

# TOWN OF DURHAM

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## ZONING REGULATIONS



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## **SECTION 1 PURPOSE AND AUTHORITY**

### **1.1 AUTHORITY**

These regulations are issued under the provisions of Chapter 124 of the General Statutes, as amended, and are in conformity with the purposes expressed therein. These Regulations apply to all areas within the Town of Durham and to the use to which any area and any and all buildings and structures may be devoted.

### **1.2 PURPOSE**

These Regulations are adopted for the following purposes:

- a) To guide the future growth and development of Durham in accordance with the Plan of Conservation and Development;
- b) To improve traffic flows over our streets;
- c) To secure safety from fire, panic, flood and other dangers;
- d) To promote health and general welfare;
- e) To provide for adequate light and air;
- f) To prevent overcrowding of land and avoid undue concentration of population;
- g) To facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements;
- h) To give consideration to the character of each area and its unique suitability for particular uses;
- i) To conserve the value of buildings and encourage the most appropriate use of land throughout Durham;
- j) To protect historic factors and resources;
- k) To protect existing and potential public surface and ground drinking water supplies;
- l) To provide for the development of housing opportunities.
- m) To provide housing choice and economic diversity in housing, including housing that will meet identified housing needs.

## SECTION 2 DEFINITIONS

### 2.1 INTERPRETATION OF TERMS

**1. Interpretation of Specific Terms** - For the purposes of these Regulations, certain words and terms shall be interpreted as follows:

- (a) Words used in the singular shall include the plural and the singular, and words used in the present tense shall include the future.
- (b) The word "shall" is mandatory and not discretionary.
- (c) The word "may" is permissive.
- (d) The word "lot" shall include the words "piece" and "parcel."
- (e) The words "zone," "zoning district," and "district" have the same meaning.
- (f) The phrase "used for," shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (g) The phrase "these Regulations" shall refer to the entire zoning regulations.
- (h) The word "Town" means the Town of Durham, Connecticut.
- (i) The word "Commission" means the Durham Zoning Commission.

### 2. Words and Terms Not Defined

Words used in these Regulations shall be determined to have the meanings as defined in Section 2. Any doubt as to the precise meaning of other words and terms shall be determined by the Commission after reference to:

- a. Connecticut General Statutes, as amended;
- b. Black's Law Dictionary (latest edition);
- c. Webster's Third New International Dictionary;

### 2.2 DEFINITIONS

The following definitions shall apply for the purpose of these regulations.

**Accessory Dwelling Unit** - An accessory apartment is defined as a dwelling unit with bedroom, kitchen and bathroom facilities subordinate to the home in size and appearance.

**Accessory Building or Use**- An accessory building or use is one which is subordinate and customarily incidental to the main building and use on the same lot. The term "accessory building" when used in connection with a farm shall include all structures customarily used for farm purposes.

**Adult-Oriented Establishments**- Adult-Oriented Establishment, shall include, without limitation, "adult Bookstores", adult motion picture theaters", "adult mini-motion picture theaters" and commercial establishments containing one or more "adult amusement machines". "Adult-oriented Establishment" further means any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the

common areas of the premises for the purpose of viewing adult-oriented motion pictures, or any premises wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without limitation, any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

**Agricultural fair** means a fair or exhibition that is intended to promote agriculture by including a balanced variety of exhibits of livestock and agricultural products, as well as related manufactured products and arts, including: products of the farm home and educational contests, displays, and demonstrations designed to train youth and to promote the welfare of farmers and rural living.

**Agricultural Operations, Non-Commercial-** The use of a lot for gardens (excluding truck gardens), greenhouses, the raising of less than 100 poultry, the keeping of domestic animals, including cattle, riding horses and ponies, dogs, etc., all of which are grown or raised for the non-commercial accessory use of the occupants of the same premises.

**Agriculture, Commercial**      **(See Farm)**

**Apartment House-** A dwelling containing separate living units for four or more families having separate or joint entrances, services and facilities.

**Assisted Living Facility:** A residential community occupied by those aged 55 and over to the extent permitted by Federal and State Fair Housing Laws and any other applicable laws that provide assistance with activities of daily living to the residents. Services provided by the facility shall be provided on a 24-hour basis and shall include such services as bathing, dressing, toileting, medication monitoring, and meal preparation. Services are also provided in the following areas: linen service, recreation, security, transportation, shopping, and housekeeping. Assisted living facilities may also provide for the daily living needs of memory impaired residents.

**Aquifer-** A geologic unit capable of yielding usable amounts of water.

**Basement-** The floor next below the principal floor.

**Basement Room-** A room located partially or entirely within the basement.

**Bed and Breakfast:** A residence where not more than six guest rooms are rented to not more than 12 overnight guests on a daily basis for periods not exceeding one week.

**Billboards-** A flat surface or board, usually outdoors, on which large advertisements or notices are posted.

**Boarding House-** A building with not more than five guest rooms where lodging and meals are provided for compensation.

**Building-** An independent structure having a roof supported by columns or walls resting on its own foundations and including shed, garage, stable, greenhouse or other accessory building. A detached building is one separated on all sides from adjacent buildings by open spaces from the ground up.

**Building Area** -Building area is the aggregate or the maximum horizontal cross section area of the main building on a lot, excluding cornices, eaves, gutters or chimneys projecting not more than 30 inches, steps, one story open porches, and balconies and terraces.

**Building Height-** The vertical distance from the average level of the ground along all walls of the building to the highest point of the building.

**Camp-** An area of an acre or more, with temporary or permanent structures, designed or used to accommodate ten or more individuals for recreational, educational, political, charitable or social uses. (Does not include public parks.)

**Campground:** Any lot on which may be located two or more cabins, tents, other accommodations of a design or character suitable for seasonal or other temporary recreational living purposes, including a day camp but not a mobile home park, boarding or rooming house, tourist home, hotel or motel.

**Certification-** A signed, written approval by the Planning and Zoning Commission that a soil erosion and sediment control plan comply with the applicable requirements of these regulations.

**Commercial Vehicles-** commercial vehicles are any vehicle with markings that have the name or number of the business that is located on the premises. Commercial vehicles which are not part of the home occupation, and which are related to employment by an outside business (plumbing company, electric company, cable company, etc.) are not considered commercial vehicles subject to the home occupation regulations as they are not related to the home occupation. Commercial vehicles shall not be defined by a commercial license plate.

**Commission-** The Planning and Zoning Commission of the Town of Durham, Connecticut.

**County Soil and Water Conservation Zone-** The Middlesex County Soil and Water Conservation Zone established under subsection (a) of Section 22a-315 of the General Statutes

### **Day Care Services**

- 1) Child Day Care Center - A facility which offers or provides supplementary care to more than twelve (12) related or unrelated children outside their own homes on a regular basis for a part of the twenty-four (24) hours in one (1) or more days in the week.

- 2) Group Day Care Home - A facility which offers or provides a program of supplementary care to not less than seven (7) nor more than twelve (12) related or unrelated children on a regular basis for a part of the twenty-four hours in one (1) or more days in the week.
- 3) Family Day Care Home - A private family home which cares for not more than six (6) children, including the provider's own children not in school full time, where the children are cared for not less than three (3) nor more than twelve (12) hours during a twenty-four (24) hour period and where care is given on a regularly recurring basis. During the regular school year, a maximum of three (3) additional children who are in school full time, including the provider's own children, shall be permitted, except that if the provider has more than three (3) children who are in school full time, all of the provider's children shall be permitted.

**Development-** Any construction or grading activities to improved or unimproved real estate.

**Disturbed Area-** An area where the ground cover is or will be destroyed or removed leaving the land subject to accelerated erosion.

**Dwelling-** A building or portion thereof designed and used for residential occupancy, but not including hotels or boarding houses.

**Dwelling Unit, Single Family-** A detached building or apartment designed for and occupied exclusively as a home or residence for one family. (Note: The Zoning Commission may, upon application, sanction separate light housekeeping facilities for dependent relatives of the owner.)

**Dwellings for Elderly and/or Physically Handicapped Persons-** Shall mean development of dwelling units: 1) designed exclusively to be occupied by and to meet specific requirements and designed standards suitable for occupancy for one or more elderly persons at least one of whom is at least 55 years of age or over and/or is physically handicapped; and, 2) which shall conform to the requirements of State and/or federal programs providing for housing for the elderly and shall include a signed and sealed certified statement from the owner, his architect and engineers that such housing conforms to the State and/or federal agencies' program requirements for elderly housing whether or not such housing is constructed under such program. Dwellings for elderly and/or physically handicapped persons may include accessory community rooms and facilities for the use of the occupants as well as other essential service facilities, such as laundry rooms.

**Erosion-** The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**Establishment, Private Non-Profit:** Any person(s), partnership, association, corporation or other group whose activities are conducted for civic or humanitarian motives and include the establishment so operated, or for the benefit of others, and not for the gain of any private individual or group and may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities.

**Equestrian Operation:** A commercial agricultural facility created and maintained for the purpose of accommodating, training, or competing equids; especially horses. Based on their use, they may also be known as a stable, boarding stable, livery yard, livery stable, or riding hall.

**Event:** A gathering of persons that are Renters of the short-term rental and others that are not renters. Such gatherings may include, but are not limited to weddings, graduations, parties, banquets, fundraisers, functions sponsored by agencies, businesses or non-profit organizations, concerts, or other gatherings of people. For purposes of this regulation, events may be held either indoors or outdoors.

**Family-** A family is any number of individuals regularly living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding house, or hotel, or rooming house.

**Farm-** An area of three (3) or more contiguous acres (including wood lots) that are under common ownership and being used for any of the purposes listed in Connecticut General Statute Sec. 1-1(q). This definition includes barns and/ or other agriculturally related structures and/ or equipment located on the premises that are utilized in the agricultural operation. This definition excludes commercial dog kennels.

**Farm Brewery-** a production facility for the processing, production and packaging of beer, ale, porter, stout and similar malt-based or grain based beverages, provided that it is located on a parcel of land that is part of a working farm of a minimum size of 5 acres, and where 25% of the hops, cereal grains or other ingredients are grown on site or in conjunction with a farm property located within the Town of Durham.

**Farm Cafe-** a small-scale restaurant, subordinate to the agricultural operation and tasting rooms, where simple meals or snacks are sold. A farm café is not to be construed as a full-service sit-down restaurant.

**Farm Cider-** a production facility for the processing, production and packing of alcoholic cider, provided that it is on a parcel of land that is part of a working farm of a minimum size of 5 acres, and where 25% of the apples or other ingredients are grown on the site or in conjunction with a farm property located within the Town of Durham.

**Farm Distillery-** a production facility for the processing, production and packing of spirits, provided that it is on a parcel of land that is part of a working farm of a minimum size of 5 acres, and where 25% of the ingredients are grown on the site or in conjunction with a farm property located in the Town of Durham.

**Farm Store:** A structure located on a farm and used for the sale of agricultural products, the majority of which are produced on the farm.

**Farm Winery-** a production facility for the processing, production and bottling of wine and wine spirits, provided that it is located on a parcel of land that is part of a working farm of a minimum of 5 acres, and

where 25% of the grapes or other ingredients are grown on site or in conjunction with a farm property located in the Town of Durham.

**Forest Land-** Forest land means that portion of a parcel of land which constitutes a total of at least (one-half acre) (one acre) contiguous acre on which there is no structure, maintained landscape area, access way or other improvement and which is (A) occupied in random distribution by trees having a minimum diameter of three inches as measured from a point on the trunk which is four and one-half feet above the ground such trees comprising at least seven and one-half square feet of basal area and the crowns of such trees occupying no less than fifteen per cent of the total area; or (B) which is planted with at least five hundred trees per acre and is not maintained for Christmas tree or nursery stock production.

**Garage, Private-** A detached accessory building or a portion of a main building for the parking or storage of automobiles or trucks belonging to or pertaining to the livelihood of the occupants of the premises.

**Garage, Community-** A structure or a series of structures for the storage of automobiles of residents of the neighborhood and not used for the making of repairs.

**Garage, Public-** A building other than a private or community garage used for maintenance, repair, and storage of automobiles.

**Grading-** Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials on any combination thereof, including the land in its excavated or filled condition.

**Habitable Space-** Habitable space shall conform to the current definition contained in the State of Connecticut Building Code.

**Health care facility** means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

**Height - Building:** The vertical distance from grade plane to the average height of the highest roof surface.

**Home-based business** - The use of a portion of a dwelling or out-building for business purposes by the residents when clearly incidental and secondary to the residential use of the dwelling.

**Home occupation** - A home-based business involving non-resident employee (s) or occasional visitor(s) to the business.

**Home office** - The use of a dwelling for occasional business use (as part of employment typically occurring elsewhere).

**Hotel**- A building designed as the more or less temporary abiding place for more than twelve persons or providing six or more sleeping rooms in which lodging is provided for compensation with or without meals.

**Incineration**- Disposal, through combustion, of organic materials using a multi-chambered, high temperature commercially manufactured mechanical device, and emitting no visible smoke or detectable odors at a distance of 500 feet from the point of discharge.

**Impervious Surface**- An area of a lot which has been improved in such a way as to be impenetrable by surface water. Surfaces include, but are limited to, roofs, (including eaves, overhangs and covered porches) paved area (road, driveways, parking lots, including gravel or processed stone parking areas, sidewalks, wood decks, stone patios, or structures, etc.) and swimming pools.

**Inspection- The** periodic review of sediment and erosion control measures shown on the certified plan.

**Junkyard**- The term "junkyard" shall be construed to include any junkyard, motor vehicle junk business, motor vehicle recycler's yard, and motor junkyard. The term shall also include any place of storage or deposit, whether in connection with a business or not, of two (2) or more unregistered motor vehicles that are no longer in condition for legal use on the public highways and also include any place of storage or deposit of used parts of motor vehicles or trailers and old metals, iron, glass, paper cordage, building salvage materials, appliances, or other waste materials.

**Large Animal Incineration**- The disposal of intact hooved animals and livestock; including horses, goats, cows, and llamas; and excluding non-hooved animals such as dogs, cats, birds, and similar small animals; through incineration.

**Lot**- A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses customarily incidental to such building and including such open spaces as are intended to be used in connection therewith or as required by subdivision. In the case of commercial, industrial, public, or institutional buildings, a group of buildings devoted to a common interest or use and under the same ownership may be considered as occupying the same lot.

**Lot Area**- The area of a lot as measured on a horizontal plane bounded by the front, side and rear lot lines. Lot area as defined herein shall be contiguous.

**Lot Area - Minimum Rectangle** For purposes of assuring that all subdivision lots shall contain adequate area for on-site wells and sewage disposal systems, minimize the potential for sedimentation and erosion, prevent the creation of situations that will result in slopes, fills and cuts that would endanger the public health and safety of future residents, lots in the R-80 & R-40 Zone shall contain a minimum rectangle of 75 feet by 75 feet which can be placed between a 10 foot setback from all property lines. . The minimum rectangle shall not include: (1)



land subject to easements for drainage facilities, utilities (except for utility service to one or two dwellings) and vehicular access; (2) land classified as wetland, swamp or watercourse; or (3) land with a slope in excess of 30 percent as measured over 100 foot intervals perpendicular to the contour lines. The 100-foot interval shall extend 15 feet outside of the minimum rectangle.

**Lot, Corner-** A lot situated at the intersection of two or more streets.

**Lot, Coverage-** The ratio between the Gross Floor, Area of the ground floor of any building, plus parking areas, driveways, sidewalks, outdoor storage areas and other Impervious Surfaces; and the gross area of the lot.

**Lot, Interior-** A parcel of land situated generally behind the lots fronting on a street, accessible to the street only over an access strip.

**Lot, Line-** The property line bounding the lot.

**Lot, Through-** A lot having both front and rear yards abutting on street.

**Lot, Width-** The distance between the side lines of a lot measured along the front lot line. Where the front line is an arc or the side lines converge toward the front lot lines, the width shall be measured along the minimum front yard setback line parallel to the front line, and if it is an arc, then along the arc of a circle drawn at the minimum front yard.

### **Mobile Home:**

### **Motor Vehicle Recycler's Yard (Motor Vehicle Recycler's Business)**

The terms "motor vehicle recycler's yard" and "motor vehicle recycler's business" shall include any business and any other place of storage or deposit, whether in connection with another business or not, that has stored or deposited two (2) or more unregistered motor vehicles that 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 that has been a part, or intended to be a part, of any motor vehicles, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Said terms shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to cut up the parts thereof.

**Office-** A building or portion thereof, room or series of rooms in which the affairs of a business, profession, group or governmental unit are carried on.

**Outdoor Wood-Burning Furnace-** Outdoor wood-burning furnace means an accessory structure or appliance designed to be located outside living space ordinarily used for human habitation and designed to transfer or provide heat, via liquid or other means, through the burning of wood or solid waste, for heating domestic,

swimming pool, hot tub or Jacuzzi water. “Outdoor wood-burning furnace” does not include a fire pit, wood-fired barbecue or Chimney. (Public Act 05-227)

**Owner:** Any person(s) who holds the legal right to the property or beneficiary of life estate and uses the property as their legal residence.

**Owner’s Agent:** Any person who is 18 years or older and has been identified by a property Owner as a local contact. The Owner’s Agent is authorized to act for an Owner who cannot be reached, in a reasonable amount of time, through all means of contact identified on their Short-Term Rental License.

**Place of Worship:** A building wherein assemblies for religious worship or spiritual reflection are regularly held and may include any of the following, in any combination: rectory or convent; meeting hall, classrooms, offices for administration of the institution, licensed child or adult daycare, playground, cemetery.

**Primary Recharge Area -** That area immediately overlying the stratified drift aquifer and adjacent areas of stratified drift that may not have sufficient thickness to be part of the aquifer. The boundary of the primary recharge area is the contact between stratified drift and adjacent till or bedrock.

**Primary Residence:** An owner who spends at least 183 days each calendar year at the short-term rental property is defined as a primary resident.

**Renter:** Any person(s), and their guests, who have entered into an agreement with a property owner for short-term occupancy of a furnished living space.

**Rooming House-** A building in which rooms for living purposes are rented for compensation to five or more persons other than members of the family of the proprietor.

**Secondary Recharge Area- The** land adjacent to the primary recharge area from which groundwater moves down gradient into the aquifer.

**Sediment-** A solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

**Short-Term Rental:** Any furnished living space rented by a person(s) for a period of one (1) to twenty-one (21) consecutive days.

**Sleeping Area:** A sleeping area is defined as a separate space, with a bed that the guest(s) of a short-term rental have access to. This area must be inside the dwelling and cannot include tents, outdoor areas, and/or recreational vehicles.

**Sign-** Any structure, part thereof, or device or inscription attached thereto or painted or represented thereon, which is located upon any land, on any building, or on the outside of a window, and that displays or includes

any numeral, letter, word, model, banner, emblem, insignia, device, corporate flag, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction, warning, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry. This definition shall not include the flag, emblem, insignia, poster or other display of any nation or political subdivision including traffic or similar regulatory devices; or legal notices, warnings at railroad crossings, or tablets that are primarily memorials, or emblems of religious institutions that are attached to buildings, or illuminated/non-illuminated signs on the inside of a window in Commercial and Industrial Zones. A "sign" shall not include a sign located completely within an enclosed building, which sign is not visible from outside the building.

**Sign – Permanent- Any** sign that requires a building permit under the Connecticut Building Code or is permanently affixed to the ground or affixed/applied to a building.

**Sign – Nonpermanent- Any** sign that does not meet the definition of a permanent sign.

**Sign - Internally Illuminated-** An internally illuminated sign is defined as a sign that is lighted through the use of internal electric fixture or lamp bank or is self-luminous.

**Soil-** Any unconsolidated mineral or organic material of any origin.

**Soil Erosion and Sediment Control Plan- A** scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

**Story- That** portion of a building included between any floor and the ceiling or roof above it. A "half-story" is any place under a gable, hip or gambrel roof, the floor of which is not more than two feet from the plate.

**Street-** A public or private thoroughfare including road, highway, drive, lane, avenue, place, boulevard or any other way which affords the principal means of access to abutting property.

**Structure-** Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, with the exception of trailers.

**Structural Alteration-** Any change in or addition to the structural or supporting members of a building such as bearing walls, columns, beams or girders.

**Swamp-** Means an area with a water table at or near the surface of the ground throughout most of the year and containing vegetation dominated by an association of trees and/or shrubs recognized as swamp species. Typical examples of swamp species are listed in the booklet titled Inland Wetland Plants of Connecticut. Wm. A. Niering and R. H. Goodwin, for the Connecticut Arboretum for the Department of Environmental Protection, May 1973.

**Tack Store:** A Tack Store is an equestrian supply store. Tack stores are an accessory use to the primary equestrian operation.

**Temporary Structure-** A structure which by the type and materials of its construction is erected for not more than two years. Such structures shall include tents, portable band stands, bleachers not erected in conjunction with athletic fields, reviewing stands, advertising signs or other structures of similar character.

**Temporary Events:** A temporary event is an accessory, event-based use that (1) typically is outdoors in a temporary tent or structure that occurs within a period of one day but may occur longer for each sponsored event; (2) are intended to or likely to attract crowds; and (3) are unlike the primary activities generally associated with the property where the special event is to be located. Gatherings may have activities both inside the structure and on the property such as, but not limited to entertainment, catering of food, mobile food/beverage vendors.

**Tourist Court and Motel-** A building or group of buildings containing one or more guest rooms having separate outside entrances for each such room or suite of rooms and for each of which rooms or suites of rooms, automobile parking space is provided on the premises.

**Tourist Home-** A building of residential character, offering lodging with or without meals to transients for compensation.

**Trailer-** Any vehicle initially designed, used or maintained primarily for the transportation of property.

**Tree-** Tree means a woody perennial plant usually having one self-supporting stem or trunk which has a definitely formed crown and is normally expected to attain a mature height of over twenty feet.

**Vehicle -** Any device initially designed for the conveyance or transportation of persons or property.

**Water Company-** Any individual, partnership, association, corporation, municipality or other entity, or the lessee thereof, who or which owns, maintains, operates, manages, controls or employs any pond, lake, reservoir, well, stream or distributing plant or system for the purpose of supplying water to two or more consumers or to twenty-five or more persons on a regular basis provided if any individual, partnership, association, corporation, municipality or other entity or lessee owns or controls eight per cent of the equity value of more than one such system or company, the number of consumers or persons supplied by all such systems so controlled shall be considered as owned by one company for the purpose of this definition.

**Water Course-** Means rivers, streams (perennial or intermittent), brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, public or private, which are contained within, flow/through or border upon this town, not regulated pursuant to Sections 22a-28 to 22a-35, inclusive of the General Statutes, as amended.

**Wetlands-** Means land, including submerged land, not regulated pursuant to Sections 22a-28 and 22a-35, inclusive, of the General Statutes, as amended, which consists of any of the soil types. designated as poorly drained, very poorly drained, alluvial, and flood plain by the National Cooperative Soils Survey (as may be amended from time to time) of the USDA Soil Conservation Service.

**Working Farm-** a farm whose agricultural land or buildings are in active agricultural use.

**Yard, Front-** An open, unoccupied space extending across the full width of the lot between the front wall of the principal building and the front lot line.

**Yard, Side-** An open, unoccupied space between a main building and the side lot line extending from the front yard, or front lot line to the rear line. A corner lot shall be considered to have two front yards.

**Yard, Rear-** An open, unoccupied space extending across the full width of the lot between the most rear building and the rear lot line.

