



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, DECEMBER 16, 2024
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. Committee Appointments
 - A. Shall the Town Council, upon recommendation of the Planning Board Chair, Appoint Gary Whittington, 6 Old Piscataqua Road, to fill an unexpired Regular Membership position on the Planning Board with a term expiration of April 2027?
 - B. Shall the Town Council, upon recommendation of the Parks & Rec Committee Chair, Appoint Alternate Chris Gowland, 28 Newmarket Road, to fill an unexpired Regular Membership position on the Parks & Rec Committee with a term expiration of April 2025?
 - C. Shall the Town Council, upon recommendation of the Integrated Waste Management Advisory Committee Chair, Appoint Peter Yost to fill an unexpired Regular Membership position on IWMAC with a term expiration of April 2025?

- IX. Unanimous Consent Agenda** *(Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)*
Shall the Town Council unseal the Nonpublic Session minutes from the year 2007 dated February 5, October 15 and December 17; and from the year 2008 dated January 14 and January 28?
- X. Presentation Items**
- XI. Unfinished Business**
- A. **Continued Deliberation and Possible Adoption of Resolution #2024-26**
approving the Administrator’s proposed FY 2025 Operating, Capital, and Special Fund Budgets, and the 2025-2034 Capital Improvement Plan, as amended.
- B. **Continued Deliberation and Possible Approval of Ordinance #2024-09**
Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XIX, “Conservation Subdivisions,” and the Zoning Map; and adding a new Article XVIII.1, “Attainable Housing Overlay District.”
- XII. Councilor and Town Administrator Roundtable**
- XIII. Approval of Minutes** - November 18, 2024 & December 2, 2024
- XIV. New Business**
- First Reading on Ordinance #2025-01** Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XV, “Flood Hazard Overlay District,” Article XVI, “Aquifer Protection Overlay District,” Article XVII, “Durham Historic Overlay District,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XX.1, “Standards for Agricultural Uses,” and Article XXIII, “Signs and Communications Devices.”
A Public Hearing can be set for February 3, 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: December 16, 2024

COUNCIL COMMUNICATION

INITIATED BY: Gary Whittington

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE PLANNING BOARD CHAIR, APPOINT GARY WHITTINGTON, 6 OLD PISCATAQUA ROAD, TO FILL AN UNEXPIRED REGULAR MEMBERSHIP POSITION ON THE PLANNING BOARD WITH A TERM EXPIRATION OF APRIL 2027?

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's information and consideration is an application for board appointment submitted by Gary Whittington, requesting appointment as a regular member to the Planning Board. This appointment will fill all of the regular member vacancies on the Planning Board. There are still three alternate vacancies.

Mr. Whittington has attended one meeting of the Board and has spoken with Chair, Paul Rasmussen. Attached for the Council's information is Chair Rasmussen's endorsement of Mr. Whittington's appointment.

Mr. Whittington has been invited to attend Monday night's meeting.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon recommendation of the Planning Board Chair, appoint Gary Whittington, 6 Old Piscataqua Road, to fill an unexpired Regular Membership position on the Planning Board with a term expiration of April 2027.



Town of Durham

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

Application for Board Appointment

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

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

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

Applicant has:

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

Name: GARY WHITTINGTON Date: 11/27/2024

Address: 6 OLD PISCATAQUA ROAD

E-Mail Address: WHITTINGTON610@GMAIL.COM

Telephone: 319-573-2972

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

1. PLANNING BOARD
- 2.
- 3.

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

(Over)

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

I AM INTERESTED IN CONTRIBUTING MY TIME TO MY NEW COMMUNITY. I BELIEVE THIS WORK WOULD BE FULFILLING FOR ME.

Please provide brief background information about yourself:

I AM THE FORMER GENERAL COUNSEL OF THE BUSINESS UNIT (AT REGION ASSET MANAGEMENT) RESPONSIBLE FOR COMMERCIAL REAL ESTATE DEBT INVESTMENTS. I SPENT MY PROFESSIONAL LIFE ANALYZING REAL ESTATE AND DEVELOPMENT ISSUES. AAM IS THE ASSET MANAGEMENT ARM OF TRANSAMERICA.

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

Name: JAMES BUBAR
4 OLO PISCATAQUA RD.

Telephone: (603) 343-7890

Name:

Telephone:

Name:

Telephone:



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

From: [paul.rasmussen](#)
To: [Karen Edwards](#)
Subject: Re: Gary Whittington
Date: Tuesday, December 3, 2024 12:53:14 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I support the addition of Gary Whittington to the Planning Board.
Paul Rasmussen, Planning Board Chair

On Tue, Dec 3, 2024, 10:47 Karen Edwards <kedwards@ci.durham.nh.us> wrote:

Paul,

We have received an application from Gary Whittington to fill a regular membership on the Planning Board. Please email me a recommendation as to whether you support this applicant.

Karen

Karen Edwards

Administrative Assistant

Administrator's Office

Town of Durham

8 Newmarket Road

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She/her/hers



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AGENDA ITEM: **#8B**

DATE: December 16, 2024

COUNCIL COMMUNICATION

INITIATED BY: Christopher Gowland

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE PARKS & REC COMMITTEE CHAIR, APPOINT ALTERNATE CHRIS GOWLAND, 28 NEWMARKET ROAD, TO AN UNEXPIRED REGULAR MEMBERSHIP ON THE PARKS & REC COMMITTEE WITH A TERM EXPIRATION OF APRIL 2025?

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

After the last Council meeting when Chris Gowland was appointed as an alternate to the Parks & Recreation Committee, an opening for a regular membership became available. Chris received an email from Chair Cathy Leach notifying him of this opening and stating that she would be happy to have him move into this regular membership. Administrative Assistant, Karen Edwards, spoke to Chris by phone, and he was willing to move into a regular membership, filling the unexpired term until April 2025. At that time, he will decide whether to renew his membership for another three years.

Mr. Gowland will not be in attendance at the December 16 Council meeting.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon recommendation of the Parks & Rec Committee Chair, appoint Alternate Chris Gowland, 28 Newmarket Road, to fill an unexpired Regular Membership position on the Parks & Rec Committee with a term expiration of April 2025.

From: [Cathy Leach](#)
To: [Chris Gowland](#)
Cc: [Rachel Gasowski](#); [Karen Edwards](#)
Subject: Parks and Rec Committee
Date: Monday, December 9, 2024 8:11:14 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Chris --

Thanks for being at the Council meeting last week. We are happy to welcome you to the Parks & Rec committee!

Later last week, we had a regular member of the committee resign, and our current alternate is not interested in moving into that position.

So that means you can move into a regular position and we'd be glad to have you do that. If interested, please send an email to Karen Edwards in Town Hall with that request.

I've copied her here so you can reply all. You would not need to attend another Council meeting to move into the role.

Feel free to be in touch if you have any questions!

Cathy



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AGENDA ITEM: **#8C**

DATE: December 16, 2024

COUNCIL COMMUNICATION

INITIATED BY: Peter Yost

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE INTEGRATED WASTE MANAGEMENT ADVISORY COMMITTEE CHAIR, APPOINT PETER YOST, 32 WORTHEN ROAD, TO FILL AN UNEXPIRED REGULAR MEMBERSHIP POSITION ON IWMAC WITH A TERM EXPIRATION OF APRIL 2025?

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's information and consideration is an application for board appointment submitted by Peter Yost, requesting appointment as a regular member to the Integrated Waste Management Advisory Committee (IWMAC). This appointment will fill all of the vacancies on IWMAC.

Mr. Yost has attended one meeting of the Board and has spoken with Chair, Nell Neal. Attached for the Council's information is Chair Neal's endorsement of Mr. Yost's appointment.

Mr. Yost has been invited to attend Monday night's meeting.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon recommendation of the Integrated Waste Management Advisory Committee Chair, appoint Peter Yost, 32 Worthen Road, to fill an unexpired Regular Membership position on IWMAC with a term expiration of April 2025.



Town of Durham

8 Newmarket Road
Durham, NH 03824-2898
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kedwards@ci.durham.nh.us

Application for Board Appointment

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

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

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

Applicant has:

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

Name:

Peter Yost

Date:

12/10/24

Address:

32 WORTHEN RD DURHAM NH 03824

E-Mail Address:

pyost@comcast.net

Telephone:

802 380-4744

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

1. IMAC
- 2.
- 3.

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

(Over)

From: [Nell Neal](#)
To: [Karen Edwards](#); [Julie Kelley](#)
Subject: Re: Peter Yost
Date: Tuesday, December 10, 2024 1:09:07 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Karen,
Peter attended our last meeting and Julie and I met with him this morning. He is knowledgeable about waste management and would be an asset to the committee. We recommend his appointment.
Nell Neal
Julie Kelly
IWMAC

On Tue, Dec 10, 2024 at 11:25 AM Karen Edwards <kedwards@ci.durham.nh.us> wrote:

Nell,

Peter Yost has filled out an application for the remaining vacancy on IWMAC. He told me that he had attended a meeting and spoke with you. Please email me a recommendation for his appointment by tomorrow. His appointment will be on the December 16 Council meeting agenda.

Karen

Karen Edwards

Administrative Assistant

Administrator's Office

Town of Durham

[8 Newmarket Road](#)

Durham, NH 03824

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She/her/hers



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AGENDA ITEM: **#9**

DATE: December 16, 2024

COUNCIL COMMUNICATION

INITIATED BY: Administrator Todd Selig

AGENDA ITEM: SHALL THE TOWN COUNCIL UNSEAL THE NONPUBLIC SESSION MINUTES FROM THE YEAR 2007 DATED FEBRUARY 5, OCTOBER 15 AND DECEMBER 17; AND FROM THE YEAR 2008 DATED JANUARY 14 AND JANUARY 28?

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

The process for Nonpublic Session minutes is stated in RSA 91 A:3 as follows:

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes of such sessions shall record all actions in such a manner that the vote of each member is ascertained and recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply. For all meetings held in nonpublic session, where the minutes or decisions were determined to not be subject to full public disclosure, a list of such minutes or decisions shall be kept and this list shall be made available as soon as practicable for public disclosure. This list shall identify the public body and include the date and time of the meeting in nonpublic session, the specific exemption under paragraph II on its face which is relied upon as foundation for the nonpublic session, the date of the decision to withhold the minutes or decisions from public disclosure, and the

date of any subsequent decision, if any, to make the minutes or decisions available for public disclosure. Minutes related to a discussion held in nonpublic session under subparagraph II(d) shall be made available to the public as soon as practicable after the transaction has closed or the public body has decided not to proceed with the transaction.

IV. (a) A public body or agency may adopt procedures to review minutes of meetings held in nonpublic session and to determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. If the public body determines that those circumstances no longer apply, the minutes shall be available for release to the public pursuant to this chapter.

*(b) In the absence of an adopted procedure to review and determine whether the circumstances no longer apply for meeting minutes kept from the public, the public body or agency shall review and determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91 A:3, III no longer apply. This review shall occur no more than 10 years from the last time the public body voted to prevent the minutes from being subject to public disclosure. **Meeting minutes that were kept from the public prior to the effective date of this paragraph that are not reviewed by the public body or agency within 10 years of the effective date of this paragraph shall be subject to public disclosure without further action of the public body.***

This statute was revised in 2023 to contain the last highlighted section. The Town of Durham has sealed nonpublic minutes dating back to 2000. Throughout this year, these minutes will be brought to the Council to determine if they should remain sealed or be unsealed for public viewing. At this meeting the nonpublic minutes from the years 2007 and 2008 will be reviewed. The Administrator has reviewed the minutes from the meetings listed and has determined there is no longer a valid reason to keep the minutes sealed.

LEGAL AUTHORITY:

RSA 91 A:3

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Town Council does hereby unseal the Nonpublic Session minutes from the year 2007 dated February 5, October 15 and December 17; and from the year 2008 dated January 14 and January 28.



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AGENDA ITEM: **#11A** *TS*

DATE: **December 16, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Todd I. Selig, Administrator
Gail Jablonski, Business Manager

AGENDA ITEM: CONTINUED DELIBERATION AND POSSIBLE ADOPTION OF
RESOLUTION #2024-26 APPROVING THE FY 2025 OPERATING,
CAPITAL, AND SPECIAL FUND BUDGETS, AND THE 2025-2034
CAPITAL IMPROVEMENT PLAN WITH AMENDMENTS

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator
Gail Jablonski, Business Manager

AGENDA DESCRIPTION:

The Council held a public hearing on the 2025 Budgets and proposed CIP at their meeting of November 18, 2024. The Council continued with their deliberations on the budgets on December 2 and December 9. Resolution #2024-26 incorporates all of the changes made by the Council and is ready for adoption.

