



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

**Town Planner's Review**  
**Wednesday, September 25, 2019**

- X. **Public Hearing - Bed and Breakfast Ordinance.** Proposed amendments to the Zoning Ordinance initiated by the Town Council regarding Bed and Breakfast/Air Bed and Breakfast-type establishments.
- I recommend the board discuss the ordinance, continue the discussion to October 16, and decide whether or not to keep the public hearing open to October 16.

Please note the following:

- **Process.** The Planning Board must make its recommendation to the Town Council by the October 30 meeting. If the board wishes to make significant changes then another public hearing will be needed. Planning Board and Town Council member Carden Welsh was instrumental in preparing this ordinance. He cannot attend the September 25 meeting so I recommend the board hold off on making its recommendation or scheduling a public hearing on a revised draft. But the board should discuss any issues that arise and potential changes.
- **Packet.** I include in the packet the proposed amendments (with additions and deletions from the current ordinance marked in color), a clear version of the proposal, and comments submitted by James Bubar, Planning Board member.
- **Rental Housing Program.** We need to obtain clarification on the provision regarding the Durham Rental Housing Program. I will follow up with the board about this provision.
- **Minor changes.** I met with Carden Welsh and Audrey Cline for further discussion. We suggest making these minor changes shown like this **deleted from draft** **added to draft** (subject to clarification about the housing program provision in general).

**H. Bed and Breakfast. The following terms and conditions apply to a Bed and Breakfast.**

- 1. A bed and breakfast may not be established until a permit to operate a bed and breakfast has been issued by the Zoning Administrator. The property owner shall submit an application to operate a bed and breakfast to the Zoning Administrator who will review the proposal. The proposal shall be reviewed for compliance with all Building, Fire, and Life Safety Codes. Site plan review is not required for a bed and breakfast.**

The Zoning Administrator does not review for Fire and Life Safety Codes.

**2. Special Exceptions. In those districts where a bed and breakfast is allowed by special exception, the property owner shall obtain a special exception prior to issuance of a permit to operate a bed and breakfast. The following specific requirements apply to special exceptions for bed and breakfasts:**

**a. ZBA Hearing. For notification purposes, abutting properties of the proposed bed and breakfast shall include those lots within 300 feet of the subject property.**

**b. Expiration. Any approved special exception shall expire if the property is not used pursuant to the special exception for 24 consecutive months.**

This provision can be removed as a 24- month expiration for nonuse is included below.

**6. The property owner shall register the bed and breakfast with the Durham Rental Housing Program and maintain compliance with the program's requirements (See Chapter 72).**

- **Other definitions.** To provide a context for the board here are various definitions of related uses. Some change in the Zoning Ordinance regarding these uses is in order to provide for better consistency but Carden Welsh, Audrey Cline, and I recommend pursuing such changes later separately from this current proposal. Frequently, a zoning amendment will affect other elements of the ordinance but if we try to include all of those changes at the same time, it can be an ongoing process with rippling affects so it is best to focus on the issue at hand now. At that time, it might be helpful to better distinguish lodging (no definition currently) from a residential use.

**DWELLING UNIT** – One (1) or more rooms arranged, designed or used for residential purposes for one (1) household and containing independent sanitary and cooking facilities. The presence of cooking and sanitary facilities conclusively establishes the intent to use for residential purposes.

**HOTEL** – A building containing seven (7) or more individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for stays of less than two (2) consecutive weeks for compensation, with or without meals, and usually providing on-site recreational services, function rooms, housekeeping, laundry and related services. Access to individual guest rooms is provided through interior corridors. (See Article XX)

**INN** – An owner-occupied, single-family residence containing, in addition to living accommodations for the owner and his or her family, not more than six (6) individual sleeping rooms, without cooking facilities, for the purpose of providing to the general public, for compensation, lodging, bathroom facilities and breakfast to overnight patrons only and for no longer than two (2) consecutive weeks.

MOTEL – A building containing seven (7) or more individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation for stays of less than two (2) consecutive weeks with or without meals, and usually providing on-site function rooms, housekeeping, laundry and related services. Access to individual guest rooms is provided directly from the outside or from exterior corridors, walkways, or balconies. (See Article XX)

OCCUPANCY – The predominant use classification of a building, structure or land.

RESIDENCE, SINGLE-FAMILY – A building and accessories thereto principally used, designed or adapted as a single dwelling unit. A single-family residence is situated on its own separate lot with no other dwelling units nor nonresidential uses other than those that are accessory to the single-family use, including accessory dwellings/apartments and home occupations, where allowed.