



TOWN OF DURHAM

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

NOTICE: Although members of the Town Council will be meeting in the Council chambers, the Council meetings are still available for members of the public to participate via Zoom or in-person.

AGENDA

DURHAM TOWN COUNCIL

MONDAY, JULY 7, 2025

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. Town Council grants permission for fewer than a majority of Councilors to participate remotely**
- III. Roll Call of Members.** Those members participating remotely state why it is not reasonably practical for them to attend the meeting in person
- IV. Approval of Agenda**
- V. Special Announcements**
- VI. Public Comments (*) – Please state your name and address before speaking**
- 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 3rd 2025 Warrant Billing Computed From the 2nd Quarter Water and Sewer Readings of 2025 Totaling \$703,566.74, Commit the Bills for Charges to the Tax Collector for Collection, and Authorize the Administrator to Sign Said Warrant?
 - B. Shall the Town Council, Upon Recommendation of the Acting Administrator, authorize waiving the requirement to follow a formal bidding process for purchases over \$30,000 per Section 5 of the Town of Durham Purchasing Policy, dated October 7, 2024, and approve the purchase of electric rescue tools with state contract pricing from Industrial Protection Services LLC, 33 Northwestern Drive, Salem, NH 03079?

IX. Unfinished Business

- A. **Discussion and Possible Adoption of Resolution #2025-15** Reaffirming the Town's obligation and commitment of Police and Legal Protections for all Durham residents and visitors.
- B. **Public Hearing and Possible Adoption of Ordinance #2025-07** Amending Chapter 175, "Zoning," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Uses," and Section 175-54, "Table of Dimensions," of the Town Code to separate CB-1 and CB-2 in the tables and to permit by right multi-unit residential in the PO, CH and C Zoning Districts.
- C. **Public Hearing and Possible Adoption of Ordinance #2025-08** Amending Chapter 175, "Zoning," Article XII, "Base Zoning Districts," Section 175-42, "Central Business District, and Article XII.1, "Use and Dimensional Standards," Section 175-54, "Table of Dimensions," of the Town Code to eliminate the three-story height limit for CB-1 Zoning District and to change the standard for commercial in five story buildings in CB-1 District from requiring two floors to requiring only one floor.

X. Committee Appointments

Shall the Town Council Nominate Resident Dick Lord, 85 Bennett Road, for a three-year reappointment by the NHDES Commissioner as Durham's Representative to the Lamprey River Advisory Committee?

XI. Presentation Items

XII. Councilor and Town Administrator Roundtable

XIII. Approval of Minutes – June 16, 2025

XIV. New Business

First Reading on Ordinance #2025-09 Amending Chapter 175, "Zoning," Article II, "Definitions," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Land Uses," Article XXI, "Off Street Parking," Section 175-111, "General Requirements," of the Town Code to include Lodging Houses within the Zoning Ordinance. The Public Hearing can be set for August 4, 2025.

XV. Nonpublic Session (if required)

XVI. 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.*



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AGENDA ITEM: **#8A**

DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: April Talon, Town Engineer

AGENDA ITEM: SHALL THE TOWN COUNCIL APPROVE THE 3RD 2025 WARRANT BILLING COMPUTED FROM THE 2ND QUARTER WATER AND SEWER READINGS OF 2025 TOTALING \$703,566.74, COMMIT THE BILLS FOR CHARGES TO THE TAX COLLECTOR FOR COLLECTION, AND AUTHORIZE THE ADMINISTRATOR TO SIGN SAID WARRANT?

CC PREPARED BY: April Talon, Town Engineer
Gail Jablonski, Business Manager

PRESENTED BY: Gail Jablonski, Acting Administrator

AGENDA DESCRIPTION:

Attached for the Council's approval is the 3rd 2025 Warrant for Water and Sewer totaling \$703,566.74 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.

Water and/or sewer bills are issued quarterly and are based on meter readings which are taken at the beginning of each quarter (on or about January 1, April 1, July 1 and October 1). Bills are calculated on the actual cubic foot (CF) of water used for each account. The Durham Public Works Water Division obtains the necessary readings using an automatic meter reading system and software which collects meter data including account numbers and water meter readings. This information

is uploaded into the Town's utility billing software to generate the warrant. Some accounts are water only as is the case for irrigation meters or for properties that have a septic system. Some accounts are sewer only if they have a residential well.

The Town obtains the total number of cubic feet used and converts it to a dollar amount using the cost per cubic foot which is determined during the budget cycle and approved by the Town Council. The amount of cubic feet used can fluctuate from year to year for the same period due to changes in weather (for example when there is more rain, people use less irrigation), time of year (summer versus winter), and whether UNH is in or out of session.

The attached charts compare the actual water and sewer usage and fees for 2020 through 2025 and the first six months of 2025 compared to the budget.

LEGAL AUTHORITY:

RSA 38:22 II (a)

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

The warrant details are as follows:

	Water \$	353,988.66
Lee Waterline Extension	Water \$	21,285.17
	Sewer \$	<u>328,292.91</u>
	Total \$	703,566.74

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 3rd 2025 Warrant Billing Computed From the 2nd Quarter Water and Sewer Readings of 2025 Totaling \$703,566.74, Commit the Bills for Charges to the Tax Collector for Collection, and Authorize the Administrator to Sign Said Warrant?

STATE OF NEW HAMPSHIRE
WATER/SEWER – 3rd WARRANT 2025

STRAFFORD SS

To Rachel Deane, 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

Seven Hundred & Three Thousand, Five Hundred & Sixty-Six and Seventy-Four Cents
(\$703,566.74)

	Water \$	353,988.66
Lee Waterline Extension Water \$		21,285.17
Sewer \$		<u>328,292.91</u>

Total \$ 703,566.74

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 3rd billing of 2025 computed from the 2nd quarter water and sewer readings of 2025.

ATTEST: _____
Rachel Deane, Town Clerk-Tax Collector

Given under our hands and seal at Durham this 8th day of July, 2025.

Gail Jablonski, Acting Administrator
Per Town Council vote on 7/7/2025

2025 ESTIMATED VS ACTUAL USAGE
April 1 , 2025 - June 30, 2025

YEARLY COMPARISONS	ESTIMATED WATER			ACTUAL WATER			VARIANCE		
	Cubic Feet (cf)	Rates per 100 cubic feet	cf/100 * Rate	Cubic Feet (cf)	Rates per 100 cubic feet	cf/100 * Rate	CF Estimate vs. Actual	\$ Estimate vs. Actual	% Estimated to Actual
2020	14,853,460	\$ 7.35	\$ 1,091,729	13,863,777	\$ 7.35	\$ 1,018,988	(989,683)	(\$72,742)	93%
2021	14,853,460	\$ 7.74	\$ 1,149,658	14,427,696	\$ 7.74	\$ 1,116,704	(425,764)	(\$32,954)	97%
2022	14,304,304	\$ 8.43	\$ 1,205,853	14,231,786	\$ 8.43	\$ 1,199,740	(72,518)	(\$6,113)	99%
2023	14,447,347	\$ 10.42	\$ 1,505,414	14,656,024	\$ 10.42	\$ 1,527,158	208,677	\$21,744	101%
2024	14,519,584	\$ 10.61	\$ 1,540,528	13,786,766	\$ 10.61	\$ 1,462,776	(732,818)	\$ (77,752)	95%
2025	7,033,704	\$ 10.92	\$ 768,080	6,322,980	\$ 10.92	\$ 690,469	(710,724)	\$ (77,611)	90%

Estimated Water for the 2nd Q is calculated as 14,067,407 divided by 2

YEARLY COMPARISONS	ESTIMATED SEWER			ACTUAL SEWER			VARIANCE		
	Cubic Feet (cf)	Rates per 100 cubic feet	cf/100 * Rate	Cubic Feet (cf)	Rates per 100 cubic feet	cf/100 * Rate	CF Estimate vs. Actual	\$ Estimate vs. Actual	% Estimated to Actual
2020	13,713,549	\$ 8.97	\$ 1,230,105	12,843,156	\$ 8.97	\$ 1,152,031	(870,393)	(\$78,074)	94%
2021	13,713,549	\$ 8.97	\$ 1,230,105	13,653,420	\$ 8.97	\$ 1,224,712	(60,129)	(\$5,393)	100%
2022	13,516,701	\$ 8.98	\$ 1,213,800	13,347,445	\$ 8.98	\$ 1,198,601	(169,256)	(\$15,199)	99%
2023	13,651,868	\$ 9.57	\$ 1,306,484	13,815,025	\$ 9.57	\$ 1,322,098	163,157	\$15,614	101%
2024	13,720,127	\$ 10.31	\$ 1,414,545	13,053,263	\$ 10.31	\$ 1,345,791	(666,864)	(\$68,754)	95%
2025	6,528,817	\$ 10.66	\$ 695,972	6,016,512	\$ 10.66	\$ 641,360	(512,305)	(\$54,612)	92%

Estimated Sewer for the 2nd Q is calculated as 13,057,634 divided by 2

1st QUARTER ACTUALS	2020 (total cubic feet)	2021 (total cubic feet)	2022 (total cubic feet)	2023 (total cubic feet)	2024 (total cubic feet)	2025 (total cubic feet)
Water	3,241,246	3,442,141	3,409,428	3,656,574	3,330,501	3,081,326
Water - Lee Extension				63,233	59,073	80,746
Sewer	3,095,327	3,286,030	3,292,580	3,514,853	3,211,829	2,936,841

2nd QUARTER ACTUALS	2020 (total cubic feet)	2021 (total cubic feet)	2022 (total cubic feet)	2023 (total cubic feet)	2024 (total cubic feet)	2025 (total cubic feet)
Water	3,186,882	3,689,323	3,502,992	3,657,659	3,230,432	3,241,654
Water - Lee Extension				64,104	132,537	169,468
Sewer	2,862,096	3,455,094	3,298,425	3,320,712	3,069,167	3,079,671

3rd QUARTER ACTUALS	2020 (total cubic feet)	2021 (total cubic feet)	2022 (total cubic feet)	2023 (total cubic feet)	2024 (total cubic feet)	2025 (total cubic feet)
Water	3,817,406	3,412,971	3,680,587	3,549,077	3,558,118	
Water - Lee Extension			24,319	68,979	220,485	
Sewer	3,449,128	3,205,142	3,305,110	3,336,952	3,286,742	

4th QUARTER ACTUALS	2020 (total cubic feet)	2021 (total cubic feet)	2022 (total cubic feet)	2023 (total cubic feet)	2024 (total cubic feet)	2025 (total cubic feet)
Water	3,618,243	3,883,261	3,638,779	3,792,715	3,667,715	
Water - Lee Extension			47,374	89,193	80,280	
Sewer	3,436,605	3,707,154	3,451,330	3,642,509	3,485,525	

YEARLY TOTALS	2020 (total cubic feet)	2021 (total cubic feet)	2022 (total cubic feet)	2023 (total cubic feet)	2024 (total cubic feet)	2025 (total cubic feet)
Water	13,863,777	14,427,696	14,231,786	14,656,025	13,786,766	
Water - Lee Extension			71,693	285,509	492,375	
Sewer	12,843,156	13,653,420	13,347,445	13,815,026	13,053,263	

2025 BUDGETED VS ACTUAL EXPENDITURES

April 1, 2025 - Jun 30, 2025

FUNDS	Budgeted Ending 6/30/25	Actual Ending 6/30/25	Under (Over) 2025	Percent as of 6/30/24
Water	\$768,080	\$690,469	\$77,611	89.9%
Sewer	\$695,972	\$641,360	\$54,612	92.2%
Water - Lee Extension		\$21,285		



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AGENDA ITEM: **#8B** *GJ*
DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: David F. Emanuel, Fire Chief

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ACTING ADMINISTRATOR, AUTHORIZE WAIVING THE REQUIREMENT TO FOLLOW A FORMAL BIDDING PROCESS FOR PURCHASES OVER \$30,000 PER SECTION 5 OF THE TOWN OF DURHAM PURCHASING POLICY, DATED OCTOBER 7, 2024, AND APPROVE THE PURCHASE OF ELECTRIC RESCUE TOOLS WITH STATE CONTRACT PRICING FROM INDUSTRIAL PROTECTION SERVICES LLC, 33 NORTHWESTERN DRIVE, SALEM, NH 03079?