## SECTION 3 ZONES AND MAP

### 3.1 ESTABLISHMENT OF ZONES

To accomplish the purposes of CSG 8-3 the Town of Durham is divided into different zones as follows:

<b>R-10</b>	High Density Residential/Main Street
<b>R-20</b>	Moderate Density Residential
<b>R-40</b>	Low Density Residential
<b>R-80</b>	Rural Residential/Farm Residential
<b>HOFZ</b>	Housing Opportunity Floating Zone
<b>C</b>	Commercial
<b>HI</b>	Heavy Industrial
<b>LI</b>	Light Industrial
<b>DD</b>	Design Development

### 3.2 ZONING MAP AND BOUNDARIES

The boundaries of all zones, as established herein and amended from time to time, are those shown on the Zoning Map, Town of Durham, Connecticut, filed in the office of the town clerk and signed by the Chairman of the Durham Planning and Zoning Commission, this map is part of these regulations. Any facsimile maps, including those printed herewith, are for planning purposes only.

### 3.3 ZONE BOUNDARIES

- a) When in accordance with the provisions of the Connecticut General Statutes, changes are made to zone boundaries, such changes shall be made on the Zoning Maps after the amendment has been approved by the Commission, together with an entry on the Zoning Map as follows: "Amended to: (date)", such date to be that of the most recent amendment.
- b) Where uncertainty exists as to the boundaries of zones as shown on the Zoning Maps, the following rules shall apply:
  - Where zone boundaries are indicated as approximately following the center lines or similar rights-of-way of streets, waterways, railroads, lot lines or town boundaries of such lines extended, such lines shall be construed to be said boundaries.
  - Where zone boundaries do not follow such established lines, the location of zone boundaries are shown on the Zoning Map by a specific dimension expressing its distance in feet from a street line or other established line as indicated.

- Boundaries indicated as parallel to or extensions of features indicated above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- In case of uncertainty as to the true location of a zone boundary line in a particular instance, the determination thereof shall be made by the Planning and Zoning Commission.
- Where a district boundary line divides a parcel of land under single ownership of record, the regulations specified herein for each district shall apply only to those portions of the parcel within such district.

## SECTION 4 RESIDENTIAL ZONES

### 4.1 PURPOSE

These residential zones are established to provide for residential neighborhoods that are in harmony with the natural features of the land and the needs of present and future Durham residents.

### 4.2 DESIGNATION OF RESIDENTIAL ZONES

Zone Name	Description
R-10	High Density Residential/Main Street
R-20	Moderate Density Residential
R-40	Low Density Residential
R-80	Rural Residential/Farm Residential
HOFZ	Housing Opportunity Floating Zone

### 4.3 LIMITATION OF PRINCIPAL USES

Only one principal use shall be permitted on a residential lot, unless otherwise stated, except that agricultural uses may be permitted, subject to the requirements of Section 7, in addition to a principal residential use or other agricultural uses on the same lot.

### 4.4 PERMITTED AND SPECIAL EXCEPTION USES

Permitted uses in Residential Zones are listed in the table below and all other uses are prohibited except as stated herein.

ZP- Zoning Permit (As of Right Use), SE- Special Exception, P- Site Plan Approval, N/A- Not Allowed

Residential - Principal Uses	R-10	R-20	R-40	R-80
Accessory Dwelling Units- Section 4.10	ZP	ZP	ZP	ZP
Apartments, Condos, Multi-Family Housing	SE	SE	SE	SE
Short Term Rentals- Section 4.11	ZP	ZP	ZP	ZP
Single Family Detached Dwelling	ZP	ZP	ZP	ZP
Two Family Dwelling	ZP	ZP	ZP	ZP
Residential Accessory Uses	R-10	R-20	R-40	R-80
Home Based Business/Home Occupation- See Section 4.8				
Home Office-Section 4.8.1	NP	NP	NP	NP
Home Occupation Type 1- Section 4.8.2	ZP	ZP	ZP	ZP
Home Occupation Type 2- Section 4.8.3	SE	SE	SE	SE
Day Care Services-				



See Definitions				
1. Child Day Care Center	SE	SE	SE	SE
2. Group Day Care Home	ZP	ZP	ZP	ZP
3. Family Day Care Home	ZP	ZP	ZP	ZP
<b>Non-Residential Uses</b>	<b>R-10</b>	<b>R-20</b>	<b>R-40</b>	<b>R-80</b>
Artist Studios/Galleries	SE	N/A	N/A	N/A
Bed & Breakfast	SE	SE	SE	SE
Campgrounds	SE	SE	SE	SE
Camps, Day or Boarding	SE	SE	SE	SE
Commercial Animal Grooming Facilities, Veterinarian Facilities-Section 14.5	SE	SE	SE	SE
Commercial Animal Kennels, Commercial Breeding Establishments, Commercial Animal Training Facilities, Commercial Animal Daycare Facilities- Section 14.4	SE	SE	SE	SE
Entertainment Assembly- which may include arcade, game rooms, small movie theater, community theater	SE	N/A	N/A	N/A
Excavation/Earth Removal- Section 14.1	N/A	N/A	SE	SE
Food Services (Bakery, Coffee Shop, Café, Restaurant)	SE	N/A	N/A	N/A
Funeral Homes	SE	N/A	N/A	N/A
Golf Course, Driving Range, Mini-Golf	SE	SE	SE	SE
Health Care Facilities, Assisted Living Facilities	SE	SE	SE	SE
Municipal Uses	SE	SE	SE	SE
Museums	SE	N/A	N/A	N/A
Non-Profit Establishment	SE	SE	SE	SE
Personal Services	SE	N/A	N/A	N/A
Places of Worship	SE	SE	SE	SE
Post Office	SE	SE	SE	SE
Professional Offices, Principal Use- Section 4.9	SE	N/A	N/A	N/A
Retail	SE	N/A	N/A	N/A

Schools, without dormitories	P	P	P	P
Schools, including dormitories	SE	SE	SE	SE
Temporary Events: Fairs, Concessions 4.12	ZP	ZP	ZP	ZP
<b>Agricultural Uses</b>	<b>R-10</b>	<b>R-20</b>	<b>R-40</b>	<b>R-80</b>
Agricultural Equipment Sales	SE	SE	SE	SE
Agricultural Events- See Section 7.9	SE	SE	SE	SE
Agricultural Fairs	SE	SE	SE	SE
Agricultural Operations, Non-Commercial- See Section 7.8	ZP	ZP	ZP	ZP
Farm Brewery, Farm Cidery, Farm Winery, Farm Distillery-See Section 14.5	SE	SE	SE	SE
Farms- See Section 7	ZP	ZP	ZP	ZP
Farm and tack stores- See Section 7.10	SE	SE	SE	SE

\* The Commission may waive the requirement for site plan review, or portions thereof, for the expansion of existing uses or changes of uses in existing buildings provided the expansion or a change of use does not:

1. Increase traffic substantially or produce safety hazards;
2. Increase parking requirements;
3. Have a deleterious effect on abutting or adjacent property; and
4. Substantially alter the nature of the existing development or structure.

#### **4.5 DIMENSIONAL STANDARDS**

<b>Zone</b>	<b>Minimum Lot Area</b>
R-10	10,890 square feet (1/4 acre)
R-20	21,780 square feet (1/2 acre)
R-40	43,560 square feet (1 acre)
R-80	87,120 square feet (2 acre)

#### **4.5.1 Minimum Lot Area Requirements- Single and Multi-Family**

<b>Zone</b>	<b>Frontage</b>	<b>Depth</b>
R-10	100 feet	100 feet
R-20	125 feet	125 feet
R-40	150 feet	150 feet
R-80	200 feet	200 feet

**4.5.2 Minimum Setbacks & Coverage Requirements Principal and Accessory Buildings\***

Zone	Front Yard	Side Yard	Rear Yard	Height	Maximum Lot Coverage
R-10	15'	10'	25'	35'	20%
R-20	25'	15'	25'	35'	20%
R-40	30'	20'	30'	35'	20%
R-80	50'	25'	40'	35'	20%

\*Exceptions to above standards:

- a) Corner Lots shall maintain front yard setback requirements for each street.
- b) Through lots shall maintain front yard setback requirements for both street frontages.
- c) All existing dwellings in subdivisions or building lots, built prior to July 15, 1979, shall maintain side yards with a minimum aggregate width of 25' provided that one side yard shall be no less than 10'.

**4.5.3 Apartments and Multi-Family Dwelling Units above 2 Family****a) Apartment and Multi-Family Dwelling Dimensional Setback Standards**

Zone	Front Yard	Side Yard	Rear Yard	Height	Minimum Lot Area	Maximum Building Coverage
R-10	25'	15'	25'	35'	87,120 (2 acre)	20%
R-20	25'	15'	25'	35'	87,120 (2 acre)	20%
R-40	30'	20'	30'	35'	87,120 (2 acre)	20%
R-80	50'	40'	40'	35'	87,120 (2 acre)	20%

- i. **Density for Multi-Family/Apartments:** Maximum density shall be 4 units per acre.
- ii. Subsurface sewage disposal systems shall be designed in accordance with the Connecticut Department of Environmental Protection design standards.

**4.6 RESIDENTIAL REQUIREMENTS****4.6.1 General Residential Requirements**

- a) No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved or maintained, nor shall any building, structure or land be used or be designed for any use other than is permitted in the zone in which such building, structure or land is located, except in conformity with these regulations.
- b) The erection of a single family dwelling, however, shall not be prohibited on a lot in ownership recorded in the office of the Town Clerk prior to the effective date of these regulations or revision thereof, which is smaller than required, providing that the same owner(s) of any smaller lot did not

own sufficient adjoining land at the time of the adoption or revision of this regulation to conform herewith, and provided further that all buildings on the lots are so designed and erected as to conform with the zone requirements in which such lot is situated.

- c) These regulations do not repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law, ordinance or regulation or covenants, or with any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises; provided, however, that where these regulations impose a greater restriction upon the use of buildings or premises or upon heights of buildings, or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance or covenants, or by such rules, regulations or permits, the provisions of these regulations shall control.

#### **4.6.2 Lot Reductions**

- a) No lot shall be so reduced in size that the total area or the dimension of any of the yards or open spaces shall be smaller than herein prescribed.
- b) No part of a yard, court or other open space provided in connection with any building for the purpose of complying with the provisions of these regulations shall be included as a part of a yard, court or other open space required by these regulations for another building.
- c) If a new lot is formed by the division of a lot already occupied by a building, no permit shall be granted for the erection of a new building, or structure upon the new lot thus created unless both lots and the uses thereon comply with these regulations.

#### **4.6.3 Junkyards**

Within the Town of Durham, no building shall be erected, or used, and no lot shall be used or occupied for a junkyard.

#### **4.6.4 Forest Land Subdivisions**

Any proposed subdivision lot or site plan which meets the definition of "Forest Land" shall show the limits of clearing. Prior to the issuance of a zoning permit for an approved subdivision lot or site plan, the design professional surveyor or engineer for the project shall provide a written statement that the area of tree clearing is in compliance with the area on the plan approved by the Commission. Any site where tree clearing is in excess of the approved plan shall be referred back to the Commission with a proposed remediation plan for consideration and approval.

#### **4.6.5 Unregistered Vehicles**

Unregistered Vehicle- One unregistered motor vehicle in good condition may be parked on a lot outside of a garage and such parking shall be restricted to the rear yard of such lot. "Good Condition" is defined as having fully inflated tires, all doors, including the hood and trunk, intact and with no broken or missing windows.

#### **4.6.6 Construction Standards for Common Driveways**

All driveways shall have a maximum grade of 15% and be constructed of a minimum of 8" of gravel. Driveways under 800' long shall be a minimum of 13 feet wide and shall have pull outs 12' X 30' every 200'. Driveways in excess of 800' shall be 16' wide. Driveways serving more than 4 lots shall be 18' wide. Driveways

that exceed a grade of 10% shall be surfaced with a minimum of 2" of bituminous concrete. These are minimum standards, and the Commission may require modifications depending on site or other conditions.

#### **4.6.7 Protection of Intersections**

On a corner lot in any residential use zone no planting, structure, fence, wall or obstruction to vision more than two feet in height shall be placed or maintained within the triangular area formed by the intersecting street lines and a straight line connecting points on said street lines each of which points is twenty-five feet distant from the point of intersection.

#### **4.6.8 Trailers**

- a) On application to the Zoning Enforcement Officer a temporary permit may be issued for the use of a trailer for residence purposes by the lot owners for a period not to exceed six (6) months while the lot owners' dwelling is actively under construction, providing there will be no violation of state or town health or sanitary regulations. A new permit giving an additional six (6) month extension of time may be granted by the Zoning Enforcement Officer.
- b) On application to the Zoning Enforcement Officer a temporary permit may be issued for the use of a trailer or trailers for storage or office purposes for a period not to exceed six (6) months on construction sites, providing all state and local health and sanitary codes are complied with. These trailers shall not be used for residential purposes. A new permit giving an additional six (6) month extension of time may be granted by the Zoning Enforcement Officer.
- c) No trailer shall be permanently connected to the ground nor have any permanent connection with any permanent structure. Trailers to be placed on a site in a flood hazard area for more than 180 consecutive days shall be fully licensed and ready for highway use.
- d) A trailer belonging to an out-of-town owner, the occupants of which are visiting a Durham resident, may be parked on the property owned by the resident for a period not to exceed 30 days without a permit, provided state and town health and sanitary regulations are not violated. One extension of 30 days may be granted by the Zoning Enforcement Officer if conditions warrant.

#### **4.6.9 Fences**

- a) In residential zones, fences not exceeding six (6) feet in height are permitted along rear and side yard property lines only and may not extend beyond the front building setback line.
- b) Within the front building line, fences may not exceed front (4) feet in height and shall not obstruct line-of-sight at intersections or from the lot accessing a public or private road.
- c) If a fence has a "finished" or more attractive side, (i.e., the side opposite from the horizontal supports to which it is applied), this side must face to the exterior of the lot.
- d) Fences constructed within five (5) feet of a property line, or on a property line, shall be marked in the field by a professional land surveyor registered in the State of Connecticut to assure that the fence is located on the applicant's property.
- e) Fences constructed within the setback lines may not exceed eight (8) feet in height.
- f) A Zoning Permit shall be obtained for all fences prior to construction except for fences constructed within the setback lines.

#### **4.7 STANDARDS FOR ACCESSORY BUILDINGS, STRUCTURES AND USES**

- a) Accessory buildings, structures and uses in a Residential Zone shall maintain front, side and rear yard requirements for the zone.
- b) No accessory building or structure shall exceed 35 feet in height. Accessory buildings or structures constructed in subdivisions or on building lots where the aggregate side yard total can be reduced to 25 feet and the minimum width of one side yard reduced to 10 feet, shall not exceed 15 feet in height if the building or structure is constructed less than 25 feet from the side property line.
- c) A building or structure attached to the principal building by a covered passageway or by having a wall or a part of a wall in common with the building or structure shall be considered an integral part of the principal structure and not an accessory building or structure.
- d) No vehicle, trailer, or house trailer/mobile house as those terms are defined herein shall be used for the storage of property of any kind nor used as a shelter except as provided for under Section 4.6.9 for any creature in any residential zone.

#### **4.8 HOME BASED BUSINESS/HOME OCCUPATIONS**

This section does not apply to home based agricultural business as they are permitted under Section 7 of the Regulations.

##### **4.8.1 Home Office/Home Based Business (No Permit Required)**

[No employees are permitted at this level. The homeowner works alone.]

- 1. Home Office/Home-based business **shall not**:
  - a. Have any employees, other than the resident(s);
  - b. exceed twenty-five percent (25%) of the total living area square footage;
  - c. make changes to the exterior residential appearance or character of the building or be noticeable from the exterior of the building;
  - d. produce any additional traffic to and from the residence;
  - e. contain outside storage;
  - f. engage in retail sales;
  - g. have any on-site commercial vehicle or heavy equipment associated with the business;
  - h. any signage shall comply with Section 10 of the Regulations

##### **4.8.2 Home Occupation Type 1: (Zoning Permit)**

[One non-resident employee]

Home Occupation- a home occupation is the use of a primary residence for the purpose of conducting a business as an accessory use, employs one outside employee and has minimal deliveries with the following standards:

- a. the area devoted to such accessory use (including storage of any supplies or materials) shall not exceed twenty-five percent (25%) of the total square footage of the dwelling (exclusive of garage, attic and basement);
- b. no more than one nonresident employee;
- c. be conducted entirely within the principal residence;
- d. be incidental and subordinate to the use of the dwelling;
- e. no changes to the exterior of the residence;
- f. no outdoor storage;
- g. allow parking of no more than 1 commercial vehicle associated with business on-site;
- h. may include a sign in compliance with Section 10 of the Zoning Regulations.

#### **4.8.3 Home Occupations- Type 2: (Special Permit)**

##### **Purpose:**

Recognizing that many home businesses, though not easily defined, may be compatible with a residential neighborhood, this section allows each application to be evaluated on its merits.

A home occupation that does not meet the requirements for a Home Occupation Type 1 above may apply for a Home Occupation Type 2 for consideration from the Commission in accordance with Section 16 of the Zoning Regulations. This regulation allows for submission of an application for a home occupation use and is specific to each individual property. Circumstances for each application and the decision the Commission makes will vary based on the considerations below and considerations found in the Section 16 of the regulations.

Application Consideration by the Commission to include:

- 1. Acreage of Property
- 2. Type of business being proposed
- 3. Number of employees
- 4. Number of commercial vehicles
- 5. Outdoor Storage
- 6. Setbacks to other residential properties
- 7. Distances to actual residential structures
- 8. Increase in traffic
- 9. Hours of Operations

10. Other factor the Commission may feel are relevant and pertinent to their consideration for appropriateness.

#### **4.9 SPECIAL STANDARDS FOR PROFESSIONAL OFFICES IN THE MAIN STREET RESIDENTIAL ZONE**

Professional offices as a principal use are permitted only in existing non-residential structures and existing residential structures on property which has frontage on Main Street and due to its unique location is isolated and surrounded on all remaining sides by existing conforming and/or non-conforming non-residential use as of September 1, 1975.

#### **4.10 SPECIAL STANDARDS FOR ACCESSORY APARTMENTS**

The intent of this regulation is to promote the creation of Accessory Dwelling Units for the purpose of providing affordable rental housing in the Town of Durham. Accessory Dwelling Units are further intended to encourage the viability of housing choices. Accessory Dwelling Units are allowed in all Residential Zones.

- a) The number of additional dwelling units is limited to one.
- b) Accessory dwelling units are only allowed on a parcel with or as part of a single-family home.
- c) The total square footage of the proposed accessory dwelling unit shall not exceed 1,000 square feet or 33 1/3 % of the total habitable space of the existing single-family home, whichever is less.
- d) The maximum number of bedrooms in an accessory unit shall be two.
- e) Accessory apartments may be attached or detached in an existing or proposed building.
- f) Accessory dwelling units must be located on the same lot as the principal dwelling.
- g) One parking space is required for the proposed accessory dwelling unit.
- h) An administrative zoning permit is required.

#### **4.11 SHORT TERM RENTALS**

##### **4.11.1 Permit Required**

- A. No one shall offer to rent or operate a short-term rental in the Town of Durham without a valid short-term rental Zoning permit, approved by the Town Planner. Failure to secure such a permit shall be a violation of the Zoning Regulations of the town of Durham.
- B. Only the owner(s) of record of the Premises are subject to the permit. Applicants must be eighteen (18) years of age or older, to apply for and obtain a Zoning Permit for a short-term rental.

##### **4.11.2 Application Process**

- A. An application form as issued by the Building and Land Use Department must be completed.
- B. All information entered on the form must be true and accurate to the applicant's knowledge and belief.



- C. The application shall include, but not be limited to the following:
- A list of all owners(s) and primary residents of the property, and their contact information.
  - Contact information for an Owner's Agent, who can be called on in emergency situations if property owner is not responsive.
  - The number of separate Sleeping Areas made available to guest(s) of the short-term rental.
  - A signed affidavit attesting to the fact that the Property is in compliance with zoning, health, and safety regulations, building and fire safety codes, and agreeing to allow Town officials the right to perform inspections, both externally and internally, of a short-term rental property when violations are suspected.
- D. A zoning permit application fee shall be payable to the town of Durham.
- E. As part of the application, the applicant shall submit the name(s) and address(es) of the owner(s) of record of all abutting properties and properties located directly across the street from the Short-term rental property.
- F. As part of the application, the applicant shall provide copies of completed certificates of mailings for owner(s) of record of all abutting properties and property located directly across the street from the subject Short-term rental property.

#### **4.11.3 Standards**

- A. No owner may rent a Primary Residence as a short-term rental under the permit for more than one hundred and eighty (180) days during any calendar year. If a property has an Accessory Dwelling Unit and Primary Residence, the owner may live in one of the dwellings and rent the other for the purpose of short term rentals for the entire year.
- B. The applicant shall provide a parking plan to demonstrate that adequate off-street parking has been provided. No on-street parking shall be permitted for Renters or Guests.
- C. The applicant shall provide a layout/floorplan of the structure or portion thereof to be utilized for the Short-term rental, to demonstrate total occupancy.
- D. No room which does not meet the minimum standards of the CT Building Code may be designated as a bedroom subject to a determination by the Building Official.
- E. No area indicated on the floorplan shall be utilized as a bedroom if doing so will exceed the number of bedrooms permitted the septic system design, approved by the Director of Health, or his authorized agent.
- F. The applicant shall provide information for the primary point of contact for the property. Such person shall have the authority to take immediate remedial actions to address any issues which may arise on the property, at all hours and days of the week.

- G. Short Term Rentals are intended to provide temporary housing for a short duration. Events shall not create any perceptible off-site impact, including loud noises, trespass, garbage/trash accumulation, etc.
- H. The maximum occupancy shall not exceed two persons per bedroom.
- I. Short-term rental properties must have:
  - Working Smoke and Carbon Monoxide detectors, with placement in accordance with Town/State building and fire codes.
  - A working Class A-B-C fire extinguisher.
- J. Short-term rental guests are subject to all applicable town codes and ordinances. Short-term rental owners are responsible to notify their guests of any applicable codes and ordinances, and ensure that they are followed.
- K. Signage advertising the property as a short-term rental is prohibited.

#### **4.11.4 Accessory Dwelling Units**

- A. Accessory Dwelling Units (ADU's), as defined by the Town of Durham's Zoning Regulations, either attached or unattached, are permitted to be used as short-term rentals provided:
  - They meet the same standards set forth in this regulation.
  - They have at least 1 full bathroom.
  - They have a functioning heating system.
  - The unit has received a Certificate of Occupancy from the Building Department.

#### **4.12 Temporary Events**

Permits may be issued by the Town Planner for Temporary Events not to exceed 2 days in length, 1 time per year, with conditions which will safeguard the character of the neighborhood. Prior to issuance of such permit, the Town Planner shall require written approval from the Building Inspector, Resident State Trooper, Fire Marshal, and Director of Health Department. Any events over 2 days or a request by the same property owner for more than 1 event per year will require review by the Planning and Zoning Commission before the permit can be issued by the Town Planner. Low-impact residential events, such as weddings, religious celebrations, graduation parties, and similar social events are not subject to this requirement. Temporary events regulated under this section are events that are open to the public, such as but not limited to, carnivals, fairs, auctions, markets, musical performances, trade shows, exhibitions, vehicle displays or shows or other similar event.

#### **4.13 Housing Opportunity Floating Zone (HOFZ)**

##### **4.13.1 PURPOSE**

To promote diversity of housing types and housing opportunities in the Town of Durham by

providing a Housing Opportunity Floating Zone (“HOFZ”) for “affordable and workforce housing development” as provided by and pursuant to Section 8-2m of the Connecticut General Statutes, and in accordance with the objectives of the Durham Affordable Housing Plan. This HOFZ provides for the redesignation of certain properties to permit “affordable and workforce housing developments” subject to a petition for a zone change to land the Floating Zone and a site plan review where a minimum of 20% of the units will be deed restricted as affordable.

