

DRAFT

PROPOSED ZONING AMENDMENT

**To require owner occupancy on any single-family residential lot
that contains an accessory dwelling unit**

For discussion by Planning Board on June 10, 2026

Text proposed to be added to the current ordinance is shown like this.

❖ ARTICLE II - DEFINITIONS

175-7. Definitions.

OWNER – The owner of a property is an individual who meets one (or more) of the following descriptions:

- 1. A natural person who holds title to the property, either alone or with others.**
- 2. The grantor or beneficiary of a trust that holds title to the property.**
- 3. Any shareholder of an S corporation that holds title to the property.**
- 4. The sole or managing member of a limited liability company that holds title to the property.**
- 5. Any general or managing partner of a partnership that holds title to the property.**
- 6. Any family member of a person, within four degrees of kinship, who would qualify as an “owner” under this section.**

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. Floor space. An accessory dwelling unit - attached shall contain a minimum of 300 and a maximum of 850 square feet of floor space.**

3. **Floor space.** An accessory dwelling unit - detached shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
4. **Parking.** 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.
5. **Utilities.** 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.
6. **Dimensional standards.** 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.
7. **Ingress and egress.** 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.
8. 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.
9. **Permitting.** **An application shall be submitted to the Durham Code Administrator to establish an accessory dwelling unit. If a building permit will be needed, then a separate application is not required, provided that the building permit application provides necessary information about the proposed accessory dwelling unit.**
10. **Owner occupancy.** **A single-family residence with an accessory dwelling unit, whether an attached or a detached unit, shall be owner occupied as follows:**
 - a. **The owner may reside in either the single-family house or the accessory dwelling unit. The property shall be their primary residence.**
 - b. **See Article II. Definitions for the definition of “owner.”**

- c. **As part of an application for an accessory dwelling unit or a building permit to construct an ADU or upon request of the Code Administrator, the property owner shall demonstrate that the property is or will be their primary place of residence by providing an official record such as a driver's license, voter registration card, vehicle registration, mortgage documents, or other acceptable documentation.**
- d. **Interruptions in occupancy. A temporary interruption in occupancy by an owner will not violate this section provided that at all times, the property has been occupied by an owner for at least three years during the previous five years.**
- e. **Enforcement. If an ADU is occupied in violation of this section, the property owner of record shall be subject to a monthly fine beginning with the first month following the date on which a violation is determined to have existed. The Town shall have the right to receive on demand a written disclosure describing the occupancy status of any property with an ADU, in sufficient detail to determine whether a violation exists.**
- f. **Nonconforming situations. Where there is a legally established accessory dwelling unit on a single-family property and the owner does not reside on the premises, the property is considered a legally established nonconforming use.**