CC PREPARED BY: David F. Emanuel, Fire Chief
Kelley Fowler, Administrative Assistant

PRESENTED BY: Randall S. Trull, Assistant Fire Chief

AGENDA DESCRIPTION:

In accordance with the Town of Durham Approved 2025 Capital Improvements Program, the Town Council previously approved funding in an amount up to \$80,000 for electric rescue tools to replace the fire department's current hydraulic rescue tools which are reaching the end of their service life.

The transition to electric extrication tools is a strategic initiative that will enhance the department's operational efficiency, provide additional safety for the rescue team, and contribute to environmental sustainability by replacing the department's hydraulic rescue tools with user-friendly, battery-operated, electric rescue tools that offer unprecedented speed and flexibility, enabling rescuers to perform extrications in situations where traditional hydraulic tools may be impractical or time-consuming to set up.

Industrial Protection Services LLC has provided a quote in the amount of \$76,728.05 in accordance with state contract pricing pursuant to PSE01 Public Safety Equipment and Two-Way Radio Contract for the Commonwealth of Massachusetts.

LEGAL AUTHORITY:

Article 5.13 of the Administrative Code of the Town of Durham states the Administrative Code shall establish purchasing and contract procedure, including the assignment of all responsibility for purchasing to the Administrator or his designee and the combination purchasing of similar articles by different departments. The Council shall establish dollar limits for purchases and contracts which must be by competitive bid and shall establish the bidding procedures. No competitive bids shall be required when purchasing through the State of New Hampshire or at State of New Hampshire bid prices. Requirements for bids may be waived in specific instances by a two-thirds vote of the Council. The Council shall establish dollar amounts for purchases and contracts over which no purchases shall be made or contracts entered into without the affirmative vote of a majority of the Council. If the Council has voted to make a purchase or enter into a contract, the Administrator shall carry out the vote of the Council and enter into such transaction on behalf of the town.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

\$80,000 was approved in the FY25 Capital Improvement Plan, #07-2507-701-36-000, for purchase of electric rescue tools. The quote from Industrial Protection Services LLC is \$76,728.05.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon recommendation of the Acting Administrator, authorize waiving the requirement to follow a formal bidding process for purchases over \$30,000 per Section 5 of the Town of Durham Purchasing Policy, dated October 7, 2024, and authorize the purchase of electric rescue tools in the amount of \$76,728.05 from Industrial Protection Services, LLC, 33 Northwestern Drive, Salem, NH 03079.



Quote

Industrial Protection Services, LLC

Headquarters: 33 Northwestern Dr, Salem, NH 03079

Regional Office: 125 Roberts Rd, Ste 4, South Portland, ME 04106

www.ipp-ips.com

Date: 11-Jun-2025

Bill To: Chief David Emanuel
Durham Fire Department
51 College Rd
Durham

Ship to: Same

Salesperson	Shipping Method	Purchase Order No
Terry Link	Hand Deliver	

Qty	Item #	Description	Each Price	Line Total
1	159.000.224	PCU50 Pentheon Next Gen cutter	\$14,533.05	\$14,533.05
1	159.000.237	PSP50 Pentheon Next Gen spreader	\$16,635.15	\$16,635.15
1	151.001.500	CCU10 Mini Cutter (2 batteries and charger)	\$4,355.40	\$4,355.40
1	159.000.238	PTR40 Telescopic Next Gen Ram	\$11,820.90	\$11,820.90
1	159.000.227	PTR50 Pentheon Next Gen Telescopic Ram	\$12,176.85	\$12,176.85
1	151.001.902	TRE05 Extension PIPE Ram	\$1,126.65	\$1,126.65
1	150.182.274	Pulling Attachments Set Spreaders	\$1,564.50	\$1,564.50
1	150.582.152	Pulling Chain Set 3/8"	\$444.15	\$444.15
10	151.004.315	PBPA288 Pentheon battery	\$995.40	\$9,954.00
4	151.000.742	PBCH2 Pentheon Charger	\$659.40	\$2,637.60
2	151.000.503	DCPC1 Daisy Chain Power Cord	\$14.70	\$29.40
4	151.000.499	On Tool Charging Cord	\$117.60	\$470.40
1	151.001.771	TRE04 EXTENSION PIPE	\$980.00	\$980.00
		Pricing per Mass State PSE01		

T 1.0

Quote



Industrial Protection Services, LLC

Headquarters: 33 Northwestern Dr, Salem, NH 03079

Regional Office: 125 Roberts Rd, Ste 4, South Portland, ME 04106

www.ipp-ips.com

Date: 11-Jun-2025

Bill To: Chief David Emanuel
Durham Fire Department
51 College Rd
Durham

Ship to: Same

Salesperson	Shipping Method	Purchase Order No
Terry Link	Hand Deliver	

Terry Link

Email: tlink@ipp-ips.com

Cell: 978.284.9004 Fax: 603-458-5958

Quoted Freight Charges	\$ -
	\$ 76,728.05



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AGENDA ITEM: #9A

DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: Councilor Curtis Register

AGENDA ITEM: **DISCUSSION AND POSSIBLE ADOPTION OF RESOLUTION #2025-15 REAFFIRMING THE TOWN'S OBLIGATION AND COMMITMENT OF POLICE AND LEGAL PROTECTIONS FOR ALL DURHAM RESIDENTS AND VISITORS.**

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Councilor Curtis Register

AGENDA DESCRIPTION:

At the June 16, 2025, Council meeting, Councilor Curtis Register introduced a Resolution that would reaffirm the Town's obligation and commitment of Police and Legal protections for all Durham residents and visitors. The Council chose to postpone discussion until the July 7 Council meeting. Administrator Selig asked Attorney Joe McKittrick and Police Chief Rene Kelley to attend the meeting to comment on this Resolution. Both have received the draft Resolution prior to the meeting date.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

Attorney Joe McKittrick will express his comments in person at the meeting.

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, adopt Resolution #2025-15 Reaffirming the Town's obligation and commitment of Police and Legal Protections for all Durham residents and visitors.

RESOLUTION #2025-15 OF DURHAM, NEW HAMPSHIRE

A RESOLUTION REAFFIRMING THE TOWN'S OBLIGATION AND COMMITMENT OF POLICE AND LEGAL PROTECTIONS FOR ALL DURHAM RESIDENTS AND VISITORS.

WHEREAS, the national government has invoked the [Alien Enemies Act of 1798](#), a wartime executive power, during peacetime. The invocation of the Alien Enemies Act on 15 March 2025 under the pretense of an invasion of gang members of Tren de Aragua; however, the enforcement has targeted thousands of individuals with [no ties to this criminal organization](#). National enforcement of immigration laws has executed well beyond its mandate and has intimidated, detained, injured, and deported both legal, lawful residents and [United States Citizens](#) as well as deporting individuals under false pretenses; and

WHEREAS, the State of New Hampshire has entered in a [Memorandum of Agreement](#) with Immigration and Customs Enforcement dated 25 April 2025, despite documented mistakes of detaining, injuring, and deporting both legal, lawful residents and United States citizens; and

WHEREAS, New Hampshire State Legislators have made [false claims](#) about illegal immigrants within the University of New Hampshire system, identifying the University, and by extension Durham, as a target for political antics; and

WHEREAS, [all human beings](#) within the Country and the State are afforded inalienable due process protections under the Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments of the [United States Constitution](#) and protections under the [New Hampshire Constitution](#) in Articles One, Two, Fifteen, and Nineteen; and

WHEREAS, The right to Habeas Corpus is guaranteed in [Article One Section Nine](#) of the United States Constitution and [Article 91](#) of the New Hampshire Constitution; and

WHEREAS, an [administrative warrant](#) from a federal or state agency that is not signed by a sitting judge does not bypass Fourth, Fifth, Sixth Amendment protections; and

WHEREAS, over the past several months this administration has [lost hundreds of immigration court cases](#) due to errors or violations of constitutional protections; and

WHEREAS, this administration is trying to [nationalize the police](#) and use local law enforcement officers to assist in illegal and unconstitutional arrests and removals at the uncompensated expense of local taxpayers while simultaneously cutting state and federal aid for other essential services; and

WHEREAS, unlike traditional mutual aid agreements, [local police do not receive aid from government organizations](#) working to deport individuals, and special detail is a routine practice of police departments for which Durham has an existing billing process; and

WHEREAS, a similar motion passed at [New Castle's Town Meeting](#) on 5/13/25; and

WHEREAS, Durham Police and University of New Hampshire Police have a [legal obligation and a moral imperative](#) to protect Durham from criminals who violate criminal law; as they pose a threat to safety, stability, and prosperity to Durham and her residents; and,

WHEREAS, Immigration law [is not criminal law](#), it is civil law; and,

WHEREAS, the Town of Durham has a duty and obligation to respect and protect the [rights of all residents](#);

NOW, THEREFORE, BE IT RESOLVED, that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire, does hereby adopt **Resolution #2025-15** to recognize the rights of all residents under both the United States Constitution and the New Hampshire Constitution and afford all residents the safety and security rated, therein. **Additionally**, the Town of Durham and all those who derive their authority from the Town, to include law enforcement officers, shall not cooperate with any other government organization that attempts to stop, question, apprehend, or locate any person solely based on immigration status.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the UNH Police Department, and that the provisions of this resolution be considered severable, so that should any provision be found invalid by the courts, said finding shall not invalidate other provisions of this resolution, which shall remain in force without further action by the Town Council.

PASSED AND ADOPTED by the Town Council of the Town of Durham, New Hampshire this ____ day of ____, **2025** by ____ affirmative votes, ____ negative votes and abstentions.