#### 4.13.2 DEFINITIONS

“Affordable Housing Development” means a development in which not less than twenty per cent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units in accordance to the income standards set forth in 8-30g and in accordance with HUD’s Annual Income Limit Area, Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area.

#### 4.13.3 PROCEDURE

Sites shall be designated as HOFZ on the Zoning Map of the Town of Durham after review and approval by the Commission for an affordable housing application that includes both a petition for a zone change which must first become effective and a subsequent application for site plan approval pursuant to this Section which complies with the requirements of C.G.S. Chapter 126a.

#### 4.13.4 REQUIREMENTS

##### A. SALE, RESALE OR RENTAL:

A HOFZ development shall comply with the sale, resale, or rental provisions of Section 8-30i.

##### B. ADMINISTRATION:

A HOFZ development shall be administered as provided by Section 8-30h.

##### C. STANDARDS:

A HOFZ development is subject to the review standards of Section 4.13.5 of these Regulations.

#### 4.13.5 MINIMUM STANDARDS

**A. Minimum parcel area:** Minimum parcel area including lot area and frontage for a HOFZ development shall be the same as the underlying zoning district.

**B. Parcel location:** The parcel for a HOFZ development shall be located in a Residential Zoning District as provided by these Regulations and designated as a Residential Zoning District on the Town of Durham Zoning Map.

**C. Density:** The density of the site will be determined based on the adherence to bulk and area requirements as stated below, septic suitability, and other site features.

**Bulk and Area Requirements:** The following standards shall govern the design of a HOFZ development.

Zone	Front Yard	Side Yard	Rear Yard	Height	Maximum Lot Coverage
R-10	15'	10'	25'	35'	20%
R-20	25'	15'	25'	35'	20%
R-40	30'	20'	30'	35'	20%
R-80	50'	25'	40'	35'	20%

Accessory buildings are allowed.

**E. Wastewater disposal:** A HOFZ development shall be served by on-site septic system(s) that comply with the design requirements of the Connecticut Department of Public Health and Connecticut Department of Energy and Environmental Protection, as may be applicable.

**F. Utilities:** All electric, telephone and cable television utility wires shall be installed underground.

**G. Buffer areas:** A minimum of a 10-foot wide landscaped or natural buffer shall be provided adjacent to the rear and side lot lines.

**H. Water Availability:** A HOFZ development shall be served with public water, private well or community well approved by the Connecticut Department of Public Health.

**I. Application procedures:** Any person may submit, with the property owner's consent, a petition for a zone change as provided by Section 18.2 of these Regulations, and an application for site plan approval as provided by Section 15 of these Regulations, to permit a HOFZ development pursuant to this Section.

**J. Performance and Maintenance Bond for Public Improvements:** As a condition of approval of a HOFZ development, the Commission may require a performance bond in an amount sufficient to secure to the Town the actual installation costs of any necessary public improvements.

**K. Community Areas:** Community buildings, recreational facilities, and open spaces designed for, and used principally by, the residents are permitted as accessory uses.

**L. Conversion of Existing Structures-** Existing structures located in a residential zoning districts, that are non-conforming to bulk and area requirements, may be converted to affordable housing under this regulation, provided that there is no enlargement of the structure.

#### 4.14.6 EVALUATION CRITERIA

In considering the proposed application, the Planning and Zoning Commission shall be guided by the following:

- A. The goal of promoting diversity in housing types, affordability, and housing opportunities in Durham.

- B. The location of principal and accessory buildings in relation to one another.
- C. The height, bulk, and density of buildings in relation to one another.
- D. Traffic circulation within the site; amount, location, and access to parking; traffic load or possible circulation problems on existing streets; pedestrian safety throughout the site and in the immediate neighborhood.
- E. Conformance with the intent and goals of the Plan of Conservation & Development.

## SECTION 5 COMMERCIAL ZONES

### 5.1 PURPOSE

The purpose of these regulations is to provide a detailed review of all proposed commercial development. The primary goals are to ensure compatible development with adjacent areas, to protect the rights of property owners and to encourage sound planning principles.

### 5.2 DESIGNATION OF COMMERCIAL ZONE

The Town of Durham only has one commercial zone.

### 5.3 PERMITTED USES

Permitted uses in Commercial Zones are listed in the table below and all other uses are prohibited except as stated herein.

All uses established in the Commercial Zone shall be subject to the issuance of a Special Exception by the Planning and Zoning Commission in accordance with this Section and Section 16 of these Regulations.

Commercial Uses	Building Status	Zoning Permit	Site Plan	Special Exception
Ambulatory Center	New			<b>x</b>
	Existing			<b>x</b>
Animal Personal Service/Retail (Pet Grooming, Petshop/Retail)	New			<b>x</b>
	Existing			<b>x</b>
Art Gallery/Studio	New		<b>x</b>	
	Existing	<b>x</b>		
Auto, Repair	New			<b>x</b>
	Existing			<b>x</b>
Auto, Sales	New			<b>x</b>
	Existing			<b>x</b>
Banks/Financial Institutions	New		<b>x</b>	
	Existing	<b>x</b>		

Commercial Uses	Building Status	Zoning Permit	Site Plan	Special Exception
Brew Pubs	New		x	
	Existing		x	
Cafes- (excludes entertainment)	New		x	
	Existing		x	
Café's, outdoor dining and/or entertainment	New			x
	Existing			x
Child and Adult Daycare	New		x	
	Existing		x	
Churches/Religious Institutions	New			x
	Existing			x
Community/Municipal Buildings	New			x
	Existing			x
Drive Thru Businesses (banks)	New			x
	Existing			x
Dry Cleaning	New		x	
	Existing		x	
Electric Charging Stations- Commercial	New			x
	Existing			x
Indoor Recreation	New		x	
	Existing	x		
Event Facilities	New			x
	Existing			x

Commercial Uses	Building Status	Zoning Permit	Site Plan	Special Exception
Funeral Parlor	New		x	
	Existing		x	
Fueling Stations	New			x
	Existing			x
Hotel, Motel, Tourist House	New		x	
	Existing		x	
Medical & Dental Laboratories	New		x	
	Existing	x		
Multi-tenant Commercial Building	New			x
	Existing	x		
Office, Medical/Professional	New		x	
	Existing	x		
Personal Service	New		x	
	Existing	x		
Residential- second story	New		x	
	Existing	x		
Restaurants, less than 3000 sq. ft.	New		x	
	Existing	x		
Restaurants, over 3000 sq. ft.	New			x
	Existing		x	
Restaurants, Outdoor Dining	New			x
	Existing			x



Commercial Uses	Building Status	Zoning Permit	Site Plan	Special Exception
Retail Sales	New		x	
	Existing	x		
Retail Sales, outdoor storage	New			x
	Existing			x

- Any individual building greater than 15,000 square feet in total size or the aggregate of multiple buildings greater than 15,000 square feet on any individual site, will require a Special Exception.

- \* Approval of applications for renewal of existing earth excavation and removal permits shall be permitted subject to site plan review only in accordance with the requirements of Section 14.1 of these Regulations.

#### **5.4 COMMERCIAL DIMENSIONAL STANDARDS\***

Minimum Lot Area	20,000 square feet
Minimum Lot Width at Minimum Lot Depth	100 feet
Minimum Lot Depth	75 feet
Minimum Front Yard	30 feet
Minimum Side Yard/Minimum Aggregate Total	20 feet/40 feet
Minimum Rear Yard	20 feet
Maximum Building Height	35 feet
Maximum Percent Building Coverage	25%
Maximum Percent Combined Coverage of Buildings, Accessory Structures and Parking Ares	40% (1)
Maximum Size of a Single Structure	30,000 square feet

- \* The Commission may as part of the Special Exception process impose buffer requirements, including permanent structures such as fences, walls or grading to protect existing residentially developed properties.

- 1) The maximum combined lot coverage shall include all buildings, accessory structures, paved areas, and any other impervious surfaces. The remaining percentage of the lot shall be left in its natural state unless buffered areas, formal or informal landscaped areas (excluding parking islands), lawn or gardens are to be provided.

### **5.5 ACCESSORY DWELLING UNITS IN COMMERCIAL BUILDINGS**

A commercial building may be erected or altered to contain a dwelling unit subject to the issuance of a Special Exception by the Commission. Accessory dwelling units shall meet the following criteria:

- a) The minimum size of an accessory dwelling unit shall be 400 square feet;
- b) The total area of the building utilized for accessory dwelling units shall not exceed 33 1/3%;
- c) The maximum number of bedrooms in an accessory dwelling unit shall be two (2);
- d) New exterior stairways are prohibited from the front of the building;
- e) Off street parking requirements, as set forth in Section 9 of these Regulations, shall apply to accessory dwelling units;
- f) It is recognized that occupancy of an accessory dwelling unit may at some time place additional demands on the subsurface sewage disposal system through increases in water usage. For the purposes of this regulation, the creation of an accessory dwelling unit is a "building conversion". Prior to granting approval for such conversion, the Town Sanitarian must verify to the Commission that the conversion can satisfy all of the current requirements of the Connecticut Public Health Code for subsurface sewage disposal and shall have available a 100% reserve area. Furthermore, an accessory dwelling unit shall not be permitted on any lot where the sewage disposal system is currently failing nor will the approval to continue the use of an accessory dwelling unit be renewed if the Town Sanitarian has evidence of a sewage disposal system failure. Prior to the granting of an approval, a water test must be conducted and coordinated with the Sanitarian's office. The water quality must meet the same standards as those required for a certificate of occupancy.
- g) Permits for accessory dwelling units shall be renewed every five (5) years provided there have not been any violations of the provisions of this section. Requests for renewal shall be submitted to the Zoning Enforcement Officer on a form provided by the Town. The Zoning Enforcement Officer and Sanitarian shall make an inspection of the accessory dwelling unit and renew the approval if it is in compliance with these regulations and the approved application.

### **5.6 PUBLIC GARAGES AND AUTO SERVICE STATIONS**

In addition to the statutory requirements concerning automobile dealers and gasoline stations, the Board of Appeals, under the appropriate conditions and safeguards and within the proper use zones, may permit the erection of a public garage or auto service station, or the conversion or use of any premises for such purposes, if any part of a building or premises to be so used is not within 300 feet of any entrance to a public park or playground, excluding small park areas within the boundaries of a highway, or not within 300 feet of the nearest point of any building in which there is established or maintained a school, hospital, church, theater, public library or building for civic assembly.

- a) No gasoline filling appliance shall be located within 20 feet of a street taking line or within 25 feet of an adjacent property line.

- b) No gasoline station shall be permitted unless such use adjoins a highway with a minimum right-of-way of sixty (60) feet.
- c) No gasoline station shall be permitted within one thousand (1,000) feet of any other gasoline station.

#### **5.7 SMALL EVENT CENTERS, ACCESSORY USE**

Temporary rental of indoor and outdoor facilities or spaces, within the commercial district, no more than one day per week for educational, business, entertainment and private social gatherings of no more than 50 people where on-site parking, building code, health code and max occupancy code per the fire marshal will support this capacity. Alcoholic beverages will only be supplied and served by professionals with a catering liquor license.

## SECTION 6 INDUSTRIAL ZONES

### 6.1 PURPOSE

### 6.2 DESIGNATION OF INDUSTRIAL ZONES

Zone Name	District Symbol	Description
Heavy Industrial	HI	
Light Industrial	LI	
Design Development	DD	

### 6.3 PERMITTED USES

Permitted uses in Industrial Zones are listed in the table below and all other uses are prohibited except as stated herein.

ZP- Zoning Permit, SE- Special Exception, SP- Site Plan

INDUSTRIAL USES	Building Status	Heavy Industrial			Light Industrial/Design Development		
Permitting Type		ZP	SP	SE	ZP	SP	SE
Adult-Oriented Establishments	New			x			x
	Existing			x			x
Analytical, commercial, experimental, industrial and research laboratories, including product testing	New		x			x	
	Existing	x			x		
Automobile, Boat, and Equipment Sales and Services	New			x			x
	Existing			x			x
Contracting establishments	New		x			x	
	Existing	x			x		

INDUSTRIAL USES	Building Status	Heavy Industrial			Light Industrial/Design Development		
Permitting Type		ZP	SP	SE	ZP	SP	SE
Day Care Facilities	New		x			x	
	Existing		x			x	
Dog Grooming and Animal Feed Shops (no boarding)	New			x			x
	Existing			x			x
Excavation, Earth Removal, Quarrying and associated uses *	New			x			x
	Existing			x			x
Hotels, Motels and Convention centers	New			x			x
	Existing		x			x	
Large Animal Incineration Facility	New		x			x	
	Existing		x			x	
Manufacturing, processing, packaging, or assembling of products and goods	New		x			x	
	Existing	x			x		
Professional Offices	New		x			x	
	Existing	x			x		
Recreational Facilities	New		x			x	
	Existing	x			x		
Retail Establishment (5,000 sq. ft minimum floor area)	New			x			x
	Existing			x			x
Retailing of products developed or manufactured on the premises, provided that not more than 25% of the floor area be dedicated to the retail function	New		x			x	
	Existing	x			x		

INDUSTRIAL USES	Building Status	Heavy Industrial			Light Industrial/Design Development		
Permitting Type		ZP	SP	SE	ZP	SP	SE
Self-Storage Facilities	New		x			x	
	Existing	x			x		
Warehouses and distribution facilities including truck and freight terminals	New			x			x
	Existing			x			x
Yards for storage and sales of lumber, landscaping, and building materials	New		x			x	
	Existing		x			x	

\* See Section 14.1 requirements.

The Commission may waive the requirement for site plan review, or portions thereof, for the expansion of existing uses or changes of uses in existing buildings provided the expansion or change of use does not: (1) increase traffic substantially or produce safety hazards; (2) increase parking requirements; (3) have a deleterious effect on abutting or adjacent property; and (4) substantially alter the nature of the existing development or structure.

#### 6.4 DIMENSIONAL STANDARDS

##### Minimum Standards

Zone	Front Yard	Side Yard/ Minimum Aggregate	Rear Yard	Height	Minimum Lot Area	Maximum Lot Coverage *	Minimum Lot Depth	Minimum Lot Width at Minimum Lot Depth
HI	50	20'/50'	50'	60'***	2 acres	40%	150'	200'
LI	50	30'/60'	50'	40'***	1 acre	25%	150'	200'

\* Where Industrial Zones abut Residential Zones, a green belt buffer zone at least 50 feet in depth located in the Industrial Zone shall be provided and maintained by the owner of the property in the Industrial

Zone. This area shall not be used for storage of materials or parking of vehicles. Against the property lines trees and shrubs shall be planted to give a screen at least 15 feet deep using approved, hardy indigenous plant materials of which at least 30.0% shall be evergreen and at least 60.0% shall be not less than six feet in height. The rest of the depth of the buffer strip shall be planted and maintained as lawn of acceptable permanent grasses. Existing suitable natural growth shall be preserved where practicable and supplemented with new planting according to the foregoing regulations in order to give the required screening. Permanent structures such as fences, walls, and existing and proposed grading, etc. may be approved in lieu of planting plantings or supplementing existing growth and/or planted trees and shrubs where in the opinion of the Planning and Zoning Commission the intent of these regulations will be served.

**\*\*** Except chimneys, water tanks, silos and similar features which shall be erected only to such height as is necessary to accomplish the purpose they serve and, in any event, shall not exceed 100 feet in height.

## **6.5 PERFORMANCE STANDARDS**

- a) Dust, Dirt, Fly Ash and Smoke: No dust, dirt, fly ash or offensive smoke shall be emitted into the air.
- b) Odors, Gases, and Fumes: No offensive odors or noxious, toxic, corrosive fumes or gases shall be emitted into the air.
- c) Noises: No noise shall be emitted which exceeds the standards set forth in the Town of Durham Noise Ordinance, as amended.
- d) Wastes: No offensive or harmful wastes shall be discharged into any stream or water course or onto any adjoining property.
- e) Hazards: No activity shall be conducted which is hazardous or dangerous to persons or property outside of the lot on which the activity is conducted.

## **6.6 DESIGN DEVELOPMENT ZONE**

### **6.6.1 Purpose**

The Design Development Zone is established to allow for coordinated, well planned office industrial park and commercial development. The Regulations for this zone are intended to encourage development which is compatible with surrounding or abutting residential, institutional or public uses and to insure suitable open space, parking, and sound site planning. Such zone shall not be less than 30 acres.

### **6.6.2 Master Site Development Plan**

The applicant shall submit a site development plan for the entire parcel which includes the following information:

- a) Boundary survey of the property proposal for design development certified by a Connecticut Registered Land Surveyor to the A-2 level of accuracy.
- b) Natural features including topography, wetlands, watercourses and other unique natural features.
- c) Location and dimensions of all proposed lots, roads, utilities and rights-of-way proposed topography.

- d) Information on the location, availability, capacity, and feasibility of service of proposed utilities, including sewer, water, electricity, telephone.
- e) Proposed phasing of development, if any, and projected time-table for completion of each such phase.
- f) The Plan shall provide for a minimum of a 50-foot landscaped and/or natural buffer around the perimeter of the site except when abutting property zoned Design Development Zone, Light Industrial, Heavy Industrial or a public highway.

### 6.6.3 Dimensional Requirements

- |    |                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a) | <u>Minimum parcel size:</u>  | The minimum acreage shall be ten (10) acres.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| b) | <u>Minimum lot size:</u>     | All lots shall contain a minimum of two (2) acres.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| c) | <u>Maximum lot coverage:</u> | The total amount of land occupied by all buildings, together with accessory buildings, parking areas, roadways and other impervious surfaces shall not be in excess of fifty (50) percent of the lot.                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| d) | <u>Minimum lot width:</u>    | All lots shall have a minimum of two hundred (200) feet of width at the minimum setback on a public street or proposed project street.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| e) | <u>Minimum front yard:</u>   | No buildings shall be erected less than seventy-five (75) feet to the front property line and no parking shall be permitted within thirty (30) feet of the edge of the road pavement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| f) | <u>Minimum side yard:</u>    | Each side yard on every lot shall be at least thirty-five (35) feet.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| g) | <u>Minimum rear yard:</u>    | No building shall be erected less than fifty (50) feet to the rear property line.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| h) | <u>Building height:</u>      | Building height shall be measured from the average ground elevation surrounding the building to the roof line and shall not exceed thirty-five (35) feet except as provided below. Roof top equipment and appurtenances which are less than (6) feet in height above the roof line may be installed without secondary enclosure. All equipment and appurtenances which exceed six (6) feet in height shall be fully enclosed with a suitably aesthetic enclosure. The height of any roof top equipment or appurtenance shall not exceed ten (10) feet above the roof line except for emission stacks which may be a maximum of eighty (80) feet in order to |



accommodate the requirements of the Conn.  
Department of Environmental Protection.

- i) Building Floor Area: The minimum building floor area shall be 5,000 square feet.

NOTE: All required yards shall be measured from the inside edge of the required site buffer zone.

#### 6.6.4 Customary Accessory Uses

- a) Customary accessory uses to the above including:
- i. Cafeterias, restaurants and similar facilities, when for the convenience of occupants and employees of the permitted use.
  - ii. Recreational facilities, both indoor and outdoor such as recreation buildings, swimming pools, golf courses and facilities for group activities.
  - iii. Facilities for housing employees, visitors and others for training purposes.
  - iv. Signs, as regulated in Section 10
  - v. Off-street parking and loading, in accordance with the requirements of Section 9

#### 6.6.5 Special Standards For Uses In The Design Development Zone

- a) Stipulations: During the review process the Planning and Zoning Commission shall have the right to stipulate certain conditions in harmony with the general purpose and intent of this section and which are deemed reasonably necessary by the Commission to protect or promote the rights of individuals, property values and the environment in the area as a whole, the public health, safety and welfare, sound planning and zoning principles, improved land use, efficient site planning and development, or better overall neighborhood compatibility. Such conditions may relate to the component parts of the site plan and layout, the location and relationship between uses and structures, pedestrian circulation, vehicular circulation and parking, open space and recreation areas, landscaping, screening and buffering, signage, outside lighting, and intensity of development.
- b) Criteria: Application for a special exception shall be considered and evaluated by the Commission pursuant to this section and Section 16. In addition to items under Section 15 the following are required for inclusion in the application:
- Traffic study indicating existing and projected traffic volumes for uses with 100 parking spaces or larger
  - Proposed schedule of construction including staging or phasing of development
  - Bulk requirements including lot size, lot frontage, lot coverage, front yard, side yards, and rear yard.
  - A calculation of the percent land coverage by use-residential, non-residential, parking, usable open space, landscaping, and other (specify)
  - Maintenance schedule for landscaped and open space area to insure survival for no less than one growth season.

- Proposed landscaping with specific location, size, and common name of plantings.
- Location, size, height, color, lighting and design of any sign. One sign per road frontage not to exceed a total of 2 in number and 32 square feet in area each. Directional signs may not exceed 4 square feet in area and are not restricted in number. The plan shall show the allocation of sign area by potential tenant.
- Estimate the cost of site improvements such as but not limited to landscaping, drainage system, monumentation, sidewalks, streets and fencing or buffers, for bond purposes.

c) Commencement of Construction: Construction of an approved site plan for Special Exception shall begin within two (2) years from the date notice of the approval appears in a newspaper having general circulation in the Town of Durham.

The Planning and Zoning Commission may grant, for a good cause, one (1) extension of time not to exceed one (1) year if unusual circumstances prohibit the start of construction during the two-year period from issuance of the Special Exception. If construction has not started within the prescribed time period, the Commission's approval for Special Permit shall become null and void. Construction shall mean the laying of footings, foundation or slabs and the diligent progress toward project completion. All work shall be completed within five (5) years of the start of construction.

#### **6.7 PUBLIC GARAGES AND AUTO SERVICE STATIONS**

In addition to the statutory requirements concerning automobile dealers and gasoline stations, the Board of Appeals, under the appropriate conditions and safeguards and within the proper use zones, may permit the erection of a public garage or auto service station, or the conversion or use of any premises for such purposes, if any part of a building or premises to be so used is not within 300 feet of any entrance to a public park or playground, excluding small park areas within the boundaries of a highway, or not within 300 feet of the nearest point of any building in which there is established or maintained a school, hospital, church, theater, public library or building for civic assembly.

- a) No gasoline filling appliance shall be located within 20 feet of a street taking line or within 25 feet of an adjacent property line.
- b) No gasoline station shall be permitted unless such use adjoins a highway with a minimum right-of-way of sixty (60) feet.
- c) No gasoline station shall be permitted within one thousand (1,000) feet of any other gasoline station.

#### **6.8 LARGE ANIMAL INCINERATION FACILITY**

In addition to all requirements of these Regulations, all applications for Large Animal Incineration Facilities shall meet the following location requirements: 1.) Situated on a parcel or lot of at least 10 acres; 2.) Situated on a parcel or lot with frontage on, and direct driveway access to, a state highway; and, 3.) Housed within a building which, at date of approval, is located at least 500 feet from any existing dwelling.

## **SECTION 7 AGRICULTURE**

### **7.1 PURPOSE**

### **7.2 AGRICULTURE CATEGORIES**

Agriculture is divided into the following categories:

- Farms
- Non-Commercial Agricultural Operations

### **7.3 GENERAL STANDARDS- FARMS**

- a) No building in which animals are to be kept shall be located closer than 30 feet to any adjoining lot line or 40 feet from the street line.
- b) No storage of manure or odor-producing or dust-producing substances shall be permitted within 50 feet of any adjoining lot line. However, normal fertilization of land with manure or chemical fertilizer is permitted.

### **7.4 FARM STANDS**

Products produced on the farm premises may be publicly displayed and offered for sale from the roadside provided suitable off-highway parking is available on the premises.

### **7.5 MINK OR FOX RAISING OR KEEPING**

The establishment of mink or fox raising or keeping shall only be permitted on farms containing at least 10 acres and then only provided that the buildings and pens so used are:

- a) located on ground with sufficient drainage and porosity to avoid saturation by animal wastes; and
- b) located at least 300 feet from any dwelling except that of the owner.

