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Town Planner's Review
Wednesday, August 13, 2025

XII. **New State Laws.** Overview of recently adopted state laws affecting land use and required changes to the zoning ordinance.

HB 457 - Zoning restrictions on dwelling units.

ALL NEW BELOW

674:16 Grant of Power

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

Effective Date: September 13, 2025

- ❖ Required changes to the Zoning Ordinance:
Delete references to "Student Rental" in Definitions and in the Table of Uses

HB 577 - Modifying the definition of ADUs

ADDITIONS AND DELETIONS AS MARKED

674:71 Definition

- I. "Accessory dwelling unit" means a residential living unit that is ~~within or attached to~~ **located on a lot containing** a single-family dwelling [, and] that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation, on the same parcel of land as the principal dwelling unit it accompanies. ***Accessory dwelling units may be constructed at the same time as the principal dwelling unit.***
- II. ***"Attached unit" means a unit that is within or physically connected to the principal dwelling unit, or completely contained within a preexisting detached structure.***

III. “Detached unit” means a unit that is neither within nor physically connected to the principal dwelling unit, nor completely contained within a preexisting detached structure.

674:73 Detached Accessory Dwelling Units. A municipality ~~is not required to but may~~ **shall** permit **one** detached accessory dwelling ~~units~~ **unit**. Detached accessory dwelling units shall comply with the requirements of, and any municipal ordinances or regulations adopted pursuant to, RSA 674:72, IV through IX. ~~If a municipality allows detached accessory dwelling units, it may require an increased lot size.~~

Effective Date. July 1, 2025

- ❖ The statute is not very precise regarding the change to RSA 674:73 but it appears to mean that the Town must allow a detached accessory unit with any single-family house. Change the Table of Uses to allow an Accessory Dwelling Unit – detached in every zoning district. The present table shows attached ADUs only in the districts where single family use is allowed (by right or by conditional use). We actually need to allow ADUs for any single family house, even if the single family house is nonconforming. We are required to allow detached units, therefore, in every zone. The board could expand where attached units are allowed or not.

HB 631 - Multi-Family Residential Development on Commercially Zoned Land.

ALL NEW BELOW

674:77 Definitions. In this subdivision:

- I. "Commercially zoned land" means land zoned for such commercial activities as retail and office space.
- II. "Mixed-use" means a type of development that combines residential, commercial, cultural, institutional, or entertainment uses within a single building or development area.
- III. "Adaptive reuse" means the repurposing of existing buildings or structures in whole or in part for residential purposes.

674:78 Amendment to Zoning Regulations.

- I. Notwithstanding any provision to the contrary, municipalities shall allow multi-family residential development on commercially zoned land, provided that adequate infrastructure, including roads, water, and sewage systems, shall be available or provided to support the development.
- II. Nothing in this section shall be interpreted to prohibit municipalities from restricting residential development in zones where industrial and manufacturing uses are permitted which may result in impacts that are incompatible with residential use, such as air, noise, odor, or transportation impacts.
- III. A municipality may require all available ground floor space or a percentage thereof to be dedicated to retail or similar uses.

- IV. A municipality shall provide an exemption to any requirements regarding setbacks, height, or frontage of a building being converted to multi-family or mixed-use through adaptive reuse, provided that the building's floor area, height, and setbacks do not change.

Effective Date. This act shall take effect July 1, 2026.

- ❖ The statute is not explicit that multi-unit residential be permitted by right as opposed to allowed by conditional use but that is certainly implied. Surprisingly, this statute appears to apply now, *with Durham's current zoning*, to only one district as shown in italics and possibly Coe's Corner as well. Of the ten zones that appear at first glance to be commercially zoned land:
 - Central Business-1: in compliance as mixed use with residential is allowed by right
 - *Central Business-2: mixed use with residential should be changed for CU to P*
 - Church Hill: this zone is certainly a commercial zone. Multi-unit residential is now P
 - Courthouse: this zone is certainly a commercial zone. Multi-unit residential is now P
 - Professional Office: it would be difficult to argue that this is not a commercial zone; in compliance now as multi-unit residential is P.
 - Coe's Corner: the board will need to discuss if this should be considered a commercial zone as it allows office but not retail. It does not allow multi-unit residential now.
 - Research-Industry Zones: these four zones are focused more on industrial than commercial uses so arguably we do not need to allow multi-unit residential. It is not allowed in any of these zones now.

SB 284 - Authority for municipalities to regulate mandatory on-site parking requirements.
ADDITIONS AND DELETIONS AS MARKED

RSA 674:16

VII. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate accessory parking for vehicles, but shall not require more than ~~{1.5}~~ **one** residential parking space per unit ~~{for studio and one bedroom units under 1000 square feet that meet the requirements for workforce housing under RSA 674:58, IV, and shall not require more than 1.5 residential parking spaces per unit for multi-family developments of 10 units or more}.~~

Effective Date: September 13, 2025

- ❖ It is unclear whether this statute is intended to apply to single family houses. Change the requirement for one parking space per resident in units where more than three unrelated occupants is allowed (that reference is now obsolete) to one per unit. Delete provision pertaining to dwellings with 10 or more units.