Joe Friedman, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector



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AGENDA ITEM: **#9B**
DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: Zoning Amendment initiated by Town Council. Proposed by the Durham Housing Task Force

AGENDA ITEM: PUBLIC HEARING AND POSSIBLE ADOPTION OF ORDINANCE #2025-07 AMENDING CHAPTER 175, "ZONING," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," SECTION 175-53, "TABLE OF USES," AND SECTION 175-54, "TABLE OF DIMENSIONS," OF THE TOWN CODE TO SEPARATE CB-1 AND CB-2 IN THE TABLES AND TO PERMIT BY RIGHT MULTI-UNIT RESIDENTIAL IN THE PO, CH AND C ZONING DISTRICTS.

CC PREPARED BY: Michael Behrendt, Town Planner

PRESENTED BY: Michael Behrendt, Town Planner

AGENDA DESCRIPTION:

Background. The Town Council initiated this amendment on March 17. The Planning Board held a public hearing on the proposal on May 28 and voted unanimously (7-0) to support it. The amendment comes back to the Town Council now for prospective first reading, public hearing, and final disposition.

This amendment was one of four initiatives prepared by the Durham Housing Task Force along with removing the three story limit in a section of the Central Business District (also before the Town Council this evening), creating separate Central Business-1 and Central Business-2 Districts (already adopted), and making RSA 79E easier to use (the new resolution has been adopted).

Multi-unit residential. This amendment would allow this use by right in the Professional Office, Church Hill, and Courthouse districts. The present ordinance is very restrictive for multi-unit residential. Prior to the 2000 Master Plan it was likewise restrictive but the master plan recommended expanding the zoning to allow for new high quality student housing and to broaden the tax base. The zoning was expanded and the town realized over 2,000 new beds of student housing. In response, the Town once again tightened up the zoning over the last dozen years.

With flat enrollment at UNH and the addition of many new beds, it would seem that the Town could allow for more multi-unit residential that might attract non-students as well as students. The task force recommended adding this use to three of the five core commercial districts – Professional Office (PO), Church Hill (CH), and Courthouse (C).

There are already numerous student housing developments in the PO and CH districts but they are nonconforming now. Coes Corner is not included as the district is further away and less walkable to the downtown. Central Business District is not included because the first floor of buildings in the CB district should be reserved for commercial uses, not for apartments.

There was some debate with the Planning Board about allowing multi-unit residential by right in the Church Hill District given the proximity of the Faculty Road neighborhoods and concerns with the parking lot proposed behind the Red Town Building several years ago (the plan was denied by the Planning Board). The board acknowledged the concerns but decided to support including this use by right as the CH zone, located in the core area, seemed an appropriate area for this intensive use.

Dimensions are provided for multi-unit residential in the PO, CH, and C districts in the Table of Dimensions now. They seem workable and no changes are proposed now. The maximum building height in these zones is 30 feet and 35 feet by conditional use. Those heights accommodate a 3-story, or possibly a 3-1/2 story, building (The maximum number of stories specified in PO is three).

This amendment is effected simply by changing the CUA (adaptive reuse of an existing building by conditional use), X, and X to P for the PO, CH, and C districts, respectively. Note: the Planning Board also recommends changing the tables of uses and dimensions to make separate columns for CB1 and CB2 (Both presently are included in one column for Central Business District with a note in the Table of uses specifying the one difference between them). It makes sense to separate them out as there will likely be amendments in the future making distinctions between the two zones. The two separate columns are shown in the tables in the attached ordinance change.

At the meeting of June 16, 2025 the Town Council scheduled a Public Hearing on this item for the meeting of Monday, July 7, 2025. A Public Hearing notice was published in *Foster's/Seacoast Online* on Thursday, June 26, 2025. The notice was also posted at the Town Hall and on the Town Website, as well as at the Durham Public Library and Department of Public Works.

LEGAL AUTHORITY:

RSA 674:16, RSA 675:2, and Section 175-14 of the Durham Zoning Ordinance.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

It is expected that this change will result in more development in the Professional Office, Church Hill, and Courthouse districts including the creation of new taxable value.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1:

The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2025-07 Amending Chapter 175, "Zoning," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Uses," to permit by right multi-unit residential in the PO, CH and C Zoning Districts.

MOTION #2:

The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2025-07 Amending Chapter 175, "Zoning," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Uses," to permit by right multi-unit residential in the PO, CH and C Zoning Districts.

MOTION #3:

The Durham Town Council does hereby ADOPT Ordinance #2025-07 Amending Chapter 175, "Zoning," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Uses," to permit by right multi-unit residential in the PO, CH and C Zoning Districts.

ORDINANCE #2025-07 OF DURHAM, NEW HAMPSHIRE

AMENDING CHAPTER 175, "ZONING," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," SECTION 175-53, "TABLE OF USES," AND SECTION 175-54, "TABLE OF DIMENSIONS," OF THE TOWN CODE TO SEPARATE CB-1 AND CB-2 IN THE TABLES AND TO PERMIT BY RIGHT MULTI-UNIT RESIDENTIAL IN THE PO, CH AND C ZONING DISTRICTS.

WHEREAS, it is desirable to support the downtown by having more residents living in close proximity to the downtown; and

WHEREAS, there is a recognized housing shortage in New Hampshire and in the Seacoast Region and Durham acknowledges the need to accommodate more housing opportunities; and

WHEREAS, many residents in Durham have stated that the most appropriate locations for multi-unit housing is in the core areas and there are already many multi-unit sites in the core areas, which are nonconforming in these three zoning districts; and

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

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

WHEREAS, the Town Council voted to initiate this zoning amendment on March 17, 2025; and

WHEREAS, the Planning Board held a public hearing on this amendment on May 14, 2025 and notified the owners of all land within the three affected zones of the proposal, and voted unanimously on May 28, 2025, to support the amendment; and

WHEREAS, the Town Council held a duly noticed public hearing on July 7, 2025;

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt **Ordinance #2025-07** Amending Chapter 175, "Zoning," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Uses," and Section 175-54, "Table of Dimensions," to separate CB-1 and CB-2 in the tables and to permit by right multi-unit residential in the PO, CH and C Zoning Districts.

See attached documents for changes

PASSED AND ADOPTED by the Town Council of the Town of Durham, New Hampshire this _____ day of _____ by _____ affirmative votes, _____ negative votes, and _____ abstentions.

Joe Friedman, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk

175-53 Table of Uses

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

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business 1	Central Business 2	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)
Goats and sheep, keeping of	P ²	X	X	SE ²	X	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Horses, keeping of	P ²	X	X	SE ²	X	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Kennel	CU	X	X	CU	X	X	X	X	X	X	CU	X	CU	X
Livestock – large, keeping of	P ²	X	X	SE ²	X	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Poultry, keeping of	P ²	X	X	SE ²	X	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Rabbits, keeping of	P	X	X	SE	P	P	P	P	P	P	P	P	P	P
Reuse of existing agricultural building (See Article XX)	CUA	X	X	CUA	X	X	X	X	X	X	P	P	P	P
Swine, keeping of	CU ²	X	X	CU ²	X	X	X	X	X	CU ²	CU ²	CU ²	CU ²	CU ²
Temporary sawmill (See Article XX)	P	P	P	P	X	X	X	X	X	X	P	P	P	P
Uses Accessory to Residential Uses														
Aquaculture	P	P	P	P	X	X	X	X	X	P	P	P	P	P
Bees, keeping of	P	P	P	P	X	X	P	P	P	P	P	P	P	P
Chickens and Turkeys, keeping of	P	P	P	P	X	X	X	X	X	P	P	P	P	X
Goats and Sheep, keeping of	P	P	P	P	X	X	X	X	X	P	P	P	P	X

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business 1	Central Business 2	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)
Residence, multi-unit	X	X	X	X	X	X	CUA P	X P	X P	X	X	X	X	X
Residence, multi-unit complex	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Senior housing, single-family	P	P	P	P	X	X	X	P	X	P	CU	CU	CU	CU
Senior housing, duplex	P	P	P	P	X	X	X	P	X	CU	CU	CU	CU	CU
Senior housing, multi-unit	P	P	P	P	CU	CU	P	P	P	CU	CU	P	CU	CU
Senior Care facility	P	X	CU	P	X	X	X	P	P	P	P	P	P	P
Student Rental	X	X	X	X	P	P	P	P	P	X	X	X	X	X
Uses Accessory To Any Residential Use														
Accessory structure	P	P	P	P	X	X	P	P	P	P	P	P	P	P
Day care home (See Article XX)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupation-1	P	P	P	P	X	X	P	P	P	P	P	P	X	X
Home occupation-2	P	X	X	P	X	X	CU	CU	X	P	P	P	X	X

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business 1	Central Business 2	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)
Library	X	X	X	X	P	P	P	P	P	P	P	X	X	X
Museum	CU	X	X	CU	P	P	P	P	P	CU	X	X	CU	CU
Religious use/facility	CU	CU	CU	CU	CU	CU	P	P	X	CU	CU	X	X	X
V. RECREATIONAL USES														
Principal Uses														
Golf course	CU	X	X	CU	X	X	X	X	X	X	X	X	X	X
Recreational facility, indoor	X	X	X	X	X	X	X	X	X	X	P	P	P	P
Recreational facility, outdoor	CU	X	X	CU	X	X	X	X	X	CU	CU	CU	CU	CU
Recreational playing fields, outdoor	P	P	P	P	X	X	X	X	X	CU	P	P	P	CU
VI. UTILITY & TRANSPORTATION USES														
Principal Uses														
Parking garage	X	X	X	X	CU	CU	X	X	X	X	X	X	X	X
Parking lot	X	X	X	X	CU	CU	X	X	CU	X	X	X	X	X

[illegible]

[illegible]

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business 1	Central Business 2	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)
VII. COMMERCIAL & INDUSTRY USES														
Principal Uses														
Animal care	CU	X	X	CU	X	X	X	X	X	X	CU	CU	CU	CU
Boatyard	X	X	X	CU	X	X	X	X	X	X	X	X	X	P
Car wash	X	X	X	X	X	X	X	X	P	X	X	X	X	X
Conference center	X	X	X	X	CU	CU	P	CU	P	P	CU	X	X	CU
Financial institution	X	X	X	X	P	P	P	CUA	P	X	X	X	CU	CU
Funeral homes	X	X	X	X	X	X	P	X	P	CU	X	X	X	X
Hotel	X	X	X	X	P	P	P	CU	P	CU	CU	CU	CU	CU
Inn	P	X	X	P	CUA	CUA	CUA	CUA	CUA	CUA	CUA	CUA	X	X
Manufacturing, light	X	X	X	X	P	P	P	P	P	P	P	P	P	P
Marine sales and service	X	X	X	CU	X	X	X	X	X	X	X	X	X	P
Mixed Use with residential (office/retail down, multi-unit residential up) (See Note 1)	X	X	X	X	See Note 5-P	See Note 5-CU	X	X	X	X	X	X	X	X

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business 1	Central Business 2	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)
Drive-through facility accessory to a financial institution	X	X	X	X	CU	CU	CU	X	CU	X	X	X	CU	CU
Restaurant or cafeteria accessory to a nonresidential use	X	X	X	X	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
IX. USES ACCESSORY TO ANY ALLOWED USE														
Caretaker apartment	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Off street parking on the lot to serve the allowed use	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Parking garage	X	X	X	X	P	P	P	P	P	P	P	P	P	P
Parking lot	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Notes

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



TOWN OF DURHAM

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

AGENDA ITEM: **#9C**
DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: Zoning Amendment initiated by Town Council. Proposed by the Durham Housing Task Force.

