

ARTICLE XVIII.1
ATTAINABLE HOUSING OVERLAY DISTRICT

175-106 Attainable Housing Overlay District (AHOD)

The following provisions apply to the Attainable Housing Overlay District.

- A. **Purpose of the Attainable Housing Overlay District.** This overlay district is intended to:
1. provide reasonable and realistic opportunities for the development of workforce and affordable housing;
 2. ensure the availability of a diverse supply of rental opportunities;
 3. provide an adequate supply of affordable housing in Durham as set forth in the Town's 2015 and 2018 Master Plan including the Demographics and Housing Chapter (<https://www.ci.durham.nh.us/planning/master-plan-2015>) and the Town's May 2024 Housing Needs Assessment (<https://www.ci.durham.nh.us/bc-housingtaskforce>); and
 4. address the regional need for affordable housing as documented in the Strafford Regional Planning Commission's Housing Needs Assessment (https://strafford.org/uploads/documents/plans/rpc/rhna_2023.pdf) as updated.
- B. **Authority.** The Town of Durham adopts this Attainable Housing Overlay District and related sections in this Zoning Ordinance under the authority of RSA 674:15-18 Purpose of Zoning Ordinance, RSA 674:58-61 Workforce Housing and RSA 674:21, Innovative Land Use Controls.
- C. **Applicability.** The provisions of the Attainable Housing Overlay District apply to the following areas of Durham (See Attainable Housing Overlay District Zoning Map):
1. The entirety of the land zoned Office and Research District – Route 108 (OR) that is situated on the easterly side of Dover Road/Route 108.
 2. All portions of the lot identified as Map 209, Lot 39, currently zoned Residence Coastal, that are situated westerly of the ordinary high water mark on the westerly side of Johnson Creek.
 3. All of the land zoned Office Research Light Industry (ORLI) that is located northerly or westerly of U. S. Route 4.
 4. Tax Map 210, Lots 10, 11, 12, 13, 14, and 15.

The references above are made as of the date when this amendment is adopted. Should any of the pertinent land be rezoned in the future or changes to map and lot numbers be made the specific lands identified as being part of the overlay district included at the time of adoption of this overlay district shall not change unless a specific zoning amendment is made in the future to that effect.

The Attainable Housing Overlay District is depicted on the map identified as Attainable Housing Overlay District – Supplement to Official Zoning Map. In case of any conflict between the description above and the rendering on the map, the description of the zone, above, will prevail.

Any parcel of land located in the overlay district may be developed as an attainable housing project in accordance with the provisions of the Attainable Housing Overlay District by right at the option of the landowner pursuant to the provisions of this article.

D. ***Workforce Housing Option under Conservation Subdivisions.*** Special provisions for workforce housing that is part of a conservation subdivision are given in Article XIX - Conservation Subdivisions. Those provisions are entirely independent from this overlay district and neither may be applied to the other nor may the two be combined in any manner.

E. ***Dwelling Units.*** Within a project developed under this ordinance:

1. No single family house lot may be created.
2. Units shall be offered exclusively for rent, not for sale.
3. Bedrooms. No units may contain more than three bedrooms. The number of three-bedroom units may not exceed 1/3 of the total number of dwelling units in the project. Otherwise, the mix of units by number of bedrooms is set at the discretion of the applicant. A mix of studios, and one- two- and three- bedroom units is encouraged.
4. Housing Types. Residential units in an attainable housing development are restricted to missing middle housing types only (See Definition). A mix of housing types and unit sizes arranged in different configurations is encouraged but not required. No individual building (including rowhouses and townhouses) may contain more than 12 dwelling units.

F. ***HUD Fair Market Rent.*** Rent levels are established for all attainable housing units (including any units that are subleased) based upon the U. S. Housing and Urban Development (“HUD”) Fair Market Rent which is set based on the number of bedrooms in a unit. The rent levels are reset by HUD every year. The fair market rent (or some percentage of the fair market rent, below) is the figure for which the unit is offered. It does not consider other costs to tenants.

Rents may be set at the discretion of the property owner provided:

1. Most units will likely be rented at the HUD Fair Market Rent with the exceptions in 2. and 3., below.
2. There is some flexibility in setting rent levels. Each unit shall be rented at some percentage of the HUD Fair Market Rent, e.g., exactly at HUD Fair Market Rent which would be 100%, at 80%, etc. The average of all of the percentages for all of the units in the project (independent of the number of bedrooms in units) shall not exceed 100%. (For example: 10 units are rented at 100% of the HUD Fair Market Rent level, 5 units are rented at 60% of HUD Fair Market Rent, and 5 units are rented at 120% of HUD Fair Market Rent. The average of those percentages is 95% which would be in compliance since the average is less than 100%.)
3. At least 20% of the overall number of units (independent of the size of the units) shall be rented at 80% of HUD Fair Market Rent level or less.
4. Rental units must be the primary residence for all lessees.

G. ***Housing Vouchers.*** Property owners must be willing to accept Section 8/Housing Vouchers for payment of rent provided the total amount of rent paid for a unit is consistent with the established rent for the unit. This provision does not require that priority be given to Section 8/Housing Vouchers, but only that the property owner be willing to accept them.