### **7.6 FORESTRY**

Forestry may include the cutting, sawing and storage of timber, including the erection and operation of a saw mill, providing that no permanent saw mill may be located on a lot containing less than 5 acres nor within 500 feet from any residence except a residence on the same premises.

### **7.7 LIVERY AND BOARDING STABLES, RIDING SCHOOLS AND VETERINARY HOSPITALS**

Livery and boarding stables, riding schools and veterinary hospitals, provided that they are on lots of not less than 5 acres and that no dogs therein are kept in any building or enclosure within 150 feet from any property line.

### **7.8 NON-COMMERCIAL AGRICULTURAL OPERATIONS**

Non-commercial agricultural uses are permitted in all zones subject to the following restrictions:

- a) No building in which animals are kept shall be closer than the minimum yard requirements specified for the farm residential zone to any adjoining lot line and any such building and animals shall be maintained so as not to create a nuisance to adjoining property owners.
- b) Storage of manure and litter shall be indoors or in covered outside bins or containers

## **7.9 AGRICULTURAL EVENTS**

### **7.9.1 Purpose**

The preservation of Durham's farmland, farms, and agricultural activities and the desire to attract new agricultural investment is a matter of sound public policy and furthers the objectives of the Plan of Conservation & Development.

In furtherance of these goals, the Durham Planning and Zoning Commission has adopted the following regulations to facilitate agricultural events with certain conditions.

### **7.9.2 Definitions**

**Agricultural Event:** An accessory use on a parcel having a principal agricultural or farming use as defined in Connecticut General Statutes Sec. 1-1(q); Agricultural Events may include agriculturally related educational activities, the sampling of agricultural products, or the serving of beverages or meals that promote products grown in Connecticut; and may include recreational or social activities for the guests.

**Principal Use:** The primary purpose or function for which a premise is used, designed, or intended to be used.

### **7.9.3 Standards**

In all zones, owners of a contiguous parcel of five (5) acres or more having an agricultural or farming principal use shall be permitted to make application to the Commission for a Special Exception under Section 16 of these regulations to conduct Agricultural Events as an accessory use on said parcel in accordance with the following:

- a) The application to the Commission shall include:
  - i. The location of the parcel(s) to be used for the event(s); by Street Address or Assessor's Parcel Number
  - ii. Documentation of an agricultural or farming principal use
  - iii. The specific types of event(s) to be conducted
  - iv. The expected frequency of such event(s)
  - v. The maximum number of attendees for any single event
  - vi. Site Plan prepared in accordance with the requirements of Section 15 of these regulations
- b) An agricultural or farming principal use will be determined by the Commission. Supporting documentation, to be provided by the applicant, may include:
  - i. The location of existing or proposed agricultural use on the site plan
  - ii. The Tax Assessor's designation of the parcel as PA 490 (Farmland, Open Space, Forest Land)
  - iii. Aerial photography or satellite mapping of the property
  - iv. A business plan (with financial data redacted) for new agricultural business
  - v. Proof of an existing agricultural business

- vi. Farmers' Tax Exemption Certificate (issued by the Department of Revenue Services, State of Connecticut)
  - vii. A site walk by the Planning and Zoning Commission or staff
  - viii. Any additional information that supports agriculture as the principal use of the property
- c) The Site Plan shall include the information shown in Section 1(a) through 1(e) above and shall identify the following:
- i. All indoor and outdoor areas to be used for the event(s)
  - ii. Location and duration of tents and portable restrooms
  - iii. Exterior lighting; unless shown on a separate Lighting Plan
  - iv. Designated areas for off-street parking, based on Section 1(e) above, assuming two-hundred fifty (250) square feet per vehicle and a vehicular occupancy of two (2) persons per vehicle. For example:  $((100 \text{ persons} \times 250)/2) = 12,500 \text{ square feet} = 0.29 \text{ acres}$
- d) Buildings and impervious areas will not cover more than 12% of the parcel or five (5) acres, whichever is less.
- e) On-street parking shall not be permitted.
- f) The Commission may require additional setbacks and buffering.
- g) Events shall begin not earlier than 7:00 AM and shall cease by not later than 11:00 PM. Town Ordinances for noise control shall not be exceeded.
- h) The applicant is required to send a copy of the application being filed with the Planning and Zoning Commission to the owners of all properties abutting the parcels(s) to be used for the requested event(s) via U.S. mail. For noticing purposes, the owner shall be determined by the Assessor's current record. The applicant shall provide the Commission with proof-of-notice in the form of Certificate of Mailing receipts.
- i) Adequate lighting shall be provided in parking and pedestrian areas for events that will be held after dusk. Outdoor lighting shall not shed light beyond the boundaries of the subject property. Any permanent lighting shall comply with Section 15.2.9 of the regulations.
- j) In addition to the Application and Site Plan, the applicant shall be responsible for submitting all required documentation to the following agencies for their review, inspection, and report back to the Commission:
- i. Health Department Typically reviews water, septic, food preparation, and sanitary facilities, etc.

- ii. Resident State Trooper Typically reviews traffic control plans, security, etc.
- iii. Fire Chief Typically reviews access and water availability for fire suppression, etc.
- iv. Fire Marshall Typically reviews occupancy, fire suppression, etc.
- v. Building Official Typically reviews structures, use classification handicap accessibility, etc.

The applicant shall be responsible for providing the Commission with the reports from each of the aforementioned agencies. In considering the application, the Commission may consider the information in each report.

- k) Should the Commission approve the application and accompanying Site Plan, only events of the type approved by the Commission shall be permitted and these shall only be permitted to take place in areas identified on the approved Site Plan.
- l) Should the principal agricultural or farming use be abandoned and/or discontinued, the use(s) approved as part of the Special Exception shall immediately cease, subject to enforcement action as necessary.

## **7.10 Farm and Tack Stores**

### **7.10.1 Description and Purpose**

The intent of this regulation is to allow for economic diversity and sustainability of agricultural uses, to preserve agricultural activities, and to protect neighboring property owners from disruptions caused by these accessory uses. This use is permitted as an accessory use to a primary farming or equestrian operation, and shall remain subordinate and incidental to the primary farming or equestrian operation. This regulation is not intended to limit the growing, producing or distributing of agricultural products allowed under Connecticut General Statutes Sec. 1-1(q) or 14.6.2 Permitted Accessory Uses.

Farm stores shall be permitted as an accessory use to a farming operation, provided that a majority of the items offered for sale are products grown or manufactured by the farming operation. All other items offered for sale at the farm store must be directly complimentary to the farming operation.

Tack stores shall be permitted as an accessory use to an equestrian operation, provided that all products sold are directly complimentary to the primary equestrian operation.

### **7.10.2 Standards**

**A Special Exception will be required for all applications for a farm or tack store.**

#### **Dimensional Requirements**

1. Minimum lot size for farm or tack stores shall be 5 acres.
2. All minimum standards and setbacks of the underlying zone shall be met. Setbacks shall be applicable to all buildings, patios, parking areas and driveways. Increased setbacks may be required dependent on site conditions.
3. Store size may not exceed 1,500 sq. ft. The Commission may limit the size and scope of a farm/tack store in relation to the size of the farm or equestrian operation; based on acreage or production.

4. A farm store must be located on the property that is actively under an agricultural use. A tack store must be located on the property that is actively under an equestrian use.

### **Standards**

1. The applicant shall propose hours of operation for the farm or tack store.
2. Additional screening may be required to reduce visual or noise impacts to adjacent residential uses.
3. One sign, complying with the requirements found in Section 10 shall be permitted.
4. Parking shall be designated based on the assumption of 250 square feet per vehicle. Customer Parking requirement shall be based on the square footage of the proposed store as-follows: 0-500 square feet=2; 501-1000 square feet=4 spaces; 1001 square feet=6 spaces. No off-site parking is allowed.
5. Food trucks and events are prohibited, unless approved by the Planning and Zoning Commission under the Agricultural Events regulation in Section 7.9.
6. In the event the principal farming or equestrian operation is abandoned and/or discontinued the accessory use approved under this section shall immediately cease, subject to enforcement action.
7. A primary farming or equestrian operation shall be determined by the Town Planner or Zoning Enforcement Officer. Supporting documentation, to be provided by the applicant, may include:
  - i. The location of existing or proposed agricultural uses on the site
  - ii. The Tax Assessor's designation of the parcel as PA 490 (Farmland, Open Space or Forest Land)
  - iii. Aerial photography or satellite imagery of the property
  - iv. For new agricultural businesses, a business plan (with financial data redacted)
  - v. Proof of an existing agricultural business
8. The Applicant shall perform soil testing to demonstrate septic suitability, if required.
9. Adequate lighting shall be provided in all parking and pedestrian areas. No light shall shed beyond the boundaries of the subject property.

## **SECTION 8 NON-CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS**

### **8.1 GENERAL PURPOSE**

Any non-conforming use or building lawfully existing at the time of adoption of these Regulations, or any amendment thereof, may be continued and any building so existing which was designed, arranged, intended for or devoted to a non-conforming use may be reconstructed or structurally altered and the non-conforming use therein changed in accordance with these Regulations.

Nothing in these Regulations shall prevent the restoration of any portion of a building or structure declared unsafe by the proper authorities.

Nothing in these Regulations shall be construed as authorization for, or approval of, the continuation of a use for a structure or premises in violation of the Zoning Regulations.

### **8.2 NON-CONFORMING LOTS**

A non-conforming lot may be built upon for any purpose permitted in the zone in which it is located, without a variance, despite its failure to comply with the area, width, depth or any other requirements of these Regulations, provided:

- a) the non-conformity results solely from the adoption of these Regulations or any amendments thereof;
- b) the non-conformity has not been increased in degree by any act or event subsequent to the effective date of the Regulation which rendered the lot non-conforming;
- c) any building or structure to be located on a non-conforming lot must comply with all the requirements of the Zoning Regulations existing at the time of application for a zoning permit including, without limitation, all front, rear and side yard requirements of these Regulations.

### **8.3 NON-CONFORMING USES**

A non-conforming use of land, buildings or any other structures may be continued, expanded or extended only in accordance with the following provisions:

#### **8.3.1 Expansion of a Non-Conforming Use**

- a) If any existing structure, devoted to a use not permitted by these Regulations in the zone in which it is located, is proposed to be enlarged, extended, constructed, reconstructed, moved or structurally altered (except for the changing of the use to a use permitted in the zone in which it is located) then such enlargement, extension, construction, reconstruction, move or structural alteration shall require a Special Exception from the Planning and Zoning Commission.
- b) All non-conforming manufacturing establishments, as distinguished from home occupations (see definition Section 2) in any zone, and all non-conforming retail stores in the Main Street Residential (MR) Zone may be expanded provided that such expansion is:
  - i. not over 150% of the area occupied at the time of enactment of these Regulations;
  - ii. on a plot of land presently occupied for such non-conforming use or abutting and contiguous to the area presently occupied for such non-conforming use;
  - iii. in conformance with the front, side and rear yard requirements for the zone in which it is located;



- iv. in compliance with the parking provisions as specified in Section 9 of these Regulations.
- c) All other non-conforming uses in any zone may be expanded on an existing lot provided that such expansion is:
  - i. not over 50% of the area occupied at the time of enactment of these Regulations;
  - ii. in conformance with the front, side and rear yard requirements for the zone in which it is located;
  - iii. in compliance with the parking provisions as specified in Section 9 of these Regulations.

### **8.3.2 Relocation of a Non-Conforming Use**

Except as provided in Section 09.03.01., no non-conforming use shall be moved to another lot, or any portion thereof, no non-conforming use of a building or accessory structure shall be moved or extended to any other part of a building or to another structure, and no building or other structure containing a non-conforming use shall be moved unless the result of such move is to end the non-conformity.

### **8.4 CHANGE OF A NON-CONFORMING USE**

- a) Any change of use shall require that a zoning permit be issued by the Commission or its duly authorized agent.
- b) No non-conforming use of land, buildings or other structures shall be changed to any use that is substantially different in nature or purpose from the existing non-conforming use, except to a use that is permitted by right in the zone in which the land, building or other structure is located.
- c) A change of use will be deemed by the Commission to be substantially different from the existing non-conforming use if:
  - i. the proposed use is a higher generator of traffic than the existing non-conforming use as shown in the Institute of Transportation Engineers' (ITE) reports;
  - ii. the proposed use requires increased parking pursuant to Section 9 of these Regulations;
  - iii. the hours and/or days of operation of the proposed use are to be expanded beyond those of the existing use;
  - iv. the number of employees in connection with the proposed use is to be increased over those of the existing use;
  - v. the proposed use is permitted in a lower zoning classification or zone than the existing use as, shown in the Table of Uses in these Regulations.
  - vi. the proposed use includes any other factors the Commission may deem significant including, but not limited to, a use which will have a detrimental effect on adjacent properties or a use which will constitute a hazard to health or public safety either on or off the property.
- d) A non-conforming use of land, buildings, or other structures that has been changed to a conforming use shall not thereafter be changed to a non-conforming use.

### **8.5 TERMINATION OF A NON-CONFORMING USE**

A non-conforming land use, building or other structure that is discontinued shall not thereafter be used except by a use that conforms to the use regulations of the zone in which it is located. In determining whether a non-conforming use has been discontinued, 802 of the Connecticut General Statutes shall be followed.

- a) Any conscious failure to take all necessary steps to resume the non-conforming use;
- b) Substitution of a conforming use.

#### **8.6 RECONSTRUCTION OF A NON-CONFORMING STRUCTURE OR USE**

Reconstruction of any non-conforming structure or use shall be in accordance with the provisions of 8-2 of the Connecticut General Statutes.

## SECTION 9 PARKING STANDARDS

### 9.1 GENERAL STANDARD

On any premises upon which a building or use of the types listed below is erected or enlarged after the adoption of these regulations, parking facilities shall be provided off the street right of way and off the sidewalk area with space, exclusive of passageways and driveways, according to the table below. Each parking space shall be at least 10 x 20 feet in area.

### 9.2 PARKING TABLE

TYPE OF USE	PARKING SPACES REQUIRED	LOCATION
Automatic Type Service Laundry	One space for each two washing machines	No more than 500 feet distant from building
Bus Stations	One space for each three employees plus adequate space to facilitate arrivals and departures	No more than 500 feet distant from building
Churches	One space for each four seat spaces	No more than 500 feet distant from building
Dwellings, all types	Two spaces per family unit	On premises
Dwellings for Elderly and/or Handicapped Persons	One Space per dwelling	On premises
Fraternal, social or civic organizations, clubhouse or hall	One Space for each four seats or similar accommodation	No more than 500 feet distant from building
Hospitals and Convalescent Homes	One Space for each three patients plus one space for each two employees	No more than 500 feet distant from building
Hotel, Motel	One Space for each guest room	No more than 500 feet distant from building
Indoor Theatre, Auditorium, Pool or Bowling	One Space for each four seats or similar accommodation	No more than 500 feet distant from building

Industrial Plant or Wholesale House	One Space per for each One and a half employees during the largest daily work shift period	No more than 500 feet distant from building
Medical Offices	Seven Spaces per Doctor	No more than 500 feet distant from building
Office, Professional – Office Personal, Service, Shops, and Financial Institutions	One Space for each one hundred fifty square feet of office area	No more than 500 feet distant from building
Restaurant, Tavern-Grill, Bar or Dance Hall	One Space for each fifty square feet of public floor area	No more than 500 feet distant from building
Retail Stores	One Space for each two hundred square feet of gross floor area	No more than 500 feet distant from building
Home Occupations	Two Spaces in addition to those required by 10.01.01.4.	No more than 500 feet distant from building
Gasoline Stations, Repair Shops	One Space per employee plus three spaces per bay on premises	No more than 500 feet distant from building
For uses not listed or combinations of uses, the Commission may require the number of parking spaces which it deems necessary to protect the general health, welfare and safety.		

### **9.3 LOADING SPACES**

Every hospital, convalescent home, hotel, retail store, office building, industrial plant or wholesale house developed after the adoption of these regulations shall have on the premises one permanently maintained loading space of not less than 10 feet in width, 30 feet in length and 14 feet in height plus such additional loading space as, in the opinion of the Zoning Commission, is deemed necessary to meet the traffic needs of the location.

### **9.4 PARKING AREA BUFFER STANDARDS**

- a) Parking lots of one-hundred (100) or more spaces shall provide for an aggregate landscaped area or areas in the interior of the lot at a ratio of 200 square feet for every eight (8) parking spaces. The interior landscaped parking area is to be part of an integrated site development plan for the property.
- b) Planting which is required along the perimeter of the parking lot shall not be considered as part of the interior landscaping requirement. Where a parking lot abuts buildings on the subject property, the

border plantings adjacent to those buildings shall not be considered as part of the interior landscape requirement.

- c) Peripheral landscaping shall be required along any side of a parking lot of twenty (20) or more spaces that abuts adjoining property that is not a right-of-way. A landscaping strip four (4) feet in width shall be located between the parking area and the abutting property lines. One (1) tree for each fifty (50) feet shall be planted in the landscaping strip. Where planting is required for screening along the side of any parking lot abutting adjoining property, said plantings shall not be considered part of the peripheral landscaping requirement of this section.
- d) Street landscaping shall be required along any side of a parking lot of twenty (20) or more spaces that abuts the right-of-way of any street, road or highway. A landscaping strip ten (10) feet in depth shall be located between the abutting right-of-way and the parking lot. One (1) tree shall be planted for each forty (40) linear feet of the landscaping strip.
- e) All parking lot landscaping shall be of such quality as to improve and enhance the site and its surrounding areas. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting material may be used to complement the tree landscaping, but shall not be the sole contribution to the landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscape plan.
- f) The landscaping and planting areas shall be reasonably dispersed throughout the parking lots. The interior dimensions of any planting area or planting median shall be sufficient to protect the landscaping materials planted therein and to insure proper growth. In those instances, where plant material exists on a parking lot site prior to its development, such landscape materials may be used if approved as meeting the requirements of this section.

## **SECTION 10 SIGNS AND OUTDOOR ADVERTISING**

No permanent sign, billboard, or outdoor advertising structure (hereinafter collectively referred to as "sign" or "signs" shall be established, constructed, reconstructed, enlarged, extended, moved, or structurally altered until an application for a sign permit has been approved by the Zoning Enforcement Officer in accordance with these regulations. While not requiring a formal application, nonpermanent signs are required to adhere to all applicable regulations herein. It is the purpose and intent of this section to accommodate the installation of signs that are necessary for identification, direction, and commercial promotion. All signs shall conform to the following provisions in addition to any other conditions or limitations that may be imposed by the Commission in connection with the approval of a site development plan or special permit.

### **10.1 GENERAL STANDARDS**

- a) Signs that are unrelated to an active land use, other than a real estate sign or existing non-conforming sign(s), shall be considered abandoned or derelict and shall be removed by the property owner.
- b) No sign or sign structure shall be permitted at any location where it could interfere with, obstruct the view of traffic, or be confused with any authorized traffic sign, signal, or device.
- c) Exterior Signs- Animated or flashing signs, banners, or signs with any type of motion are prohibited, except for fabric flags of any sovereign nation, state, or municipality or as permitted in Section 10.3(g)
- d) Interior Signs- Internally illuminated signs visible from a public highway are permitted for installation on the interior of a structure only if they do not flash and are not animated.
- e) Signs attached to buildings or other structures shall not project more than twelve (12) inches therefrom, and shall be located such that the highest part of said sign shall not extend above the highest portion of the main exterior wall nearest the street.
- f) No sign shall be erected within the right-of-way of a public street, except as provided for under Section Sections 10.3.1 and 10.3.2.
- g) No sign shall be erected or located so that it could prevent free ingress or egress from any window, door, or fire escape.
- h) No sign shall be placed in such a position that it could obscure light or air from a building.
- i) Any sign that includes illumination shall be arranged such that the light is concentrated on the sign and there shall be no direct light cast on the street, sidewalk, or adjacent property.
- j) Signs for vehicular traffic or pedestrian movement indicating entrances, exits, or parking areas shall not exceed two (2) square feet in area. The number of these signs shall not exceed three (3), unless approved as part of a site plan.
- k) In determining the surface area of a freestanding, hanging, or nonpermanent sign, only one side of the sign shall be considered.
- l) Nonpermanent signs erected and maintained by the Town of Durham shall be permitted in all zones. Permanent signs erected and maintained by the Town of Durham shall be permitted in all zones and shall not exceed nine (9) square feet except by special permit.
- m) The sign area shall consist of the entire area within a continuous perimeter, including the extreme limits of actual copy area, symbols, characters, or words and trademark colors or background. Sign area does not include any structural or framing materials lying outside the limits of such sign and not forming an integral part of the display.

- n) Nonpermanent off-premise signs are expressly prohibited, except for traffic signs erected by the State of Connecticut, Town of Durham, or organizations that have a permit issued by the Connecticut Department of Transportation or with the approval of the local Traffic Authority. Such nonpermanent signs may be internally illuminated and shall not be in place for a duration of more than fourteen (14) days.
- o) The location, size, and design detail of signs for new developments or reconstruction of existing sites shall be submitted as part of the site plan review process.
- p) A sign permit shall become null and void if the work authorized by the permit has not been completed within a period of six (6) months after the date the permit is issued, except for signs approved by the Commission as part of a site plan, special permit, or subdivision approval.
- q) There shall be no zoning application fee from the Town of Durham associated with signage.

### **10.2 SIGN PERMITS NOT REQUIRED**

Sign permits will not be required when:

- a) Changing the advertising copy or message on an approved sign that is specifically designed for the use of replaceable copy;
- b) Painting or repainting the same or different copy;
- c) Cleaning the sign; or
- d) Performing normal maintenance or repair on a sign or sign structure - unless a structural change is made.

For purposes of this section, changes in the level or types of illumination are not exempt from obtaining a permit.

### **10.3 COMMERCIAL AND INDUSTRIAL ZONES GENERAL SIGNAGE STANDARDS**

- a) Every place of business may have upon the property on which the business is conducted signs indicating the name of the owner or proprietor, the character of the business, and/or the products made or sold on the premises.
- b) When affixed to the building(s), the total area of all signage (excluding directional signs and signs required by law) may not exceed one and one half (1.5) square feet for each linear foot of building frontage. In the case where a building faces two or more streets, only one side shall be considered as the front and shall be used for determining the total sign area allowed. The front of the building shall be the face assigned a street number.
- c) Each parcel shall be allowed one permanent freestanding sign.
  - Signs within thirty (30) feet of the curb line of a public highway are limited to a maximum area that shall not exceed fifteen (15) square feet for a single business or thirty (30) square feet in total area for two (2) or more businesses on the parcel.
  - Signs more than thirty (30) feet from the curb line of a public highway shall not exceed twenty-two (22) square feet for a single business or forty-five (45) square feet in total area for two (2) to nine (9) businesses on the parcel.

- Signs for parcels that have ten (10) or more businesses may not exceed sixty (60) square feet in total area except by special permit.
  - No permanent freestanding sign shall have a height greater than fifteen (15) feet or project above the height of the structure served, whichever is less.
  - Retail gasoline outlets may have an additional fifteen (15) square feet of sign area for advertising fuel price. Such additional sign area may be affixed to a building or freestanding sign. Such signage shall be in addition to that required by applicable state and/or federal regulations.
- d) Parcels having frontage on more than one street shall be allowed one permanent freestanding sign for each street facing, provided that the maximum area of each sign complies with the requirements specified in Section 10.3(c).
- e) Any sign permitted in a Residential Zone is permitted in the Commercial and Industrial Zones.
- f) Signs required by local, state, and/or federal regulations shall not be computed in the total allowable sign area and number.
- g) Fabric flags and banners are permitted, provided that they are attached to the building, the display does not exceed nine (9) feet in height and twelve (12) square feet in area, and there is only one (1) per unit owned or leased. Banners shall be included in the overall calculation of area for the purposes of signage.
- h) Parcels with nonconforming land uses are entitled to permanent signs in accordance with Section 10.3 of these regulations after obtaining a zoning permit for the said property.