AGENDA ITEM: PUBLIC HEARING AND POSSIBLE ADOPTION OF ORDINANCE #2025-08 AMENDING CHAPTER 175, "ZONING," ARTICLE XII, "BASE ZONING DISTRICTS," SECTION 175-42, "CENTRAL BUSINESS DISTRICT, AND ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," SECTION 175-54, "TABLE OF DIMENSIONS," OF THE TOWN CODE TO ELIMINATE THE THREE-STORY HEIGHT LIMIT FOR CB-1 ZONING DISTRICT AND TO CHANGE THE STANDARD FOR COMMERCIAL IN FIVE STORY BUILDINGS IN CB-1 DISTRICT FROM REQUIRING TWO FLOORS TO REQUIRING ONLY ONE FLOOR.

CC PREPARED BY: Michael Behrendt, Town Planner

PRESENTED BY: Michael Behrendt, Town Planner

AGENDA DESCRIPTION:

Background. The Town Council initiated this amendment on March 17. The Planning Board held a public hearing on the proposal on May 28 and voted unanimously (7-0) to support it. The amendment comes back to the Town Council now for prospective first reading, public hearing, and final disposition.

This amendment was one of four initiatives prepared by the Durham Housing Task Force along with allowing multi-unit residential in the PO, CH, and C districts (also before the Town Council this evening), creating separate Central Business-1 and Central Business-2 Districts (already adopted), and making RSA 79E easier to use (the new resolution has been adopted).

Three-story height limit and second floor of commercial. This amendment was proposed for the purpose of expanding commercial and housing opportunities in the Central Business District (now applicable only to the Central Business-1 District). When the Town Council initiated the change pertaining to the three-story limit it also included a provision to require only one floor of commercial in a five-story building in the district where two floors of commercial are now required.

In 2012 the Town received a citizen's petition to change the Zoning Ordinance limiting the building height along a section of Main Street to three stories (This has been the only citizen's petition regarding zoning that has been submitted over at least the past 12 years). The Town

Council adopted the amendment. Shortly afterward, the Town Council initiated a similar amendment to limit the building height along a section of Madbury Road to three stories. That amendment was also adopted. (*See two maps at the end showing the new CB1 and CB2 districts and the lots subject to the three-story height limit.*)

In the rest of the Central Business-1 District one can build to four stories by right and, by conditional use, to five stories with some required setbacks of the fifth story. If the three-story limitation is removed then this same standard for the rest of the Central Business-1 District would apply for these sections of Main Street and Madbury Road. A four-story building must include commercial on the first floor and may include residential for the upper three stories. A five-story building must include commercial on the first floor and commercial on one other floor, but this amendment herein also would remove the requirement for a second floor of commercial.

Fifth story by conditional use. A fifth story in the Central Business-1 District is allowed by conditional use. The conditional use requirement implies that a fifth story may be appropriate in some sections of CB-1 and not in others (It also recognizes that one particular design may be appropriate and another may not be). The Planning Board stated that it would be more efficient to determine where a fifth story is appropriate and to allow it there by right. In other sections of the CB-1 it could be allowed still by conditional use or simply not allowed (with a map akin to the existing three-story limit map). The board does not recommend that any action be taken on this proposal now. Rather, the board recommends that a subcommittee be appointed in the near future (by the Town Council or the Planning Board), consisting of council and board members, to examine the CB-1 District and develop a recommendation for this change.

At the meeting of June 16, 2025 the Town Council scheduled a Public Hearing on this item for the meeting of Monday, July 7, 2025. A Public Hearing notice was published in *Foster's/Seacoast Online* on Thursday, June 26, 2025. The notice was also posted at the Town Hall and on the Town Website, as well as at the Durham Public Library and Department of Public Works.

LEGAL AUTHORITY:

RSA 674:16, RSA 675:2, and Section 175-14 of the Durham Zoning Ordinance.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

It is expected that this change will result in more development in the Central Business-1 District including the creation of new taxable value.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1:

The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2025-08 Amending Chapter 175, "Zoning," Article XII, "Base Zoning Districts," Section 175-42, "Central Business District, and Article XII.1, "Use and Dimensional Standards," Section 175-54, "Table of Dimensions," to eliminate the three-story height limit for CB-1 Zoning District and to change the standard for commercial in five story buildings in CB-1 District from requiring two floors to requiring only one floor.

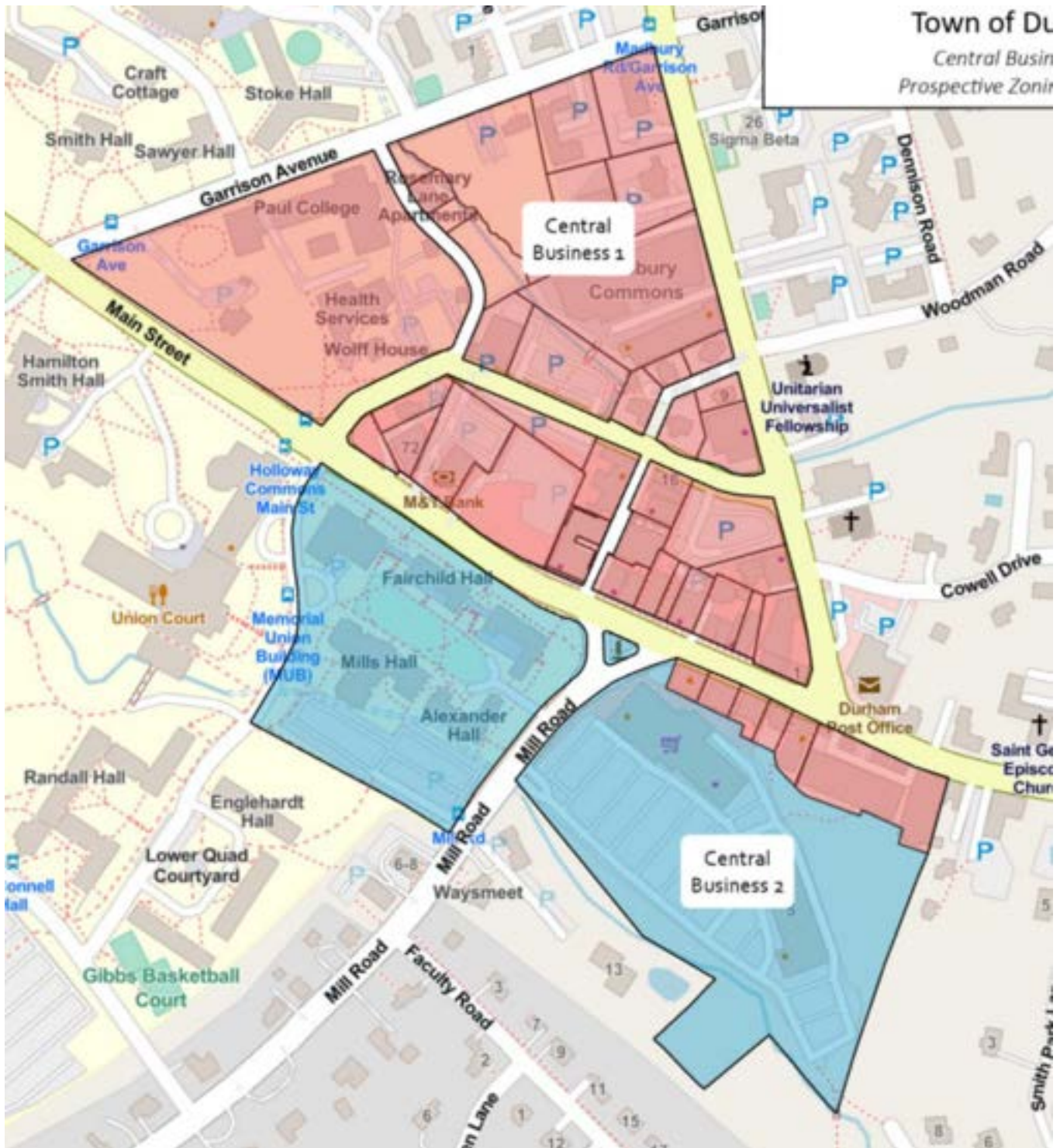
MOTION #2:

The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2025-08 Amending Chapter 175, "Zoning," Article XII, "Base Zoning Districts," Section 175-42, "Central Business District, and Article XII.1, "Use and Dimensional Standards," Section 175-54, "Table of Dimensions," to eliminate the three-story height limit for CB-1 Zoning District and to change the standard for commercial in five story buildings in CB-1 District from requiring two floors to requiring only one floor.

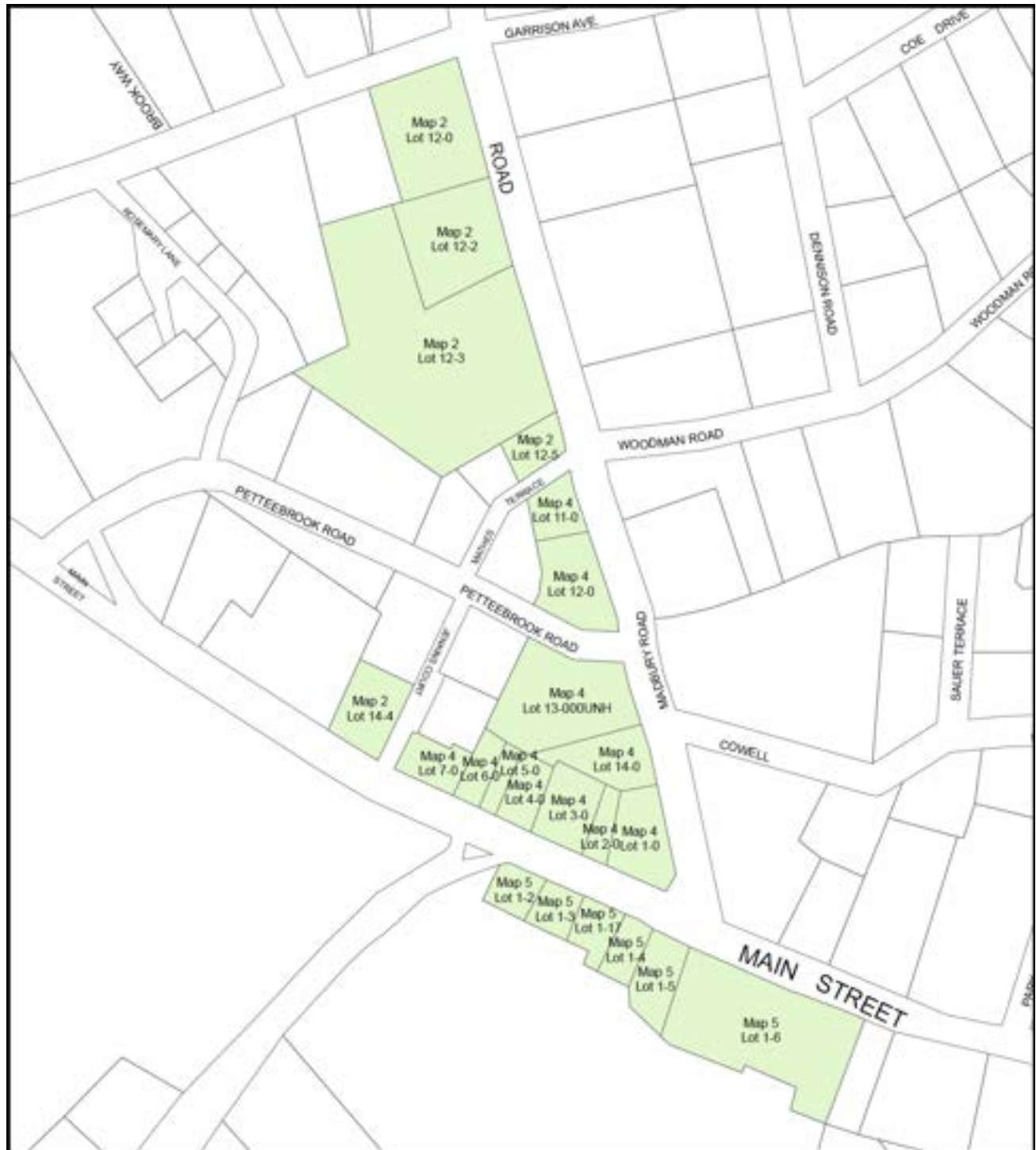
MOTION #3:

