
Durham Business Park (DBP)

P	P	P	P	X	X	X	X	P	P	P	P	X
P	P	P	P	X	X	X	X	P	P	P	P	X
P ²	P ²	P ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
<u>P²</u>	<u>P²</u>	<u>P²</u>	<u>P²</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P²</u>	<u>P²</u>	<u>P²</u>	<u>X</u>
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
P	X	P	P	P	X	X	P	P	P	P	P	X

Notes

2. The use is **permitted** allowed 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.

**The proposed table of uses was initiated by the Planning Board on September 9, 2020*