LEGAL AUTHORITY:

Durham Town Charter, Article 5 "Finance", Sections 5.1 – 5.12.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby Adopt Resolution #2024-26 Approving the FY 2025 Operating, Capital, and Special Fund Budgets, and the 2025-2034 Capital Improvement Plan with Amendments.

SUMMARY OF TOWN COUNCIL 2025 BUDGET ADJUSTMENTS

REVENUE ADJUSTMENTS

\$11,642,930 Non Property Tax Revenues Proposed by Administrator

\$ 25,000 Increase in Recreation Program Revenues (01-3401-502-48-000)

\$ 53,600 Increase in UNH Fire Agreement for Add'l Firefighters (01-3359-000-05-000)

\$ 442,000 Increase in Transfer from Unassigned Fund Balance (01-3922-000-99-000)

\$12,163,530 Total of Non Property Tax Revenues Proposed by Town Council

EXPENDITURE ADJUSTMENTS

\$22,679,171 General Fund Expenditures Proposed by Administrator

\$ (75,000) Reduction to Town Council Contingency (01-4130-101-88-000)

\$ 20,530 Increase to Web Services – IT (01-4199-303-90-005)

\$ 107,200 Addition of two firefighters effective July 1, 2025 (01-4220-702-XX-XXX)

\$22,731,901 Total of General Fund Expenditures Proposed by Town Council

\$6.20 7.71% 2025 Estimated Tax Rate Proposed by Administrator

\$5.95 3.40% 2025 Estimated Tax Rate Proposed by Town Council
with use of unassigned Fund Balance

*Estimated Tax Rate is based on valuation prior to 2025 statistical update.

PROPOSED 2025 TOWN TAX RATE							
	2024 COUNCIL APPROVED	2025 ADMINISTRATOR PROPOSED	VARIANCE 2024 Council vs 2025 Administrator		2025 COUNCIL PROPOSED	VARIANCE 2024 Council vs 2025 Council	
General Fund Operating Budget	\$ 19,315,015	\$ 22,679,171	\$ 3,364,156	17.42%	\$ 22,731,901	\$ 3,416,886	17.69%
LESS Estimated Revenues	\$ (9,134,300)	\$ (11,642,930)	\$ 2,508,630	27.46%	\$ (12,163,530)	\$ 9,134,300	33.16%
Total Budget Revenue Needed	\$ 10,180,715	\$ 11,036,241	\$ 855,526	8.40%	\$ 10,568,371	\$ 387,656	3.81%
PLUS Overlay	\$ 125,000	\$ 125,000	\$ -	0.00%	\$ 125,000	\$ -	0.00%
PLUS Overlay (Eversource)	\$ 360,000	\$ 360,000	\$ -	0.00%	\$ 360,000	\$ -	0.00%
PLUS Exemptions	\$ 129,500	\$ 158,000	\$ 28,500	22.01%	\$ 158,000	\$ 28,500	22.01%
Total Property Taxes Estimated	\$ 10,795,215	\$ 11,679,241	\$ 884,026	6.95%	\$ 11,211,371	\$ 416,156	3.86%
Valuation	\$ 1,876,630,401	\$ 1,884,913,074	\$ 8,282,673	0.44%	\$ 1,884,913,074	\$ 8,282,673	0.44%
Proposed Town Tax Rate	\$ 5.75	\$ 6.20	\$ 0.45	7.71%	\$ 5.95	\$ 0.20	3.40%
*2024 valuation was \$1,866,124,968. Estimate 1.0% increase in 2025.							

RESOLUTION #2024-26 OF DURHAM, NEW HAMPSHIRE

TOWN COUNCIL APPROVAL OF THE FY 2025 GENERAL OPERATING BUDGETS, THE CAPITAL FUND BUDGET AND THE 2025-2034 CAPITAL IMPROVEMENT PLAN

WHEREAS, the Town Council of Durham, New Hampshire, in accordance with Article 5 of the Durham Town Charter, has reviewed the proposed FY 2025 budgets and Capital Improvements Plan and conducted a public hearing on November 18, 2024 on the proposed FY 2025 Town Budgets and Capital Improvement Plan; and

WHEREAS, the Town Council hereby approves the **General Fund Budget** in the amount of **\$22,731,901** with an estimated property tax rate of **\$5.95** per thousand of assessed valuation; and

WHEREAS, in 2025 the Town of Durham will be transferring ninety percent (90%) of the Depot Road Fund net revenues and one hundred percent (100%) of the Parking Fund net revenues to the General Fund; and

WHEREAS, the Town Council is appropriating \$135,000 from the Municipal Transportation Improvement Capital Reserve Fund for funding of the UNH CatTrax Program (\$5,000), RRFB Crosswalk (\$30,000), EV Chargers (\$60,000) and the 2024 Sidewalk Program (\$40,000); and

WHEREAS, the Town Council is appropriating an amount not to exceed \$62,000 from the Employee Earned Leave Buyout Trust for anticipated retirements in 2025; and

WHEREAS, the Town Council is appropriating use of \$3,100,425 from the Unrestricted General Fund Balance for the following items - Residential and Commercial Abatements (\$125,000), Eversource Abatements (\$360,000), Madbury Roadway, Sidewalk, Drainage Project (\$1,000,000), Wagon Hill Bickford/Chesley Farmhouse Project (\$1,173,425) and tax stabilization (\$442,000); and

WHEREAS, the 2025 budgets include funds to be allocated by the Administrator to be used for compensation of union and non-union employees; and

WHEREAS, the Town Council hereby approves the **Water Fund Budget** in the amount of **\$1,585,707** and hereby sets the water rate at **\$10.92** per hundred cubic feet of metered water billed effective 01/01/25 for Durham water users and at **\$12.56** per hundred cubic feet of metered water billed for the Lee Traffic Circle Water Line Extension users effective 01/01/25; and

WHEREAS, the Town Council hereby approves the **Sewer Fund Budget** in the amount of **\$3,299,084** and hereby sets the sewer rate at **\$10.66** per hundred cubic feet of metered water billed effective 01/01/25; and

WHEREAS, the Water and Wastewater System Agreement between the Town of Durham and University System of New Hampshire reads “the jointly funded capital reserve fund for the **water system**, in the custody of the Town of Durham’s Trustees of the Trust Funds, ... should not exceed \$800,000.”; and also reads “the jointly funded capital reserve fund for the **wastewater system**, in the custody of the Town of Durham’s Trustees of the Trust Funds, ... should not exceed \$800,000.”; and

WHEREAS, it further states “The parties agree to contribute, on a prorated basis, \$40,000 annually to each fund to be comprised of all connection fees received by the Town and the balance to be funded at the cost share ratio outlined...”; the Council after reviewing the FY 2025 Water and Sewer Fund Budgets agree to the transfer of funds to the Water Capital Reserve and Sewer Capital Reserve Funds with the condition that the amount to be transferred will not exceed the surplus available at the end of the year;

WHEREAS, the Town Council hereby approves the **Parking Fund Budget** in the amount of **\$448,000**; and

WHEREAS, The Town Council hereby approves the **Capital Fund Budget** in the amount of **\$8,299,425** with \$816,800 to be raised through property taxes, user fees and general revenues; \$885,000 to be funded from the University System of New Hampshire; \$3,745,900 to be raised in revenues from bonds, notes, and other forms of long-term debt; \$362,000 to be funded from the Joint Town/UNH Fire Department Capital Reserve Fund; \$80,000 from the Joint Town/UNH Wastewater Capital Reserve Account; \$40,000 to be funded through the Municipal Transportation Improvement Capital Reserve Account; \$76,300 from the Parking Capital Reserve Account; \$2,173,425 from the General Fund Unrestricted Fund Balance and \$120,000 from the Churchill Rink Unrestricted Fund Balance; and

WHEREAS, the Town Council hereby approves the **Depot Road Parking Lot Fund Budget** in the amount of **\$141,000**; and

WHEREAS, the Town Council hereby approves the **Churchill Rink Fund Budget** in the amount of **\$480,000**; and

WHEREAS, the Town Council hereby approves the **Library Fund Budget** in the amount of **\$655,683** with \$635,683 being funded through a transfer from the general fund and \$20,000 funded by the Library Board of Trustees; and

WHEREAS, the Town Council hereby approves the **Downtown Tax Increment Financing District Budget** in the amount of **\$175,000**; and

WHEREAS, in accordance with Section 5.7 of the Town of Durham Charter, the Town Council does hereby authorize the Administrator to transfer any balance or portion thereof from the Town Council Contingency fund line item or other general fund line item to any department during 2025; and

WHEREAS, the Administrator will not hire additional regular full-time employees during 2025 without first informing the Town Council, except for those regular full-time positions provided for in the approved 2025 Budget;

NOW, THEREFORE BE IT RESOLVED by the Durham Town Council that an estimated amount of **\$11,386,371** (**\$11,211,371** of general tax revenue and \$175,000 of Tax Increment Financing District tax revenue) shall be raised by taxation which together with estimated operating revenues of **\$26,429,429** for the aggregate amount of **\$37,815,850** is hereby raised and appropriated for the use of the various departments of the town government for the fiscal year beginning January 1, 2025.

BE IT FURTHER RESOLVED that the Town Council of the Town of Durham, New Hampshire hereby adopts **Resolution #2024-26 APPROVING** the FY 2025 General Operating Budgets, Capital Fund Budget, and 2025-2034 Capital Improvement Plan by a majority vote of the Durham Town Council. **(A Summary of Budgets by Funds accompanies this Resolution, which is attached.)**

PASSED AND ADOPTED this __ day of **December, 2024** by a majority vote of the Durham Town Council with ____ affirmative votes, ____ negative votes, and ____ abstentions.

Sally Needell, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector

SUMMARY OF BUDGETS BY FUND

General Fund	\$22,731,901
Water Fund	\$ 1,585,707
Wastewater (Sewer) Fund	\$ 3,299,084
Parking Fund	\$ 448,000
Capital Fund	\$ 8,299,425
Depot Road Fund	\$ 141,000
Churchill Rink Fund	\$ 480,000
Library Fund	\$ 655,683
TIF District Fund	<u>\$ 175,000</u>
TOTAL ALL FUNDS	\$37,815,800



TOWN OF DURHAM

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AGENDA ITEM: **#11B** *TS*

DATE: December 16, 2024

COUNCIL COMMUNICATION

INITIATED BY: Planning Board

AGENDA ITEM: CONTINUED DELIBERATION AND POSSIBLE APPROVAL OF ORDINANCE #2024-09 AMENDING CHAPTER 175 "ZONING," ARTICLE II, "DEFINITIONS," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," ARTICLE XVIII, "PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT," ARTICLE XIX, "CONSERVATION SUBDIVISIONS," AND THE ZONING MAP; AND ADDING A NEW ARTICLE XVIII.1, "ATTAINABLE HOUSING OVERLAY DISTRICT."

CC PREPARED BY: Michael Behrendt, Town Planner

PRESENTED BY: Michael Behrendt, Town Planner

AGENDA DESCRIPTION:

The enclosed amendment is presented to the Town Council on December 16, 2024 for prospective adoption if it is acceptable. The Town Council held a public hearing on the proposed amendment on November 18 and then closed the hearing. This document is exactly the same document that the Town Council placed for public hearing on November 18 except as noted below.

- The name of the ordinance is changed from the Workforce Housing Overlay District to the Attainable Housing Overlay District. We are making this change on the advice of the Town Attorney in order to avoid confusion with the state's workforce housing statute which defines "workforce housing" in a particular manner. This is a semantic change, not a significant change. It is non-substantive.

- Planner Michael Behrendt modified the definition of Attainable Housing (formerly Workforce Housing) at the top of the ordinance slightly to clarify that it is intended equally for those who are not currently employed, as follows (from the prior version):

~~WORKFORCE~~ **ATTAINABLE HOUSING** – Housing which is designed to provide a broad range of living options, including a variety of dwelling types at affordable prices, that meet the needs of families and individuals representing New Hampshire’s diverse workforce. ~~Workforce housing is also intended to accommodate~~ and those of moderate means, *including retirees*, who are not currently employed.