The Durham Town Council does hereby ADOPT Ordinance #2025-08 Amending Chapter 175, "Zoning," Article XII, "Base Zoning Districts," Section 175-42, "Central Business District, and Article XII.1, "Use and Dimensional Standards," Section 175-54, "Table of Dimensions," to eliminate the three-story height limit for CB-1 Zoning District and to change the standard for commercial in five story buildings in CB-1 District from requiring two floors to requiring only one floor.

New (recently adopted) Central Business-1 and Central Business-2 Districts



Lots in the Central Business-1 District (formerly the Central Business District) that are presently limited to three stories



ORDINANCE #2025-08 OF DURHAM, NEW HAMPSHIRE

AMENDING CHAPTER 175, "ZONING," ARTICLE XII, "BASE ZONING DISTRICTS," SECTION 175-42, "CENTRAL BUSINESS DISTRICT, AND ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," SECTION 175-54, "TABLE OF DIMENSIONS," OF THE TOWN CODE TO ELIMINATE THE THREE-STORY HEIGHT LIMIT FOR CB-1 ZONING DISTRICT AND TO CHANGE THE STANDARD FOR COMMERCIAL IN FIVE STORY BUILDINGS IN CB-1 DISTRICT FROM REQUIRING TWO FLOORS TO REQUIRING ONLY ONE FLOOR.

WHEREAS, activity within the downtown has decreased in recent years and a boost to the level of activity is important and whereas a sizable portion of the Central Business-1 District is now limited to three stories in height; and

WHEREAS, removing the three-story height limit is expected to provide an incentive to developers to build downtown; and

WHEREAS, requiring two floors of commercial in a five-story building may be a disincentive to development, having a mix of commercial and residential above the first floor can cause conflicts, and the most important place for commercial in a downtown is on the first floor; and

WHEREAS, it is desirable to support the downtown by having more residents living in close proximity to the downtown; and

WHEREAS, there is a recognized housing crisis in New Hampshire and in the Seacoast Region and Durham acknowledges the need to accommodate more housing opportunities; and

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

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

WHEREAS, the Town Council voted to initiate this zoning amendment on March 17, 2025; and

WHEREAS, the Planning Board held a public hearing on this amendment on May 14, 2025 and voted unanimously on May 28, 2025 to support the amendment; and

WHEREAS, the Town Council held a duly noticed public hearing on this amendment on July 7, 2025;

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt **Ordinance #2025-08** Amending Chapter 175, "Zoning," Article XII, "Base Zoning Districts," Section 175-42, "Central Business District, and Article XII.1, "Use and Dimensional Standards," Section 175-54, "Table of Dimensions," to eliminate the three-story height limit for CB-1 Zoning District and to change the standard for commercial in five story buildings in CB-1 District from requiring two floors to requiring only one floor.

Proposed additions to existing text are shown like this.

~~*Proposed deletions of existing text are shown like this.*~~

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

A. Central Business-1 District (CB-1) and Central Business-2 District (CB-2). Central Business-1 District and Central Business-2 District are two separate zoning districts. However, all of the provisions in this ordinance referred to as "Central Business District(s)" apply to both Central Business-1 District and Central Business-2 District except where otherwise stated.

B. Purpose of the Central Business District. The purpose of the Central Business District is to maintain the mixed-use, pedestrian-oriented character of the downtown area while accommodating new development, redevelopment, and enlargement of existing buildings in a manner that maintains and enhances the small town character of the downtown. Downtown Durham should be an attractive and vibrant community and commercial center where desirable residential, retail, office, and other nonresidential growth can occur in a clean, safe, pedestrian-friendly environment. The Central Business District is intended to accommodate a range of uses in a manner that encourages fuller utilization of the limited area of Downtown through denser building construction and modified parking requirements.

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

1. Building Setback – Along the westerly side of Madbury Road from Main Street to Pettee Brook Lane, the front wall of the principal building shall be located no closer than 15 feet to, and no farther than 20 feet from, the front property line. Along the westerly side of Madbury Road from Pettee Brook Lane to Garrison Avenue, the front wall of the principal building shall be located no closer than 20 feet to, and no farther than 30 feet from, the front property line. For corner lots, this requirement

shall apply to all frontages abutting a public street. Up to 50 percent of the front façade may be recessed beyond the maximum setback distance if the space between the front wall and the front property line is used as pedestrian area in accordance with paragraph 4. below. The expansion or modification of an existing building shall be exempt from this requirement if the Planning Board finds that conformance with this requirement would not be consistent with the character of the existing building.

2. Pedestrian Area – The area directly in front of the front wall of the building and extending to the front property line shall be maintained as a pedestrian area and shall be improved with appropriate amenities to link the building with the sidewalk and to encourage pedestrian and/or customer use of this space. For corner lots, this provision shall apply only to the frontage on the street with a greater amount of pedestrian traffic.
3. Front Entrance – The front wall of the principal building shall contain a front door providing access to the building for tenants, customers, or other users of the building, unless the Planning Board determines that placement of the front door on another façade is a practical approach and the design of the front façade will engage the street in an effective and attractive manner. If the front wall of the building is located behind the front property line, a paved sidewalk or other appropriate pedestrian way shall be provided from the sidewalk to the front door. This provision shall not be interpreted to prevent the creation of other entrances to the building. For corner lots, this provision shall apply only to the frontage on the street with a greater amount of pedestrian traffic.
4. Storage and Service Areas – All storage and service areas and facilities including dumpsters shall be located to the side or rear of the principal building and shall not be visible from a public street. Dumpsters and storage areas shall be screened or landscaped in accordance with the provisions of Article XXII and Chapter 118, Article 3, Section 118-18 of the Solid Waste Ordinance.
5. Minimum Building Height – All new principal buildings or additions to existing principal buildings that increase the building footprint by more than 20 percent, shall have a minimum of 2 usable stories or a height equivalent of 2 stories above adjacent grade at the front wall of the building.
6. Maximum number of stories – The maximum number of permitted stories is 4 ~~except as restricted in sections 8 and 9 below~~. However, *in CB-1* the maximum number of permitted stories ~~in the remainder of the district outside of the area covered in sections 8 and 9 below~~, may be increased to 5 stories subject to all of the following provisions:
 - a. Adding a story is permitted by conditional use.
 - b. The provisions regarding percentage of office/retail use apply.
 - c. The additional fifth story must be set back from the first floor as follows:

- i. by at least 10 feet where any side of the building faces a public street; *and*
- ii. by at least 20 feet where any side of the building faces Main Street. ~~;~~ *and*
- ~~iii. —by at least 25 feet where any side of the building faces an adjacent lot (not separated by a street) situated in the section of the Central Business District that is restricted to 3 stories (Section 175-42 B. 8. and 9., or as those subsections may be renumbered in the future).~~

The setback in i. and ii., above, also applies where ~~they~~ *there* may be any intervening street or road that has never been built but which appears on an approved plat or other Town plan.

- d. The Planning Board must determine that the additional story will not have an adverse impact upon the streetscape, giving particular consideration to scale and mass (See Architectural Regulations for guidance).
 - e. Building height. When an additional story is incorporated under this section the maximum building height is 60 feet.
7. Required office/retail uses for a mixed-use with residential building
- a. One-story building: A mixed-use with residential use is not allowed in a one-story building.
 - b. Two-story building: The entire first floor must be office/retail.
 - c. ~~Three- or four-story~~ *Three-, four- or five-story* building: The entire first floor must be office/retail. Alternatively, office/retail uses may be located ~~anywhere on the first, second, third, and fourth floors~~ *on any floor* provided: 1) the amount of office/retail equals or exceeds the square footage of the first floor and 2) where the building fronts on a public road, the first floor of the portion of the building facing the road must be office/retail to a depth of at least 50 feet.
 - ~~d. —Five-story building: The entire first floor must be office/retail. Also, 1 additional floor (any floor) or an area equal to the square footage of the 1/5 story must be office/retail.~~
 - ~~e.~~ *d.* For a building where there are distinct sections with a different number of stories and for sites where there are multiple buildings, the required minimum overall office/retail gross square footage is determined by the sum of the minimum office/retail area required by each distinct section, or by each separate building, using the required office retail space specified above. For these sites, the disposition of office/retail and residential space on the site is flexible provided the minimum overall amount of office/retail required is included and the Planning Board determines that the configuration of the building and its uses meets the intent of this subsection 7.

- ~~f.~~ *e.* Outdoor public use areas. Outdoor space on the subject property that is dedicated in perpetuity to public use may be used to meet the office/retail square footage requirement on a one-to-one basis provided that: a) the Planning Board determines that the design, location, management, and other aspects of the space will add a significant public amenity to the project; and b) the outdoor space may be used to meet a maximum of 50 percent of the overall required office/retail square footage.

