

SECTION 06. COMMERCIAL DISTRICTS

06.01. Permitted Uses

Permitted uses in Commercial Districts are listed in the table below:

<u>Commercial District</u>	<u>Use</u>
s	1. Agencies: Real Estate, Insurance, Employment, Message
s*	2. All Uses Permitted in Residential Districts
s	3. Assembly of Appliances from Previously Prepared Parts (Retail Only)
s	4. Automatic Type Service Laundry and/or Agency for Laundry, Cleaning and Dying (No Processing on Premises except for Mending, Pressing and Spot Cleaning)
s	5. Boat Sales, Recreational Vehicle Sales
s**	6. Automobile Sales, Automobile Service and/or Gasoline Stations, Public Garages
s	7. Banks and Other Financial Institutions
s	8. Barber and Beauty Shops
s	9. Building Material Sales (Retail with Incidental Storage)
s	10. Bus and Taxi Service, Public Parking Areas
s	11. Bus Stations
s	12. Business Colleges, Vocational or Secretarial Schools
s	13. Canvas Products: Sales and Fabrication for Retail Sales on Premises
s	14. Carpenter Shop (No More Than Three Employees)
s	15. Custom Tailor, Dressmaker, Milliner
s	16. Florist and Landscape Gardener (Including Greenhouse)
s	17. Food Processing for Retail Sales on Premises (Including Incidental Meat Processing in Connection with Freezing)
s	18. Funeral Parlor
s	19. Glass and Mirror Fabrication for Retail Sales on Premises and Installation
s	20. Gymnasium of Physical Culture Establishment
s	21. Metal Fabrication, Light (Sheet Metal, Ducts, Gutters, Leaders)
s	22. Motel
s	23. Offices, Business and Professional
s	24. Pawn Shop, Second-hand Shop, Auction Store
s	25. Pet Shop, Taxidermist
s	26. Photograph Studio, Camera Shop (Service, Supplies, Equipment)
s	27. Printing, Publishing and Reproduction Establishments
s	28. Radio and Television Stations and Masts
s	29. Restaurant, (Restaurants with Drive-Thru Window Service are Prohibited), Tea Room, Cafe (Excludes Entertainment)
s	30. Retail Stores and Shops (Common Categories, Excludes Automobile, Trailer, Truck and Boat Sale Establishments)
s	31. Shoe Repair Shop
<u>Commercial District</u>	<u>Use</u>

- s 32. Sign Painting Shop
- s 33. Stone and Monument Agency
- s\*\*\* 34. Home Occupations
- s\*\*\*\* 35. Excavation and Earth Removal (Except the Mining of Bedrock)
- p 36. Day Care Facilities

- \* See Section 05. of these Regulations for applicable requirements.
- \*\* Uses must be approved by the Zoning Board of Appeals prior to review by the Commission in accordance with Sections 14-54 and 14-321 of the General Statutes of Connecticut.
- \*\*\* See Section 12.04. of these Regulations for applicable requirements.
- \*\*\*\* Approval of applications for renewal of existing earth excavation and removal permits shall be subject to site plan review only in accordance with the requirements of Section 12.05. of these Regulations.

**06.01.01. Special Exception**

All uses established in the Commercial District shall be subject to the issuance of a Special Exception by the Planning and Zoning Commission in accordance with this Section and Section 13.05. of these Regulations.

**06.02. Schedule of Lot Sizes, Coverage and Yard Requirements\***

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
Minimum Setback From Wetland or Watercourse . . . . .	50 Feet
Maximum Building Height . . . . .	35 Feet
Maximum Percent Building Coverage . . . . .	25%
Maximum Percent Combined Coverage of Buildings, Accessory Structures and Parking Areas. . . . .	40% (1)
Maximum Size of a Single Structure . . . . .	30,000 Square Feet

\* Where commercial districts abut residential districts, a green belt buffer zone at least 50 feet in depth, located in the commercial district, shall be provided and maintained by the owner of the property in the commercial district. This area shall not be used for storage of materials or parking of vehicles. Trees and shrubs shall be planted adjacent to property lines to provide a screen at least 15 feet deep using approved, hardy indigenous plant materials of which at least 30% shall be evergreen and at least 60% shall be not less than 6 feet in height. The remaining area of the buffer strip shall be planted and maintained as a lawn of acceptable permanent grasses. Existing suitable natural growth shall be preserved where practicable and supplemented with new plantings in accordance with the above to provide the required screening. Permanent structures such as fences, walls and existing or proposed grading may be approved in lieu of plantings or the supplementing of existing natural growth where, in the opinion of the Commission, the intent of these Regulations will best be served.

- (1) For parcels with buildings located within the Commercial Zone as of 11/1/03, or for vacant parcels within the Commercial Zone as of 11/1/03, the combined coverage for buildings, accessory structures, outside storage and parking areas shall not exceed 60%.

#### 06.02.01.

These areas, lot sizes and setbacks are considered minimums. The Commission may increase these minimums in order to address criteria outlined in Section 06.06. below.

#### 06.02.02.

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.

#### 06.02.03.

In addition to the requirements specified herewith, the applicant shall meet the standards for Special Exception specified in Section 13.05. of these Regulations.

#### 06.03. 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.

#### 06.04. 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.

### 06.05. On-Site Parking

On-site parking shall be provided in accordance with Section 10.01. of these Regulations. Parking spaces shall be located to the side and rear of the buildings and shall be landscaped. At a minimum, one (1) shade tree shall be provided for each fifteen (15) parking spaces. The Commission may waive this requirement when site conditions, such as irregular topography, lot size and configuration, the preservation of natural features or the construction of multiple structures may warrant it provided the parking shall be located behind the minimum front yard setback line.