#### **10.3.1 Non-permanent Signage-Businesses Requirements**

- a) Any business within a(n) Commercial or Industrial Zone shall be permitted one (1) nonpermanent sign; this sign shall not exceed nine (9) square feet in area including the support structure and the frame for the sign and shall not be illuminated.
- b) Signs shall not be spaced less than twenty-five (25) feet apart and ten (10) feet from side property lines, both as calculated at the property's frontage.
- c) Signs in excess of thirty-six (36) inches in height shall be located not less than eight (8) feet from the curb line of a public highway.
- d) Signs located more than eight (8) feet from the curb line of a public highway shall not exceed forty-eight (48) inches in height.
- e) For the purpose of this section, a business is defined as a unit that is owned or leased.

#### **10.3.2 Non-permanent Signage-Parcel Requirements**

- a) Any parcel within a Commercial or Industrial Zone shall be permitted two (2) nonpermanent signs.
- b) For parcels that have more than one business on the property, each business shall be limited to one sign per business.
- c) These signs shall not exceed nine (9) square feet in area, including the support structure and the frame for the sign, and shall not be illuminated.
- d) Signs shall not be spaced less than twenty-five (25) feet apart and ten (10) feet from side property lines, both as calculated at the property's frontage.
- e) Signs in excess of thirty-six (36) inches in height shall be located not less than eight (8) feet from the curb line of a public highway.



- f) Signs located more than eight (8) feet from the curb line of a public highway shall not exceed forty-eight (48) inches in height.
- g) For the purpose of this section, a business is defined as a unit that is owned or leased.

### **10.3.3 Construction Site Signage**

- a) In Commercial or Industrial Zones, a nonpermanent sign indicating construction or alteration shall not exceed twenty-five (25) square feet in area.
- b) Such nonpermanent sign may contain only the name of the building(s), the developer(s), the architect and other professional(s) involved in the building(s) design, the general subcontractor(s), the proposed tenant(s), the funding agency, and the like as well as a graphic representation of the completed development.
- c) Such signs shall be removed within five (5) years of the Commission's approval of the project or when occupancy of the buildings is fully achieved, whichever comes first.
- d) A sign permit may be extended by the Commission for up to five (5) additional years.

## **10.4 RESIDENTIAL ZONES GENERAL SIGNAGE STANDARDS**

### **10.4.1 Non-residential Use Signage**

Nonresidential uses permitted under Section 4.4, other than agricultural uses or home occupations, may have one (1) non-illuminated sign not to exceed two (2) square feet in area on the property.

### **10.4.2 Agricultural Signage**

One agricultural sign is permitted, provided that it does not exceed sixteen (16) square feet in area when fronting on a state highway and eight (8) square feet in area when fronting on a town road.

### **10.4.3 Residential Special Uses Signage**

Special permit uses under Section 4.4 are permitted a permanent sign not to exceed sixteen (16) square feet in total on said property.

### **10.4.4 Residential Use Signage**

- a) Single-family and two-family dwelling units may display one (1) sign, which shall not exceed two (2) square feet in area.
- b) Multifamily developments (three [3] or more dwelling units) may display one (1) sign, which shall not exceed nine (9) square feet in area.
- c) No permanent, freestanding sign shall have a height greater than seven (7) feet.
- d) One (1) permanent detached residential development sign designating the name of a residential subdivision is permitted, provided that it meets all of the following criteria:
  - the sign shall be single sided and not exceed twelve (12) square feet in area;
  - the sign and structure supporting the sign shall not exceed five (5) feet in height;
  - only materials requiring low maintenance (i.e. stone and brick) shall be utilized for the sign and structure;
  - where a residential development has more than one (1) entrance road intersecting with established roadways, the Commission may permit more than one (1) sign meeting the criteria contained herein.

**10.4.5 Non-profit, Political Organizations, Municipal Facilities Signage**

- a) Nonprofit organizations, political organizations or municipal facilities may display one (1) sign affixed to the building and one (1) permanent, freestanding sign, each of which shall not exceed fifteen (15) square feet in area.
- b) Non-permanent signs for nonprofit, political, or municipal uses related to a specific event are permitted, provided that such signs shall be non-illuminated and shall not exceed nine (9) square feet in area. Such signs shall not be erected more than thirty (30) days prior to an event and shall be removed within seven (7) days of the completion of the event.
- c) Each nonprofit, political, or municipal premise is permitted one (1) nonpermanent sign, except for properties that have frontage in excess of one hundred (100) feet, in which case they are allowed an additional sign for each additional one hundred (100) feet of frontage or portion thereof.

**10.4.6 Real Estate Sales or Leasing Signage**

- a) In Residential Zones, real estate sale or leasing signs shall not exceed four (4) square feet in area.
- b) In Commercial Zones, real estate sale or leasing signs shall not exceed fifteen (15) square feet in area.
- c) In Industrial Zones, real estate sale or leasing signs shall not exceed twenty-five (25) square feet in area.

**10.4.7 Residential Construction Site Signage**

- a) In Residential Zones, a nonpermanent sign indicating more than one (1) subdivision lot construction or alteration shall not exceed nine (9) square feet in area.
- b) Such nonpermanent sign shall contain only the name of the building(s), the developer(s), the architect and other professional(s) involved in the building(s) design, the general subcontractor(s), the proposed tenant(s), the funding agency, and the like as well as a graphic representation of the completed development.
- c) Such signs shall be removed within five (5) years of the Commission's approval of the project or when occupancy of the buildings is fully achieved, whichever comes first.
- d) A sign permit may be extended by the Commission for up to five (5) additional years.
- e) Nonpermanent signs for a single parcel indicating construction or alteration shall not exceed four (4) square feet in area. Such sign shall be removed within thirty (30) days after completion of work.

## SECTION 11 SPECIAL FLOOD HAZARD

### 11.1 PURPOSE AND OBJECTIVES

It is the purpose of this regulation to promote the health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or, in flood heights or velocities;
- Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- Control filling, grading, dredging and other development which may increase erosion or flood damage;
- Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

The objectives of this regulation are:

- To protect human life and health;
- To minimize expenditure of public money for costly flood control projects;
- To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;
- To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and,
- To ensure that potential homebuyers are notified that property is in a flood area.

### 11.2 AUTHORITY

The basis for establishing the Special Flood Hazard Area is the Federal Insurance Administration's scientific and engineering report entitled The Flood Insurance Study for the Town of Durham, Connecticut, Middlesex County, effective, August 28, 2008, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, as amended or revised. Such study, maps and other supporting data, and any revisions thereto, are adopted by reference and declared to be a part of these regulations.

### 11.3 DEFINITIONS

For the purpose of this Section, certain terms, words and phrases shall, whenever used in this Section only, have the meanings defined as follows:

**Base Flood Elevation (BFE)** - The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - See definition for "Structure"

**Cost** - As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing components, structural components, utility and service equipment); sales tax on materials; building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications; survey costs; permit fees; outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

**Development**- means 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 materials or equipment.

**Federal Emergency Management Agency (FEMA)**- The federal agency that administers the National Flood Insurance Program (NFIP).

**Finished Living Space** - Finished living space can include, but is not limited to, a space that is heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace. A fully enclosed area below the base flood elevation (RFE) cannot have finished living space and needs to be designed for exposure to flood forces. This space can only to be used for parking, building access or limited storage.

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

**Flood Boundary and Floodway Map**- An official map of the Town of Durham on which the Federal Insurance Administration has delineated the 100-year, 500-year and floodway boundaries.

**Flood Insurance Rate Map** - An official map of the Town of Durham on which the Federal Insurance Administration has delineated the areas of special flood hazards and the risk premium zones applicable to the town, as well as base flood elevations at selected locations.

**Flood Insurance Study (FIS)** - The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

**Floodway** - 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 cumulatively increasing the water surface elevation more than one foot.

**Functionally Dependent Use or Facility** - A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

**Highest Adjacent Grade (HAG)** - 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 the 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 historic significance of a registered historic zone or a zone preliminarily determined by the Secretary to qualify as a registered historic zone; (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: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**Lowest Floor**- The lowest floor of the enclosed area of a building (including basement).

**Manufactured Home** - means a structure that is transportable in one or more sections, which is built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes recreational vehicles, park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. Recreational Vehicle is a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

**Market Value**- Market value of the structure shall be determined by a professional appraiser.

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

**New Construction**- Structures for which the start of construction commenced on or after the effective date of this ordinance (not the revision date) and includes any subsequent improvements to such.

**Special Flood Hazard Area**- An area shown as an overlay on the Zoning Map of the Town of Durham which contains the land in the flood plain within the town subject to a one percent or greater chance of flooding in any given year. The Special Flood Hazard Area includes all Flood Insurance Zones A and A1-A30 as designated on the Flood Insurance Rate Maps.

**Start of Construction- Includes** substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home 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 not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure-** A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructure.

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

**Substantial Improvement-** means any repairs, reconstruction, or improvements of a structure, taking place within a ten (10) year period, the cost of which equals or exceeds 50 percent of the market value of the structure either: (a) before the improvement or repair is started, or b) if the structure has been damaged and is being restored, before the damage occurred.

**Variance-** A grant of relief by the Zoning Board of Appeals from the terms of the floodplain management regulations that allow construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**Violation-** Failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

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

#### **11.4 GENERAL PROVISIONS**

- a) The Zoning Enforcement Officer will obtain and maintain records of the lowest floor and floodproofing elevations for all new construction and substantial improvements. Where BFE data is utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements.
- b) A building permit, zoning permit, site plan approval and/or special exception shall be obtained before construction or development begins within any special flood hazard area. The applicant should review

- the Zoning Regulations with the Zoning Enforcement Officer to determine which permit approval process, or processes, are to be followed for the particular land use which is being proposed.
- c) The Zoning Enforcement Officer shall notify adjacent communities and the Connecticut Department of Environmental Protection, Inland Water Resources Division prior to any alteration or relocation of a watercourse, and evidence of such notification shall be sent to the Federal Insurance Administration. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - d) The Zoning Enforcement Officer shall advise applicant that additional Federal or State permits may be required, and if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with any local permit. Such additional permit requirements may include, but not be limited to: Stream Channel Encroachment Line Permit, Water Diversion Permit, Dam Safety Permit, Corps of Engineers 404 Permit.
  - e) The applicant shall provide information with the application which would show that any proposed building sites will be reasonably safe from flooding.
  - f) Construction, reconstruction, extension of any building or structure, or any other development, including but not limited to mining, dredging, filling, grading, paving, excavation or drilling operations shall be prohibited in the Special Flood Hazard Area, except in conformance with these regulations.
  - g) When base flood elevation data or floodway data have not been provided, the Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation or floodway data available from Federal, State or other source in order to administer Section 11 of these regulations.
  - h) The Zoning Enforcement Officer shall record and maintain the following: a) the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, b) the elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, c) certification as to floodway heights and d) any and all certifications required under Section 11 of these regulations.
  - i) The Zoning Enforcement Officer shall make the necessary interpretation, where needed, as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

#### **11.5 GENERAL STANDARDS**

- a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b) All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
- c) All new construction and substantial improvements to structures shall be constructed to ensure that electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

- e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- g) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- h) All manufactured homes (including "mobile" homes placed on a site for 180 consecutive days or longer) to be placed or substantially improved shall be installed using methods and practices which minimize flood damage. Elevation construction standards include piling foundations placed no more than 10 feet apart, and the provision of reinforcement for piers more than six feet above ground level.
- i) A building permit, zoning permit, site plan approval and/or special exception/permit shall be obtained before construction or development begins within any special flood hazard area. The applicant should review the Zoning Regulations with the Zoning Enforcement Officer to determine which permit approval process, or processes, are to be followed for the particular land use which is being proposed.
- j) In a zone where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
- k) Use of land, construction or other activities permitted within this Section shall be subject to approval by all applicable federal or state agencies.

#### **11.6 SPECIFIC STANDARDS**

The following provisions shall apply in all areas of special flood hazard A1-30, AE, AH, or A zones where base flood elevation data has been provided in accordance with Sections 11.4 or 11.7(d). of these regulations.

- a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- b) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - a) be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of the subsection. Such certification shall be provided to the Zoning Enforcement Officer.
- c) Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
  - Encroachments, including fill, new construction, substantial improvements, and other development unless certification, with supporting technical data based on hydrologic and hydraulic analysis conducted in accordance with standard engineering practices, by a registered professional engineer registered in the State of Connecticut is provided



demonstrating that encroachments shall not result in any (0.00) increase in flood levels during the occurrence of the base flood discharge.

- All new construction and substantial improvements in the floodway shall comply with the flood hazard reduction provisions noted in this Section.

### **11.7 STANDARDS FOR SUBDIVISION APPROVALS**

In all special flood hazard areas, the following requirements shall apply:

- All subdivision proposals shall be consistent with the need to minimize flood damage;
- All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- All subdivision proposals shall provide adequate drainage to reduce exposure to flood hazards; and
- Base flood elevation data shall be provided for all subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) which are five acres or fifty lots, whichever occurs first, and are located in Zone A.

### **11.8 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by these regulations are considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply or guarantee that land outside the special flood hazard area or uses permitted in such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Durham or by any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder. The Town of Durham, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of Durham.

### **11.9 CONSIDERATIONS AND CONDITIONS FOR GRANTING VARIANCES IN FLOOD HAZARD AREAS**

#### **11.9.1 Buildings on Historic Register**

Variances "may" be issued by the Zoning Board of Appeals for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, except for Section 11.9.4 (a) and (d), and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical character.

#### **11.9.2 Pre-Existing, Small Lot Location**

Variances "may" be issued by the Zoning Board of Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with Section 11.9.4 (a) and (d).

#### **11.9.3 Functional Dependent Uses**

Variances "may" be issued by the Zoning Board of Appeals for new construction and substantial improvement and other development necessary for the conduct of a functionally dependent use provided the structure or

other development is protected by methods that minimize flood damage, create no additional threat to public safety and meet the requirements of Section 11.9.4 (a) and (d)

#### **11.9.4 Considerations for Granting of Variances**

In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this regulation, and:

- a) the danger that materials may be swept onto other lands to the injury of others;
- b) the danger to life and property due to flooding or erosion damage;
- c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d) the importance of the services provided by the proposed facility to the community;
- e) the necessity of the facility to waterfront location, in the case of a functionally dependent facility;
- f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g) the compatibility of the proposed use with existing and anticipated development;
- h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
- k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Upon consideration of the factors listed above, and the purposes of the flood hazard regulations, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of the flood hazard regulations.

#### **11.9.5 Conditions for Variances**

- a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- b) Variances shall only be issued upon:
  - a showing of good and sufficient cause;
  - a determination that failure to grant the variance would result in exceptional hardship; and

- a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25.00 for \$100.00 of insurance coverage.
- d) The Zoning Enforcement Officer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

#### **11.10 SEVERABILITY AND SEPARATION**

If any section, subsection, paragraph, sentence, clause, or phrase of this regulation should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this regulation, which shall remain in full force and effect; and to this end the provisions of this regulation are hereby declared to be severable.

#### **11.11 ABROGATION AND GREATER RESTRICTION**

This regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **11.12 COMPENSATORY STORAGE**

The water holding capacity of the floodplain, except those areas that are tidally influenced. shall not be reduced. Any reduction caused by filling, new construction, or substantial improvements involving an increase in footprint to the structure shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site. unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation. which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

#### **11.13 EQUAL CONVEYANCE**

Within the floodplain. except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

**11.14 ABOVE GROUND STORAGE TANKS**

Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

**11.15 PORTION OF STRUCTURE IN FLOOD ZONE**

If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

**11.16 STRUCTURES IN TWO FLOOD ZONES**

If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

**11.17 NO STRUCTURES ENTIRELY OR PARTIALLY OVER WATER**

New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water.

**11.18 NEW CONSTRUCTION OR SUBSTANTIAL IMPROVEMENTS**

Require that fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit offload waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**11.19 ENFORCEMENT**

See Section 17 to these regulations.

## **SECTION 12 AQUIFER PROTECTION ZONE**

Within designated aquifer protection zone, no land shall be used and no structures erected, constructed, reconstructed, altered or used except in conformance with this subsection and all other requirements of the applicable zone.

### **12.1 BOUNDARY**

The aquifer protection zone shall be all land which is so designated on the Durham Zoning Map and shall include primary and secondary recharge areas as measured from data established by the U.S. Geological Survey.

### **12.2 PERMITTED USES**

All uses which are permitted in the existing zones are also permitted in the Aquifer Protection Zone with the following exceptions, restrictions and requirements.

- a) Sanitary waste water discharge to on-site septic systems shall not average more than the equivalent of one (1) single-family dwelling unit per acre.
- b) The following uses are prohibited:
  - i. Road salt storage and loading sites
  - ii. Solid waste disposal sites
  - iii. Septage disposal sites and lagoons
  - iv. Disposal of hazardous waste, as defined by Section 3001 of the Resource Conservation and Recovery Act of 1976.
  - v. Underground fuel storage tanks unless designed in a manner which will prevent leakage.
- c) All commercial and industrial uses are subject to a site plan review by the Planning and Zoning Commission. In addition to the requirements set forth in Section 15.1 and 15.2 of these regulations, the site plan shall be accompanied by a report detailing the following information:
  - i. Amount and composition of industrial or commercial wastes including fly-ash and proposed method of disposal of such wastes outside the aquifer protection zone.
  - ii. Amount and composition of any hazardous materials including but not limited to those identified by Section 3001 of the Resource Conservation and Recovery Act, that are handled, transported, stored or discharged to the air or the ground at the site.
- d) New and enlarged manure storage sites shall be approved by the Department of Environmental Protection.

## SECTION 13 RIDGELINES

### 13.1 AUTHORITY

This regulation is adopted pursuant to Section 8-1aa and Section 8-2(c) of the General Statutes.

### 13.2 PURPOSE

To restrict development in the Ridgeline Setback Area as defined herein to support the following goals:

- a) Preservation of the aesthetic beauty and natural environment of the town;
- b) Preservation of the environmentally sensitive land within and adjacent to the ridgeline area;
- c) Preservation of the unique flora, fauna and other environmental attributes within and adjacent to the ridgeline area; and
- d) Preservation of ridgeline vistas as seen from the town.

### 13.3 APPLICABILITY

- a) All development proposals within the Ridgeline Setback Area as defined in Section 13.4, whether public or private, shall comply with the requirements and purposes of this regulation and other applicable ordinances of the Town.
- b) For the purposes of this regulation, development proposals include proposals requiring review and approval of the Planning and Zoning Commission in accordance with any provision of these regulations.

### 13.4 DEFINITIONS

**Alteration-** Alteration means a change or rearrangement in the structural parts of a building, the movement of all or any part thereof, or the substantial reconstruction thereof, so as to produce a substantial change in appearance, character, or construction; also, means an enlargement, whether by increasing in height, coverage, volume or floor area.

**Building -** Building means any structure other than (A) a facility as defined in Section 16-50i of the General Statutes or (B) structures of a relatively slender nature compared to the buildings to which they are associated, including but not limited to chimneys, flagpoles, antennas, utility poles and steeples.

**Clear Cutting -** Clear Cutting means the harvest of timber in a fashion which removes all, or substantially all, trees down to a two (2") inch diameter, measured at breast height.

**Development- Development** is defined as the construction, reconstruction, alteration, or expansion of a building.

**Expansion -** Expansion is defined as any addition to the floor area, or any increase in height, volume, or coverage of an existing building.

**Grazing- Grazing** means the keeping in an enclosed space of domesticated animals to allow or encourage such animals to feed upon natural or cultivated vegetation growing upon the land. As used herein, "domesticated animals" shall include any animals typically maintained in pastures, paddocks, or similar outdoor enclosures, regardless of whether such animals are kept for agricultural, recreational, or any other use or purpose. "Grazing" shall include, but not be limited to, the pasturing of horses, cattle, sheep, goats, llamas, pigs, or

other customary farm animals; but shall not include the kenneling of dogs nor the enclosure of mink or other small mammals.

**Passive Recreation-** Passive Recreation means non-motorized recreation not requiring "development", as defined herein, nor requiring any alteration of the existing topography, nor any activity regulated pursuant to this section. Such passive recreation shall include, but not be limited to, hiking, bicycling, picnicking and birdwatching.

**Ridgeline Setback Area-** Ridgeline setback area means the area bounded by (A) a line that parallels the ridgeline at a distance of one hundred fifty feet on the more wooded side of the ridge, and (B) the contour line where a ridge of less than fifty per cent is maintained for fifty feet or more on the rockier side of the slope, mapped pursuant to Section 8-2 of the General Statutes, as amended by Section 2 of this act.

**Selective Timbering-** Selective Timbering means the harvesting of trees for commercial sale of lumber, but of no more than one half (1/2) of the total number of trees of any given diameter, measured to the nearest inch, and measured as the diameter at breast height (d.b.h.; being 4.5' from the ground).

**Traprock Ridge-** Traprock Ridge means Beseck Mountain, Fowler Mountain, Pistapaug Mountain, and Totoket Mountain.

**Traprock Ridgeline-** Traprock ridgeline means the line(s) of a traprock ridge created by all points at the top of a fifty per cent slope, which is maintained for a distance of fifty horizontal feet perpendicular to the slope and which consists of surficial basalt geology, identified on the map prepared by Stone et al., United States Geological Survey, entitled "Surficial Materials Map of Connecticut".

### **13.5 GENERAL REQUIREMENTS**

- a) The "Traprock Ridgeline" and the "Ridgeline Setback Area", as those terms are defined herein and in Section 8-1aa of the General Statutes, on Beseck Mountain, Fowler Mountain and Pistapaug Mountain and Totoket Mountain are shown on the zoning map which is specifically incorporated herein.
- b) Permitted Operations and Uses. Anything in this section to the contrary notwithstanding, the following operations and uses shall be permitted in Ridgeline Setback Areas, as of right, as set forth in Connecticut General Statutes Section 8-2(c) as amended:
  - i. Emergency work necessary to protect life or property;
  - ii. Any conforming uses that were in existence and that were approved on or before the effective date of regulations adopted under this section; and
  - iii. Selective timbering, grazing of domesticated animals and passive recreation.
- c) Activities Requiring Special Exception: Development, underground or above ground utilities, and clear cutting, all as defined in these regulations, shall not be permitted except upon the issuance of a special exception by the Commission in accordance with the procedure set forth in Section 16 of these Regulations, and such application shall include a site plan and such other information as to demonstrate compliance with the Ridgeline Protection Standards.