- All of the additional items that were shown in green on the November 18 document are incorporated into this final document, except for: a) the list of notes at the bottom of the Table of Dimensions, which are existing and are not part of this amendment; and b) a provision under *J. Density and Dimensional Standards* that allowed the Planning Board to modify a dimensional provision in the Table of Dimensions by conditional use (This provision was not in the Planning Board’s version and the Town Attorney advised me that including this provision now would be a significant change and require sending the proposal back to the Planning Board). The change can be brought forward at a later date by the Planning Board as a targeted amendment.
- All of the additional items that were shown in green were additions to the Planning Board’s version but these are all minor non-substantive changes (except for the one item above) that are consistent with the substance of the Planning Board’s version.
- All of the commentary shown in purple is removed.
- Note that the terms “affordable” and “workforce” remain in the ordinance in numerous places as these terms are relevant to the ordinance. The term “attainable” is substituted wherever there is a specific reference to the ordinance. The term “attainable” is preferred in various settings now as a more general term incorporating aspects of affordable housing and workforce housing.

The amendment was formally initiated by the Planning Board on October 9, 2024 following public hearings on August 14 and August 28. Should any member of the Town Council have any questions about the amendment or desire to discuss in more detail, please feel free to call (603-868-8064) or email me (mbehrendt@ci.durham.nh.us) directly.

The Frequently Asked Questions (FAQs) address numerous issues related to the proposal. Also see the Planning Board website here which contains numerous documents and comments related to the amendment, including the FAQs:

https://www.ci.durham.nh.us/boc_planning/workforce-housing-overlay-district.

LEGAL AUTHORITY:

RSA 674:16, RSA 674:21, RSA 674:58-61 and Section 175-14 of the Durham Zoning Ordinance

LEGAL OPINION:

The Town Attorney has reviewed the draft.

FINANCIAL DETAILS:

One or more projects could have a fiscal impact though it is difficult to try to project what the impact might be.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1:

The Durham Town Council does hereby Approve Ordinance #2024-09 Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XIX, “Conservation Subdivisions,” and the Zoning Map; and adding a new Article XVIII.1, “Attainable Housing Overlay District.”

MOTION #2:

The Durham Town Council does hereby Deny Ordinance #2024-09 Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XIX, “Conservation Subdivisions,” and the Zoning Map; and adding a new Article XVIII.1, “Attainable Housing Overlay District” and returns the document back to the Planning Board for review.

MOTION #3:

The Durham Town Council does hereby Approve Council-Proposed Changes to Ordinance #2024-09 Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XIX, “Conservation Subdivisions,” and the Zoning Map; and adding a new Article XVIII.1, “Attainable Housing Overlay District” and returns the document back to the Planning Board for review.

ORDINANCE #2024-09 OF DURHAM, NEW HAMPSHIRE

AMENDING CHAPTER 175 “ZONING,” ARTICLE II, “DEFINITIONS,” ARTICLE XII.1, “USE AND DIMENSIONAL STANDARDS,” ARTICLE XVIII, “PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT,” ARTICLE XIX, “CONSERVATION SUBDIVISIONS,” AND THE ZONING MAP; AND ADDING A NEW ARTICLE XVIII.1, “ATTAINABLE HOUSING OVERLAY DISTRICT.”

WHEREAS, RSA 674:17 is the statute establishing the purpose of zoning ordinances and RSA 674:21 allows for the adoption of innovative land uses; and

WHEREAS, RSA 674:58-61 promotes the creation of Workforce Housing; and

WHEREAS, there is a significant shortage of affordable and workforce housing in the United States, New Hampshire, and Strafford County; and

WHEREAS, the Durham Housing Task Force and Durham Planning Board spent countless hours developing, modifying, and refining the proposed Attainable Housing Overlay District over the course of two years; and

WHEREAS, the proposed ordinance is carefully crafted to generate an optimal number of affordable and workforce housing units, recognizing that it is far easier to achieve density and affordability and to maintain permanent affordability with rental units rather than single-family houses and condominiums offered for sale; and

WHEREAS, the proposed ordinance is crafted to appeal to a broad range of moderate-income persons and households along with others who would be interested in living in Durham; and

WHEREAS, the community of Durham recognizes the innumerable benefits to the region and to the community of encouraging the creation of affordable and workforce housing; and

WHEREAS, the Frequently Asked Questions (FAQ’s) document that is included with this proposed ordinance addresses many questions related to this proposed ordinance; and

WHEREAS, the Planning Board held public hearings on prior drafts and one public hearing on this final draft, incorporating comments as appropriate and formally voted to initiate this zoning amendment; and

WHEREAS, the Durham Planning Board held a duly noticed public hearing and voted to initiate this amendment on October 9, 2024; and

WHEREAS, the Durham Town Council held a duly noticed public hearing on November 18, 2024.

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 **Ordinance #2024-09** and does hereby amend the following sections of the Code. Wording to be deleted is annotated with ~~strikethrough~~ type. New wording is annotated with underlining.

ARTICLE II - DEFINITIONS

❖ Add the following new definitions, in alphabetical order, in Article II. DEFINITIONS.

MISSING MIDDLE HOUSING – Types of housing that are intended to fill the gap in types of residential dwellings between single family houses (on their own lots) on one end and large apartment buildings and complexes on the other end. Missing middle housing includes duplexes, triplexes, triple deckers, quadraplexes, townhouses, rowhouses, single dwelling units not located on their own lot, tiny houses, cottage/bungalow courts, small courtyard apartment buildings, accessory dwelling units, and apartments over stores.

ATTAINABLE HOUSING – Housing which is designed to provide a broad range of living options, including a variety of dwelling types at affordable prices, that meet the needs of families and individuals representing New Hampshire’s diverse workforce and those of moderate means, including retirees, who are not currently employed.

ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS

❖ Add the column shown below for Attainable Housing Overlay District (AHOD) as a new column at the far right of Table 175-54 – Table of Dimensions:

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	Attainable Housing Overlay District (AHOD)
Minimum Lot Size in Square Feet - Single-Family Residence (that is not part of a Conservation Subdivision) - Multiunit 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	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	3,000	4,200	4,200	4,200	4,200	40,000	150,000	20,000	<i>4,200 (The density bonus under footnote³ does not apply in the AHOD)</i>
Minimum Usable Area Per Dwelling Unit in a	20,000	40,000	150,000	150,000	1,200	3,000	4,200	4,200	4,200	4,200	40,000	150,000	NA	NA

STANDARD	ZONING DISTRICTS													Attainable Housing Overlay District (AHOD)
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	
Conservation Subdivision³ in Square Feet														
Minimum Lot Frontage in Feet - Minor Street - Collector Street - Arterial Street	100	150	300	300	50	100	50	50	100			150	150	<u>50</u>
Minimum Front Setback in Feet - Minor Street ¹ - Collector Street - Arterial Street	30	30	30	30	None – except per Note 5	30	15	15	30	50	30	30	30	<u>50</u>
	30	30	30	30		30	15	15	30	50	30	30	30	<u>50</u>
	40	40	40	40		50	15	15	50	See Note 6	100	50	50	<u>50</u>

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI.)	Durham Business Park (DBP)	Attainable Housing Overlay District (AHOD)
Maximum Front Setback in Feet	NA	NA	NA	NA	See Note 5	NA	NA	25	NA	NA	NA	NA	NA	NA
Minimum Side Setback ⁴ in Feet	10	20	50	50	NA	15	5	10	15	25	20	20	20	25
Minimum Rear Setback ⁴ in Feet	20	30	50	50	NA	20	15	15	20	25	20	20	20	25
Minimum Shoreland Shorefrontage in Feet	200	200	200	200										See underlying zone
Maximum Permitted Building Height in Feet	30	30	30	30	30	30	30	30	30	50	40	40	40	NA – See AHOD ordinance
Maximum Permitted Building Height in Feet by Special Exception in the Four Residential Zones	35	35	35	35	60 See Note 7	35	35	35	35	75	50	50	50	NA – See AHOD ordinance

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	Attainable Housing Overlay District (AHOD)
and by Conditional Use in Other Zones.														
Maximum Impervious Surface Ratio	33%	30%	20%	20%	100%	50%	80%	80%	30%	50 %	50%	50%	50%	50%

❖ Add the new text as follows:

175-57. Special Situations Affecting Dimensions.

A. Density.

1. Density for senior residential uses and workforce housing. In determining the maximum density for Senior Housing, Senior care Facilities, **and** Nursing Homes, and Workforce Housing (as defined under RSA 674:58 IV.) the following provisions shall apply to the entire development:

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

ARTICLE XVIII – PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT

175-99. Purpose and ~~Intent~~ Applicability

A. It is the express purpose of this Article to permit carriers to locate personal wireless service facilities within particular areas of the Town of Durham consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Durham is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility. This Article enables the review of the locating and siting of personal wireless service facilities by the Town of Durham so as to eliminate or mitigate the visual and environmental impacts of personal wireless service facilities. This Article is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted personal wireless facilities are permitted, but only when the use of existing structures and buildings are found to be infeasible. Co-location is encouraged for all personal wireless service facility applications and the review of a personal wireless facility shall be on the basis of the site being built using all positions on the mount. The Town of Durham encourages the location of personal wireless service facilities (PWSF) in non-residential areas.

~~175-100. —Applicability.~~

B. The terms of this Article and the Site Plan Review Regulations shall apply to personal wireless service facilities proposed to be located on property owned by the Town of Durham, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier

❖ Renumber the remaining sections as 175-100 to 175-105

.....

175-106 5. Abandonment or Discontinuation of Use.

- A. **Notification** - At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- B. **Removal** - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - 1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - 3. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- C. **Failure to Remove** - If the owner of the facility does not remove the facility upon the Zoning Administrator's order, then the Town Council shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Town Council. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

ARTICLE XVIII.1 - ATTAINABLE HOUSING OVERLAY DISTRICT

- ❖ Add the following new article to the body of the ordinance including a listing in the Table of Contents.

ARTICLE XVIII.1 ATTAINABLE HOUSING OVERLAY DISTRICT

175-106 Attainable Housing Overlay District (AHOD)

The following provisions apply to the Attainable Housing Overlay District.

A. Purpose of the Attainable Housing Overlay District. This overlay district is intended to:

- 1. provide reasonable and realistic opportunities for the development of workforce and affordable housing;
- 2. ensure the availability of a diverse supply of rental opportunities;

3. provide an adequate supply of affordable housing in Durham as set forth in the Town's 2015 and 2018 Master Plan including the Demographics and Housing Chapter (<https://www.ci.durham.nh.us/planning/master-plan-2015>) and the Town's May 2024 Housing Needs Assessment (<https://www.ci.durham.nh.us/bc-housingtaskforce>); and
4. address the regional need for affordable housing as documented in the Strafford Regional Planning Commission's Housing Needs Assessment (https://strafford.org/uploads/documents/plans/rpc/rhna_2023.pdf) as updated.

B. Authority. The Town of Durham adopts this Attainable Housing Overlay District and related sections in this Zoning Ordinance under the authority of RSA 674:15-18 Purpose of Zoning Ordinance, RSA 674:58-61 Workforce Housing and RSA 674:21, Innovative Land Use Controls.

C. Applicability. The provisions of the Attainable Housing Overlay District apply to the following areas of Durham (See Attainable Housing Overlay District Zoning Map):

1. The entirety of the land zoned Office and Research District – Route 108 (OR) that is situated on the easterly side of Dover Road/Route 108.
2. All portions of the lot identified as Map 209, Lot 39, currently zoned Residence Coastal, that are situated westerly of the ordinary high water mark on the westerly side of Johnson Creek.
3. All of the land zoned Office Research Light Industry (ORLI) that is located northerly or westerly of U. S. Route 4.
4. Tax Map 210, Lots 10, 11, 12, 13, 14, and 15.

The references above are made as of the date when this amendment is adopted. Should any of the pertinent land be rezoned in the future or changes to map and lot numbers be made the specific lands identified as being part of the overlay district included at the time of adoption of this overlay district shall not change unless a specific zoning amendment is made in the future to that effect.

The Attainable Housing Overlay District is depicted on the map identified as Attainable Housing Overlay District – Supplement to Official Zoning Map. In case of any conflict between the description above and the rendering on the map, the description of the zone, above, will prevail.

Any parcel of land located in the overlay district may be developed as an attainable housing project in accordance with the provisions of the Attainable Housing Overlay

District by right at the option of the landowner pursuant to the provisions of this article.

D. Workforce Housing Option under Conservation Subdivisions. Special provisions for workforce housing that is part of a conservation subdivision are given in Article XIX - Conservation Subdivisions. Those provisions are entirely independent from this overlay district and neither may be applied to the other nor may the two be combined in any manner.

