

Proposed Zoning Amendments
AMENDMENTS RELATED TO WORKFORCE HOUSING

Presented to the Planning Board – July 10, 2024

Very rough draft – for discussion only

[My comments are shown like this.]

1) **ARTICLE II - DEFINITIONS**

- ❖ Add the following new definition, in alphabetical order, in Article II. DEFINITIONS.

WORKFORCE HOUSING – Housing which is designed to provide a broad range of living options ~~for both homeowners and renters~~ that meets the needs of families and individuals that represent the majority of New Hampshire's diverse workforce. Workforce housing projects often include a variety of dwelling types suitable for households with different needs and income levels.

[I suggest deleting text above since the ordinance may allow for rental only.]

2) **ARTICLE XVIII – PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT**

- ❖ Make the following changes:
 - Change the title of Section 175-99 to Purpose and Applicability
 - Delete heading “175-100. Applicability.”
 - Identify the first paragraph, starting, “It is the express purpose...” as A.
 - Identify the new second paragraph in Section 175-99, starting, “The terms of this Article...” as B.
 - Renumber the remaining sections as 175-100 to 175-05.

3) **ARTICLE XVIII.1 - WORKFORCE HOUSING OVERLAY DISTRICT**

- ❖ Add the following new article.

ARTICLE XVIII.1 WORKFORCE HOUSING OVERLAY DISTRICT

175-106. Workforce Housing Overlay District

The following provisions apply to the Workforce Housing Overlay District.

- A. Purpose of the Workforce Housing Overlay District.** The Workforce Housing Overlay District (WHOD) is an overlay district intended to:
 1. provide reasonable and realistic opportunity 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

(<https://www.ci.durham.nh.us/planning/master-plan-2015>), including the Demographics and Housing chapter, and the Town's May 2024 Housing Needs Assessment (<https://www.ci.durham.nh.us/bc-housingtaskforce>); and

4. address the regional need for workforce 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 Workforce Housing Overlay District and related sections in this Zoning Ordinance under the authority of RSA 674:58-61 Workforce Housing and RSA 674:21, Innovative Land Use Controls.
- C. Applicability.** The provisions of the Workforce Housing Overlay District apply to the following areas of Durham:
1. The entirety of the land that is 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 that are situated westerly of the ordinance high water mark on the westerly side of Johnson Creek.
 3. All of the land zoned Office Research Light Industry (ORLI) that is situated on the northerly side of Mast Road/Route 155A. This includes all of the land zoned Office Research Light Industry (ORLI) that is situated on the northerly/westerly side of Route 4.

The references are made as of the date in 2024 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 Workforce Housing Overlay District is depicted on the map identified as Workforce Housing Overlay District – Supplement to Official Zoning Map. In case of any conflict between the description above and the rendering on the map, the rendering on the map will prevail.

Any parcel of land located in the overlay district may be developed as a workforce housing project 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. That provision is 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. The mix of units by number of bedrooms is set at the discretion of the applicant. However, no units may contain more than three bedrooms. A mix of studios, and one- two- and three- bedroom units is encouraged.
 4. Housing Types. Residential units in a workforce housing development may/shall be developed as multifamily dwellings. Multifamily dwelling here means any type of dwelling unit except for a single family house on its own lot, including single dwelling units (on the same lot), duplexes, triplexes, townhouses, flats, multi-unit structures, cottage courts, tiny houses, etc. A mix of housing types and unit sizes arranged in different configurations is encouraged but not required.

- F. HUD Fair Market Rent.** Rent levels are established for all workforce housing units based upon the HUD Fair Market Rent which is set based on the number of bedrooms in the unit. The HUD Fair Market Rent is the maximum rent that may be charged for a unit. The rent levels are reset every year based upon the market. The fair market rent is the figure for which the unit is offered. It does not consider other costs to tenants.

Applicants must 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.

- G. Housing Units.** Rents may be set at the discretion of the applicant/developer/property owner provided:

1. Most units will likely be rented at the HUD Fair Market Rent, though they may be set below the HUD Fair Market Rent if desired.
2. The rents for every unit are set at a specific percentage of the HUD Fair Market Rents. For example, The HUD Fair Market Rent for a 2-bedroom in 2024 is \$2,003. That figure represents 100% of the HUD Fair Market Rent. A rent of \$1,602.40 (80% of \$2,003) would represent a rent at 80% of the HUD Fair Market Rent.
3. The average of every percentage for each unit in the project (independent of the size of the units) shall not exceed 100%. (For example: 10 units are rented at 100%, 5 units are rented at 60%, and 5 units are rented at 120%. The average of those percentages is 95%.)
4. At least 20% of the overall number of units (independent of the size of the units)

- H. Housing for Workforce.** The primary purpose of this overlay district is to provide housing for members of the workforce. Units may be rented only to individuals and households where income from employment, or other personal income (such as income from social security, pensions, disability insurance, personal investment income, and supplements for housing vouchers), is used to cover the rent. Applicants shall not accept guarantees from third parties to ensure payment of rent.

As part of any development approval, the applicant shall provide a plan, subject to approval by the Planning Board, to ensure compliance with this requirement.

- I. Tenant Selection.** Consistent with state and federal law, the applicant shall provide a plan for how they intend to market to prospective tenants and to select tenants, including priorities and preferences, as appropriate. qA

- J. Income Qualification.**

[The Planning Board needs to determine whether the ordinance should require that only tenants with income below a certain threshold can qualify for the units. I recommend against this approach:

- Dover does not do this though some communities do;
- It adds significant complexity to implementing the ordinance and possibly reporting by the applicant; We need to be aware of requirements and related reporting requirements as the requirements would apply in perpetuity. What is realistic to expect for reporting in 20 years? 50 years?
- It also adds complexity of tenants income needing to fit a narrow opening: there is a minimum needed to support the rent and this would add a maximum.
- What happens when a tenant is income qualified when they move in and then their income rises?]