### 06.06. Criteria

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

#### 06.06.01. Appropriateness of Location or Use

1. 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;
2. The existence of other land uses in the area and the effect thereon from the proposed development;
3. The capability of adjacent and feeder streets to accommodate the projected traffic volumes;
4. The obstruction of light or air; the emission of noise, smoke, odor, gas, dust, vibration or waste material;
5. The overall effect on property values in the area;
6. The physical characteristics of the land;
7. The nature, location and height of buildings, walls, stacks, fences and landscaping on the site;
8. The location of any points of ingress and egress, and arrangement of off-street parking facilities;
9. The extent and demand for police and fire protection;
10. The availability and adequacy of public utilities such as, electricity, telephone, gas and water;
11. Any other criteria in the interest of public health, safety and welfare, as prescribed by these Regulations.

#### 06.06.02. Safety, Health and Environment

The Commission shall consider accessibility for emergency vehicles and equipment, provisions for solid waste pick up, soil conditions and characteristics and environmental sensitivities. The Planning and Zoning Commission may request reports on the application from the various town departments and agencies including the Board of Selectmen, Fire Marshall, Sanitarian, Town Engineer, Building Official, Tax Assessor, Wetlands Commission, Economic Development Commission, the land use regulatory agency(s) of an abutting municipality and any other agency deemed appropriate by the Commission.

#### 06.06.03. Architectural Features

Architectural plans and other drawings, as relevant, in sufficient detail to shown the general nature of the proposed development, shall be submitted by the applicant.

#### 06.06.03.01. Relationship of Buildings to Site

1. The height and scale of each building shall be compatible with the site and existing or proposed adjacent buildings;
2. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks or materials;
3. Harmony in texture, lines and masses shall be required.

#### 06.06.03.02. Building Design

1. Architectural style shall not be restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to its surroundings;
2. Proposed buildings shall be harmonious with existing buildings adjacent to the site;
3. Materials shall have good architectural character and shall be selected to ensure the harmony of proposed buildings with adjacent buildings;
4. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partially visible from public ways;
5. Materials shall be of durable quality;
6. In any design in which the structural frame is exposed to view, the structural materials shall be compatible and harmonious with their surroundings;
7. Building components such as windows, doors, eaves and parapets shall have good proportions and relationships to one another;
8. Colors shall be harmonious and only compatible accents shall be used;
9. Mechanical equipment or other utility hardware on the roof, ground or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways;
10. Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design;
11. Refuse and waste removal areas, service yards, storage areas and exterior work areas shall be screened from public view by using materials as stated in the criteria for the screening of equipment above;
12. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest. In multiple building projects, variation of individual buildings may be used to prevent a monotonous appearance.

#### 06.06.04. Landscaping Requirements

1. Areas where natural or existing topographic patterns contribute to the beauty of a development shall be preserved. Modification of topography shall be permitted where it contributes to good appearance;
2. Grades of walks, parking spaces, terraces and other paved areas shall provide an inviting and stable appearance;
3. Landscape treatment shall be provided to enhance architectural features and provide shade;

4. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments;
5. Plant materials shall be selected for texture, color and for ultimate growth. Plants that are indigenous to the area and harmonious to the design shall be used;
6. Screening of service yards and other places shall be accomplished through the use of walls, fencing, planting or combinations of the above. Screening shall be equally effective in summer and winter;
7. In areas where general planting will not prosper, other materials, such as fences, walls and pavings of wood, brick, stone, gravel or cobbles, shall be used. Carefully selected plants shall be combined with such materials where possible;
8. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Lighting standards and building features shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided.

#### 06.06.05. Sign Requirements

1. All signs shall meet the applicable requirements of Section 11. of these Regulations;
2. One (1) sign per road frontage shall be permitted, not to exceed a total of two (2) in number and thirty (30) square feet in area each. Directional signs may not exceed two (2) square feet in area and are limited to three (3) in number;
3. Each sign shall be designed as an integral architectural element of the building and site to which it principally relates;
4. The colors, materials and lighting of every sign shall be harmonious with the building and site to which it principally relates;
5. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face;
6. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.

#### 06.07. Other Requirements and Conditions

1. All items set forth in the preceding sections must be included on a site plan to be submitted by the applicant at the time of application for Special Exception.
2. The Planning and Zoning Commission may approve a Special Exception subject to conditions necessary to protect the public health, safety, convenience and property values.

#### 06.08. Additional Plans to be Submitted

In addition to the site plan requirements specified in this Section, the applicant shall submit architectural drawings, including preliminary floor plans showing the proposed allocations of space to be utilized, proposed elevations of structures, an exterior facade materials list, landscaping plans, showing the location, types and sizes of all proposed plantings as well as all existing plantings to be retained (efforts to utilize plant species native to southern New England are encouraged) and any other information the Commission may feel is essential to accompany the application.

#### 06.09. Commencement of Construction

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

The Planning and Zoning Commission may grant one (1) extension of time, not to exceed one (1) year, if unusual circumstances prohibit the start of construction during the two (2) year period from the date of issuance of the Special Exception. If construction has not started within the prescribed time period, the Commission's approval for the Special Exception 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.

#### 06.10. Change in the Approved Plan

Minor changes in an approved site plan may be approved with the concurrence of the Commission's Design Review Committee and 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 Design Review Committee and Town Planner, a formal amendment shall be submitted to the Commission for its subsequent approval. Major changes shall include, but are not limited to, change in use, substantial reduction of the landscaping or open space area, expansion, demolition, or reconstruction of any structure or building, 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.

#### 06.11. Public Hearing

Any request for a Special Exception for a commercial use shall be considered at a public hearing called by the Planning and Zoning Commission.

#### 06.12. 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 10.01. 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 has 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.