### **13.6 RIDGELINES PROTECTION STANDARDS**

No building, structure, antenna, satellite dish, tower or other feature shall be visible above the ridgeline when viewed from a public way. Buildings and landscaping are to be designed and located on the site to blend with

the natural terrain and vegetation and to preserve the scenic character of the site, conforming to the following standards:

a) Building Characteristics

- Exposed foundation walls shall not extend more than two (2) feet above the proposed finished grade.
- Buildings, alterations, additions, or structures shall be located downgrade of the ridgeline.
- Building materials shall blend with the natural landscape.

b) Landscaping

- Except for quarrying of bedrock approved under Section 14.1 of these regulations (see section 14.2.3(h)) removal of native vegetation, especially large timber, shall be minimized and the replacement of vegetation and landscaping shall be compatible with the vegetation of the subject area.
- Except for quarrying of bedrock approved under Section 14.1 of these regulations (see section 14.2.3(h)) trees may only be removed for location and construction of streets, driveways, septic areas or structures. With approval from the Commission, selective clearing for views may be permitted where the view is obstructed by dense vegetation.
- Retaining walls, of natural materials only, may be used to create usable yard space. Retaining walls on the exposed side and downhill portions of a lot which are in view or visible from a public way shall be screened with appropriate landscaping material.
- Landscaping and plantings shall be utilized to screen main buildings in open or prominent areas from significant views, both when installed and when mature.

c) Grading

Except for quarrying of bedrock approved under Section 14.1 of these regulations (see section 14.2.3(h)) any grading or earth moving operation is to be planned and executed in such a manner that final contours appear to be consistent with the existing terrain, both on and adjacent to the site.

d) Prevention of Erosion and Sedimentation

Except for quarrying of bedrock approved under Section 14.1 of these regulations (see section 14.2.3(h)) no area of 100 square feet or more on any parcel shall have existing vegetation clear-stripped or be filled six (6) inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity or unless necessarily incidental to construction on the premises under a currently valid building permit. No stripped areas which are allowed shall remain through the winter without a temporary cover of winter rye or similar plant material to provide soil control.



e) Utilities

- The Commission shall determine whether utilities will be constructed and routed underground and will take into consideration those situations where natural features prevent the underground siting or where safety considerations necessitate above ground construction and routing.
- Above ground utilities shall be constructed and routed to minimize detrimental effects on the visual setting.

f) Site Planning

In the building of more than one structure, variable setbacks, multiple orientations and other site planning techniques shall be incorporated in order to avoid the appearance of a solid line of development.

## **SECTION 14 SPECIAL REGULATIONS**

### **14.1 SAND AND GRAVEL OPERATIONS**

#### **a) Excavation and Removal Permits**

- An excavation and removal permit from the Planning and Zoning Commission, issued under such conditions as the Commission may impose to prevent damage to adjoining property and to protect the health, safety, convenience and general welfare of the community, is required for the removal of sod, peat, stone, loam, soil, clay, gravel, or any other earth or mineral products from any land.
- Said conditions shall include, among others, the submission of an application for permit in accordance with Section 14.2.1 herein.

#### **b) Foundation and Trench Excavation Permits**

- In connection with work for necessary foundation and trench excavation only on the premises for which a building permit has been issued, up to but not exceeding 300 cubic yards of material described in Section 14.1(a) may be removed without a permit; in connection with work for necessary foundation and trench excavation only on the premises for which a building permit has been issued, 300 to 1,000 cubic yards may be removed with the approval of the Zoning Enforcement Officer without a permit. The Zoning Enforcement Officer shall give his approval when he is satisfied that the removal will comply with the conditions stated in Section 14.2 where applicable. For removal of over 1,000 cubic yards, a permit must be obtained from the Commission.

#### **c) Landscaping and Grading Permits**

- In connection with work for landscaping and grading of land for which a building permit is not required: Up to but not exceeding 50 cubic yards of material may be removed with the approval of the Zoning Enforcement Officer without a permit. Fifty (50) to 300 cubic yards of material may be removed with approval of the Zoning Enforcement Officer, in addition, an Excavation and Removal Permit may be required if the Zoning Enforcement Officer feels any of the conditions listed in Section 14.1(a) might result. For removal of over 300 cubic yards, a permit must be obtained from the Commission.
- Approval will be given when the Zoning Enforcement Officer and/or the Commission are satisfied that the removal will comply with the conditions stated in Section 14.2 where applicable.
- These regulations shall not be deemed to prohibit the transferal of sod, soil, clay, sand, gravel, or stone from one part of a lot or parcel of land to another part of the same lot or adjacent tract or parcel of land in the same ownership.

### **14.2 APPLICATIONS FOR SAND AND GRAVEL PERMIT**

All new applications for a permit to excavate and/or remove any of said products shall be subject to approval by the Planning and Zoning Commission as a Special Exception in accordance with Section 16 of these

Regulations (except in LI and HI zones). Requests for renewal of an existing earth excavation and removal permit shall be subject to Site Plan Review in accordance with Sections 14.2.4 and 15 of these Regulations.

#### **14.2.1 Application Requirements**

The application shall be accompanied by a Site Plan in accordance with Section 15 and showing the following information:

- a) Location of the premises, names of abutting owners, and all property owners as shown on the current tax assessors records and all structures within 150 feet of the lot lines, and an estimate of the amount, area and nature of material to be excavated or removed.
- b) Grading plan showing existing contours in the area to be excavated and proposed contours for the area after completion of excavation. Such Plans shall include the area to be excavated as well as the surrounding area with 100 feet of the excavation to a scale of 1" = 200' or greater. Should the Commission desire, a boundary survey meeting the requirements of a Class A2 Transit Survey shall be submitted with the Grading Plan.
- c) Storm drainage plans showing the drainage and estimated runoff of the area to be served by any existing drainage facilities, together with detailed plans and specifications of all proposed drainage facilities or other protective devices to be constructed in connection with, or as a part of, the proposed use to prevent the collection and stagnation of water and the prevention of harmful effects upon surrounding properties from water or sediment.
- d) Landscaping plans showing the type, location and extent of all proposed planting or vegetation to be retained on, or otherwise provided for, the site in order to prevent erosion of the site.
- e) Proposed vehicular access to the site and proposed work roadways within the site.
- f) The estimated number and types of trucks and other machinery proposed to be used on the site and the location and type of any buildings to be erected.
- g) The estimated starting and completion dates and the estimated hours and days of the week proposed for operation on the site.
- h) Detailed plans for any proposed blasting and/or storing of explosives on the site.
- i) The Planning and Zoning Commission may when deemed necessary to protect the public health, safety and general welfare, require an engineering-geological investigation, based on the most recent grading plan. The engineering-geological report shall include an adequate description of the geology of the site, and conclusions and recommendations regarding the effect of geologic conditions on the proposed development.
- j) The Planning and Zoning Commission may, when deemed necessary to protect the public health, safety and general welfare, require a soils engineering investigation, based on the most recent grading plan. Such reports shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for grading procedures, sediment control, and design criteria for corrective measures.

- k) The Planning and Zoning Commission may require any additional information which it feels is necessary to determine whether the public health, safety and general welfare may be endangered by the proposed operation.

#### **14.2.2 Granting of Permit- General**

The removal of earth products may be permitted by the Commission subject to Permit and Site Plan Approval and when it is satisfied that the following conditions will be complied with in the undertaking of such excavation:

- a) The premises shall be excavated and graded in conformity with the plan as approved and any deviation from the plan shall be a violation and cause for the Commission to revoke the permit.
- b) The applicant shall file with the Commission a performance bond executed by the owner and operator, if any, of the land on which such excavation is to be conducted, as principals, in such amount as the Commission shall deem sufficient to cover the cost of any proposed or required street grading, roadway paving or surfacing and street planting, the installation of gutters and the installation of all monuments, bridges, culverts, storm water inlets, reclamation of the land, and all such other improvements as the Commission deems necessary to promote public health and safety and to safeguard the town from undue expense in the future maintenance of all streets and open spaces. All improvements shall be designed in accordance with standards established or to be established and with all other rules and regulations applicable in the Town. The bond shall be released only upon certification by the Commission that all the required improvements have been completed to its satisfaction.

#### **14.2.3 Granting of Permits- Standard Conditions**

The Commission may permit the screening and sifting of sand, gravel or topsoil in the Residential Zoning Districts, Commercial (C) or Design Development (DD) zones subject to the issuance of a Special Exception in accordance with Section 16 of these Regulations. The screening and sifting of sand, gravel or topsoil may be permitted in the Light Industrial (LI) or Heavy Industrial (HI) zones subject to approval by Site Plan Review. In either case, the following conditions will be met:

- a) Such use or any equipment used in such operation shall not be located within 100' of any property or street line;
- b) Such use shall be incidental to a permit to excavate earth products pursuant to Section 14.2 of these Regulations;
- c) The processing of materials shall be limited to those found on the site.
- d) Such permits shall be subject to a compliance review, 12 months from the date of issuance for all residential zoning districts and 36 months from the date of issuance for all other zoning districts unless renewed by the Planning and Zoning Commission. Permit renewals shall be subject to Site Plan Review approval in accordance with Section 15 of these Regulations;
- e) The Commission may permit screening operations between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday and 7:00 and 12:00 noon on Saturday, unless it is determined that more

restrictive hours shall be appropriate. There shall be no screening of materials on Sundays or legal holidays unless approved by the Commission.

- f) The Commission may deny any application for renewal of a permit for the screening and sifting of sand, sand and gravel or topsoil if it finds that any of the above provisions have not been complied with.
- g) No washing, crushing or other forms of processing of earth products shall be conducted upon the premises unless located within a Heavy Industrial (HI) zone and then it must not be located within 100' of any property or street line.

Note: A separate application shall be submitted to the Commission for approval of any screening or sifting operation.

- h) Quarrying of bedrock shall be prohibited unless it is in a heavy industrial zone.
- i) No fixed machinery shall be erected or maintained within 500 feet or more of any property or street line.
- j) No excavation shall take place within 500 feet or more of an abutting property line or of a street line except as follows:

- If the excavation within 50 feet of the street line is equal to or above the elevation of the established average grade of the street in the area being excavated; or
- If the excavation is part of an integrated site improvement plan; or
- If the excavation is part of a regrading plan for a future use of the site; or
- If the excavation is designed to improve roadway drainage.

- k) No building shall be erected on the premises except as may be permitted in the general zoning regulations or except as temporary shelter for machinery and field office, subject to approval by the Zoning Commission.
- l) The Planning and Zoning Commission may require the applicant to reserve adequate slope and/or drainage easements on the lot in order to allow the necessary coordination of any grading, filling, excavating, or removal operations that might be permitted on any abutting lot or street.
- m) No materials shall be stockpiled, and no equipment or structures authorized by the Permit shall be operated or located beyond the exterior limits of the specific area approved for filling or removal.
- n) During the period of excavation and removal, barricades or fences shall be erected as are deemed necessary by the Planning and Zoning Commission for the protection of pedestrians and vehicles.
- o) Truck access to the excavation shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties. That portion of access road within the area of operations shall be provided with a dustless surface.
- p) Proper measures, as determined by the Commission, shall be taken to minimize the nuisance of noise, flying dust or rock and unsightly or dangerous conditions. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated materials upon the site.
- q) Excavation shall be permitted between 7:00 a.m. to 5:00 p.m. Monday through Friday and from 7:00 a.m. to 12:00 noon on Saturday. There shall be no excavation or removal on Sundays or legal holidays except with the approval of the Commission.

- r) The operation shall insure protection of the working slope by continuous grading of the crest of the working face to eliminate dangers of earth slides and overhangs.
- s) When excavation and removal operations or either of them are completed, or work has progressed sufficiently to where reclamation is practicable:
  - The site and excavated area resulting from the quarrying of bedrock shall be benched to conform to a 1:2 (vertical to horizontal) line of slope. The maximum vertical standing face of the benched slope shall not exceed 60 feet.
  - The site and excavated area in all other cases of the removal of earth or mineral products shall then be graded so that the slopes in disturbed areas shall be no steeper than 1:3 (vertical to horizontal). A layer of topsoil shall be spread over the excavated area, to minimum depth of six inches in accordance with the approved final grading plan. The area shall then be seeded with suitable grass mixture containing at least 50% permanent grasses and maintained by mulching, repairing and reseeded until the area is stabilized and approved by the Commission; except that this provision shall not apply to areas of water nor to exposed areas of ledge either existing prior to the work or authorized as an integral part of the Permit and Site Plan Approval.

#### **14.2.4 Expiration and Renewal of Permits**

- a) Any permit issued under these regulations shall be subject to a compliance review 12 months from the date of issuance for all residential zoning districts and 36 months from the date of issuance for all other zoning districts. Permit expirations shall follow Connecticut General Statutes §8-3k.
- b) The Commission may renew or extend a permit issued under these regulations upon the application of the permittees at the regular monthly meeting of the Planning and Zoning Commission next before the expiration of the permit, when the following conditions have been met:
  - Notice in writing to the Planning and Zoning Commission of the intent to renew the permit at least 14 days prior to the meeting of the Planning and Zoning Commission.
  - That the excavation already completed and to be completed in the next 12 months conforms with the plan of operation as approved.
  - The Commission shall require an updated set of maps depicting the proposed work area for the next 12-month period.
  - Filing of a performance bond as required under Section 14.2.2(b), to cover the period of renewal or extension.
- c) Provided the provisions outlined in items (1) through (4) above are complied with, the Commission shall allow the applicant a 90-day grace period, from the date of expiration of the permit, to complete the permit renewal process.
- d) The Zoning Commission may deny an application for renewal or extension, if the permittee has not conformed to the plan of operation as approved, until such time as the permittee has brought his operations into conformance with the plan of operation.

### **14.3 WIRELESS COMMUNICATION TOWERS, ANTENNA AND FACILITIES**

#### **14.3.1 Description and Purpose**

The intent of this section is to make provisions as required by Telecommunication Act of 1996 to permit the location of wireless communication towers, antennae and facilities in the Town of Durham while protecting

neighborhoods as well as ecologic, scenic, historical and recreational resources; minimizing conflicts with adjacent areas; and ensuring protection of public health. Specific objectives are as follows:

- To accommodate the need for communication towers and antennae while regulating their location and number;
- To minimize the adverse visual effects of towers, antenna and facilities through careful design, siting and vegetative screening;
- To encourage shared or joint use of towers and facilities;
- To reduce the number of antennae or towers needed in the future.

#### 14.3.2 Definitions

When used in this section the following words or phrases shall have the meaning found below:

**Accessory Structure:** An accessory facility or structure serving or being used in conjunction with a communications tower and located on the same parcel as the communications tower. Examples of such structures include utility or transmission equipment storage sheds or cabinets including back-up power supplies.

**Antenna:** A device used to receive or transmit telecommunications or radio signals. Such signals shall include but not be limited to radio, television, cellular, paging, personal communications services (PCS) and microwave communications.

**Co-located Antennae:** Antennae which utilize existing towers, buildings or other structures for siting of a new telecommunications facility.

**Telecommunications Facility:** Towers and/or antennae and accessory structures and equipment used in receiving or transmitting telecommunications or radio signals from mobile communication sources and transmitting those signals to another wireless site, and other communication source or receiver or to a central switching computer which connects the mobile unit with land-based telephone lines.

**Tower:** The structure designed to support equipment and antennae used to transmit and/or receive telecommunication or radio signals. Examples of such structures include, without limitations, free standing towers, guy towers, monopoles, and lattice towers.

#### 14.3.3 Siting Preferences

Durham's order of preference for facility locations shall be:

- a) On existing structures, such as buildings, communications towers and smokestacks;
- b) In industrial and commercial zones where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening;
- c) On new towers on bare ground with visual mitigation in commercial and industrial zones;
- d) On new towers in residential zones where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening;

- e) On new towers on ridgetops and permanent vistas.

#### **14.3.4 General Requirements for all Towers, Antenna and Facilities**

All wireless communication towers, antenna and facilities shall be subject to the issuance of a special exception in accordance with the following standards and in accordance with Section 14.4 of these regulations.

- a) Each application shall submit a detailed site justification report, including a description of the narrowing process that eliminated other potential sites as well as a map showing the extent of planned coverage within the Town of Durham, approved locations of all other telecommunication sites in Durham, or adjoining towns which provide coverage within Durham including the applicant's location and the location and service area of the proposed telecommunication site.
- b) The antenna tower shall be designed and constructed to all applicable standards of the American National Standards Institutes, ANSI/EIA-222-E manual, as amended.
- c) A soil report complying with Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual standards, as amended, shall be submitted to verify the design specifications of the foundation for the tower and anchors for the guy wires, if used shall be submitted prior to the issuance of a building permit.
- d) Ground landscaping shall be required to soften the appearance of a tower and screen as much of the tower as possible, the fence surrounding the tower and other ground level features such as a building. Any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping may be permitted if the same degree of screening as the required landscaping is achieved, as determined by the Commission.
  - An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted 3 feet on center maximum) or a row of evergreen trees (planted 10 feet on center maximum). The evergreen screen shall be a minimum height of 6 feet at planting and shall grow to a minimum of 15 feet at maturity.
  - Existing vegetation on and around the site shall be preserved to the greatest extent possible.
- e) All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited.
- f) To minimize the number of antenna or wireless sites in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communication companies and particularly local police, fire and ambulance companies, unless it is determined to be technically unfeasible, and any tower approved here under shall be made available under commercially reasonable terms to others, including competing users.
- g) A telecommunication site not in use for six months shall be removed by the facility owner. This removal shall occur within ninety days of the end of such six-month period commencing upon written



notice to the property owner by the Zoning Enforcement Officer. Upon removal, the site shall be restored to its previous appearance and, where appropriate, revegetated.

- h) The Commission may require that applicants provide simulations of tower locations and impact. Such simulations may entail the flying of balloons or other devices necessary to visualize the proposed facility.
- i) In all cases in which the Commission feels that a peer review of the applicant's service areas, tower sharing, or other technical issues is warranted, the applicant may be required to deposit up to \$25,000 to reimburse the Town for the cost of the peer review. The unused portion of this deposit will be returned to the applicant after a decision is rendered. If funds in excess of \$25,000 are necessary, payment will be made prior to the decision by the Commission on the application.
- j) Using technological evidence, the applicant must demonstrate that the proposed location is necessary to satisfy its function in the company's grid system. Specific locations will be evaluated using the following analysis and criteria (not listed in any order of priority).
  - Capacity and propagation analyses.
  - Tower height visibility analyses.
  - Antenna separation analyses based on wavelength.
  - Analyses of signal strength and signal thresholds necessary for cell hand-off.
  - Environmental analysis of the proposed access road and structures when new construction is necessary (determined by the Commission).
  - Modeling consistent with FCC criteria to document that a prepared facility would be in compliance with federal radio frequency health standards.
  - Availability of suitable structures for antenna mounting.
  - Topography as it relates to line of sight transmission for optimum service efficiency.
  - Leasable lands and willing landlords.
  - Screening potential of existing vegetation, structures and topographic features.
  - Compatibility with adjacent land uses, and preservation of historic views, vistas, buildings and areas.
  - Least number of sites to cover desired area.
  - Greatest coverage consistent with physical requirements.
  - Opportunities to mitigate possible visual impact.
  - Availability of sites not within an established single-family community.

- Preservation of view corridors, vistas.
- Potential for preservation of pre-existing character of site.
- Minimal impact on residential areas surrounding commercial or industrial zoned sites.
- Selection of sites which lend themselves to visual mitigation.
- Availability of road access.
- Availability of electric power.
- Availability of land-based telephone lines or microwave link capability.

If a tower is proposed the application shall include support materials that show the location of structures in excess of 50' within one quarter mile radius of the site proposed, that the owners of those locations have been contacted and asked for permission to install the antenna on those structures and denied for other than economic reasons. This would include smokestacks, water towers, tall buildings, antenna or towers of other wireless communications companies, other communication towers (fire, police, etc.) and other tall structures.

#### **14.3.5 Specific Standards for Towers**

- a) Towers not requiring FAA painting/marketing shall have either a galvanized finish or be painted a non-contrasting blue, grey, black or such other color as the commission may be required to minimize the visibility of the tower.
- b) No signs shall be permitted on any tower or antenna.
- c) No lights or illumination shall be permitted unless required by the Federal and State agencies.
- d) Towers shall be surrounded by a chain link fence or wall not more than eight (8) feet in height. If barbed wire is included in the fence, it shall be within the eight (8) foot height limit.
- e) Towers shall have a setback of at least two hundred (200) feet from any off-site dwelling.
- f) Towers shall be setback one hundred fifty (150) feet from any street line.
- g) A tower supporting an antenna shall be the minimum height necessary to satisfy the technical requirements of the telecommunications facility.
- h) Tower in Residential Zones;
  - Shall be limited to monopoles.
  - Satellite and microwave dishes attached to monopoles shall not exceed two (2) feet in diameter and four (4) in number.
  - Shall be setback from all property boundaries, one hundred (100) feet or 100% of the height of the tower, whichever is greater.

- i) In Commercial and Industrial Zones;
  - Satellite and microwave dishes attached to towers shall not exceed six (6) feet in diameter and four in number.
  - Shall comply with the setbacks of the zone in which it is located.

#### **14.3.6 Standards for Equipment Buildings**

- a) Shall not contain more than 750 square feet of gross floor area or be more than twelve (12) feet in height.
- b) Shall comply with the setback requirements of a principal building for the zone in which it is located.
- c) If located on the roof of a building, shall not occupy more than 15% of the roof area.

#### **14.3.7 Standards for Structure or rooftop Mounted Antennas with an Equipment Building or Facility**

- a) Shall be attached to a non-residential structure or building, which building, or structure is the principal building or structure on the lot.
- b) Shall be of a material or color which matches the exterior of the building or structure.
- c) If roof mounted:
  - Shall not exceed a height of fifteen (15) feet above the highest part of the structure or building;
  - Shall be set back from the roof edge a minimum of ten (10) feet or 10% of the roof depth (measured from the edge facing a public street to the opposite edge of the roof), whichever is greater;
  - Satellite and microwave dish antennas shall not exceed six (6) feet (two (2) in residential zones) in diameter and shall be located or screened so as not to be visible from abutting public streets.
- d) If facade mounted:
  - Shall project not more than two (2) feet beyond the wall or facade of the structure;
  - Shall not project more than five (5) feet above the cornice line.

### **14.4 COMMERCIAL ANIMAL KENNELS, BREEDING ESTABLISHMENTS, ANIMAL TRAINING FACILITIES, ANIMAL GROOMING FACILITIES, ANIMAL DAY-CARE FACILITIES AND VETERINARIAN FACILITIES**

#### **14.4.1 Definitions**

**Animal(s):** Where used in this section, the term animal(s) shall include dog(s) and cat(s).

**Commercial Animal Kennel:** Premises maintained and operated as a business for the boarding of animals. This category does include overnight boarding.

**Commercial Breeding Establishment:** Premises maintained and operated as a business for the breeding of animals.

**Commercial Animal Training Facility:** Premises maintained and operated as a business for the training of animals. Note that the training of animals is not intrinsically included in any other use categories.

**Commercial Animal Grooming Facility:** Premises maintained and operated as a business for the grooming of animals. This category does not include overnight boarding or training of animals, and all activities must be conducted indoors.

**Commercial Animal Day-Care Facility:** Premises maintained and operated as a business for the temporary care of animals. This category does not include overnight boarding.

**Veterinarian Hospital:** Facility where animals are given medical or surgical treatment. This category does include overnight medical care.

#### 14.4.2 Application Standards

Commercial Animal Kennels, Breeding Establishments, Animal Training Facilities, Animal Grooming Facilities, Animal Day-Care Facilities, and Veterinarian Facilities shall be permitted in all zones by Special Exception. Application may be made for a single use category or multiple category uses; however, all uses that may take place on the parcel must be included on the application. Note that this regulation does not apply to farms, horse stables or other agricultural uses.

#### 14.4.3 Minimum Parcel Size by Zone and Type Designation

Owners of contiguous parcels having areas equal to or in excess of those shown in the table below shall be permitted to make application to the commission under Section 16 of these regulations, in accordance with the requirements of Section 14.4.

Type*	Use(s)*	Residential Zones	Commercial Zones	Industrial Zones
I	Commercial Animal Kennels, Commercial Breeding Establishments, Commercial Animal Training Facilities, Commercial Animal Day-Care Facilities	10 acres	7 acres	7 acres
II	Commercial Animal Grooming Facilities, Veterinarian Facilities	5 acres	No minimum acreage requirement	No minimum acreage requirement

\*Where one or more Type I use is combined with one or more Type II use, the larger Type I minimum parcel size shall be required.