E. Dwelling Units. Within a project developed under this ordinance:

1. No single family house lot may be created.

2. Units shall be offered exclusively for rent, not for sale.

3. Bedrooms. No units may contain more than three bedrooms. The number of three-bedroom units may not exceed 1/3 of the total number of dwelling units in the project. Otherwise, the mix of units by number of bedrooms is set at the discretion of the applicant. A mix of studios, and one- two- and three- bedroom units is encouraged.

4. Housing Types. Residential units in an attainable housing development are restricted to missing middle housing types only (See Definition). A mix of housing types and unit sizes arranged in different configurations is encouraged but not required. No individual building (including rowhouses and townhouses) may contain more than 12 dwelling units.

F. HUD Fair Market Rent. Rent levels are established for all attainable housing units (including any units that are subleased) based upon the U. S. Housing and Urban Development (“HUD”) Fair Market Rent which is set based on the number of bedrooms in a unit. The rent levels are reset by HUD every year. The fair market rent (or some percentage of the fair market rent, below) is the figure for which the unit is offered. It does not consider other costs to tenants.

Rents may be set at the discretion of the property owner provided:

1. Most units will likely be rented at the HUD Fair Market Rent with the exceptions in 2. and 3., below.

2. There is some flexibility in setting rent levels. Each unit shall be rented at some percentage of the HUD Fair Market Rent, e.g., exactly at HUD Fair Market Rent which would be 100%, at 80%, etc. The average of all of the percentages for all of the units in the project (independent of the number of bedrooms in units) shall not exceed 100%. (For example: 10 units are rented at 100% of the HUD Fair Market Rent level, 5 units are rented at 60% of HUD Fair Market

Rent, and 5 units are rented at 120% of HUD Fair Market Rent. The average of those percentages is 95% which would be in compliance since the average is less than 100%.)

3. At least 20% of the overall number of units (independent of the size of the units) shall be rented at 80% of HUD Fair Market Rent level or less.
4. Rental units must be the primary residence for all lessees.

G. Housing Vouchers. Property owners must be willing to accept Section 8/Housing Vouchers for payment of rent provided the total amount of rent paid for a unit is consistent with the established rent for the unit. This provision does not require that priority be given to Section 8/Housing Vouchers, but only that the property owner be willing to accept them.

H. Housing Guarantees. The primary purpose of this overlay district is to provide attainable housing for members of the workforce and the community. The property owner shall not accept guarantees from third parties who will not reside in the rental unit (This provision does not apply to Section 8/Housing Vouchers).

I. Allowed Uses. The uses allowed in any project developed under this overlay district are the residential uses specified in this section, all uses allowed in the underlying base zoning district, day care centers, and common accessory uses to these uses (such as a clubhouse and outdoor recreation serving residents). Institutional Uses, Offices, Restaurants, and small Retail Stores (with less than 5,000 gross square feet), are allowed by conditional use (unless allowed by right in the underlying zoning district).

J. Density and Dimensional Standards. The density and dimensional standards for the Attainable Housing Overlay District are specified in the Table 175-54 – Table of Dimensions. These standards (in the table and below) apply throughout the Attainable Housing Overlay District superseding the standards otherwise applicable to the underlying base zoning districts.

1. Density. The density standard is given in the Table of Dimensions. The standard is established for the overall site based upon lot area per dwelling unit. All areas of the subject parcel apply to the density calculation except for wetlands and areas of open water.
2. Maximum number of units. The maximum number of dwelling units for any attainable housing development is 200 units. This maximum applies to any individual lot or tract proposed for a project, including any project to be developed in phases. Appropriate restrictions may be specified for any project to prevent pre-emptory subdivision that might circumvent this provision. The

Planning Board may approve more than 200 units in a project by conditional use.

3. Senior units. There is no density bonus for senior residential units. Section 175-57 A. I. Density for senior residential units does not apply to projects developed under this overlay district.
4. Building Height. The maximum height for any building is three stories. There is no maximum height in number of feet. The maximum height for any building is four stories if that building is set back at least 100 feet from any property line.

K. Other Zoning Parameters. All other standards in the Zoning Ordinance shall apply to a project unless superseded by a specific provision in this overlay district. The limitation allowing for a maximum of three unrelated occupants in a dwelling unit does not apply to any project developed through this overlay district.

L. Buffers. Depending on the location and characteristics of the proposed development, the surrounding properties, and the adjacent roads the Planning Board may require that the developed area be buffered from surrounding property and the adjacent roads.

M. Low Income Housing Tax Credit project. The Planning Board may approve by conditional use any departure from this article and from the Zoning Ordinance to accommodate a project proposed to be funded through the Low Income Housing Tax Credit, where any requirement of the tax credit program is inconsistent with this article or the Zoning Ordinance.

N. Perpetuity. All attainable housing units must remain as attainable units in perpetuity in accordance with HUD figures and the conditions of project approval. As part of any project, appropriate provisions, such as deed restrictions or easements, shall be incorporated to carry out this requirement. The Town of Durham or their agents may require periodic reporting and audits at its option.

O. Site Plan and Subdivision Regulations. An attainable housing project developed under this overlay district is exempt from Article XIX – Conservation Subdivisions and from all sections under the Subdivision Regulations related to conservation subdivisions. Where there is no subdivision into separate lots of land a project is reviewed under the Site Plan Regulations. Separate components of a project may be subdivided into separate parcels as part of phasing of a project or an overall development plan, in which case creation of new parcels will be reviewed as a subdivision under pertinent elements of the Subdivision Regulations. Lots which are not intended to be part of an attainable housing development may be subdivided from the parent parcel of land provided that portion of the development complies with other applicable requirements.

P. Topography and Open Space. A full topographic survey shall be prepared. A minimum of 60% of the gross acreage of the parcel shall be set aside as permanent open space. The applicant shall prepare an open space plan providing for the appropriate use, maintenance, and protection of the open space to be approved by the Planning Board. On sites where both Town water and sewer are not available the applicant shall prepare a HISS analysis of the entire site. A HISS analysis is not required when both Town water and sewer are available.

The Planning Board will determine which portions of the parcel will be set aside for open space in order to optimally preserve natural and cultural resources, enhance forest management, and provide opportunities for agriculture and passive recreation in accordance with criteria a. through g. under Article XIX. Conservation Subdivisions, Section 175-107, Subsection H. Common Open Space, Subsection 3.

Q. Design. The Planning Board shall use its judgment in reviewing the proposed design, layout, and density of the project to ensure a harmonious living environment for the future residents.

1. All residential buildings must front a pedestrian-oriented designed street or way and not simply a parking lot.

2. All residential buildings must form a pedestrian-oriented ensemble.

3. There must be a network of streets or ways allowing for pedestrian movement through the site.

4. All parking areas must be broken up into smaller areas or with sufficient landscaping to avoid large expanses of parking.

R. Parking and Transportation. The applicant shall develop a transportation plan for the project pursuant to Article 11 – Pedestrian, Bicycle, and Transit Facility Standards in the Site Plan Regulations. The minimum number of parking spaces required for any dwelling unit is one.

S. Infrastructure. Roads, water and sewer infrastructure, and other infrastructure shall be owned and maintained by the developer or by the Town of Durham as determined by the Planning Board in consultation with the Town Administrator and Durham Public Works Department (and/or the Town Council pursuant to other applicable law).

T. Incentives. The Planning Board may negotiate with the applicant to allow for additional density or reduced open space in exchange for inclusion of various elements that will enhance the quality of the project, including, but not limited to, additional open space, public recreation facilities, agricultural leases, active

transportation connections, sustainability measures, and a reduction in the average rent level significantly below 100% of the HUD Fair Market level. This bonus should not be provided for elements that would likely be incorporated in the regular course of site plan review. The maximum increase in density allowed under this provision is 20%. This allowance could also be used to raise the threshold of 200 units beyond which a conditional use would be required.

ARTICLE XIX - CONSERVATION SUBDIVISIONS

- ❖ Add the following new provision under **Section 175-107. Conservation Subdivisions** at the end of C. **Exempt Subdivisions**:

C. ***Exempt Subdivisions.*** A proposed subdivision is exempt from being developed as a Conservation Subdivision only if the proposed subdivision meets one of the following criteria. In determining if the criteria are met, any lot that has been or will be transferred to a qualified conservation organization (as defined in Article II) and will be restricted to conservation use in perpetuity, shall not be counted as a lot for the purpose of this provision.

5. Any subdivision created under **Article XVIII.1 Attainable Housing Overlay District.**

- ❖ Under **Section 175-107.1 Workforce Housing Option**, change the title of the section and insert a new paragraph without a letter designation right below the title as follows:

175-107.1 Workforce Housing ~~Option~~ in a Conservation Subdivision
Applicants who seek to incorporate workforce housing into a conservation subdivision shall follow the procedures laid out in this section. Workforce housing developed under this section is entirely separate from attainable housing developed under the Attainable Housing Overlay District.

- ❖ Under **Section 175-107.1 Workforce Housing in a Conservation Subdivision**, replace F. Density Incentive, in entirety with the following:

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

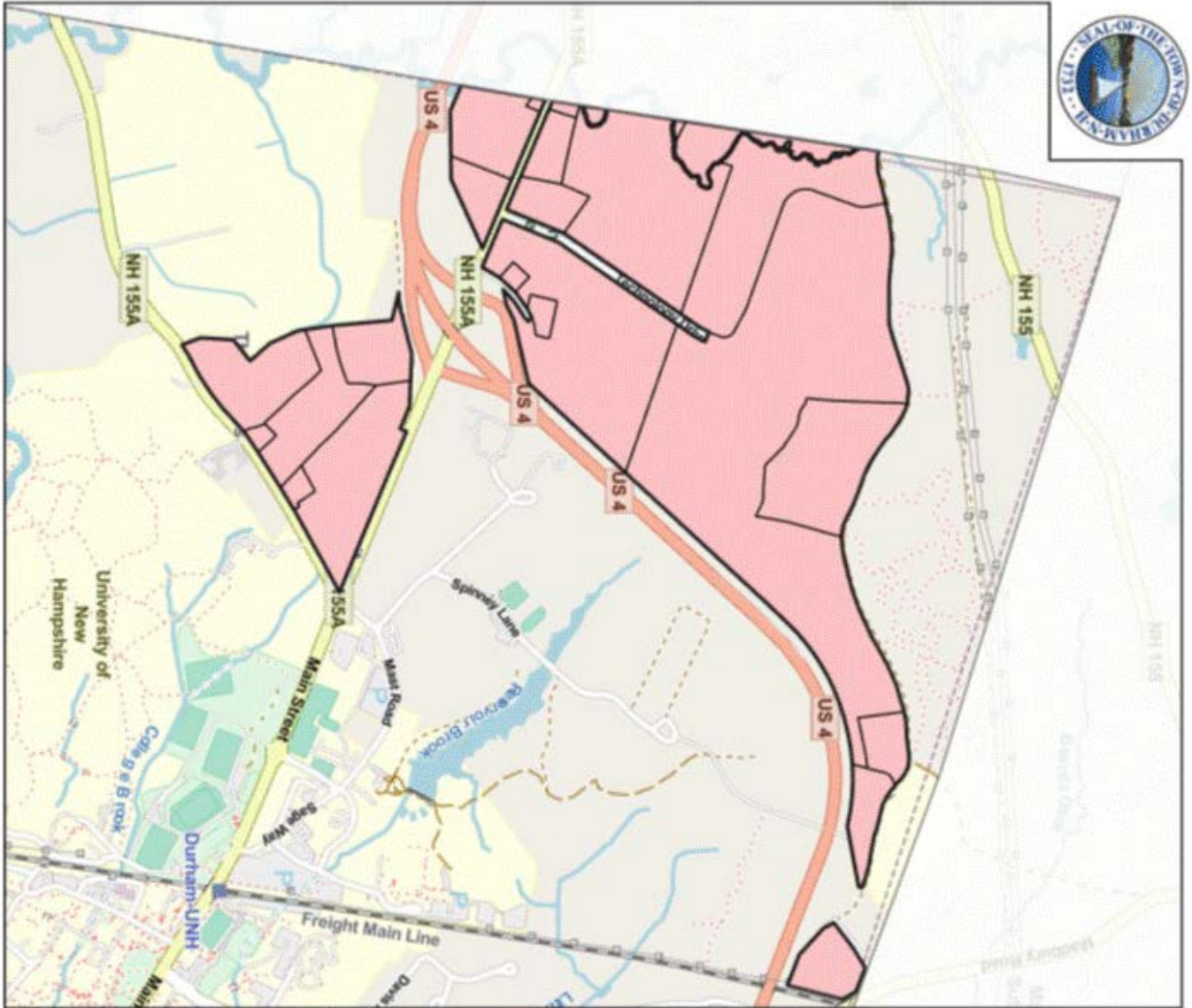
Density Incentive. In determining the maximum number of workforce housing dwelling units that are allowed in a conservation subdivision, these standards apply:

1. A workforce housing dwelling unit containing one bedroom or a studio unit without a separate bedroom counts as 0.33 dwelling units for the purpose of the density calculation; and

2. A workforce housing dwelling unit containing two or more bedrooms counts as 0.50 dwelling units for the purpose of the density calculation;

ZONING MAP

- ❖ Rezone the lots as shown on the Zoning Map on the next page and as specified under Applicability above.