- H. ***Housing Guarantees.*** The primary purpose of this overlay district is to provide attainable housing for members of the workforce and the community. The property owner shall not accept guarantees from third parties who will not reside in the rental unit (This provision does not apply to Section 8/Housing Vouchers).
- I. ***Allowed Uses.*** The uses allowed in any project developed under this overlay district are the residential uses specified in this section, all uses allowed in the underlying base zoning district, day care centers, and common accessory uses to these uses (such as a clubhouse and outdoor recreation serving residents). Institutional Uses, Offices, Restaurants, and small Retail Stores (with less than 5,000 gross square feet), are allowed by conditional use (unless allowed by right in the underlying zoning district).
- J. ***Density and Dimensional Standards.*** The density and dimensional standards for the Attainable Housing Overlay District are specified in the Table 175-54 – Table of Dimensions. These standards (in the table and below) apply throughout the Attainable Housing Overlay District superseding the standards otherwise applicable to the underlying base zoning districts.
1. **Density.** The density standard is given in the Table of Dimensions. The standard is established for the overall site based upon lot area per dwelling unit. All areas of the subject parcel apply to the density calculation except for wetlands and areas of open water.
 2. **Maximum number of units.** The maximum number of dwelling units for any attainable housing development is 200 units. This maximum applies to any individual lot or tract proposed for a project, including any project to be developed in phases. Appropriate restrictions may be specified for any project to prevent pre-emptory subdivision that might circumvent this provision. The Planning Board may approve more than 200 units in a project by conditional use.
 3. **Senior units.** There is no density bonus for senior residential units. Section 175-57 A. 1. Density for senior residential units does not apply to projects developed under this overlay district.
 4. **Building Height.** The maximum height for any building is three stories. There is no maximum height in number of feet. The maximum height for any building is four stories if that building is set back at least 100 feet from any property line.
- K. ***Other Zoning Parameters.*** All other standards in the Zoning Ordinance shall apply to a project unless superseded by a specific provision in this overlay district. The limitation allowing for a maximum of three unrelated occupants in a dwelling unit does not apply to any project developed through this overlay district.
- L. ***Buffers.*** Depending on the location and characteristics of the proposed development, the surrounding properties, and the adjacent roads the Planning Board may require that the developed area be buffered from surrounding property and the adjacent roads.
- M. ***Low Income Housing Tax Credit project.*** The Planning Board may approve by conditional use any departure from this article and from the Zoning Ordinance to accommodate a project proposed to be funded through the Low Income Housing Tax Credit, where any requirement of the tax credit program is inconsistent with this article or the Zoning Ordinance.

- N. **Perpetuity.** All attainable housing units must remain as attainable units in perpetuity in accordance with HUD figures and the conditions of project approval. As part of any project, appropriate provisions, such as deed restrictions or easements, shall be incorporated to carry out this requirement. The Town of Durham or their agents may require periodic reporting and audits at its option.
- O. **Site Plan and Subdivision Regulations.** An attainable housing project developed under this overlay district is exempt from Article XIX – Conservation Subdivisions and from all sections under the Subdivision Regulations related to conservation subdivisions. Where there is no subdivision into separate lots of land a project is reviewed under the Site Plan Regulations. Separate components of a project may be subdivided into separate parcels as part of phasing of a project or an overall development plan, in which case creation of new parcels will be reviewed as a subdivision under pertinent elements of the Subdivision Regulations. Lots which are not intended to be part of an attainable housing development may be subdivided from the parent parcel of land provided that portion of the development complies with other applicable requirements.
- P. **Topography and Open Space.** A full topographic survey shall be prepared. A minimum of 60% of the gross acreage of the parcel shall be set aside as permanent open space. The applicant shall prepare an open space plan providing for the appropriate use, maintenance, and protection of the open space to be approved by the Planning Board. On sites where both Town water and sewer are not available the applicant shall prepare a HISS analysis of the entire site. A HISS analysis is not required when both Town water and sewer are available.
- The Planning Board will determine which portions of the parcel will be set aside for open space in order to optimally preserve natural and cultural resources, enhance forest management, and provide opportunities for agriculture and passive recreation in accordance with criteria a. through g. under Article XIX. Conservation Subdivisions, Section 175-107, Subsection H. Common Open Space, Subsection 3.
- Q. **Design.** The Planning Board shall use its judgment in reviewing the proposed design, layout, and density of the project to ensure a harmonious living environment for the future residents.
1. All residential buildings must front a pedestrian-oriented designed street or way and not simply a parking lot.
 2. All residential buildings must form a pedestrian-oriented ensemble.
 3. There must be a network of streets or ways allowing for pedestrian movement through the site.
 4. All parking areas must be broken up into smaller areas or with sufficient landscaping to avoid large expanses of parking.
- R. **Parking and Transportation.** The applicant shall develop a transportation plan for the project pursuant to Article 11 – Pedestrian, Bicycle, and Transit Facility Standards in the Site Plan Regulations. The minimum number of parking spaces required for any dwelling unit is one.
- S. **Infrastructure.** Roads, water and sewer infrastructure, and other infrastructure shall be owned and maintained by the developer or by the Town of Durham as determined by the Planning Board in consultation with the Town Administrator and Durham Public Works Department (and/or the Town Council pursuant to other applicable law).

- T. ***Incentives.*** The Planning Board may negotiate with the applicant to allow for additional density or reduced open space in exchange for inclusion of various elements that will enhance the quality of the project, including, but not limited to, additional open space, public recreation facilities, agricultural leases, active transportation connections, sustainability measures, and a reduction in the average rent level significantly below 100% of the HUD Fair Market level. This bonus should not be provided for elements that would likely be incorporated in the regular course of site plan review. The maximum increase in density allowed under this provision is 20%. This allowance could also be used to raise the threshold of 200 units beyond which a conditional use would be required.