#### 14.4.4 General Requirements

- a) The keeping of animals shall conform to the applicable regulations of the state's Department of Public Health, Department of Energy and Environmental Protection, Department of Agriculture, and its General Statutes.
- b) The application shall be accompanied by a site plan of the facility, including activity areas and floor plans for all structures on the premises.
- c) The applicant shall demonstrate to the commission that the facility can comply with the requirements of this section, based on based upon the proposed use(s), design and staffing levels.
- d) In no case shall the maximum number of animals exceed fifty (50).
- e) The facility shall be designed and constructed to provide adequate provisions to limit the emission of sound from the property.
- f) The facility shall be designed and constructed to provide adequate ventilation to maintain the health of the animals.
- g) Hours of Operation: Exterior activities (i.e.: runs, training, walking, etc.) shall be limited to the hours of 8:00 AM to 6:00 PM daily. All animals shall be confined to indoor areas between the hours of 6:00 PM and 8:00 AM.
- h) All activities shall take place within the confines of an enclosed building except for training, playing or exercising activities; these shall be permitted in exterior areas when the animal(s) are under the continuous supervision and control of the operator or attendant.
- i) Inside exercise and run areas shall be provided for periods of inclement weather.
- j) Animals shall be maintained in such manner as not to cause a nuisance by roaming at-large, vicious disposition, excessive barking or unsanitary conditions.
- k) Continuous fences used to contain animals shall be provided around areas where exterior activities may occur. Such fences shall be constructed to provide adequate protection against escape of the animal(s).
- l) The application to the commission shall include the specific types of activities to be conducted and the maximum number of animals applied for; in addition to the requirements set forth in Section 16 of these regulation.
- m) Structures housing animals and areas used for exercise and training may require additional setbacks and buffering.

The applicant is required to send a copy of the application being filed with the Planning and Zoning Commission to the owners of all properties abutting the parcels(s) described on the application, via U.S. Mail. For noticing purposes, the owner shall be determined by the Assessor's current record. The applicant shall provide the commission with proof-of-notice, in the form of Certificate of Mailing receipts.

***NOTE: The above was approved as amended at the commission's meeting of June 5, 2019 with an effective date of July 1, 2019***

## **14.5 FARM BREWERY, FARM CIDERY, FARM WINERY, FARM DISTILLERY**

### **14.5.1 Description and Purpose**

The intent of this regulation is to allow for economic diversity and sustainability of agricultural uses and to preserve agricultural activities while protecting neighboring property owners from possible disruptions caused by agritourism activities. These uses are permitted as accessory uses to an agricultural operation and should remain subordinate and incidental to the primary agricultural use. This regulation is not intended to limit the growing, producing, or distributing of agricultural products as allowed under Connecticut General Statutes Sec. 1-1(q).

### **14.5.2 Permitted Accessory Uses**

The following uses are permitted as an accessory use to an agricultural operation:

1. Tastings.
2. Tours.
3. Retail or wholesale sales of the products grown or manufactured on the premises.
4. Events as allowed under Section 7.9.
5. Wine sales by glass or bottle.
6. Farm café.

### **14.5.3 Dimensional Requirements**

1. Minimum lot size shall be 5 acres.
2. All minimum standards and setbacks of the underlying zone shall be met. Setbacks shall be applicable to all buildings, patios, parking areas and driveways. Increased setbacks may be required dependent on site conditions.

### **14.5.4 Standards**

1. Applicant shall propose hours of operation for each aspect of the business other than the agricultural operation.
2. Additional screening may be required for areas of outdoor seating in order to reduce disturbances to adjacent residential uses.
3. Site access and circulation shall be approved by the Planning and Zoning Commission and Fire Chief.
4. One sign is allowed per Section 10.
5. Parking shall be designated based on the assumption of 250 square feet per vehicle and a vehicular occupancy of 2 persons per vehicle. Parking requirement shall be based on the occupancy of the proposed tasting room. No off-site parking is allowed.
6. Food trucks and events are prohibited unless otherwise approved by the Planning and Zoning Commission under the Agricultural Events Regulation in Section 7.9.
7. In the event the principal agricultural use is abandoned and/or discontinued (growing of the crops required for the Brewery, Winery, Distillery or Cidery), the accessory uses approved under this section as part of the Special Exception approval shall immediately cease, subject to enforcement action if necessary.
8. Applicant to perform soil testing in order to demonstrate septic suitability.

9. A phasing plan shall be required for the growing and production of the crops during the first 5 years of operation. It is understood that the 25% requirement during the first 5 years may come from other sites in the State of Connecticut. Extensions to this phasing requirement may be requested to the Commission if a hardship can be established.

#### 14.5.5 Application Requirements

1. A special exception will be required for all applications for a farm brewery, farm winery, farm distillery and farm cidery.
2. A site plan is required in accordance with Section 15 of these regulations. The Commission may waive certain requirements found in Sections 15.1 and 15.2 if the requirement is not deemed necessary for review of the application.
3. Adequate lighting shall be provided in all parking and pedestrian areas. No light shall shed beyond the boundaries of the subject property.

### 14.6 CANNABIS ESTABLISHMENTS

#### 14.6.1 Purpose

The purpose of this section is to allow for the comprehensive review and deliberation on cannabis establishments to ensure any cannabis establishments as proposed, is in harmony with and will not have a detrimental effect with on the surrounding area and that both the operation and location are protective of public health and welfare.

#### 14.6.2 Definitions

For the purpose of this section, the terms referred to herein shall be defined and used as outlined in PA-21-1.

**Cannabis Establishment:** a non-profit, person(s) or business entity otherwise engaged in an activity which would be defined as a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager, transporter and, delivery service by PA-21-1 (SB 1201).

**Cannabis Hybrid Retailer-** means a person that is licensed to purchase cannabis and sell cannabis and medical marijuana products at a cultivating facility.

**Cannabis Retailer** means a person, excluding a dispensary facility and hybrid retailer, that is licensed to purchase cannabis from producers, cultivators, micro-cultivators, product manufacturers and food and beverage manufacturers and sell cannabis to consumers and research programs.

**Cultivator-**means a person that is licensed to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with no less than fifteen thousand square feet of grow space.

**Delivery service:** means a person that is licensed to deliver cannabis from (A) micro-cultivators, retailers and hybrid retailers to consumers and research program subjects, and (B) hybrid retailers and dispensary facilities to qualifying patients, caregivers and research program subjects, as defined in a section 21a-408 of the general statutes, or to hospices or other inpatient care facilities licensed by the Department of Public Health pursuant

to chapter 368v of the general statutes that have protocol for handling and distribution of cannabis that has been approved by the department, or a combination thereof.

**Micro-cultivator** means a person licensed to engage in the cultivation, growing and propagation of the cannabis plant at an *establishment containing not less than two thousand square feet and not more than ten thousand square feet of grow space*, prior any expansion authorized by the commissioner.

**Food and Beverage Manufacturer:** means a person that is licensed to own and operate a place of business that acquires cannabis and creates food and beverages.

**Producer:** means a person that is licensed as a medical marijuana producer pursuant to section 21a-408i of the general statutes and any regulations adopted thereunder.

**Product Manufacturer:** means a person that is licensed to obtain cannabis, extract and manufacture products exclusive to such license type.

**Product packager:** means a person that is licensed to package and label cannabis.

**Transporter:** means a person licensed to transport cannabis between cannabis establishments, laboratories and research programs.

#### 14.6.3 Cannabis Establishments Allowed by Special Permit

**Non- Conforming Properties by Use:** This Provision does not apply to any non-conforming commercial or industrial use in a residential zone. These uses are strictly prohibited in all Residential zones including on legal non-conforming properties.

License Type	Commercial	Industrial	All Residential Zone
Cannabis Hybrid Retailer*	NA	SP	NA
Cannabis Retailer*	SP	SP	NA
Cultivator	NA	NA	NA
Micro-cultivator*	NA	SP	NA
Food and Beverage Manufacture	NA	SP	NA
Producer	NA	SP	NA
Product Manufacturer	NA	SP	NA
Product Packager	NA	SP	NA

\*Only 1 permit of each license type within the Town is allowed for Hybrid Retailer, Retailer and Micro-cultivator



Cannabis retailers, micro-cultivators and cultivators may be allowed by Special Permit in accordance with Section 14.6.3 of the Regulations and are subject to the standards below:

#### **14.6.4 Cannabis Retailers**

1. All retailers shall comply with the following standards:
  - a. Shall not be located with 500 feet of any church, school, park, playground, or childcare facility.
  - b. Hours of operation shall not extend beyond 8:00 a.m. to 10:00 p.m. Monday- Saturday, Sunday 10:00 a.m. to 6:00 p.m.
  - c. No consumption on the premises.
2. Application requirements include:
  - a. A provisional license issued for a retail operation issued by the Connecticut Department of Consumer Protection
  - b. Operational Plan which includes:
    - Hours of operation
    - Security and access plan
    - Proposed signage
    - Odor Management- monitoring and mitigation

#### **14.6.5 Micro-cultivators**

1. All micro-cultivators shall comply with the following standards:
  - a. All cultivation shall be conducted within an enclosed building.
  - b. State of Connecticut Micro-cultivators License shall be obtained from the State of Connecticut and filed upon the Land Records for the Town of Durham.
  - c. Minimum 1,000 feet to a residential structure. The Commission may consider increasing the separating distance based on site topography, height of proposed building and adjacent buildings, Odor Dispersion Analysis, and any other factors that may be site specific.
2. Application requirements include:
  - a. A provisional license issued for a micro cultivation or cultivation operation issued by the Connecticut Department of Consumer Protection
  - b. Operational Plan which shall include:
    - Hours of operation
    - Security and access plan
    - Proposed signage
    - Odor Control Plan- monitoring and mitigation

#### **14.6.6 Conditional Approval**

- A. Special Permits shall be approved with the condition that the applicant obtains the appropriate Dispensary or Production Facility license issued by the State of Connecticut Department of

Consumer Protection (or other State agency as regulatory changes occur).

B. The conditional approval shall become finalized upon the receipt by the Town Planner of a copy of the Department of Consumer Protection-issued license.

C. The conditional approval shall expire if the applicant fails to provide the Town Planner with a copy of the Department of Consumer Protection-issued license within six months of the date of the TPZ's conditional approval.

1. A six-month extension of such conditional approval shall be granted to the applicant upon written notification to the Town Planner that an application for a Department of Consumer Protection license has been filed, indicating the expected decision date of the Department of Consumer Protection license.

D. No entity shall operate without a valid, current license.

## **SECTION 15 SITE PLAN REVIEW**

The Planning Commission may, upon application, authorize the issuance of certificates of approval where required for specific uses within these regulations and modifications to any approved site plan.

### **15.1 GENERAL PLAN REQUIREMENTS**

1. A completed application form including fee payment.
2. Application must be signed by the owner of the subject property or by an individual with a legally binding contract to purchase the subject property.
3. Statement of Use: A written statement describing the proposed use in sufficient detail to determine compliance with the permitted use provisions of these regulations.
4. A boundary survey is required for site plan applications, unless otherwise noted in the applicable use standards of the regulations. A boundary survey is not required for site plan applications which are strictly for a change of use (no site improvements). If not otherwise noted, a developer may request a pre-application meeting with the Commission to determine if an A-2 survey is required
5. Site Plan: Five (5) copies\* of a site plan drawn to a scale of not less than 1 inch equals 20 feet or more than 1 inch equals 40 feet. A Site Plan for all new development, additions and certain site improvements require an appropriately signed and sealed Site Plan prepared by a professional engineer and/or land surveyor and/or landscape architect licensed in the State of Connecticut. Change Of use Permits with no site improvements may utilize a previously approved Site Plan upon approval of the Commission. (\*an electronic copy in a PDF format is required):

Site Plans shall indicate the following:

- a) Title of Development, date, north point, scale, name and address of record owner, engineer, architect, land planner or surveyor preparing the Site Plan.
- b) A Commission approval/signature box.
- c) Location and use of all existing and proposed structures and outdoor signs.
- d) Location of all uses not requiring a structure.
- e) Location of roads, driveways, parking and loading areas with the number of stalls provided therewith.
- f) Existing and proposed utilities plan, if requested.
- g) Location of buffer strips and screening where necessary, showing the type, size, and species of shrubs, trees, and other plantings. Areas of existing tree vegetation shall be shown with an indication as to the degree of disturbance proposed.
- h) Where the applicant wishes to develop in stages, a Site Plan indicating initial development and each additional development stage shall be presented for approval.
- i) The existing and proposed contours of the land at 5' intervals, or less, as deemed appropriate by the Commission.

- j) A statement of proposed method of sanitary waste disposal and estimated maximum flow.
- k) A statement on the map as to the proposed hours of construction of the facility after issuance of a Zoning Compliance Review for a building permit.
- l) A statement on the map as to the proposed hours of operation of the facility after issuance of a Certificate of Zoning Compliance for a Certificate of Occupancy.
- m) Location and design of all existing and proposed water supply systems.

A proposed development or use of property that will provide drinking water via a well water supply with 15 or more service connections or will serve 25 or more people, may entail the creation of a new water company. Examples of such development or use may include residential communities, professional offices, various businesses, schools, day care facilities, youth camps, food and beverage establishments, and campgrounds. The applicant should file a Public Water System Screening Form with the CT Department of Public Health (CTDPH). If the CTDPH Drinking Water Section determines that a water system will be classified as a public water system, a Public Water System General Application for Approval or Permit must be filed. The basis for the submittal is obtain a Certificate of Public Convenience and Necessity (CPCN). One purpose of the certificate process is to ensure that all new public water systems are constructed to specifications and have adequate technical, managerial, and financial capacity to maintain compliance with regulations after the system is put into operation. Effective 10/1/2016, Public Act 16-197 changed the CPCN process and excludes PURA from the majority of the review. The CTDPH administers the CPCN process via a phased approach: Phase IA – location of source of supply; Phase IB- development of source of supply; and Phase II water distribution, storage, and treatment.

Expansion of an existing public water system to support the proposed development or use of property will require the filing of a Public Water Screening Form and possibly the Public Water System General Application for Approval or Permit with the CTDPH.

- n) Location of existing watercourses, marshes, wooded areas, rock outcrops, single trees with a diameter of ten (10) inches or more, measured three (3) feet above the base of the trunk with an indication of whether they are to be retained.
- o) Proposed storm water drainage system.
- p) Location of all permanent monuments.
- q) A soil erosion and sedimentation control plan in conformance with Section 15.2 of these Regulations.
- r) Parking Plan in accordance with the requirements found in Section 9 of these Regulations.
- s) Accessibility shall be provided for emergency vehicles.
- t) A sign plan, if applicable, in compliance with the Sign Standards set forth in Section 10 of the regulations.

## **15.2 SPECIFIC PLAN REQUIREMENTS**

### **15.2.1 Erosion and Sedimentation Control Plans**

A soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development totals, cumulatively, more than one-half acre. Only a single-family dwelling that is not a part of a subdivision of land shall be exempt from the submission of a soil erosion and sediment control plan.

- a) To be eligible for certification, a soil erosion and sediment control plan shall contain provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control (DEP Bulletin 34), as amended which can be found on the DEEP website. Alternative principles, methods and practices may be used with prior approval of the Town Engineer.
- b) Said plan shall contain, but is not limited to:
  - i. A narrative describing:
    - the development;
    - the schedule for grading and construction activities including:
      1. start and completion dates;
      2. sequence of grading and construction activities;
      3. sequence for installation and/or application of soil erosion and sediment control measures;
      4. sequence for final stabilization of the project site.
    - the design criteria for proposed soil erosion and sediment control measures;
    - the construction details for proposed soil erosion and sediment control measures;
    - the installation and/or application procedures for proposed soil erosion and sediment control measures; and
    - the operation and maintenance program for proposed soil erosion and sediment control measures.
  - ii. A site plan map that is in compliance with Section 15.1 of the Durham Zoning Regulations.
  - iii. Any other information deemed necessary and appropriate by the Commission or its designated agent.
- c) Minimum Acceptable Standards

- i. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in Chapters 3 and 4 of the Connecticut Guidelines for Soil Erosion and Sediment Control (2002), as amended. Soil erosion and sediment control plans shall result in a development that: minimizes erosion and sedimentation during construction; is stabilized and protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.
- ii. The minimum standards for individual measures are those in the Connecticut Guidelines for Soil Erosion and Sediment Control (2002), as amended. The Commission may grant exceptions when requested by the applicant if technically sound reasons are presented.

d) Certify/Deny Erosion and Sediment Control Plans

- i. The Planning and Zoning Commission shall approve a soil erosion and sediment control plan when the plan complies with the requirements and objectives of this regulation. When the soil erosion and sediment control plan fails to comply with these regulations, the Commission shall deny the application.

e) Conditions

- i. The estimated cost of measures required to control soil erosion and sedimentation and for site stabilization at any time during the construction phase may be covered in a performance bond at the discretion of the Commission.
- ii. Zoning permits shall not be issued for construction on the site until the erosion and sediment control plan is:
  - approved by the Planning and Zoning Commission,
  - the required bond is in place.
- iii. The developer/owner shall be responsible for maintaining all erosion and sediment control measures and facilities in proper working order throughout the life of the project.

f) Inspection

Inspections shall be made by the Zoning Enforcement Officer or Town Planner during development to ensure compliance with the approved plan and that control measures and facilities are properly installed and maintained.

g) Enforcement

Enforcement of the Soil Erosion and Sediment Control Regulations shall be the responsibility of the Planning and Zoning Commission or its designated agent. Failure to properly install and/or maintain any erosion and sediment control measure may result in the issuance of a stop work order until the problem is satisfactorily corrected.

### 15.2.2 Stormwater Requirements

- a) When required, measures for the detention and controlled release of stormwater runoff shall meet the following standards and shall be designed in accordance with the requirements as set forth in the Connecticut Guidelines for Soil Erosion and Sediment Control (2002) as amended. Measures for stormwater quality and stormwater infiltration systems shall be designed in accordance with the requirements as set forth in the 2004 Connecticut Stormwater Quality Manual.
  - i. Peak discharges from the 2-year, 10-year, 25-year, 50-year and 100-year frequency, 24-hour duration, type III distribution storms events shall be analyzed for both pre-development and post-development conditions. No increases in peak discharges from pre-development conditions for each of these storms events shall be allowed. This may be accomplished by stormwater detention, stormwater infiltration, or other acceptable means.
  - ii. The required storm water detention volume shall be that necessary to handle the runoff from the drainage area for a 100-year frequency, 24-hour duration, type III distribution rainfall, as published by the National Weather Service or other recognized agency, minus that volume discharged during the same duration at the approved rate as specified in (1).
  - iii. For developments of less than 10 acres, runoff may be computed using the rational formula; in all other cases, runoff shall be computed in accordance with Technical Release #55, Urban Hydrology, Engineering Division, Soil Conservation Service, USDA, June 1986, as amended, or Technical Release #20.
  - iv. When the Commission determines that engineering, aesthetics, and economic factors make combined retention or other drainage facilities more practical for construction by the Town, the Town shall require a fee or equivalent dedication of land which shall be used to construct these facilities. The Commission may permit several developers to construct joint facilities.
  - v. Maximum infiltration to the ground water is encouraged. Design of the storm water management system shall consider reducing runoff by use of such techniques as minimizing impervious areas and maximizing travel times by using grass or rock-lined channels in lieu of storm sewers.
  - vi. All on-site facilities shall be properly maintained by the owner such that they do not become nuisances.
  - vii. All runoff control structures located on private property whether dedicated to the Town or not shall always be accessible for Town inspection. Where runoff control structures have been accepted by the Town for maintenance, access easements shall be provided including vehicular access for operation and maintenance.
  - viii. Runoff management system components shall be designed according to sound engineering principles and installed in a sequence that permits each to function as intended without causing a hazard. Single components shall not be installed until plans for the entire runoff management

system are completed and approved. Final discharge points shall be approved by the Commission or its authorized agent.

- ix. Runoff management systems shall be visually compatible with the surrounding landscape.
- x. Permits for runoff management systems may also be required from the Inland Wetlands Commission where such systems may have an impact on inland wetlands, and from the Connecticut Department of Environmental Protection where a dam is to be constructed or water diverted. See Sections 22a-365 et seq. and 22a-409 of the Connecticut General Statutes.

### **15.3 Site Design Guidelines**

#### **15.3.1 Purpose**

This Section is intended to aid applicants proposing development within the Town of Durham. The guidelines have been developed to ensure that the designs are in harmony with the character of the community, encourage high quality building and site design, and result in development that is compatible with the character of the community.

#### **15.3.2 Applicability**

The following types of applications shall be reviewed as indicated below:

1. Any proposed development, construction, or use in any Zone shall be reviewed in relation to these design guidelines.

#### **15.3.3 Procedure**

1. The Commission shall review an application in relation to the design guidelines of this Section and may request the assistance of a Design Professional(s) in evaluating such plans.
2. Any recommendations or suggestions received from the Design Professional(s) shall not be binding upon the Commission.

#### **15.3.4 Guidelines**

##### **1. Relationship of Buildings to Site and Adjoining Areas.**

- (a) Buildings should be organized in a coordinated and functional manner that is compatible with site features and the architectural characteristics of adjoining areas.
- (b) A unified design theme for building massing, exterior treatments and signage should be established where harmony in textures, lines, and masses is provided and monotony is avoided.
- (c) Parking areas should be treated appropriately in relation to the building, the neighborhood, and the community.
- (d) The height and scale of each building should be compatible with its site and existing (or anticipated) adjoining buildings.



- (e) Newly installed utility services, and service revisions necessitated by exterior alterations, should be placed underground.
- (f) A desirable streetscape and attractive landscape transitions to adjoining properties shall be provided.

## **2. Landscape and Site Treatment.**

- (a) Landscape treatment should be provided to enhance architectural features, shield unsightly areas, provide shade, and relate to the natural environment and topography.
- (b) Plant material that is indigenous to the area should be selected for its ultimate growth and for interest in its shape, texture, and color.
- (c) Pedestrian walkways should provide safe and convenient connections within the site and between adjacent sites and shall be constructed of all-weather materials appropriate for the location (such as brick, concrete, or paving blocks, not earth, gravel, or loose stone).
- (4) Existing trees at four (4) inches or greater caliper should be incorporated into the site plan.

## **3. Building Design.**

- (a) Architectural features should be evaluated based on the scale of the building(s), the quality of the design, and the relationship to surroundings.
- (b) Facades and rooflines should be articulated and/or varied to reduce the appearance of bulk and provide architectural interest.
- (c) Building materials should have architectural character and be of durable quality and shall be selected for harmony of the building with adjoining buildings and properties.
- (d) Building textures, colors, and components should be selected for coordination of the building with adjoining buildings.
- (e) Utility and service equipment areas shall be screened from public view with either landscaping or hardscape materials such as fences.

## **4. Signs and Lighting.**

- (a) Signs should be designed as an integral architectural element of the building and site to which it principally relates and shall be coordinated with the building architecture.
- (b) Exterior lighting, where used, should enhance the building design and the adjoining landscape.
- (c) Lighting should be restrained in design and excessive brightness avoided.
- (d) Full Cut off lighting shall be provided for all parking areas.

**15.4 REFERRAL OF SITE PLAN**

The Planning and Zoning Commission may refer an application to other Town Boards and Commission or agencies for review and comment as it deems appropriate.

**15.5 PLANNING AND ZONING COMMISSION ACTION**

The Commission shall act on the final plan not later than sixty-five (65) days after the date of filing of such application. If a site plan is part of a special exception application, this time period does not apply. Instead the lengthier special exception approval periods that shall apply are: sixty-five (65) days to commence a public hearing, thirty-five (35) days to conclude the public hearing and sixty-five (65) days to render a decision. The Commission may approve, modify and approve, or disapprove the application. Notice of the decision of the Commission shall be communicated to the applicant in writing within fifteen (15) days after such decision has been rendered. The failure of the Commission to act thereon within sixty-five (65) days of the filing of such application shall be considered as approved and a permit to that effect shall be issued by the Commission on demand. Extensions of time shall be permitted by mutual agreement, in writing, by the Commission and the applicant in accordance with State Statutes. The grounds for the Commission's action shall be stated in its records.

