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Town Planner's Review
Wednesday, September 10, 2025

- XII. **New State Laws.** Proposed amendments to the Durham Zoning Ordinance and Site Plan Regulations to comply with recently adopted state laws affecting land use.

New text to be added shown like this

~~*Existing text to be deleted shown like this*~~

➤ *Other change to be made is shown like this.*

[Notes are shown like this.]

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

❖ **Make the following changes:**

ARTICLE II - DEFINITIONS

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

LODGING HOUSE/ROOMING HOUSE – A building or portion thereof that does not qualify as a one- or two-family dwelling [as defined in the New Hampshire Fire Code], that provides

sleeping accommodations for a total of 16 or fewer people on a transient or permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants. (This is the current 2025 definition in the New Hampshire Fire Code, Subsection 3.3.199.17. This definition is automatically updated to match the definition in the Fire Code should that definition be amended in the future.)

[Is there value in retaining this definition though it is not included in the Zoning Ordinance?]

~~ROOMING HOUSE—See “Boarding House.”~~

~~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).~~

ARTICLE XII.1 – USE AND DIMENSIONL STANDARDS

175-53. Table of Land Uses.

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business 1	Central Business 2	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe’ s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
III. RESIDENTIAL USES														
Principal Uses														
<i>Student-Rental</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>

HB 577 - Modifying requirements for accessory dwelling units

Here is the link: <https://legiscan.com/NH/text/HB577/id/3063115>. The statute is largely rewritten.

❖ Make the following changes:

ARTICLE II – DEFINITIONS

175-7. Definitions.

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

ACCESSORY DWELLING UNIT (ADU) – DETACHED – A dwelling unit *that is: a) not attached to a single-family residence; b) not contained within a single-family residence; and c) not contained within a pre-existing detached structure.* A single-family residence with an accessory dwelling unit is considered a single-family residence (not a duplex residence). *See Article XX.*

ARTICLE XX – STANDARDS FOR SPECIFIC USES

175-109. Compliance Required.

C. *Accessory dwelling unit - attached and Accessory dwelling unit - detached.* Accessory dwelling unit - attached and accessory dwelling unit - detached shall conform to the following standards:

1. Only 1 accessory dwelling unit - attached or 1 accessory dwelling unit - detached shall be located on a lot with a single-family residence. The location of an accessory dwelling unit - attached and an accessory dwelling unit - detached in conjunction with 1 single-family residence shall not be permitted.
2. An accessory dwelling unit - attached shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
3. An accessory dwelling unit - detached shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
4. ~~*The location and design of the accessory dwelling unit – attached or accessory dwelling unit – detached shall maintain the single-family character and appearance of the premises.*~~

[Not allowed under new state law unless the same standards apply to the single-family residence.]

5. An interior door shall be provided between the single-family dwelling and the accessory dwelling unit - attached, but the door may be locked or not at the option of the property owner.

[Does the board wish to remove this requirement? I think the purpose is to allow the owner to better keep an eye on the unit which might be useful in Durham.]

6. One parking space shall be provided for the accessory dwelling unit - attached or accessory dwelling unit - detached, in addition to parking required for the single-family dwelling. The parking space may be situated within a driveway along with other vehicles provided it is readily accessed. *The parking space may be established on site or off site but must be legally dedicated if the space is located off site.*
7. The property owner shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit - attached or accessory dwelling unit - detached in accordance with RSA 485-A:38. However, systems for the accessory dwelling unit - attached or accessory dwelling unit - detached separate from those serving the single-family dwelling are not required.
8. There are no additional requirements for lot size, frontage, space limitations, or other dimensional controls for an accessory dwelling unit - attached or accessory dwelling unit

- detached beyond what would be required for a single-family residence without an accessory dwelling unit - attached or accessory dwelling unit - detached.

9. *Attached accessory dwelling units shall have either an independent means of ingress and egress or ingress and egress through a common space shared with the single-family residence, at the option of the property owner.*

[Specified in new state law.]

10. *Existing structures on site may be converted to accessory dwelling units even if those existing structures do not conform with setback or lot coverage requirements.*

[Per the new law.]

11. *Accessory dwelling units may not be converted to condominium units.*

[I suggest adding this.]

ARTICLE XXI - OFF-STREET PARKING

175-111. General Requirements.

A. *Parking – General Provisions.*

1. ~~*There is no minimum parking requirement for single-family and duplex residences. However, a driveway must be provided for each lot. A driveway accommodating at least one parking space must be provided for each lot serving a single-family or duplex residence. Otherwise there is no minimum parking requirement for single-family and duplex residences.*~~

[This change is required per the new state law to allow us to require one parking space for the ADU.]

ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS

175-53. Table of Land Uses.

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business 1	Central Business 2	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
III. RESIDENTIAL USES														
Principal Uses														
Residence, single-family	P	P	P	P	X	X	P	P	X	X	X	CU	CU	X
Uses Accessory To a Single-family Residential Use														
Accessory dwelling unit - attached (See Article XX)	P	P	P	P	X	X	P	P	X	X	X	P	P	X
Accessory dwelling unit - detached (See Article XX)	P	X P	X P	P	X	X	P	P	X	X	X	P	P	X

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.

❖ **Make the following changes:**

ARTICLE XII.1 – USE AND DIMENSIONL STANDARDS

175-53. Table of Land Uses.

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES						RESEARCH-INDUSTRY ZONES			
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III. RESIDENTIAL USES														
Principal Uses														
Residence, multi-unit	X	X	X	X	X	X	P	P	P	X P?	X P?	X P?	X P?	X P?
Mixed Use with residential (office/retail down, multi-unit residential up) (See Note 1)	X	X	X	X	P	CU P	X	X	X	X	X	X	X	X

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

This statute requires a change in the Site Plan Regulations, not the Zoning Ordinance. The Planning Board can make these changes on its own without Town Council input following a public hearing.

❖ **Make the following changes in the Site Plan Regulations**

Type of use	Number of required parking spaces
<i>Residential</i>	
Single-family duplex or multi-unit Multi-unit dwellings	2 1 per dwelling unit
OR	
Dwelling units permitted to be occupied by 3 or more unrelated individuals	1 per resident
Dwelling units in multi-unit dwellings that include 10 or more units	1 per dwelling unit
Studio units and one-bedroom units that are under 1,000 square feet	0.75 per dwelling unit
Rooming or boarding houses, fraternities, sororities, or congregate housing	1 per resident
Elderly Senior housing	1 per dwelling unit plus 1 per employee
Homes for aged, disabled, or handicapped	1 per 5 beds, plus 1 per employee of the maximum shift
Educational facilities	1 per staff member, plus 1 for 4 seats in the largest public assembly room