- K. 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 zoning district, and common accessory uses to these uses (such as a clubhouse and outdoor recreation serving residents). Institutional Uses, Offices, Restaurants, and small Retail Stores, are allowed by conditional use (unless allowed by right in the underlying zoning district).

- L. Density and Dimensional Standards.** The dimensional standards specified for the Church Hill District [Or does another district provide a better overall reference?] shall apply to any project developed under this overlay district. However, the two provisions in the Table of Dimensions regarding building height do not apply. The maximum building height for any building is three stories.

[I suggest reducing the allowable density. The figure of 4,200 square feet of land per unit would allow for ten units on a one-acre lot and 30 on a three-acre lot, where there are no wetlands nor open water. That is quite dense. And unless we can get a high level of confidence that the protections in Item H will really prevent full time, non-working students from living in units, I am concerned that this would be a big incentive for creating dense student housing sites on a number of available lots. On a 100-acre lot with say 20% wetlands and open water this would allow for over 800 units! We do have the limit below of 200 units per. Should there be any other controls on density? Or perhaps the requirements of this overlay district would discourage development on small sites]

- The density standard is established for the overall site based upon lot area per dwelling unit.
- Wetlands and areas of open water do not count toward the density calculation.
- The maximum number of dwelling units for any workforce 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 intended to elude this provision. The Planning Board may approve including more than 200 units in a project by conditional use.

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.

- M. 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. However, 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.
- N. 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.
- O. Perpetuity.** All workforce housing units must remain affordable as workforce units in perpetuity in accordance with HUD figures. As part of any project, appropriate provisions, such as deed restrictions or easements, shall be incorporated to carry out this requirement. The Planning Board may incorporate periodic reporting requirements at its option.
- P. Site Plan and Subdivision Regulations.** A workforce 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 lots to as part of phasing of a project, in which case they will be reviewed as a subdivision under pertinent elements of the Subdivision Regulations. Lots which are not intended to be part of a workforce housing development may be subdivided from the parent parcel of land.

- Q. 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. All or most of the most sensitive environmental lands shall be included in the open space, as determined by the Planning Board. 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. Standards in the Conservation Subdivision shall serve as guidance for determining which land shall be set aside for open space.
- R. Buffers.** Depending on the nature of the proposed development, the surrounding properties, and the adjacent roads, the Planning Board may require that the developed area be set back or buffered substantially from surrounding property and the adjacent roads.
- S. Design.** The Planning Board shall use its reasonable judgment in reviewing the proposed design, layout, and density of the project to ensure a harmonious living environment for the future residents. The project shall incorporate sidewalks, footpaths, and/or trails to promote walkability through the site.
- T. Transportation.** The applicant shall develop a transportation plan, including considerations for public transit, van pools, car share, and bicycle use, to try to reduce the number of single occupancy vehicle trips, especially during peak travel times. The Planning Board may adjust parking requirements specified in the Site Plan Regulations (through a waiver) as appropriate.
- U. Infrastructure.** Roads, water and sewer infrastructure, and other infrastructure shall be owned and maintained by the developer or by the Town of Durham as reasonably determined by the Planning Board. Where a road through the development will be retained as a private road by the applicant, one or more separate lots to be developed separately from a workforce housing project, provided a right of way is established for the private road and that any proposed lots meet frontage requirements.

V. **Incentives.** The Planning Board may negotiate with the applicant to allow for additional density in exchange for inclusion of various elements that will enhance the quality of the project, including, but not limited to, additional open space, recreation facilities, trail networks, transportation connections, and sustainability measures, and reducing the average rent level significantly below 100% of the HUD Fair Market Value, 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.

4) **ARTICLE XIX - CONSERVATION SUBDIVISIONS**

❖ Add the following new provision under **Section 175-107. Conservation Subdivisions** at the end of C. **Exempt Subdivisions**:

5. Any subdivision created under **Article XVIII.1 Workforce Housing Overlay District.**

❖ Under **Section 175-107.1 Workforce Housing Option**, change the title of the section and insert a new paragraph without a letter designation right below the title as follows:

175-107.1 Workforce Housing in a Conservation Subdivision

Applicants who seek to incorporate workforce housing into a conservation subdivision shall follow the procedures laid out in this section. Workforce housing developed under this section is entirely separate from workforce housing developed under the Workforce Housing Overlay District.

❖ Under **Section 175-107.1 Workforce Housing Option**, replace F. Density Incentive, in entirety with the following:

F. **Density Incentive.** In determining the maximum number of workforce housing dwelling units that are allowed in a conservation subdivision, these standards apply:

1. A dwelling unit containing one bedroom or a studio unit without a separate bedroom counts as 0.33 dwelling units for the purpose of the density calculation; and
2. A dwelling unit containing two or more bedrooms counts as 0.50 dwelling units for the purpose of the density calculation;

5) **ZONING MAP*****

❖ Rezone the lot on the Zoning Map as specified under Applicability above.

The Draft Housing Needs Assessment for Durham, dated December 2023, identifies the subject lot and several neighboring lots as a Multi-Family Development Priority Area (page 7-10). See the maps on the next page.

PROPOSED WORKFORCE HOUSING OVERLAY DISTRICT