Town of Durham
Workforce Housing Overlay District
For Proposed Zoning Amendment



TOWN OF DURHAM

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

AGENDA ITEM: **#13**

DATE: December 16, 2024

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council

AGENDA ITEM: APPROVE THE TOWN COUNCIL MEETING MINUTES FOR NOVEMBER 18, 2024 AND DECEMBER 2, 2024.

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 meetings held on November 18, 2024 and December 2, 2024. 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 #1:

The Durham Town Council does hereby approve the Town Council meeting minutes for November 18, 2024 (as presented/as amended).

MOTION #2:

The Durham Town Council does hereby approve the Town Council meeting minutes for December 2, 2024 (as presented/as amended).



TOWN OF DURHAM

8 Newmarket Road

Durham, NH 03824

Tel: 603-868-5571

Fax: 603-868-1858

www.ci.durham.nh.us

AGENDA ITEM: **#14** *TS*

DATE: December 16, 2024

COUNCIL COMMUNICATION

INITIATED BY: Planning Board

AGENDA ITEM: FIRST READING ON ORDINANCE #2025-01 AMENDING CHAPTER 175 "ZONING," ARTICLE II, "DEFINITIONS," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," ARTICLE XV, "FLOOD HAZARD OVERLAY DISTRICT," ARTICLE XVI, "AQUIFER PROTECTION OVERLAY DISTRICT," ARTICLE XVII, "DURHAM HISTORIC OVERLAY DISTRICT," ARTICLE XVIII, "PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT," ARTICLE XX.1, "STANDARDS FOR AGRICULTURAL USES," AND ARTICLE XXIII, "SIGNS AND COMMUNICATIONS DEVICES." A PUBLIC HEARING CAN BE SET FOR FEBRUARY 3, 2025.

CC PREPARED BY: Michael Behrendt, Town Planner

PRESENTED BY: Michael Behrendt, Town Planner

AGENDA DESCRIPTION:

The Planning Board voted to formally initiate the amendment at its meeting on November 20, 2024. The changes pertain to Article II - Definitions and other articles of the Zoning Ordinance, including the Table of Uses, related to the changes being made to Article II.

The Planning Board originally initiated changes to Definitions on April 24, 2024. That amendment was forwarded to the Town Council, which discussed the proposal and offered numerous comments. The comments from the Town Council were sent back to the Planning Board for consideration. The board reviewed the comments, incorporated some, deleted others and then made a number of additional changes. The board then put the revised document out for a new public hearing on November 20. The board closed the public hearing and then voted to formally initiate the revised set of amendments.

The original document and the attached document both include the full table of uses because it is easier to include the full table rather than including only those lines that are being changed. It is recommended that the Town Council review only the specific items related to definitions that are proposed for amendment. In the prior review the Town Council offered additional suggestions for other changes to the Table of Uses that were not

related to definitions resulting in a more complicated review than necessary by the Planning Board. The Planning Board expects to do a thorough review of the Table of Uses as one of the next steps in the Zoning Rewrite and desired changes to the table could be made at that time.

Changes are proposed to:

- Article II – Definitions. Changes are proposed to most existing definitions. All existing definitions are shown, including those that are not being changed.
- Table of Uses. Changes are made that are driven by changes in Definitions. For example, business services, professional offices, and business services are combined into simply *office* so the extra line items are deleted in the Table of Uses. Generally, the allowed uses with new names remain the same, though some changes (such as for parking as a principal use) are proposed.
- Several articles where a set of specific definitions is being relocated – Article XV – Flood Hazard Overlay District, Article XVI – Aquifer Protection Overlay District, Article XVII – Durham Historic Overlay District, Article XVIII – Personal Wireless Service Facilities Overlay District, Article XX.1 – Standards for Agricultural Uses. and Article XXIII – Signs and Communications Devices.

Planner Michael Behrendt would be very pleased to meet with Councilors in January who have questions about the proposed changes prior to a public hearing recommended for February 3, 2025. There could also be organized a Council work session in January to discuss this ordinance with Mr. Behrendt if enough members of the board would find value in such a meeting.

LEGAL AUTHORITY:

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

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby Approve on First Reading Ordinance #2025-XX Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XV, “Flood Hazard Overlay District,” Article XVI, “Aquifer Protection Overlay District,” Article XVII, “Durham Historic Overlay District,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XX.1, “Standards for Agricultural Uses,” and Article XXIII, “Signs and Communications Devices” and schedules a Public Hearing for Monday, February 3, 2025.

ORDINANCE #2025-01 OF DURHAM, NEW HAMPSHIRE

AMENDING CHAPTER 175 “ZONING,” ARTICLE II, “DEFINITIONS,” ARTICLE XII.1, “USE AND DIMENSIONAL STANDARDS,” ARTICLE XV, “FLOOD HAZARD OVERLAY DISTRICT,” ARTICLE XVI, “AQUIFER PROTECTION OVERLAY DISTRICT,” ARTICLE XVII, “DURHAM HISTORIC OVERLAY DISTRICT,” ARTICLE XVIII, “PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT,” ARTICLE XX.1, “STANDARDS FOR AGRICULTURAL USES,” AND ARTICLE XXIII, “SIGNS AND COMMUNICATIONS DEVICES.”

WHEREAS, RSA 674:16, RSA 675:2, and Section 175-14 of the Durham Zoning Ordinance authorize the Town Council to amend the Zoning Ordinance and specify the process for doing so;

WHEREAS, the Planning Board is undertaking an extensive rewrite of the Durham Zoning Ordinance pursuant to recommendations made in the 2015 Master Plan and the 2018 Future Land Use Chapter;

WHEREAS, the first initiative in the Town’s zoning rewrite is making significant changes to Article II – Definitions and other sections of the ordinance that follow from those changes;

WHEREAS, the zoning ordinance has not been thoroughly examined since the last rewrite of the Zoning Ordinance in 1999 and it is essential that the ordinance remain current and relevant given the substantial impacts of the ordinance upon property owners, residents, business owners, and other stakeholders in the community;

WHEREAS, crafting appropriate definitions is important because the language of the definitions impacts whether specific proposed uses are allowed or not allowed in particular zones and how those proposed uses are evaluated;

WHEREAS, the Planning Board has spent many months in detailed review of definitions in the Zoning Ordinance, carefully examining the appropriate terminology for every definition; and

WHEREAS, the Town Council held a First Reading on Ordinance #2024-04 on the changes to Definitions on June 3, 2024; and.

WHEREAS, the Town Council conducted a duly noticed Public Hearing on June 24, 2024;

WHEREAS, the Town Council voted to deny Ordinance #2024-04 and remand the Definitions section of the Zoning Ordinance back to the Planning Board for further amendments on June 24, 2024;

WHEREAS, the Planning Board made further amendments based on suggestions made by the Town Council and held a public hearing on November 20, 2024; and

WHEREAS the Planning Board voted to formally initiate these new amendments on November 20, 2024,

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire, hereby adopt Ordinance #2025-01 and does hereby amend the following sections of the Code.

Additions to the existing ordinance proposed by the Planning Board are shown like this.

~~*Deletions from the existing ordinance proposed by the Planning Board are shown like this.*~~

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

[Comments are shown like this.]

[All current definitions are shown below including those that are not proposed to be changed.]

ARTICLE II. DEFINITIONS

175-6. Meaning of Words.

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

Note that these definitions are descriptive and not prescriptive. They may, however, operate in a prescriptive manner in some cases. For example, a proposed home occupation using an area of 1,500 square feet would not meet the definition of Home Occupation which is defined as having a maximum of 1,000 square feet, and would therefore not be permitted.

Definitions are given for some uses that are not allowed under the Table of Uses, but are included in this article for general reference.

175-7. Definitions.

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

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

- *Place all definitions in this section in alphabetical order once changes are made. Some changes below result in terms being shown out of alphabetical order.*

ABUTTER – (For the purposes of notification) Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board for the purposes of notification. "Directly across the street or stream" is determined by lines drawn perpendicular from all pairs of corner boundaries along the street or stream of the applicant to pairs of projected points on any property boundary across the street or stream that intersect these perpendicular lines. Any property that lies along the street or stream between each pair of projected points, or is within 50 feet of any projected point is considered an abutter. In the case of an abutting property being under a condominium or other collective form of ownership, "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. (This definition incorporates the language used in RSA 672:3.)

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

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

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

ACCESSORY STRUCTURE – A structure that is detached from the principal building; situated on the same lot as the principal building and use; incidental, subordinate, and related to the principal building and use; and customarily found as (or reasonably considered to be) an accessory to the type of principal building and use that is situated on the property.

ACCESSORY USE – A use of land or a building or structure which is situated on the same lot as the principal use; incidental, subordinate, and related to the principal use; and customarily found as (or reasonably considered to be) an accessory to the type of use that is situated on the property.

ACRE – A measurement of area equal to forty three thousand five hundred sixty (43,560) square feet.

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

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

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

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

[Items below being moved to Article XX.1 with no changes. See section toward end of this document.]

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

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

- ~~*1) The storage, use of, and spreading of soil amendments, as defined in this section.*~~
- ~~*2) The use and application of agricultural chemicals pursuant to state requirements.*~~
- ~~*3) The preparation for market, delivery to storage or to market, and delivery to carriers for transportation to market of any products and materials from the farm.*~~
- ~~*4) The transportation of farm workers.*~~
- ~~*5) The marketing and selling at wholesale or retail of any products from the farm, on-site and off-site, where not otherwise prohibited or regulated.*~~

~~6) Irrigation of growing crops from private water supplies or public water supplies.~~

~~7) The use of dogs or other livestock guard animals for herding, working, and guarding livestock.~~

~~8) The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.~~

~~9) A farmstand situated on farm land owned by the operator of the farmstand provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms owned by the operator of the farmstand. Items not produced on the farm or farms owned by the operator are limited to agriculture-related products, specialty foods, gift items, crafts, and items reflecting agriculture and rural America.~~

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

~~11) Agritourism, as defined in this section.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AIRPORT, COMMERCIAL – A facility used for landings and takeoffs by commercial and private fixed wing or rotary wing aircraft. Such a facility typically includes aircraft parking and service facilities.

AIRPORT, PRIVATE – A tract of land used for landings and takeoffs by fixed winged or rotary wing aircraft belonging to the owner or lessor of the land or to a third party using the tract of land with the permission of the owner or lessor of the land.

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

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

ALLOWED USE – Any use that is legally permissible on a given site under this zoning ordinance (subject to all other approvals which may be required such as site plan approval, issuance of a building permit, granting of state permits, etc.), including permitted uses, conditional uses when a conditional use is approved, uses allowed by special exception when a special exception is granted, uses that have been approved through a variance, and legal nonconforming uses.

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

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

~~ANIMAL FEEDLOT—A commercial agricultural establishment consisting of confined feeding areas and related structures used for the finishing of livestock in accordance with USDA regulations. Any activity that requires the filing of a Schedule F as part of the owner’s or operator’s federal income tax return shall constitute a commercial operation.~~

~~APARTMENT—See "Accessory Dwelling Unit."~~

AQUIFER – See Article XVI. Aquifer Protection Overlay District.

[Pertinent items below related to aquifers are being moved to Article XVI. See section toward end of this document.]

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

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

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

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

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

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

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

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

AUTOMOTIVE USES – *See Motor Vehicle definitions.*

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

AWNING – *A structure attached to a building projecting over a public way. It may be used for signage, for decorative purposes, or to protect pedestrians from adverse weather.*

BASAL AREA – The cross sectional area of a tree measured at a height of 4-1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees. "Total basal area" is the sum of the "basal areas" of all vegetation in the zone.