~~8. Maximum Height of Mixed-Use Buildings, Section of Main Street—No building in the Central Business District on any lot with frontage along either side of Main Street, from and including Tax Map 109, Lot 104 (A-E) to the easterly boundary of the district, shall exceed 3 stories. This provision specifically includes the following properties: Tax Map 109, Lot 104 (A-E); Tax Map 109, Lot 106; Tax Map 109, Lot 107; Tax Map 109, Lot 108; Tax Map 109, Lot 109; Tax Map 109, Lot 110; Tax Map 108, Lot 18; Tax Map 108, Lot 19; Tax Map 109, Lot 3; Tax Map 109, Lot 2; Tax Map 109, Lot 1; Tax Map 108, Lot 17; Tax Map 108, Lot 16; Tax Map 108, Lot 15; Tax Map 108, Lot 14; and Tax Map 108, Lot 13.~~

~~9. Maximum Height of Mixed-Use Buildings, Madbury Road—No building in the Central Business District on any lot with frontage along Madbury Road shall exceed 3 stories. This provision specifically includes the following properties: Tax Map 2, Lot 12-0; Tax Map 106, Lot 48; Tax Map 106, Lot 49; Tax Map 106, Lot 44; Tax Map 108, Lot 19; Tax Map 106, Lot 40; Tax Map 106, Lot 39; Tax Map 106, Lot 66; and Tax Map 108, Lot 20.~~

- ~~10.~~ *8.* Number of bedrooms – There shall be a maximum of 2 bedrooms in any dwelling unit within a mixed use with residential building or development.

PASSED AND ADOPTED by the Town Council of the Town of Durham, New Hampshire this _____ day of _____ by _____ affirmative votes, _____ negative votes, and _____ abstentions.

Joe Friedman, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk

175-54. TABLE OF DIMENSIONS.

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

TABLE 175-54 TABLE OF DIMENSIONS

STANDARD	ZONING DISTRICTS														
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business 1	Central Business 2	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI.)	Durham Business Park (DBP)	Attainable Housing Overlay District (AHOD)
Minimum Lot Size in Square Feet - Single-Family Residence (that is not part of a Conservation Subdivision) - Multi-unit Housing - Allowed Nonresidential Use - Any Other Allowed Use	20,000 NA 20,000 20,000	40,000 NA 40,000 40,000	150,000 NA 150,000 150,000	150,000 NA 150,000 150,000	NA 5,000 5,000 5,000	NA 5,000 5,000 5,000	10,000 10,000 10,000 10,000	5,000 5,000 5,000 5,000	5,000 5,000 5,000 5,000	30,000 30,000 30,000 30,000	40,000 80,000 80,000 80,000	40,000 40,000 40,000 40,000	150,000 150,000 150,000 150,000	40,000 40,000 40,000 40,000	NA 5,000 5,000 5,000
Minimum Lot Area Per Dwelling Unit³ in Square Feet	20,000	40,000	150,000 ²	150,000 ²	NA	NA	3,000	4,200	4,200	4,200	4,200	40,000	150,000	20,000	4,200 (The density bonus under footnote 3 does not apply in the AHOD)
Minimum Usable Area Per Dwelling Unit in a Conservation Subdivision³ in Square Feet	20,000	40,000	150,000	150,000	1,200	1,200	3,000	4,200	4,200	4,200	4,200	40,000	150,000	NA	NA

STANDARD	ZONING DISTRICTS														
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business 1	Central Business 2	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLL)	Durham Business Park (DBP)	Attainable Housing Overlay District (AHOD)
Minimum Lot Frontage in Feet - Minor Street - Collector Street - Arterial Street	100	150	300	300	50	50	100	50	50	100	50 100 200	100 100 200	150	150	50
Minimum Front Setback in Feet - Minor Street ¹ - Collector Street - Arterial Street	30 30 40	30 30 40	30 30 40	30 30 40	None – except per Note 5	None – except per Note 5	30 30 50	15 15 15	15 15 15	30 30 50	50 50 See Note 6	30 30 100	30 30 50	30 30 50	50 50 50
Maximum Front Setback in Feet	NA	NA	NA	NA	See Note 5	See Note 5	NA	NA	25	NA	NA	NA	NA	NA	NA
Minimum Side Setback⁴ in Feet	10	20	50	50	NA	NA	15	5	10	15	25	20	20	20	25
Minimum Rear Setback⁴ in Feet	20	30	50	50	NA	NA	20	15	15	20	25	20	20	20	25
Minimum Shoreland Shore frontage in Feet	200	200	200	200											See underlying zone
Maximum Permitted Building Height in Feet	30	30	30	30	30	30	30	30	30	30	50	40	40	40	NA – See AHOD ordinance
Maximum Permitted Building Height in Feet by Special Exception in the Four Residential Zones and by Conditional Use in Other Zones.	35	35	35	35	60 See Note 7	60 See Note 7	35	35	35	35	75	50	50	50	NA – See AHOD ordinance
Maximum Impervious Surface Ratio	33%	30%	20%	20%	100%	100%	50%	80%	80%	30%	50 %	50%	50%	50%	50%

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

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

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

4. See Article XX for requirements for accessory buildings.

5. Additional setback requirements for this district are provided in the Development Standards section for the zone.

6. The minimum front yard setback from Route 108 shall be 100 feet plus 2 feet for each foot of building height in excess of 25 feet.

~~7. No building along the sections of Main Street or Madbury Road delineated in Subsections 175-42(B)(8) and (9) shall exceed 35 feet in height.~~



TOWN OF DURHAM

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

AGENDA ITEM: **#10**

DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: Dick Lord

AGENDA ITEM: SHALL THE TOWN COUNCIL NOMINATE RESIDENT DICK LORD, 85 BENNETT ROAD, FOR A THREE-YEAR REAPPOINTMENT BY THE NHDES COMMISSIONER AS A DURHAM REPRESENTATIVE TO THE LAMPREY RIVER ADVISORY COMMITTEE?

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd Selig, Administrator

AGENDA DESCRIPTION:

In 2019, the state House of Representatives passed House Bill 228 which changed the appointing body for local river management advisory committee members from the Commissioner of the Department of Environmental Services to the Department of Environmental Services Rivers Management Advisory Committee, upon the recommendation of the Town Council. The term is for three (3) years from the time the appointment is made by the Advisory Committee.

Attached for the Council's information is a Local River Management Advisory Committee nominee form completed submitted by Mr. Lord which must be submitted to the NHDES Commissioner. Mr. Lord's term expires on July 29, 2025. **Mr. Lord has consistently been on the Lamprey River Advisory Committee since 1994!** Mr. Lord will not be in attendance at Monday night's meeting.

The duties of the advisory committee under RSA 483:8-a include:

1. To advise the commissioner, the advisory committee, the municipalities through which the designated river or segment flows, and municipalities within tributary drainage areas on matters pertaining to the management of the river or segment and tributary drainage areas. Municipal officials, boards, and agencies shall inform such committees of actions which they are considering in managing and regulating activities within designated river corridors.

2. To consider and comment on any federal, state, or local governmental plans to approve, license, fund or construct facilities that would alter the resource values and characteristics for which the river or segment is designated.
3. To develop or assist in the development and adoption of local river corridor management plans under RSA 483:10. The local planning board, or, in the absence of a planning board, the local governing body, may adopt such plans pursuant to RSA 675:6 as an adjunct to the local master plan adopted under RSA 674:4. No such plan shall have any regulatory effect unless implemented through properly adopted ordinances.
4. To report biennially to the advisory committee and the commissioner, and annually to municipalities on the status of compliance with federal and state laws and regulations, local ordinances, and plans relevant to the designated river or segment, its corridor, and tributary drainage areas.

LEGAL AUTHORITY:

New Hampshire Revised Statutes Annotated (RSA) 483:8-a, New Hampshire Rivers Management and Protection Program (RMPP).

Section 11.1(G) “Administrative Committees” of the Durham Town Charter.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby nominate resident Dick Lord, 85 Bennett Road, for a three-year reappointment by the NHDES Commissioner as a Durham Representative to the Lamprey River Advisory Committee.



LOCAL RIVER MANAGEMENT ADVISORY COMMITTEE NOMINEE FORM



New Hampshire Rivers Management and Protection Program

RSA 483:8-a

Please complete both sides of this form and email to riversprogram@des.nh.gov. Please type "NOMINEE FORM" and nominee's name in the subject line. Forms can also be sent by mail to: Rivers Coordinator, NHDES, 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095. For questions please contact the Rivers Coordinator at 271-2959.

Nominee Information

Nominee Name: <u>RICHARD H. LORD</u>		Date: <u>JUNE 10, 2025</u>
Street Address: <u>85 BENNETT RD</u>		
Town: <u>DURHAM</u>		Zip Code: <u>03824</u>
Phone (home): <u>603-659-2721</u>	Phone (cell): <u>603-659-2721</u>	Phone (work): <u>SAME</u>
Email: <u>RHLORD@COMCAST.NET</u>		

Nomination Information

Type of Appointment -	<input type="checkbox"/> New Appointment	<input checked="" type="checkbox"/> Reappointment
River Name: <u>LAMPREY</u>		
Type of Representation -	Municipality: <u>DURHAM</u>	Other:
Please state your interest(s) in serving on the Local River Management Advisory Committee:		
<input checked="" type="checkbox"/> Local Government	<input checked="" type="checkbox"/> Conservation	<input type="checkbox"/> Agriculture
<input type="checkbox"/> Business	<input checked="" type="checkbox"/> Recreation	<input checked="" type="checkbox"/> Riparian Landowners
<input checked="" type="checkbox"/> Other, please specify: <u>HISTORY</u>		

Board of Selectmen or Authorized Signature(s) – REQUIRED (e-signature acceptable)

Name:	Title:
Name:	Title:
Name:	Title:
<p>Note: By statute, the New Hampshire Rivers Management Advisory Committee appoints the Local River Management Advisory Committee (LAC) members for each Designated River from nominees submitted by the local governing bodies through which the Designated River flows (RSA 483:8-a).</p>	

(603) 271-2959 riversprogram@des.nh.gov
PO Box 95, Concord, NH 03302-0095
www.des.nh.gov

Additional Information

Please include a short description of your relevant background knowledge of local river-related issues or general river management and protection:

I HAVE SERVED ON THE COMMITTEE SINCE ITS INCEPTION

FROM THE OUTSET I'VE HAD A MAJOR ROLE IN DEVELOPMENT

OF KIOSKS, MAPS AND OTHER OUTREACH MATERIALS

MY MAIN INTERESTS ARE CONSERVATION, WATER QUALITY

AND HISTORY. I'M CURRENTLY SERVING AS VICE-CHAIR

Most Local Advisory Committees engage in a variety of activities. Reviewing those activities listed below, please check those that are of most interest to you:

☐ Grant Writing

☒ Public Education

☒ Committee Administration

☒ Event Organization

☐ Public Relations

☒ Management Plan Preparation/Implementation

☒ Other, please specify: PHOTOGRAPHY

Most Local Advisory Committees meet monthly. In some cases they may meet more frequently to complete specific tasks, while in other cases your attendance may not be required at all meetings. Please check one of the boxes below to indicate your availability to attend regularly scheduled meetings:

☒ I can attend monthly meetings on most weeknights

☐ I can attend monthly meetings only if scheduled on a specific weeknight

☐ I can only attend a limited number of monthly meetings

☐ I cannot attend monthly meetings, but am willing to complete tasks on behalf of the Committee

For NHDES Office Use Only

LAC Member List and Contacts Database updated (date):

LAC Chair and Nominee have been contacted regarding nomination on (date):

RMPP Staff recommends appointment to the Rivers Management Advisory Committee -

☒ Approve

RMPP staff:

Date:

Appointment confirmation sent to municipality and LAC Chair on (date):

Appointment letter and information packet sent on (date):

(603) 271-2959 riversprogram@des.nh.gov

PO Box 95, Concord, NH 03302-0095

www.des.nh.gov



TOWN OF DURHAM

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AGENDA ITEM: **#13**
DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council

AGENDA ITEM: APPROVE THE TOWN COUNCIL MEETING MINUTES FOR
JUNE 16, 2025.