**15.6 PERFORMANCE BOND**

The surety bond shall be certified as to form by the Town Attorney. The amount of surety bond shall be sufficient to cover the cost of any proposed or required street grading, roadway paving or surfacing and street planting, the installation of gutters and the installation of all monuments, bridges, culverts, storm water inlets and all such other improvements as the Commission deems necessary to promote public health and safety and to safeguard the town from undue expense in the future maintenance of all streets and open spaces. All improvements shall be designed in accordance with standards established or to be established and with all other rules and regulations applicable in the Town. The bond shall be released only upon approval by the Commission, after a report from their designee, that all the required improvements have been completed in accordance to the approved plan. Bonds will be processed in accordance with C.G.S. §8-3(g).

**15.7 FILING OF FINAL SITE PLAN**

The final site plan shall be filed in the land use office and if requested in the Town Clerk's office on the Land Records.

**15.8 CHANGE IN APPROVED SITE PLAN**

Minor changes in an approved site plan may be approved by the Town Planner, provided such changes shall not affect the overall layout, design, density, impact or nature of the approved site plan. Whenever a change to the approved site plan is considered to be a major change by the Town Planner, a formal amendment shall be submitted to the Commission for its subsequent approval. Major changes shall include, but are not limited to, substantial reductions of the landscaping or open space area, significant expansions of buildings, additional signage, significant change in the grading so as to affect the drainage system, and any other change which may in the sole judgement of the Commission be construed to materially detract from the original development concept.

**15.9 COMPLETION OF WORK**

The completion of the improvements associated with the Site Plan approval shall expire in accordance C.G.S. §8-3, as may be amended from time to time.

## **SECTION 16 SPECIAL EXCEPTIONS**

### **16.1 PURPOSE**

In dividing the Town of Durham into zones it is to be recognized that there are certain uses which may be necessary to the Town, but which may be detrimental to their neighbors if proper safeguards are not taken. The Planning and Zoning Commission must evaluate the impact of such uses upon neighboring uses and surrounding areas and decide whether to grant a special exception for such uses.

### **16.2 GENERAL PROVISION**

In accordance with the standards and requirements hereinafter specified, the Commission may grant a special exception for the establishment of one or more of the uses for which a special exception must be secured as required by these regulations. All requirements of this section are in addition to other requirements applicable in the zone in which the special exception use is to be located.

### **16.3 APPLICATION PROCEDURE**

- a) Applications should be submitted on a form prescribed by the Commission.
- b) An application for a special exception shall include a fee in accordance with Durham Ordinance §12-2.
- c) All applications shall be accompanied by a site plan in conformance with Section 15 of these regulations.
- d) Procedural requirements relating to the submission and consideration of an application for a special exception shall be in conformance with Chapter 124, Section 8-1 through 8-13a of the General Statutes of the State of Connecticut.

### **16.4 GENERAL STANDARDS**

The Commission shall approve an application to permit establishment of a use for which a special exception is required if it shall find that the proposed use and the proposed buildings and structures will conform to the following standards in addition to such special standards for particular uses as may be imposed:

- a) The location, type, character and size of the use and of any building or other structure in connection therewith shall be in harmony with and conform to the appropriate and orderly development of the Town and the neighborhood and will not hinder or discourage the appropriate development and use of adjacent lots or impair the value thereof;
- b) The nature and location of the use and of any building or other structure in connection therewith shall be such that there will be adequate access to it for fire protection purposes;
- c) The streets serving the proposed use are adequate to carry prospective traffic, that provision is made for entering and leaving the property in such a manner that no undue traffic hazard or congestion will be created;
- d) The lot on which the use is to be established is of sufficient size and dimension to permit conduct of the use and construction and maintenance of buildings, structures, and facilities, including sanitary facilities, in a manner that will not be detrimental to the neighborhood or adjacent lots;

- e) The architectural design and style of all buildings and other structures to be erected on the lot shall be such as not to conflict with the architectural design and style of adjacent properties;
- f) The special exception use will not have a detrimental effect upon any church, school, library, public playground or similar facility or use;
- g) The Commission shall consider a number of similar special exceptions in the vicinity and their cumulative effect(s);
- h) The special exception use shall not constitute a hazard to public health and safety either on or off the subject property.

## **16.5 NOTICE OF PUBLIC HEARING BY APPLICANT**

All applications for special exception for which a public hearing has been scheduled shall be required to post a minimum of one (1) sign and send notice to abutters in accordance with the requirements below.

### **1. Posting of a Sign**

All sign(s) shall be the responsibility of the applicant and shall be posted on the property in question in accordance with the following:

- a) Sign(s) shall be posted at least ten (10) days prior to the date of the public hearing (eleven days if the tenth day is a holiday). Sign(s) shall be firmly secured to the ground to prevent vandalism. Parcels having frontage on more than one (1) street shall be required to provide one (1) sign on each street having frontage. The location of the sign(s) shall be shown on the site development plan and approved by the Planning and Zoning Commission.
- b) Sign(s) shall be constructed of durable material, 36" X 36" in size. All signs shall be painted white and shall have black lettering having a minimum height of two (2) inches with a letter stroke of one quarter (1/4) inch.
- c) The sign(s) shall advertise the date, time and place of the of the public hearing for the special exception.
- d) The format for the sign shall be obtained at the Planning and Zoning Office.
- e) The Zoning Enforcement Officer shall file a report with the Commission that the sign was observed in place in accordance with the above requirements.
- f) An applicant who fails to display the sign(s) shall be required to file a new application.
- g) The sign(s) shall be taken down within one (1) week after the public hearing is closed.

### **2. Notice to Abutting Owners**

- a) All Special Exception application public hearings require notice to abutting owners. The applicant shall notify all Abutting landowners within 100' of the subject parcel, as disclosed by the Assessor's records, of the date, time, and place of the public hearing of the Commission. Notices shall be sent by Certificate of Mailing. Notice shall be sent no less than ten (10) days preceding the date of said hearing

and applicant shall submit proof to the Town Planner of such notification. No notice shall be required for the continuation of a public hearing once it has been opened.

#### **16.6 SPECIAL EXCEPTION DECISION CRITERIA**

An application for special exception shall be considered and evaluated by the Commission pursuant to these regulations and the following criteria:

- a) The size and intensity of the proposed development and its effect on the conformity to the Plan of Development, Zoning Regulations, Subdivision Regulations and any other applicable regulations or ordinances;
- b) The existence of other land uses in the area and the effect thereon from the proposed development;
- c) The capability of adjacent and feeder streets to accommodate the projected traffic volumes;
- d) The obstruction of light or air; the emission of noise, smoke, odor, gas, dust, vibration or waste material;
- e) The overall effect on property values in the area;
- f) The physical characteristics of the land;
- g) The nature, location and height of buildings, walls, stacks, fences and landscaping on the site;
- h) The location of any points of ingress and egress, and arrangement of off-street parking facilities;
- i) The extent and demand for police and fire protection;
- j) The availability and adequacy of public utilities such as, electricity, telephone, gas and water;
- k) Any other criteria in the interest of public health, safety and welfare, as prescribed by these Regulations.

##### **16.6.1 Stipulations**

During the review process, the Planning and Zoning Commission shall have the right to stipulate certain conditions to ensure harmony with the general purpose and intent of this section and which are deemed reasonably necessary by the Commission to protect or promote the rights of individuals, property values, the environment in the area as a whole, the public health, safety and welfare, sound planning and zoning principles, improved land use, efficient site planning and development, or better overall neighborhood compatibility. Such conditions may relate to the component parts of the site plan and layout, the location and relationship between uses and structures, pedestrian circulation, vehicular circulation and parking, open space and recreation areas, landscaping, screening and buffering, signs, outside lighting and intensity of development.

##### **16.6.2 Granting of Special Exception**

In granting a Special Exception, the Commission shall have the power to impose such conditions, modifications and requirements as it deems necessary to assure that a structure or use comply with the General and Special

Standards set forth in Section 16. These conditions, modifications or requirements may include, but not limited to the following:

- a) establishing days or hours of operation of a use, activity or event whether conducted within or outside of a structure;
- b) limitations on the days or hours for construction of a structure or activity area for a use;
- c) require the date of renewal to be set at time of approval of a Special Exception, not more than once, for a use or activity in which the days or hours of operation may be deemed relevant to complying with the General and Special Standards.
- d) may impose buffer requirements, including permanent structures such as fences, walls, or grading to protect existing residentially developed properties.

#### **16.7 COMPLETION OF WORK**

Failure to complete work as specified on the approved site plan and application within five (5) years, except for a site plan involving 400 or more residential units, which is then ten (10) years from the date of Commission's approval of the special exception shall result in automatic expiration of the approval, provided that the Commission shall file on the land records of the Town of Durham notice of such expiration.

Previously approved special exceptions shall have five (5) years to complete work as specified on the approved site plan and application from August 15, 1981 provided that the Commission shall file on the land records of the Town of Durham notice of such expiration. Prior to revoking a site plan for failure to complete work, the Commission shall hold a public hearing on the proposed revocation.

#### **16.8 SURETY BOND**

A surety bond may be required by the Commission to insure the completion of the improvements shown on the application. The surety bond shall be certified as to form by the Town Attorney. The amount of surety bond shall be sufficient to cover the cost of any proposed or required street grading, roadway paving or surfacing and street planting, the installation of gutters and the installation of all monuments, bridges, culverts, stormwater inlets and all such other improvements as the Commission deems necessary to promote public health and safety and to safeguard the town from undue expense in the future maintenance of all streets and open spaces. All improvements shall be designed in accordance with standards established or to be established and with all other rules and regulations applicable in the Town. The bond shall be released only upon certification by the Commission that all the required improvements have been completed to its satisfaction.

## **SECTION 17 ENFORCEMENT**

### **17.1 ADMINISTRATION AND APPOINTMENT OF ZONING ENFORCEMENT OFFICER**

The Zoning Enforcement Officer in the Town of Durham shall be appointed by the Planning and Zoning Commission and shall have all the powers, duties and responsibilities assigned to the Zoning Enforcement Officer in these regulations. It shall be the duty of the Zoning Enforcement Officer, as authorized, to enforce the provisions of these regulations.

The Zoning Enforcement Officer, as authorized, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or removal of any building or structure, or unlawful use of land; to restrain, correct, or abate any violations of these regulations; to prevent the occupancy of said building, structure, or land; or, to prevent any illegal act, conduct, business, or use in, on, or about the premises, or to cancel any permit for cause.

### **17.2 ZONING PERMIT**

No building or structure, or part thereof, shall be constructed, reconstructed, moved, or enlarged, nor shall any use requiring Planning and Zoning Commission or Zoning Board of Appeals approval be initiated, nor shall any lot, building, or other structure be changed in use unless a zoning permit for the proposed construction and/or use has been issued by the Commission or its agent. The Commission is empowered to adopt forms and procedures, and to set fees relating to the issuance of a zoning permit. Whenever a well, septic tank or other sanitary arrangement is to be installed in connection with or as a part of any project for which a permit is required or is being issued, a copy of the Health Certificate approval must be submitted with the application.

### **17.3 CERTIFICATE OF ZONING COMPLIANCE**

A Certificate of Zoning Compliance is a document stating that the site plan of a proposed use has been adhered to and completed and is in conformance with these Regulations. Only after a Certificate of Zoning Compliance has been issued by the Zoning Enforcement Officer will a Certificate of Occupancy permitting land, building and other structures, or parts thereof, to be used or occupied, or changed in use be issued.

### **17.4 ZONING ENFORCEMENT OFFICER REPORTING**

The Zoning Enforcement Officer shall keep a record of all issued permits and make periodic inspections of all sites for compliance with the regulations, and report in writing all violations and deviations from the plans and specifications submitted by the owner and operator to the Commission; and take such action as the Planning and Zoning Commission may direct.

### **17.5 APPLICANT REPORTING**

The Commission may require the applicant to submit periodic reports, prepared and certified by a professional engineer licensed in the State of Connecticut, showing the status and progress of the operation.

### **17.6 POWERS OF THE ZONING ENFORCEMENT OFFICER**

Powers of the Zoning Enforcement Officer: If the Zoning Enforcement Officer finds that the terms of a permit are being violated, or that any work is not being done in strict accordance with the provisions of this Zoning Regulation and of any other law or ordinance which may apply to the same, the Zoning Enforcement Officer shall order the whole or any part of such work to be stopped, and the said work shall not be resumed until the



Commission is satisfied with the terms of the permit and all laws and ordinances appertaining thereto have been properly complied with.

## **SECTION 18 AMENDMENTS**

### **18.1 GENERAL PROVISION**

These regulations and boundaries of zones may, after public notice and hearing, be amended in accordance with the procedures established in Chapter 124 of the General Statutes of the State of Connecticut, 1958 revision as amended.

### **18.2 PETITION FOR ZONE CHANGE**

All petitions for a zone change, except those initiated by the Planning and Zoning Commission, to the Zoning Boundaries shall be submitted on an application form, with a fee in accordance with Municipal Ordinance §12-2, and the following information:

All applications for change of zone for which a public hearing has been scheduled shall be required to have a minimum of one (1) sign posted on the property in question and send notice to abutters in accordance with the requirements below.:

#### **1. Posting of a Sign**

All sign(s) shall be the responsibility of the applicant and shall be posted on the property in question in accordance with the following:

- a) Sign(s) shall be posted at least ten (10) days prior to the date of the public hearing (eleven days if the tenth day is a holiday). Sign(s) shall be firmly secured to the ground to prevent vandalism. Parcels having frontage on more than one (1) street shall be required to provide one (1) sign on each street having frontage. The location of the sign(s) shall be shown on the site development plan and approved by the Planning and Zoning Commission. Signs may not be posted higher than 8' off the ground.
- b) Sign(s) shall be constructed of durable material, 36" X 36" in size. All signs shall be painted white and shall have black lettering having a minimum height of two (2) inches with a letter stroke of one quarter (1/4) inch.
- c) The sign(s) shall advertise the date, time and place of the of the public hearing for the zone change.
- d) The Zoning Enforcement Officer shall file a report with the Commission that the sign was observed in place in accordance with the above requirements.
- e) An applicant who fails to display the sign(s) shall be required to file a new application.
- f) The sign(s) shall be taken down within one (1) week after the public hearing is closed.

#### **2. Notice to Abutting owners**

- a) All Zone Change public hearings require notice to abutting owners. The applicant shall notify all abutting landowners within 100' of the subject parcel, as disclosed by the Assessor's records, of the date, time, and place of the public hearing of the Commission. Notices shall be sent by Certificate of Mailing. Notice shall be sent no less than ten (10) days preceding the date of said hearing and applicant shall submit proof to the Town Planner of such notification. No notice shall be required for the continuation of a public hearing once it has been opened.

### 3. Conceptual Plan

All applications for change of zone shall include a Conceptual Development Plan for the portion of the parcel that may be developed . This plan shall include the following information:

- a) Natural features including topography, wetlands, watercourses, and other unique natural features.
- b) Conceptual layout of lots and roads, if known.
- c) Feasibility of proposed utilities, including sewer, septic, water, electricity, etc.
- d) Such other information the Commission deems necessary to determine the impact of the proposal.

### 4. Post Approval Requirements

If the requested Zone Change is approved the following are required:

- a) Boundary survey of the property certified by a Connecticut Registered Land Surveyor to the A-2 level of accuracy.
- b) A Mylar be prepared, sign by the Commission Chairman and filed on the Town of Durham Land Records.

### 18.3 TABLE OF AMENDMENTS

AMENDMENT NUMBER	SUBJECT	SECTION	EFFECTIVE DATE
1	Amend Days and Hours of Operation	13.05.06.	6/5/96
2	Special Permit with Conditions	16.03.	7/10/96
3	Junkyards	02.10.01.	2/1/97
4	Unregistered Vehicle	05.07.	2/1/97
5	Lot Area – Minimum Rectangle	02.12.01	5/1/97
6	Clearance and Height	05.02.01. (E)	5/1/97
7	Application for an Excavation and Removal Permit	12.05.02.03. 13.03. 12.05.02.03. (1)	5/1/97
8	Site Plan Development	13.03.04.	5/1/97
9	Accessory Buildings in Residential Zones	01.22.01	8/6/97

		05.03. 05.03.01. 05.03.02. 05.03.03. 05.03.04.	
10	Height – Building	02.08.02.	8/6/97
11	Definition of Trailer	02.20.04.	8/6/97
12	Definition of Vehicle	02.22.01.	8/6/97
13	Wireless and Communication Towers, Antennas, and Facilities	12.10.	11/26/97
14	Exterior Lighting	12.12.	2/11/98
15	Ridgelines	12.11	3/25/98
16	Signs and Outdoor Advertising Structures	11.01. 11.01.01.03. 11.01.02.05. 11.01.03.06. 11.01.01.14. 11.01.02.08. 11.01.03.07.	3/15/99
17	Adult-Oriented Establishments	02.01. 07.01.03.	4/26/00
18	Office	02.15.01.	11/1/00
19	Residential Zones	05.01.01.01. #22 and #23	11/1/00
20	Billboards	02.02.01.02.	2/1/01
21	Signs and Outdoor Advertising Structures	11.01	2/1/01
22	Signs and Outdoor Advertising Structures, delete Subsection	11.01.01.011.	2/1/01

23	Definition for Trees and Forest Land	02.06.03.	11/1/01
24	New Section – “Forest Land shall show the limits of clearing”	04.06.	11/1/01
25	Two Family Dwellings	05.01.01.01. #30 13.05.	11/1/01
27	Municipal Facilities Use Table	07.01.03.	7/1/02
28	Lot	02.12. “L” 04.02., 05. 06..	1/1/03
28	Lot	12.07. 04.02.01.01	1/1/03
29	Flood Hazard Area Regulations	12.06.	6/1/03
30	Sand and Gravel Pits	12.05.	9/1/03
31	Zones	03.	11/5/03
32	Commercial Zones	06.	11/5/03
33	Commercial Zones	06.02.	1/1/04
34	Allow Retail Sales in the Industrial Zone	07.01.03.	1/1/04
35	Fences	12.13.	9/1/04
36	Dwellings for Elderly and/or Handicapped	13.05.05. (2)	9/1/04
37	Home Occupations	12.04.01.	2/1/05
38	Sign Regulations	11.01.02.03.	2/1/05
39	Permitted Uses in Residential Zones	05.01.01.01. (30)	11/21/06
40	Construction Stds/Common Driveways	05.08.	11/21/06
41	Surety Bond	13.05.08.	11/21/06
42	Site Plan Review	13.03.04.	3/15/07
43	Commercial Zones – Maximum Size of a Single Structure	06.02.	10/10/07
44	Internally illuminated signs	11.01.01.03.	5/1/08

45	Offices (principal use)	05.01.01.01. 23.	6/1/08
46	Large Animal Crematories	07.01.03. 23.	8/10/08
47	Comprehensive Revision to Special Flood Hazard Area Regulations	12.06.	8/28/08
48	Outdoor Wood-Burning Furnaces	02.15.02 04.07.	11/10/08
49	Incineration  Large Animal Incineration	02.09.01.  02.12.01. 07.01.03. #24.  12.05.04.04.	5/10/09
50	Maximum Height of Light Structures for Public School Athletic Fields	12.12.05	10/17/09
51	Automobile and Equipment Service, and Public Garage, all without sales as a principal or accessory use	07.01.03. #25	11/1/09
52	Home Occupation	12.04.	6/15/10
53	Signs (comprehensive revision)	02.02.02  11.01-11.04	6/17/15
54	Preamble	01.01.01  01.01.02  01.02	6/07/17
54	Districts	Globally "District(s) to Zone(s)	6/07/17
54	Assorted Sections:  02.10.01, 02.13.02, 4.02.01.01, 06.05, 9.05.02, 9.06, 11.01.03.04, 11.01.03.06, 12.04.03, 12.04.04, 12.05.03.01.03A. (2), 12.05.06, 12.05.06.01, 12.06.04.27, 12.06.07.03, 12.06.10.01.01, 12.06.10.01.02, 12.06.10.01.03, 12.11.07, 13.03.03, 13.03.06, 13.03.09, 13.05.07		6/07/17
55	Delete Commercial Kennels from Section 08.01.06		12/26/18

56	Add section 08.03 Agricultural Events	12/26/18
57	Add section 12.14 Commercial Animal kennels, Breeding Establishments, Animal Training Facilities, Animal Grooming Facilities, Animal Day-Care Facilities, and Veterinarian Facilities	7/01/19
58	Reorganization and Appearance Update	5/6/2020
59	Farm Brewery, Winery, Cidery, Distillery	6/30/2020
60	Small Event Center, Accessory Use, Commercial Zone	11/4/2020
61	Commercial Use Table	6/8/2021
62	Industrial Use Table	6/8/2021
63	Cannabis Moratorium	8/23/2021
64	Accessory Dwelling Unit	11/8/2021
65	Site Plan Requirements Section Update	1/24/2022
66	Cannabis Regulations Added	6/23/2022
67	Removal of Outdoor Wood Burning Stoves	6/23/2022
68	Home Occupations Regulations updated	12/28/2022
69	Short Term Rental	04/05/2023
70	Farm and Tack Stores	05/23/2023
71	Farm and Tack Stores Revised	09/27/2023
72	Residential Regulation Updates	05/08/2024
73	HOFZ Housing Opportunity Floating Zone	09/12/2024
74	Update Definition of Lot Area	10/22/2024
75	Remove Interior Lots, Update Residential HOFZ, Remove Appendix, Update Renewals Excavation Permits	12/26/2024
76	Remove Wetlands Buffer from Commercial and Industrial	02/04/2025
77	Added Uses R-10, Main Street	04/09/2025
78	Revisions to Zone Change Requirements and Special Permit Notification Requirements	12/09/2025





## **SECTION 19 BOARD OF APPEALS**

### **19.1 DUTIES**

There shall be a Board of Appeals with all the powers and duties conferred by law, among which are:

- a) To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the Enforcement Officer in the enforcement of the regulations.
- b) To hear and decide all matters upon which it is required to pass by the specific terms of the regulations.
- c) To determine and vary the application of the regulations in harmony with their general purposes and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where owing to conditions especially affecting such parcel but not affecting generally the zone in which it is situated, a literal enforcement of the regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.
- d) To adopt rules of procedure including the time within which appeals to said Board shall be taken.
- e) Except as otherwise provided by law, each applicant for a hearing by the Board of Appeals shall, at the time of making the application thereto, pay a fee appropriate to cover the cost of advertising the notice therefor.

### **19.2 USE VARIANCES**

Use variances shall not be permitted for any use or activity in the residential zoning districts which require the issuance of a Home Occupation Permit, Site Plan Approval or a Special Exception by the Planning and Zoning Commission.

## SECTION 20 SEPARABILITY

- a) The invalidity of any section or portion of the regulations shall not affect or invalidate any other portion or section thereof.
- b) So much of any rule, regulation, ordinance or bylaw as is legally inconsistent herewith is hereby repealed.
- c) When the Commission grants a special permit with conditions, each and every condition is an integral part of the Commission's decision. Should any of the conditions on appeal from such a decision be found to be void or of no legal effect, then, in that event, the special permit is likewise void and of no legal effect.

## **SECTION 21 EFFECTIVE DATE**

These regulations shall take effect at such time as may be fixed by the Zoning Commission after a copy hereof has been filed in the Office of the Town Clerk and notice of such filing shall have been published in a newspaper having a substantial circulation in Durham before such effective date, which effective date shall be August 15, 1955.