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

~~**BEDROOM**—A fully enclosed room designed for sleeping.~~

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

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

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

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

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

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

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

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

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

BUILDING FOOTPRINT – The total area of the ground surface enclosed within the foundation of a building or within the downward projection of the exterior walls of a building.

BUILDING HEIGHT – See Section 175-56. General Dimensional Standards for procedure to determine building height.

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

~~**BUSINESS SERVICES**—Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building~~

~~*maintenance, employment service, management and consulting services, protective services, office equipment rental and leasing, commercial research, development and testing, photo finishing and personal supply services.*~~

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

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

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

CAR SALES AND SERVICE – See Motor Vehicle definitions.

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

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

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

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

CARPORIT – A roofed structure designed to shelter motor vehicles and that is open on at least two sides. A carport may be a freestanding structure or attached to a building.

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

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

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

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

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

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

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

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

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

~~**COMMON OPEN SPACE**—Land within or related to a subdivision that is set aside to conserve natural resource, scenic, cultural, historic, or archeological values, provide active or passive recreation, or accommodate support facilities related to the subdivision, and that is restricted from significant development or intensive use except for approved recreational or support facilities and protected in perpetuity in a substantially undeveloped state through legally binding fee ownership, or conservation easements. Common open space is not part of any house lot or developable lot within the subdivision and it not owned by the developer nor another resident in the subdivision. Rather, common open space is owned by the Town, another government entity, a nonprofit organization, or jointly/in common by the lot owners in the subdivision.~~

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

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

CONDITIONAL USE – See Article VII. Conditional Use Permits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DORMITORY – A building occupied by a resident manager and used, designed and adapted to provide housing for ~~more than ten (10) occupants~~ **employees or students or people otherwise connected to an institution, such as a school, hospital, or church**. Such units are distinguished by separate ~~study and~~ sleeping quarters for each individual or pair of individuals; common social assembly rooms; common toilet facilities; and common cooking and dining facilities, where provided.

DRIVE-THROUGH FACILITY – A service facility designed for the convenience of the motoring public that is intended to enable the customer to transact business with a person located within a structure or a machine without exiting the motor vehicle.

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

DRIVEWAY – *A private, vehicular access connecting the street to one or more structures or sites.*

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

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

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

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

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

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

~~**FAMILY**—*See “Household.”*~~

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

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

[Items below are being moved to Article XV, with no changes. See section toward end of this document.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or~~

~~exceed fifty (50) percent of the market value of the structure before the damage occurred.~~

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

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

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

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

FLOOR AREA, HABITABLE – Heated areas used daily for living, eating, cooking or sleeping, including bathrooms and bedroom ~~closets; closets.~~ **Habitable floor area does not include but excluding** garages, circulation areas **outside of individual units** (stairways, hallways, corridors), **and** storage ~~areas, areas~~ (including ~~but not limited to~~ attics, unfinished basements, and utility rooms). ~~For the purposes of this chapter, "habitable floor area"~~ **Habitable floor area** is deemed to be ~~seventy (70)~~ **70** percent of the gross floor area of a given building unless evidence sufficient to rebut that presumption in the form of complete floor plans drawn to a standard scale is submitted to **and approved by** the Durham Code Enforcement Officer. This presumption ~~shall does~~ not apply in any instance where the owner or occupant(s) of the building ~~allow allows~~ inspection and measurement of such interior floor areas by the Code Enforcement Officer. ~~It is recognized that under~~ **Under** this definition it is possible for the "habitable floor area" to exceed 70 percent of the gross floor area.

FOUNDATION, PERMANENT – A continuous perimeter foundation of masonry or concrete constructed in accordance with the Building Code of the Town of Durham.

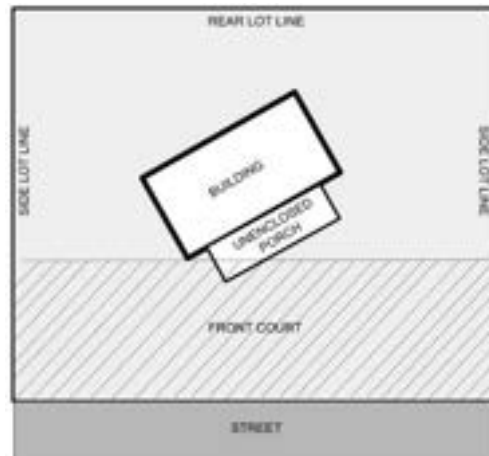
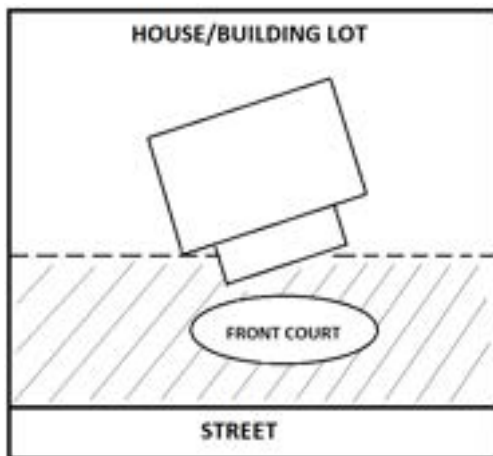
~~FRANCHISE ARCHITECTURE – A stylized building design in which the shape, detailing, ornamentation, materials, or use of color is clearly identified with a specific brand or company.~~

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

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

FRONT COURT – The portion of a lot in front of a house or the principal building demarcated by the front lot line, a line parallel to the front lot line running through the fully enclosed part of the building located closest to the front lot line, and sections of the two side lot lines that connect these two lines.

- Remove the existing image that goes with the definition for “Front Court,” shown on the left below and insert the new image in its place, shown on the right below.



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

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

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

GAS STATION – See Motor Vehicle uses.

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

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

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

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

GROUNDWATER – All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

GROUNDWATER RECHARGE – The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

HABITABLE FLOOR AREA. See “Floor Area, Habitable.”

HELIPORT – A facility used for landings and takeoffs by helicopters.

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

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

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

HISTORIC OR SPECIAL-INTEREST TREE - A tree which has been found by the Tree Warden to be of notable interest because of its age, type, size or historic association.

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

1. HOME OCCUPATION-1 – A home occupation *meeting with* the following *requirements characteristics*:
 - a. It occupies no more than ~~five hundred (500)~~ 500 square feet of floor area.
 - b. The principal operator resides on the premises, has not more than one ~~(1)~~ other person employed on-site and does not sell on-site any *principal* manufactured products prepared by others *except for any products that are incidental to the service being provided on site*. Services provided electronically and off-site employees who interact electronically with the home occupation are not limited.
 - c. The activity is completely enclosed in a primary or accessory structure. There is no indication of such occupation visible on the exterior of the building or on the lot, except permitted signs.
 - d. The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.
2. HOME OCCUPATION-2 – A home occupation *meeting with* the following *requirements characteristics*:
 - a. It occupies no more than ~~one thousand (1,000)~~ 1,000 square feet of floor area, with the exception of existing farm structures, which may utilize ~~one hundred (100)~~ 100 percent of the floor area.
 - b. The principal operator resides on the premises, has not more than three ~~(3)~~ other persons employed on-site and does not sell on-site any *principal* manufactured products prepared by others *except for any products that are incidental to the service being provided on site*. Services provided electronically and off-site employees who interact electronically with the home occupation are not limited.
 - c. The activity, except for outdoor storage, is completely enclosed in a primary or accessory structure. Outdoor storage of materials or equipment ~~shall not be is~~ located ~~in-outside of~~ any required setback or yard area and shall be at least ~~ten (10)~~ 10 feet from any lot line and so screened as not to be visible from any public way or shoreline or public park.
 - d. The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.

HOSPITAL – An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

HOTEL – ~~A building containing seven (7) or more~~ *A commercial operation offering multiple* sleeping rooms or suites, each with a private bathroom, for the purpose of providing overnight lodging facilities to the general public for stays of less than ~~30 thirty~~ consecutive days ~~for compensation~~ and usually providing on-site dining facilities, recreational services, function rooms, housekeeping, laundry and related services. Access to guest rooms is provided through interior corridors. *See Article XX*

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

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

HYDROGEOLOGIST, QUALIFIED – Any person certified in New Hampshire as a Licensed Professional Geologist pursuant to RSA 310-A:125. The Planning Board, at its discretion, may accept as a Qualified Hydrogeologist any person possessing similar credentials from any other state.

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

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

IMPERVIOUS SURFACE RATIO – The impervious surface area of a site or parcel divided by the total area of the site or parcel expressed as a percentage.

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

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

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

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

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

[These landscaping terms below are not used in the Zoning Ordinance.]

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

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

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

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

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

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

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

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

~~A. On corner lots, the "landscaped street yard" shall consist of all of the area of such lot between all abutting street right-of-way lines and their corresponding actual front building wall lines, as such lines are imaginarily extended in the manner provided above.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~Tree Warden – The person whose duties shall include the inspection of landscaping installations according to the Town of Durham performance guaranty guidelines, and ensuring that the landscaping provisions of this chapter are being carried out and installed according to the plans submitted and approved.~~

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

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

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

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

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

~~LOT, CORNER – A lot abutting on two (2) or more intersecting streets where the interior angle of intersection does not exceed one hundred thirty five (135) 135 degrees. A "corner~~

lot" ~~shall be~~ **is** considered to be in that block in which the lot fronts. [See "lot line," Subsection (1)(a).]

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

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

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

LOT LINE:

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

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

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

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

➤ *Switch the order of Rear Lot Line and Side Lot Line, below (as the side lot line is usually given first).*

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

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

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

MAINTENANCE – The replacing or repair of a part or parts of a building or structure which have been made unusable, unsafe, or unsightly, or have been damaged by ordinary wear or tear or by the weather.

MANUFACTURED HOUSING (*formerly known as a mobile home*) – Any structure, transportable in one or more sections, which, in the traveling mode, is eight ~~(8)~~ body feet or more in width and ~~forty (40)~~ 40 body feet or more in length, or when erected on site, is ~~three hundred twenty (320)~~ 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing ~~shall~~ **does** not include ~~pre-site built, modular or pre-site built prefabricated~~ housing as defined in RSA 674:31-a. *See Article XX*

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

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

MARQUEE - Any hood or awning of permanent construction projecting from the wall or roof of a building or structure above an entrance or extending over a public way.

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

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

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

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

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

MIXED USE WITH RESIDENTIAL ~~(OFFICE/RETAIL DOWN, MULTIUNIT RESIDENTIAL UP)~~ *(Office/Retail down, Multi-unit Residential Up)* – A building in which the first floor is used for office/retail uses ~~(as defined in this article)~~ and the upper floor(s) is used, in whole or in part, for multi-unit residential use. *(See alternate allowed options for this use specified in Section 175-42 in the Central Business District.)*

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

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

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

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

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

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

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

MUSEUM – A nonprofit institution operated principally for the purpose of preserving, acquiring, and exhibiting objects of historical, cultural, scientific, or artistic interest and which may also engage in the incidental retail sales of items related to its principal purpose.

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

NEIGHBORHOOD – A contiguous area of a community with: a) defining characteristics such as an integrated network of streets, walkability within the area, similar architecture or period of development, a compatible mix of uses; and b) one or more distinct boundaries such as major roads, railroads, other physical barriers, or natural features like streams, woods, and steep topography.

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

➤ Switch the order of the following two definitions:

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

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

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

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

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

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

NURSING HOME – A facility licensed by the State of New Hampshire as a nursing home ~~and that provides intermediate and/or skilled nursing care to individuals, who by reason of~~

~~advanced age, chronic illness, or infirmity, are unable to care for themselves. (See Senior Care Facility.)~~

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

~~OFF HIGHWAY RECREATIONAL VEHICLE—Any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, belts, cleats, tracks, skis or cushion of air and dependent on the ground or surface for travel, or other unimproved terrain whether covered by ice or snow or not, where the operator sits in or on the vehicle. All legally registered motorized vehicles when used for off highway recreational purposes shall fall within the meaning of this definition; provided that, when said motor vehicle is being used for transportation purposes only, it shall be deemed that said motor vehicle is not being used for recreational purposes.~~

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

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

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

OFFICE/RETAIL – For the land uses Mixed Use with Residential *or any other mixed use that includes office/retail uses and Mixed Use with Parking (parking and office/retail)*, “office/retail” includes retail sales, personal and business services, offices, restaurants, and other comparable commercial uses such as public, institutional, research, and industrial which are allowed in the zoning district. “Office/Retail” for this purpose does not include parking, storage uses, utility uses where there is minimal flow of people in and out of the building, nor uses that are accessory to the residential use in the building (such as laundry, bicycle storage, and exercise rooms).