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's review and approval are the minutes for the meeting held on June 16, 2025. Please call or email Karen Edwards with any grammatical/spelling changes prior to the meeting. Discussion at Monday evening's meeting should be limited only to substantive changes.

LEGAL AUTHORITY:

RSA 91-A:2 (II) specifies what must be contained in minutes of public meetings:

"Minutes of all such meetings, including names of members, persons appearing before the bodies or agencies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the public meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of anybody or agency, or any subordinate body thereof, without exception."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby approve the Town Council meeting minutes for June 16, 2025. (as presented/as amended).



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
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Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#14**

DATE: July 7, 2025

COUNCIL COMMUNICATION

INITIATED BY: Planning Board

AGENDA ITEM: **FIRST READING ON ORDINANCE #2025-09 AMENDING CHAPTER 175, "ZONING," ARTICLE II, "DEFINITIONS," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," SECTION 175-53, "TABLE OF LAND USES," ARTICLE XXI, "OFF STREET PARKING," SECTION 175-111, "GENERAL REQUIREMENTS," OF THE TOWN CODE TO INCLUDE LODGING HOUSES WITHIN THE ZONING ORDINANCE. THE PUBLIC HEARING CAN BE SET FOR AUGUST 4, 2025.**

CC PREPARED BY: Michael Behrendt, Town Planner

PRESENTED BY: Paul Rasmussen, Planning Board chair
Michael Behrendt, Town Planner

AGENDA DESCRIPTION:

Lodging Houses. The Planning Board voted to initiate this amendment in the Zoning Ordinance on June 25, 2025. The public hearing was held on June 11. The proposed change follows an amendment adopted February 17, 2025 where the three unrelated occupants requirement and standards for habitable area were eliminated and a new provision for student rentals was incorporated.

The Town made that change based on discussions by an ad hoc group convened by the Administrator that included State Representative Al Howland. It was driven by expected legislation in Concord that would limit the Town's ability to retain those standards. Recently, it appears that modifications to the legislation will now make college students a protected class so that the recent amendment regulating where student rentals are allowed would be rendered obsolete.

Following subsequent guidance from the ad hoc group, the Planning Board prepared this new amendment as a method to manage occupancy, especially within single-family neighborhoods, based upon the State Fire Code. The amendment specifies that Lodging

Houses are allowed only in the Professional Office, Church Hill, and Courthouse Zones, and not in any of the four residential zones (nor the research industry zones).

The State Fire Code includes the following terms, the first two of which are included verbatim in the amendment:

Lodging or Rooming House.

A building or portion thereof that does not qualify as a one- or two-family dwelling, that provides sleeping accommodations for a total of 16 or fewer people on a transient or permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants.

One- and Two-Family Dwelling.

One- and two-family dwellings include buildings containing not more than two dwelling units in which each dwelling unit is occupied by members of a single family with not more than three outsiders, if any, accommodated in rented rooms.

One- and Two-Family Dwelling Unit.

A building that contains not more than two dwelling units, each dwelling unit occupied by members of a single family with not more than three outsiders, if any, accommodated in rented rooms.

The Fire Code does not define “a single family” nor “outsiders.” Where there are more than three individuals unrelated to the family (outsiders) occupying the unit, the dwelling would be categorized as a lodging house and be relegated to limited zoning districts – Professional Office, Church Hill, and Courthouse. Where there is uncertainty about whether a particular combination of residents in a dwelling constitutes a lodging house, the Fire Department would make the determination.

This is the most recent iteration of the proposed bill in Concord that I see, which I understand is close to being resolved between the House and the Senate. Assuming that happens soon, the bill will be sent to the Governor’s desk for her signature.

RSA 674:16. VIII. In its exercise of the powers granted under this subdivision, the legislative body of a city, town, village district, or county in which there are located unincorporated towns or unorganized places shall not adopt any ordinance that restricts the number of occupants of any dwelling unit to less than 2 occupants per bedroom, and the governing body thereof shall not enforce any such ordinance. Such legislative body shall not adopt any ordinance based on the familial or non-familial relationships or marital status, occupation, employment status, or the educational status, including but not limited to scholastic enrollment or academic achievement at any level among the occupants of the dwelling unit, including but not limited to college students, and the governing body thereof shall not enforce any such ordinance. Nothing in this section shall prohibit the enforcement of the state building code or state fire code.

While generally we recommend not changing the Town’s Zoning Ordinance pursuant to expected legislation – since it is always subject to change prior to enactment – in this case Representative Howland encouraged the Town to get out ahead of this bill because: a) he believes it very likely to pass; b) changing our ordinance now might engender some sense in Concord that the Town of Durham is responsive to concerns (whether we agree with those concerns or not); and c) if the bill is enacted the Town will be ready with appropriate standards in place.

You can see documents related to the proposed ordinance that were part of the Planning Board’s review here: https://www.ci.durham.nh.us/boc_planning/lodging-house-zoning-amendment.

You can see the Planning Board public hearing and discussion here on DCAT:

June 25. Item X:

<https://cloud.castus.tv/vod/durham/video/685cb24ae216d50002939e2a?page=HOME>

June 11. Item X:

<https://cloud.castus.tv/vod/durham/video/684a39b9ce96ad00021b71b9?page=HOME>

Note that the proposed provision regarding placement of uses other than single family and duplex houses in the front court (the area forward of the front wall of the building, as shown in the Definitions article) is included because an earlier iteration allowed Lodging Houses in the Rural and Residence C districts. Even though the updated amendment does not allow Lodging Houses in these two districts, it is still worth including this provision which adds some visual protection in those districts.

LEGAL AUTHORITY:

RSA 674:16, RSA 675:2, Section 175-14 of the Durham Zoning Ordinance, and sections 3.3.199.17, 2.2.199.25, and 3.3.199.25.1 of the New Hampshire Fire Code.

LEGAL OPINION:

The Town Attorney will provide her opinion soon, well in advance of the public hearing. We will need to review her opinion prior to prospective adoption.

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Town Council does hereby approve on First Reading Ordinance #2025-09 Amending Chapter 175, “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Section 175-53, “Table of Land Uses,” Article XXI, “Off Street Parking,” Section 175-111, “General Requirements,” of the Town Code to include Lodging Houses within the Zoning Ordinance and sets the Public Hearing for Monday, August 4, 2025.

ORDINANCE #2025-09 OF DURHAM, NEW HAMPSHIRE

AN ORDINANCE AMENDING CHAPTER 175, "ZONING," ARTICLE II, "DEFINITIONS," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," SECTION 175-53, "TABLE OF LAND USES," ARTICLE XXI, "OFF STREET PARKING," SECTION 175-111, "GENERAL REQUIREMENTS," OF THE TOWN CODE TO INCLUDE LODGING HOUSES WITHIN THE ZONING ORDINANCE.

WHEREAS, It is expected that college students may become a protected class under proposed state law such that zoning for student rentals would not be allowed in Town ordinances; and

WHEREAS, There is a strong desire in the community to protect traditional residential neighborhoods where there have been significant adverse impacts from the presence of large numbers of unrelated individuals renting rooms within a dwelling unit; and

WHEREAS, The New Hampshire Fire Code defines Lodging Houses as dwellings that do not qualify as single family or two family residences and the types of potential situations with multiple unrelated individuals, or "outsiders" under the Fire Code are considered Lodging Houses; and

WHEREAS, In accordance with RSA 674:16 Grant of Power for Zoning, that Durham has the right and the responsibility to use its zoning powers to specify where particular uses - including those which may not be harmonious with each other - should be located within the town to promote health, safety, and the general welfare of the community; and

WHEREAS, The Planning Board and Town Council after much deliberation have determined that the appropriate locations for Lodging Houses are in the Professional Office, Church Hill, and Courthouse districts; and

WHEREAS, The Durham Planning Board held a public hearing and duly voted to initiate this amendment on June 25, 2025; and

WHEREAS, The Durham Town Council held a duly noticed public hearing on .

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt **Ordinance #2025-09** Amending Chapter 175, "Zoning," Article II, "Definitions," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Land Uses," Article XXI, "Off Street Parking," Section 175-111, "General Requirements," of the Town Code to include Lodging Houses within the Zoning Ordinance

New text to be added shown like this

~~*Existing text to be deleted shown like this*~~

➤ *Other change to be made is shown like this.*

❖ ARTICLE II - DEFINITIONS

~~**BOARDING HOUSE**—An owner-occupied residential building principally used, designed or adapted to provide living accommodations for not more than 10 occupants and having common cooking and dining facilities.~~

LODGING HOUSE/ROOMING HOUSE – A building or portion thereof that does not qualify as a one- or two-family dwelling [as defined in the New Hampshire Fire Code], that provides sleeping accommodations for a total of 16 or fewer people on a transient or permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants. (This is the current 2025 definition in the New Hampshire Fire Code, Subsection 3.3.199.17. This definition is automatically updated to match the definition in the Fire Code should that definition be amended in the future.) See definition below for "One- and Two- Family Dwelling."

ONE- AND TWO-FAMILY DWELLING – One- and two-family dwellings include buildings containing not more than two dwelling units in which each dwelling unit is occupied by members of a single family with not more than three outsiders, if any, accommodated in rented rooms. (This is the current 2025 definition in the New Hampshire Fire Code, Subsection 3.3.199.25. This definition is automatically updated to match the definition in the Fire Code should that definition be amended in the future. This term applies only in reference to the definition for Lodging House/Rooming House.)

ROOMING HOUSE – See "~~Boarding~~ **Lodging/Rooming** House."

~~**STUDENT RENTAL**—A student rental is a residential dwelling composed of one or more dwelling units on a single parcel that includes five or more full-time undergraduate college students, as identified according to the criteria of the U.S. Department of Education's Office of Federal Student Aid. The threshold of five applies to the total number in dwelling units on a parcel (For example: a three-unit building with two full-time undergraduate college students in one unit and four in another would be classified as a student rental).~~

❖ ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS

175-53. Table of Land Uses.

