



TOWN OF DURHAM
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ORDINANCE #2025-03 OF DURHAM, NEW HAMPSHIRE

AMENDING CHAPTER 175, "ZONING," ARTICLE II, "DEFINITIONS," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," AND ARTICLE XX, "STANDARDS FOR SPECIFIC USES," REGARDING STUDENT RENTALS

WHEREAS, Durham's current definition for "family" is outdated; and

WHEREAS, There is a strong desire in the community to protect traditional residential neighborhoods where there have been significant adverse impacts from the presence of large numbers of college students, especially in houses and dwelling units with four or five students living together; and

WHEREAS, Of course, Durham is a college town and greatly appreciates the presence of college students, it is widely recognized that college students, especially undergraduate college students who are often away from home for the first time, and older persons and families generally have different lifestyles which can be incompatible, with potential deleterious effects upon the quality of the neighborhoods; and

WHEREAS, The Town is looking for strategies to provide a wider range of opportunities for housing for its diverse populations; and

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

WHEREAS, Students are not a protected class, the term is defined and used under zoning in other states without issue, and in late 2024 a New Hampshire Senate subcommittee was evaluating creating a definition of student housing on the state level, recognizing that students are a unique population for which particular zoning standards may be in order; and

WHEREAS, the Durham Planning Board held a public hearing and duly voted to initiate this amendment on January 8, 2025; and

WHEREAS, the Durham Town Council held a duly noticed public hearing on February 17, 2025.

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire, hereby adopt **Ordinance #2025-03** and does hereby amend the following sections of the Code.

- ❖ Add the new language below shown like this: *to be added*
Delete the existing language below shown like this: *to be deleted*

ARTICLE II - DEFINITIONS

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

~~**HABITABLE FLOOR AREA.** See "Floor Area, Habitable."~~

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

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

STUDENT RENTAL - A student rental is a residential dwelling composed of one or more dwelling units on a single parcel that includes five or more full-time undergraduate college students, as identified according to the criteria of the U.S. Department of Education's Office of Federal Student Aid. The threshold of five applies

to the total number in dwelling units on a parcel (For example: a three-unit building with two full-time undergraduate college students in one unit and four in another would be classified as a student rental).

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

~~UNRELATED HOUSEHOLD – See “Household.”~~

ARTICLE XII.1 - USE AND DIMENSIONAL STANDARDS

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES				
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MITDOR)	Office Research	Light Industry	Durham Business Park (DBP)
III. RESIDENTIAL USES														
Principal Uses														
Residence, single-family	P	P	P	P	X	P	P	X	X	X	CU	CU	X	X
Residence, duplex	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Residence, multi-unit	X	X	X	X	X	CUA	X	X	X	X	X	X	X	X
Senior housing, single family	P	P	P	P	X	X	P	X	P	CU	CU	CU	CU	CU
Senior housing, duplex	P	P	P	P	X	X	P	X	CU	CU	CU	CU	CU	CU
Senior housing, multiunit	P	P	P	P	CU	P	P	P	CU	CU	P	CU	CU	CU
Senior Care facility	P	X	CU	P	X	X	P	P	P	P	P	P	P	P
Nursing Home	X	X	X	X	X	X	P	P	P	P	P	P	P	CU
Manufactured Housing	P	X	X	X	X	X	X	X	X	X	X	X	X	X
Porkchop Subdivisions See Article XX	P	X	X	P	X	X	X	X	X	X	X	X	X	X
Student Rental	X	X	X	X	P	P	P	P	X	X	X	X	X	X

- Delete Section 175-55. 1., below and renumber Section 175-55 accordingly.

175-55. General Use Standards. The following additional standards apply to the specific uses listed below:

~~1. **Occupancy of Residences.** See Section 175-56 A. regarding limitations on the number of unrelated occupants.~~

- Delete the following subsections A. and B.; insert a new subsection A., as shown; and reletter the subsequent subsections accordingly.

175-56. General Dimensional Standards.

~~A. **Limitation on number of unrelated occupants.** Within the following zoning districts, any dwelling unit consisting of an unrelated household shall contain no more than three (3) unrelated occupants:~~

- ~~1. **Rural (R)**~~
- ~~2. **Residence A (RA)**~~
- ~~3. **Residence B (RB)**~~
- ~~4. **Residence C (RC)**~~
- ~~5. **Central Business District (CB)**~~
- ~~6. **Professional Office (PO)**~~
- ~~7. **Church Hill (CH)**~~
- ~~8. **Courthouse (C) and**~~
- ~~9. **Coe's Corner (CC)**~~

~~(Note that there may be more restrictive occupancy requirements than these under the New Hampshire State Building Code and Fire Code and the Durham Rental Housing Ordinance.)~~

~~B. **Minimum floor area per occupant in unrelated household.** The minimum required habitable floor area per occupant in an unrelated household is shown in Table 175-56 below. (See definition for "Household.").~~

**Table 175-56. MINIMUM HABITABLE FLOOR AREA BY DWELLING TYPE
FOR UNRELATED HOUSEHOLD**

DWELLING TYPE	Minimum habitable floor area per occupant in unrelated household
Single-family dwelling	300
Duplex or townhouse	300

Apartment (but not including apartments in the CB District as delineated in Section 175-42(B)(8) and (9), accessory apartments and apartments in the ORLI and MUDOR districts).	400
Apartment in the Central Business District (excluding apartments in the CB District as delineated in Section 175-42(B)(8) and (9) and accessory apartments) where the number of unrelated occupants does not exceed two	300
Apartment in the CB District located in a building within the area of the district delineated in Section 175-42 (B) (8) and (9) where the maximum height of three stories applies	250
Apartment in the ORLI and MUDOR districts (but not including accessory apartments)	200
Accessory Apartment	200
Rooming/boarding, including accessory rooming/boarding	150
Dormitory	100
Fraternity or sorority	150
Nursing home	150
Senior housing	200
(Note that there may be more restrictive occupancy requirements than these under the New Hampshire State Building Code and Fire Code and the Durham Rental Housing Ordinance.)	

➤ Add new section A. and reletter subsequent sections accordingly.

A. Fire Code. Note that Fire Code NFPA 101 2021 ED, as amended, requires a minimum of 200 square feet per person (consult the Durham Fire Department for more information).


ARTICLE XX - STANDARDS FOR SPECIFIC USES

175-109. Compliance Required.

C. *Accessory Dwelling Units and Accessory Apartments.* Accessory dwelling units and accessory apartments shall conform to the following standards:

1. Only one accessory dwelling unit or one accessory apartment shall be located on a lot with a single-family residence. The location of an accessory dwelling unit and an accessory apartment in conjunction with one single-family residence shall not be permitted.
2. An accessory dwelling unit shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
3. An accessory apartment shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
- ~~4. In zoning districts where no more than three unrelated persons may occupy a dwelling unit (as specified in subsection 175-56 General Dimensional Standards), there shall be no more than three unrelated occupants in total for the single-family dwelling and the accessory dwelling unit combined or for the single-family dwelling and the accessory apartment combined.~~

PASSED AND ADOPTED by the Town Council of the Town of Durham, New Hampshire this 17th day of February 2025, by 6 affirmative votes 1 negative vote and 0 abstentions.


Sally Needell, Chair
Durham Town Council

ATTEST:


Rachel Deane, Town Clerk-Tax Collector