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

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

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

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

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

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

OVERLAY DISTRICT - A defined area(s) of the town within which an additional set of standards is applied to all property, independent of the standards established in the underlying base zoning district. Six overlay districts are established as described in Articles XIII-XVIII.

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

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

PARKING GARAGE – A building or portion of a building that includes two or more levels of parking or a mixed-use building with two or more levels where parking is situated on at least one level. A parking garage may be completely or partially enclosed. A parking garage includes a fully enclosed parking area that is situated below ground.

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

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

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

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

***PERMEABLE PAVEMENT** – See “Porous Pavement/Pavers.”*

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

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

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

[Items below being moved to Article XVIII with no changes. See section toward end of this document.]

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

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

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

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

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

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

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

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

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

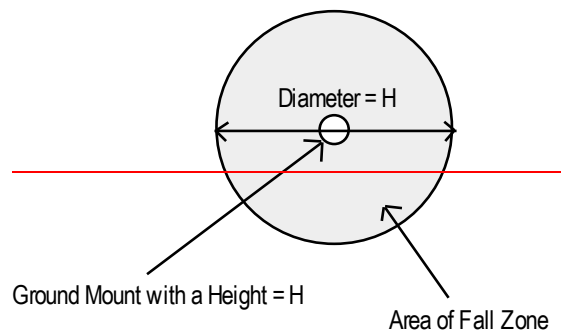
~~Disguise—Changing the appearance of a PWSF to appear to be something it is not.~~

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

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

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

Figure H-1



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

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

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

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

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

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

~~A. — Roof-mounted. Mounted on the roof of a building.~~

~~B. — Side-mounted. Mounted on the side of a building.~~

~~C. — Ground-mounted. Mounted on the ground.~~

~~D. — Structure-mounted. Mounted on a structure other than a building.~~

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

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

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

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

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

PLANNED UNIT DEVELOPMENT (PUD) - A Planned Unit Development is an innovative planning tool that allows a landowner to propose their own development project with a fair degree of independence from zoning, site plan, and subdivision requirements otherwise applicable to that property. A PUD master plan functions as a special zoning

district designation for a particular tract of land in terms of uses, dimensions, and other development standards.

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

POROUS PAVEMENT/PAVERS – An alternative to conventional asphalt that uses a variety of porous media, often supported by a structural matrix, concrete grid, or modular pavement, which allows water to percolate through to a sub-base for gradual infiltration.

PREFABRICATED HOUSING – See “Presite Built Housing.”

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

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

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

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

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

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

~~*PUBLIC UTILITY – A public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, telephone, television cable, gas and transportation for persons and freight.*~~

PUBLIC UTILITY – A public service corporation, municipal body, or authority providing a specific public service subject to special governmental regulations, for which the recipients pay the provider directly. Utilities may include water supply, sewer service, piped gas, electric supply, telephone, television cable.

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

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

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

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

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

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

RECREATIONAL FACILITY, OUTDOOR – A *place or structure site* designed and equipped for *the conduct of* outdoor sports, *leisure activities, and other customary and usual outdoor leisure and* recreational activities. *An outdoor recreational facility shall not involve* *It does not include* the use of individual motorized vehicles, all-terrain vehicles, off highway recreational vehicles, motorized rides *(except for electronic bicycles)*, or fire arms. *Outdoor recreation facilities include, by way of example only, miniature golf courses, cross-country ski centers, stadia, tennis courts, and ball fields.*

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

~~RECREATIONAL VEHICLE – A vehicle which is: (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be~~

~~self-propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.~~

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

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

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

RELIGIOUS USE/FACILITY – A structure or place in which worship ceremonies, rituals and education pertaining to a particular system of beliefs are held.

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

~~REPAIR SERVICES—Businesses providing for the repair of personal and business property such as radios and televisions; electrical and electronic equipment; watches, clocks, and jewelry; furniture and upholstery; sporting equipment; small engines and equipment; and similar items but not including the repair of motor vehicles, boats, or heavy equipment. Retail sales of parts and supplies shall be allowed provided such sales are accessory to the repair service.~~

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

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

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

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

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

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

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

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

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

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

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

SAWMILL, TEMPORARY – A portable facility for the sawing, milling, planing, or similar processing of timber or other wood products harvested from the site upon which the temporary sawmill is located. A portable sawmill use shall not include the retail sale of lumber or other wood products on the site. *See Article XX*

SCHOOLS – *See “educational facilities.” “Educational Facility.”*

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

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

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

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

SENIOR HOUSING – ~~In accordance with~~ Pursuant to RSA 354-A:15, **age-restricted housing refers to a development in which** either: a) housing where at least 80% of the units are occupied by at least one person 55 years of age or older; or b) housing where 100% of the occupants are 62 years of age or older. **In any development or portion of a development in Durham referred to as “age-restricted housing” 100% of the units include at least one person 55 years of age or older, unless otherwise specified.**

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

SETBACK – The required minimum (except where “maximum” is specified) horizontal distance in feet from a lot line, shoreline, or other ~~designated referenced~~ **line or point to any a structure. See The Table of Dimensions and Subsection 175-56. D. Setbacks. Where eaves, overhangs, cladding materials, and architectural details on a building project 18” or less from the building face, the setback is measured from the applicable building foundation. Where eaves, overhangs, cladding materials, and architectural details on a building project more than 18” from the building face, the setback is measured from the furthest point where those elements extend from the building. Table 175-54, Table of Dimensions, gives front, side, and rear setbacks, which are measured from front, side, and rear lot lines, respectively. See “Building” and “Structure.”**

SETBACK AREA – The section of the front, side, or rear of a lot corresponding to the area within which structures may not be placed in accordance with front, side, or rear setbacks, respectively. *(Also called “Yard.”)*

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

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

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

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

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

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

SIGN – See definitions in Article XXIII. Signs.

[Pertinent items below being moved to Article XXIII. See section toward end of this document.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SITE PLAN – A plan of a lot, tract or parcel of land showing the specific location of all existing and proposed features, such as buildings, other structures, driveways, parking, landscaping, easements, utilities, and drainage structures.

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

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

SOIL, POORLY DRAINED – Any soil type having a soil drainage classification of “poorly drained” when classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

SOIL, SOMEWHAT POORLY DRAINED – Any soil type having a soil drainage classification of “somewhat poorly drained” when classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

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

SOIL, VERY POORLY DRAINED – Any soil type having a soil drainage classification of “very poorly drained” when classified in accordance with the most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

SOLAR ENERGY SYSTEMS – Specific definitions pertinent to solar energy systems follow.

Building-Mounted Solar Energy System – A solar energy system attached to and completely supported by a building that does not extend more than 5 feet beyond the building footprint. The system may include necessary accessory equipment that is ground mounted.

Freestanding Solar Energy System – A ground-mounted solar energy system, including a stationary or tracking system (either single axis or dual axis). A Solar Photovoltaic (PV) Parking Canopy is not a Freestanding Solar Energy System.

Group Net Metering Host, Small – A Solar Photovoltaic (PV) System less than or equal to 100 KW that shares energy and Net Metering benefits with members of a registered group per N.H. PUC 909.

Group Net Metering Host, Large – A Solar Photovoltaic (PV) System greater than 100 KW and less than 5 MW that shares energy and Net Metering benefits with members of a registered group per N.H. PUC 909.

Multi-unit Residential or Nonresidential Solar Energy System – An accessory use designed to provide solar energy for the principal and accessory uses of Multi-Unit Residential, mixed Use with Residential and other Nonresidential uses.

Name Plate Rating - The maximum sustained electric power-generating capacity of the Solar Energy System.

Solar Energy – Radiant energy emitted by the sun.

Single-Family or Duplex Residential Solar Energy System – A Solar Energy System that is an accessory use designed to generate energy for use at the property. A Single-Family or Duplex Residential Solar System may also be a Small Group Net Metering Host up to the size limits specified in 175-109.N.4.

Solar Energy System – A structure and the related components used to transform solar energy into electricity (through a solar photovoltaic system) or heat (through a solar thermal system).

Solar Photovoltaic (PV) Parking Canopy – An elevated structure that supports solar panels over a parking area. A solar photovoltaic parking canopy is not a carport. The structure is not used with single-family and duplex uses, nor is it considered *structured parking*.

Solar Photovoltaic (PV) System – A solar collection, mounting, inversion, storage and distribution system that converts sunlight into electricity.

Solar Thermal System – A solar collection system that directly heats a heat-transfer medium.

Utility-Scale Solar Energy System, Small - A limited electrical energy producer as defined in RSA 362-A:1 with a solar energy generating capacity equal to or less than 100 kW that generates energy for use off site by customers. A Small Utility-Scale Solar Energy System does not function as a Small Group Net Metering Host.

Utility-Scale Solar Energy System, Large – A limited electrical energy producer as defined in RSA 362-A:1 with a solar energy generating capacity of greater than 100 kW and less than 5 MW that generates energy for use off site by customers. A Large Utility-Scale Solar Energy System does not function as a Large Group Metering Host

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

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

~~SPECIAL FLOOD HAZARD AREA—~~ *See “Area of Special Flood Hazard.”*

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

STEEP SLOPE – A slope exceeding 15% where there is a change in elevation of at least 4 feet. See Slope.

STORY - The complete horizontal division of a building, situated at or above ground level, comprising the usable space or room(s) on one level. Each such division is considered one full story, except for the top level when it is under a sloped roof, which is considered a half story. For the purpose of determining the total number of permitted stories, a sloped roof that does not contain usable space (other than crawl-type storage space) is not considered a half story. For the purposes of this ordinance, a lower level is considered to be a story if the front

exterior wall of the lower floor level rises more than two feet above the finished grade. Cupolas with areas of 100 square feet or less do not count as a story.

STREET, ARTERIAL – A high-order street designed to provide access to the regional transportation system and move traffic through or around the town or from one general area of the town to another. "Arterial streets" include Main Street west of Mast Road, U.S. Route 4, Route 108, Route 155A and Route 155.

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

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

STREET, MINOR – A low-order local street. If a particular street is not classified as an arterial or collector street, it is considered a minor street.

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

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

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

STRUCTURE ~~(See additional definitions immediately below.)~~ – That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground. *See Section 175-56. D. for setbacks applicable to structures and exemptions thereof.* ~~Structure includes, but is not limited to, a building, swimming pool, mobile home, billboard, pier, wharf, septic system, parking space/parking lot and deck. Structure does not include a minor installation such as a fence six (6) feet high or less in height, a mailbox, a flagpole, or an accessory shed.~~

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

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

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

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

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

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

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

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

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

TOXIC OR HAZARDOUS MATERIAL – Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant actual or potential hazard to water supplies or other hazard to human health. "Toxic or hazardous materials" include, but are not limited to: volatile organic chemicals; petroleum products; heavy metals; radioactive materials;

infectious materials or wastes; acids; alkalis; products such as pesticides, herbicides, solvents and thinners; or such other substances as defined in New Hampshire Department of Environmental Services Rules Section Env-Wm-400, in New Hampshire Solid Waste Rule Env-Wm 100 and in the Code of Federal Regulations 40 CFR 261, as amended. The more-restrictive rules shall apply in all cases.

The following commercial activities are presumed to use toxic or hazardous materials and/or to generate wastes containing toxic or hazardous materials, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board. In all cases the burden of proof shall rest with the applicant:

- A. Airplane, boat and motor vehicle service and repair, including gasoline stations.
- B. Chemical and biological laboratory operations.
- C. Dry cleaning.
- D. Electronic circuit manufacturing.
- E. Metal plating, finishing and polishing.
- F. Motor and machinery service and assembly.
- G. Painting, wood preserving and furniture stripping.
- H. Pesticide and herbicide application.
- I. Photographic processing.
- J. Printing.
- K. Any other commercial or industrial activity which, in the judgment of the Planning Board, typically uses toxic or hazardous materials or produces wastes containing toxic or hazardous materials.
- L. Storage and/or distribution of chemicals or any other hazardous materials used in any of the above activities.

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

TREE WARDEN - The person designated by the Town Administrator to assist the Town boards, residents, and other Town staff in any appropriate matters related to the conservation, protection, and enhancement of native and naturalized trees and other vegetation located on both public and private property in Durham, in furtherance of the

goals of this Zoning Ordinance and other Town ordinances and regulations, and pursuant to RSA 231:139 (II).