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

...All projects involving the construction or enlargement of a building or structure that will be used for a nonresidential use, ~~or~~ a multi-unit residence, *or a lodging house/rooming house* or that will create ~~2 or~~ more *than 2* dwelling units (not including accessory dwelling unit - detached and accessory dwelling unit - attached) or that involve the erection of a personal wireless service facility are subject to review and approval by the Planning Board in accordance with the provisions of the Site Plan Review Regulations of the Town of Durham, New Hampshire. A nonresidential use includes any use listed below as a Rural Use, an Institutional Use, a Recreational Use, a Utility and Transportation Use, or a Commercial and Industry Use.

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

1. from one category of nonresidential use to another category of nonresidential use;
2. from a residential use to a nonresidential use;
3. from a nonresidential use to a multi-unit residential use; or
4. from a single-family residential use to a multi-unit residential or a nonresidential use.

- *In the Table of Uses, in the four columns with the heading, “Residential Zones,” move the entire column throughout the table for Rural (R) to the right so that it is positioned after Residence C (RC). See Attached. Page 4 indicates change for Lodging Houses.*

ARTICLE XXI - OFF-STREET PARKING

175-111. General Requirements.

B. *Setbacks and placement of parking Spaces.*

1. The following setbacks apply to parking spaces and parking areas:
 - a. Front setback. Up to 3 vehicles per household are permitted in the front setback area.
 - b. Side setback. All vehicles must be set back at least 10 feet from side lot lines.
 - c. Rear setback. All vehicles must be set back from rear lot lines in accordance with the standard rear setbacks for the zoning district.
2. The parking requirements in 1, above, may be adjusted by special exception subject to:
 - a. a finding that it is not practical to restrict parking to the areas and setbacks specified;
 - b. a finding that allowing the parking to be situated as proposed will not have an adverse impact upon abutting properties nor upon the character of the streetscape; and
 - c. a finding that the proposed parking spaces will serve on-site dwelling units only.
3. For all uses other than single-family and duplex residences, in the Residence A, ~~and~~ Residence B, *Residence C and Rural* Districts no parking areas shall be permitted in the front court except as part of site plan or conditional use review with a finding by the Planning Board that it is not practical to place parking to the side or rear of the building.

4. For all uses other than single-family and duplex residences in all Commercial Core Districts, except the Central Business District, and in all Research-Industry Districts, no parking areas shall be located in the front court except as part of site plan or conditional use review with a finding by the Planning Board that it is not practical to place parking to the side or rear of the building.
5. For all uses, in the Central Business District no parking areas shall be located in the front court.

PASSED AND ADOPTED by the Town Council of the Town of Durham, New Hampshire this _____ day of _____ by _____ affirmative votes, _____ negative votes, and _____ abstentions.

Joe Friedman, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector

CATEGORY OF USES	RESIDENTIAL ZONES					COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB-1 and CB-2) See Note 4	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry	Durham Business Park (DBP)
I. NATURAL RESOURCE USES														
Principal Uses														
Conservation activities	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Excavation and/or mining	CU	X	X	X	CU	X	X	X	X	X	X	X	X	X
II. AGRICULTURAL USES (See Article XX.1)														
Principal Uses														
Agricultural Sales, Commercial	P	SE	SE	P	P	P	P	P	P	P	P	P	P	P
Aquaculture	P	X	X	SE	P	X	X	X	X	P	P	P	P	P
Bees, keeping of	P	X	X	SE	P	P ³	P	P	P	P	P	P	P	P
Crop Cultivation	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Farmers' Market	SE	X	X	SE	SE	P	P	P	P	P	P	P	P	P
Forestry	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Fur-bearing animals, keeping of	P²	X	X	X	P ²	X	X	X	X	X	P ²	P ²	P ²	P ²
Goats and sheep, keeping of	P²	X	X	SE ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²

CATEGORY OF USES	RESIDENTIAL ZONES					COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB-1 and CB-2) See Note 4	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry	Durham Business Park (DBP)
Horses, keeping of	P²	X	X	SE ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Kennel	CU	X	X	CU	CU	X	X	X	X	X	CU	X	CU	X
Livestock – large, keeping of	P ²	X	X	SE ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Poultry, keeping of	P ²	X	X	SE ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Rabbits, keeping of	P	X	X	SE	P	P	P	P	P	P	P	P	P	P
Reuse of existing agricultural building (See Article XX)	CUA	X	X	CUA	CUA	X	X	X	X	X	P	P	P	P
Swine, keeping of	CU²	X	X	CU ²	CU ²	X	X	X	X	CU ²	CU ²	CU ²	CU ²	CU ²
Temporary sawmill (See Article XX)	P	P	P	P	P	X	X	X	X	X	P	P	P	P

CATEGORY OF USES	RESIDENTIAL ZONES					COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB-1 and CB-2) See Note 4	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry	Durham Business Park (DBP)
Uses Accessory to Residential Uses														
Aquaculture	P	P	P	P	P	X	X	X	X	P	P	P	P	P
Bees, keeping of	P	P	P	P	P	X	P	P	P	P	P	P	P	P
Chickens and Turkeys, keeping of	P	P	P	P	P	X	X	X	X	P	P	P	P	X
Goats and Sheep, keeping of	P	P	P	P	P	X	X	X	X	P	P	P	P	X
Horses, keeping of	P²	P ²	P ²	P ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
Livestock – large, keeping of	P²	P ²	P ²	P ²	P ²	X	X	X	X	X	P ²	P ²	P ²	X
Rabbits, keeping of	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Swine, keeping of	P²	P ²	P ²	P ²	P ²	X	X	X	X	X	P ²	P ²	P ²	X
Uses Accessory to Farms														
Farmstand	P	X	X	P	P	P	X	X	P	P	P	P	P	X
III. RESIDENTIAL USES														
Principal Uses														

CATEGORY OF USES	RESIDENTIAL ZONES					COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB-1 and CB-2) See Note 4	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry	Durham Business Park (DBP)
Manufactured Housing	P	X	X	X	P	X	X	X	X	X	X	X	X	X
Nursing Home	X	X	X	X	X	X	X	P	P	P	P	P	P	CU
Porkchop Subdivision (See Article XX)	P	X	X	P	P	X	X	X	X	X	X	X	X	X
Residence, single-family	P	P	P	P	P	X	P	P	X	X	X	CU	CU	X
Residence, duplex	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Residence, multi-unit	X	X	X	X	X	X	CU A	X	X	X	X	X	X	X
Residence, multi-unit complex	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Senior housing, single-family	P	P	P	P	P	X	X	P	X	P	CU	CU	CU	CU
Senior housing, duplex	P	P	P	P	P	X	X	P	X	CU	CU	CU	CU	CU
Senior housing, multi-unit	P	P	P	P	P	CU	P	P	P	CU	CU	P	CU	CU
Senior Care facility	P	X	CU	P	P	X	X	P	P	P	P	P	P	P
Student Rental	X	X	X	X	X	P	P	P	P	X	X	X	X	X
Lodging House/Rooming House		X	X	X	X	X	P	P	P	X	X	X	X	X

CATEGORY OF USES	RESIDENTIAL ZONES					COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB-1 and CB-2) See Note 4	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry	Durham Business Park (DBP)
Uses Accessory To Any Residential Use														
Accessory structure	P	P	P	P	P	X	P	P	P	P	P	P	P	P
Day care home (See Article XX)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupation-1	P	P	P	P	P	X	P	P	P	P	P	P	X	X
Home occupation-2	P	X	X	P	P	X	CU	CU	X	P	P	P	X	X
Uses Accessory To a Single-family Residential Use														
Accessory dwelling unit - attached (See Article XX)	P	P	P	P	P	X	P	P	X	X	X	P	P	X
Accessory dwelling unit - detached (See Article XX)	P	X	X	P	P	X	P	P	X	X	X	P	P	X
Short-term rental	SE	SE	SE	SE	SE	P	P	P	P	P	SE	SE	SE	X
IV. INSTITUTIONAL USES														
Principal Uses														
Art center	X	X	X	X	X	P	X	P	P	CU	X	X	X	X

CATEGORY OF USES	RESIDENTIAL ZONES					COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
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Day care center (See Article XX)	P	X	X	P	P	P	P	P	P	P	P	P	P	P
Club	X	X	X	X	X	P	X	CU	CU	CU	X	X	X	X
Community center	X	X	X	X	X	P	P	CU	P	CU	CU	CU	CU	CU
Educational facility	X	X	X	X	X	CU	P	CU	P	X	X	CU	CU	CU
Fraternity/sorority house	X	X	X	X	X	CU	CU A	X	X	X	X	X	X	X
Hospital	X	X	X	X	X	X	X	X	X	X	X	CU	CU	X
Library	X	X	X	X	X	P	P	P	P	P	P	X	X	X
Museum	CU	X	X	CU	CU	P	P	P	P	CU	X	X	CU	CU
Religious use/facility	CU	CU	CU	CU	CU	CU	P	P	X	CU	CU	X	X	X
V. RECREATIONAL USES														
Principal Uses														
Golf course	CU	X	X	CU	CU	X	X	X	X	X	X	X	X	X
Recreational facility, indoor	X	X	X	X	X	X	X	X	X	X	P	P	P	P
Recreational facility, outdoor	CU	X	X	CU	CU	X	X	X	X	CU	CU	CU	CU	CU

CATEGORY OF USES	RESIDENTIAL ZONES					COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
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Recreational playing fields, outdoor	P	P	P	P	P	X	X	X	X	CU	P	P	P	CU
VI. UTILITY & TRANSPORTATION USES														
Principal Uses														
Parking garage	X	X	X	X	X	CU	X	X	X	X	X	X	X	X
Parking lot	X	X	X	X	X	CU	X	X	CU	X	X	X	X	X
Public utility facility	CU	X	X	CU	CU	X	X	X	X	X	P	P	P	P
Personal Wireless Service Facility (See Article XVIII)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Single-family or duplex residential solar energy system – accessory use (See Article XX)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Solar Uses:														
Multi-unit residential or nonresidential solar energy system – accessory use (See Article XX)														
• Building-mounted	P	P	P	P	P	P	P	P	P	P	P	P	P	P
• Freestanding	P	P	P	P	P	X	P	P	P	P	P	P	P	P

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Small Group Net Metering Host-accessory use to a single-family or Duplex residence (See Article XX)														
• Building-mounted	P	P	P	P	P	P	P	P	P	P	P	P	P	P
• Freestanding (The limits specified in Section 175-109 N.4.a apply)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
VII. COMMERCIAL & INDUSTRY USES														
Principal Uses														
Animal care	CU	X	X	CU	CU	X	X	X	X	X	CU	CU	CU	CU
Boatyard	X	X	X	CU	X	X	X	X	X	X	X	X	X	P
Car wash	X	X	X	X	X	X	X	X	P	X	X	X	X	X
Conference center	X	X	X	X	X	CU	P	CU	P	P	CU	X	X	CU
Financial institution	X	X	X	X	X	P	P	CUA	P	X	X	X	CU	CU
Funeral homes	X	X	X	X	X	X	P	X	P	CU	X	X	X	X
Hotel	X	X	X	X	X	P	P	CU	P	CU	CU	CU	CU	CU

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