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

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

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

UNRELATED HOUSEHOLD – See “Household.”

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

Reverse the order of Use and Usable Area, below.

USE – The specific purpose(s) for which a building or lot *or a portion thereof* is arranged, intended, designed, occupied or maintained.

USABLE AREA – The area of any conservation subdivision, that is suitable, in its natural state, for development or intensive use and, therefore, can be used in determining the allowed density of development. The usable area of a parcel of land ~~shall be~~ *is* determined in accordance with the provisions of Section 175-56(E).

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

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

VETERINARY CLINIC – See Animal Care.

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

~~**WAREHOUSE, MINI STORAGE SELF STORAGE FACILITY**~~ – Any self-service facility composed of individual units or lockers rented to the public for storage of personal or business belongings. ~~Any self-service storage building housing individual storage units or~~

~~lockers, each of which is accessible through a private entrance, and rented to the public for storage of personal or business belongings.~~

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

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

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

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

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

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

~~**WORKFORCE HOUSING CONSERVATION SUBDIVISION** – A conservation subdivision that provides housing for rent and/or for sale which meets the standards for Workforce Housing in accordance with RSA 58-61. See Article XIX. Conservation Subdivisions.~~

~~**YARD** – See *Setback Area*.~~

PROPOSED CHANGES TO OTHER ARTICLES, RELATED TO THE PROPOSED CHANGES ABOVE

- **Replacement of current terms with new terms.** Replace the terms throughout the Zoning Ordinance, wherever they currently appear, as stated below. Capitalize letters as appropriate consistent with the current context.
 - Replace *accessory dwelling unit* with *accessory dwelling unit – attached*.
 - Replace *accessory apartment* with *accessory dwelling unit – detached*.

- Replace *child care (or childcare) center* with *day care center*.
 - Replace *child care (or childcare) home* with *day care home*.
 - Replace *shorefrontage* with *shore frontage*.
 - Replace *structured parking* with *parking garage (or a parking garage, as appropriate)*
 - Replace *surface parking* with *parking lot (or a parking lot, as appropriate)*
- ***Throughout the ordinance, replace multiunit with multi-unit, wherever the former currently appears. Capitalize letters as appropriate consistent with the context.***

ARTICLE XII.1. USE AND DIMENSIONAL STANDARDS

175-53. Table of Land Uses.

- ***Change the term “eldercare facilities” in Note 3 at the end of the Table of Dimensions to “senior care facilities”.***

Table of Uses – [*Proposed changes pursuant to changes in Article II – Definitions]**

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry	Durham Business Park (DBP)
I. NATURAL RESOURCE USES													
Principal Uses													
Conservation activities	P	P	P	P	P	P	P	P	P	P	P	P	P
Excavation and/or mining	CU	X	X	X	X	X	X	X	X	X	X	X	X
II. RURAL USES													
Principal Uses													
Commercial agriculture	P	X	X	P	X	X	X	X	X	P	P	P	X
Commercial animal husbandry	P	X	X	P	X	X	X	X	X	P	P	P	X
Plant nursery	P	X	X	P	X	X	X	X	X	P	P	P	X
Kennel	CU	X	X	CU	X	X	X	X	X	CU	X	CU	X

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOP)	Office Research Light Industry	Durham Business Park (DBP)
Stable	P	X	X	P	X	X	X	X	X	CU	CU	CU	X
Forestry (See Article XX)	P	P	P	P	X	X	X	X	P	P	P	P	P
Temporary sawmill (See Article XX)	P	P	P	P	X	X	X	X	X	P	P	P	P
Reuse of existing agricultural building (See Article XX)	CUA	X	X	CUA	X	X	X	X	X	P	P	P	P
Uses Accessory to Commercial Agriculture and Animal Husbandry													
Retail sales of farm products	P	X	X	P	X	X	X	X	X	CU	CU	CU	X
III. RESIDENTIAL USES													
Principal Uses													
Residence, single-family	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
Residence, multi-unit	X	X	X	X	X	CUA	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 (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry	Durham Business Park (DBP)
Accessory agricultural activities (See Article XX)	P	P	P	P	X	X	X	X	X	P	P	P	X
Accessory animal husbandry - livestock (See Article XX)	P	P	P	P	X	X	X	X	X	CU	CU	CU	X
Accessory animal husbandry - goats (See Article XX)	P	P	P	P	X	X	X	X	X	P	P	P	X
Accessory animal husbandry - poultry (See Article XX)	P	P	P	P	X	X	X	X	X	P	P	P	X
Uses Accessory To a Single Family Residential Use													
Accessory dwelling unit – <i>attached</i> (See Article XX)	P	P	P	P	X	P	P	X	X	X	P	P	X
Accessory apartment <i>dwelling unit - detached</i> (See Article XX)	P	X	X	P	X	P	P	X	X	X	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 (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOP)	Office Research Light Industry	Durham Business Park (DBP)
Short term rental	SE	SE	SE	SE	P	P	P	P	P	SE	SE	SE	X
IV. INSTITUTIONAL USES													
Principal Uses													
<i>Adult day care facility</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>CU</i>
Art center	X	X	X	X	P	X	P	P	CU	X	X	X	X
<i>Child care center or child care nursery</i> Day care center (See Article XX)	P	X	X	P	P	P	<i>CU P</i>	P	<i>CU P</i>	P	<i>CU P</i>	<i>CU P</i>	<i>CU P</i>
<i>Nursery or pre-school</i>	<i>P</i>	<i>X</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>CU</i>	<i>P</i>	<i>CU</i>	<i>CU</i>	<i>CU</i>	<i>CU</i>	<i>CU</i>
Club	X	X	X	X	P	X	CU	CU	CU	X	X	X	X
Community center	X	X	X	X	P	P	CU	P	CU	CU	CU	CU	CU
Educational facility	X	X	X	X	CU	P	CU	P	X	X	CU	CU	CU
Fraternity/sorority house	X	X	X	X	CU	CUA	X	X	X	X	X	X	X
<i>Government facility</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
Hospital	X	X	X	X	X	X	X	X	X	X	CU	CU	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 (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOP)	Office Research Light Industry	Durham Business Park (DBP)
Library	X	X	X	X	P	P	P	P	P	P	X	X	X
Museum	CU	X	X	CU	P	P	P	P	CU	X	X	CU	CU
Religious use/facility	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
Recreational facility, indoor	X	X	X	X	X	X	X	X	X	P	P	P	P
Recreational facility, outdoor	CU	X	X	CU	X	X	X	X	CU	CU	CU	CU	CU
Recreational playing fields, outdoor	P	P	P	P	X	X	X	X	CU	P	P	P	CU
VI. UTILITY & TRANSPORTATION USES													
Principal Uses													
Structured parking Parking garage	X	X	X	X	CU	X	X	CU X	CU 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 (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOP)	Office Research Light Industry	Durham Business Park (DBP)
Surface parking Parking lot	X	X	X	X	CU	X	CU X	CU	X	X	X	X	X
Public utility facility	CU	X	X	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
VII. COMMERCIAL & INDUSTRY USES													
Principal Uses													
Reuse of older single-family residence for a low impact nonresidential use (See Article XX)	CUA	X	X	CUA	P	P	P	P	P	P	P	X	X
Bed & breakfast	P	P	P	P	CUA	CUA	CUA	CUA	CUA	CUA	CUA	X	X
Inn	P	X	X	P	CUA	CUA	CUA	CUA	CUA	CUA	CUA	X	X
Conference center	X	X	X	X	CU	P	CU	P	P	CU	X	X	CU
Hotel	X	X	X	X	P	P	CU	P	CU	CU	CU	CU	CU
Restaurant	X	X	X	X	P	X	P	P	X	X	X	X	X
Restaurant, carry-out	X	X	X	X	P	X	X	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)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOP)	Office Research Light Industry	Durham Business Park (DBP)
Office, professional	X	X	X	X	P	P	P	P	P	P	P	P	P
Repair services	X	X	X	X	P	X	CUA	P	X	CU	CU	CU	CU
Automotive service Motor vehicle gas station	X	X	X	X	X	X	X	P	X	X	X	X	X
Motor vehicle service facility	X	X	X	X	X	X	X	P	X	X	X	X	X
Motor vehicle sales and service facility	X	X	X	X	X	X	X	P	X	X	X	X	X
Automobile/ear Car wash	X	X	X	X	X	X	X	P	X	X	X	X	X
Marine sales and service	X	X	X	CU	X	X	X	X	X	X	X	X	P
Boatyard/ Boat club	X	X	X	CU	X	X	X	X	X	X	X	X	P
Research facilities and labs	X	X	X	X	X	X	X	X	X	P	P	P	P
Manufacturing, light	X	X	X	X	P	P	P	P	P	P	P	P	P
Warehouse	X	X	X	X	X	X	X	X	X	CU	X	CU	CU
Self storage facility	X	X	X	X	X	X	X	X	X	X	X	X	X
Wholesale sales	X	X	X	X	X	X	X	X	X	CU	X	CU	CU

175-56. General Dimensional Standards.

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

ARTICLE XV. FLOOD HAZARD OVERLAY DISTRICT

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

[The definitions below are not being changed, only relocated.]

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

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

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

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

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

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

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

FEMA - The Federal Emergency Management Agency.

FIRM –Flood Insurance Rate Map.

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

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

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

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

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

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

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

Historic Structure - Any structure that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

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

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

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

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

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

ARTICLE XVI. AQUIFER PROTECTION OVERLAY DISTRICT

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

[The definitions below are not being changed, only relocated.]

175-84.1. Definitions.

The following definitions apply in this overlay district:

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

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

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

Article XVII. Durham Historic Overlay District

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

[The definitions below are not being changed, only relocated.]

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

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

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

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

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

Article XVIII. Personal Wireless Service Facilities Overlay District.

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

[The definitions below are not being changed, only relocated.]

175-100.1. Definitions.

The following terms apply to personal wireless service facilities.

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

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

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

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

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

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

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

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

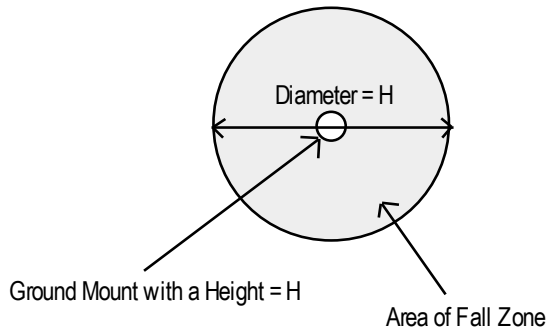
Disguise - Changing the appearance of a Personal Wireless Service Facility to appear to be something it is not.

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

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

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

Figure XVIII-1



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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XX.1 STANDARDS FOR AGRICULTURAL USES.

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

[The definitions below are not being changed, only relocated.]

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

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

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

- 1. The storage, use of, and spreading of soil amendments, as defined in this section.*
- 2. The use and application of agricultural chemicals pursuant to state requirements.*
- 3. The preparation for market, delivery to storage or to market, and delivery to carriers for transportation to market of any products and materials from the farm.*
- 4. The transportation of farm workers.*
- 5. The marketing and selling at wholesale or retail of any products from the farm, on-site and off-site, where not otherwise prohibited or regulated.*
- 6. Irrigation of growing crops from private water supplies or public water supplies.*
- 7. The use of dogs or other livestock guard animals for herding, working, and guarding livestock.*
- 8. The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.*

9. *A farmstand situated on farm land owned by the operator of the farmstand provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms owned by the operator of the farmstand. Items not produced on the farm or farms owned by the operator are limited to agriculture-related products, specialty foods, gift items, crafts, and items reflecting agriculture and rural America.*
10. *Use of new technologies recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and appropriate agencies of the United States Department of Agriculture.*
11. *Agritourism, as defined in this section.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XXIII. SIGNS AND COMMUNICATIONS DEVICES

- *Change the name of this Article from “Article XXIII. Signs and Communications Devices” to “Article XXIII. Signs.” wherever the name of this article appears in the Zoning Ordinance.*
- *Insert a new Section 175-119.1 Definitions as follows:*

[The definitions below are not being changed, only relocated.]

175-119.1 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

PASSED AND ADOPTED this _____ day of _____ by a majority vote of the Durham Town Council with ___ affirmative votes, ___ negative votes, and ___ abstentions.

Sally Needell, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk/Tax Collector