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PROPOSED ZONING AMENDMENTS
Student Rentals, Three-Unrelated Rule, and Habitable Floor Area
For Public Hearing with Planning Board – January 8, 2025

Proposed additions to the current ordinance are shown like this.

~~*Proposed deletions from the current ordinance are shown like this.*~~

[Comments shown like this]

Background. A draft zoning amendment was prepared by Administrator Todd Selig with input from an ad hoc working group he assembled for advice including Code Officer Audrey Cline, Town Planner Michael Behrendt, Fire Marshall Brendan O’Sullivan, Fire Chief Dave Emanuel, Town Councilor Em Friedrichs, Town Councilor Heather Grant, Planning Board Chair Paul Rasmussen, State Representative Al Howland, and resident Jay Gooze. The proposal was written in response to evolving societal norms around the definition of family, the community’s desire to preserve and support more housing opportunities, the economic and social impacts of college student rental housing impacting traditional residential neighborhoods and local housing stock, and recent statewide legislative efforts aimed at expanding housing opportunities for NH’s workforce and potentially impacting Durham’s existing local zoning. Administrator Selig recommended that the Planning Board take up the issue to work through the draft as part of the public process. The Planning Board has made several adjustments to the initial draft and posts this document now for a public hearing.

ARTICLE II – DEFINITIONS

➤ **Make the following changes:**

~~***FLOOR AREA, HABITABLE**—Heated areas used daily for living, eating, cooking or sleeping, including bathrooms and bedroom closets; but excluding garages, circulation areas (stairways, hallways, corridors), storage areas, (including but not limited to attics, unfinished basements, and utility rooms). For the purposes of this chapter, "habitable floor area" is deemed to be 70 percent of the gross floor area of a given building unless evidence sufficient to rebut that presumption in the form of complete floor plans drawn to a standard scale is submitted to the Durham Code Enforcement Officer. This presumption shall not apply in any instance where the owner or occupant(s) of the building allow inspection and measurement of such interior floor areas by the Code Enforcement Officer. It is recognized that under this definition it is possible for the "habitable floor area" to exceed 70 percent of the gross floor area.*~~

~~***HABITABLE FLOOR AREA.** See “Floor Area, Habitable.”*~~

~~***HOUSEHOLD**—A group of occupants of a dwelling unit defined by one of the following two categories:*~~

- ~~1. FAMILY—An individual or two (2) or more persons related within the second degree of kinship by civil law or by marriage or adoption or foster care arrangement living together as a single housekeeping unit, including necessary domestic help such as nurses or servants not to exceed three (3) in number.~~
- ~~2. UNRELATED HOUSEHOLD—Any household not conforming to the definition of a "family," above. (Note. See specific requirements for unrelated households in Section 175-56—General Dimensional Standards.)~~

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 defined by Federal law. 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).

~~UNRELATED OCCUPANTS—Persons living in an unrelated household. (See definition for "Household.")~~

~~UNRELATED HOUSEHOLD—See "Household."~~

ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS

➤ **Make the following changes:**

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES				RESEARCH-INDUSTRY ZONES					
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	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	P	P	X	X	X	CU	CU	X
Residence, duplex		X	X	X	X	X	X	X	X	X	X	X	X	X
Residence, multi-unit		X	X	X	X	X	CUA	X	X	X	X	X	X	X
						<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>		<i>P</i>		
Senior housing, single family		P	P	P	P	X	X	P	X	P	CU	CU	CU	CU
Senior housing, duplex		P	P	P	P	X	X	P	X	CU	CU	CU	CU	CU
Senior housing, multiunit		P	P	P	P	CU	P	P	P	CU	CU	P	CU	CU
Senior Care facility		P	X	CU	P	X	X	P	P	P	P	P	P	P

Nursing Home	X	X	X	X	X	X	P	P	P	P	P	P	CU
Manufactured Housing	P	X	X	X	X	X	X	X	X	X	X	X	X
Porkchop Subdivisions <i>See Article XX</i>	P	X	X	P	X	X	X	X	X	X	X	X	X
<i>Student Rental</i>	X	X	X	X	P	P	P	P	X	X	X	X	X

- Delete Section 175-55. 1., below and renumber Section 175-55 accordingly.

175-55. General Use Standards. The following additional standards apply to the specific uses listed below:

~~1. **Occupancy of Residences.** See Section 175-56 A. regarding limitations on the number of unrelated occupants.~~

- Delete the following subsections A. and B.; insert a new subsection A., as shown; and reletter the subsequent subsections accordingly.

175-56. General Dimensional Standards.

~~A. **Limitation on number of unrelated occupants.** Within the following zoning districts, any dwelling unit consisting of an unrelated household shall contain no more than three (3) unrelated occupants:~~

- ~~1. **Rural (R)**~~
- ~~2. **Residence A (RA)**~~
- ~~3. **Residence B (RB)**~~
- ~~4. **Residence C (RC)**~~
- ~~5. **Central Business District (CB)**~~
- ~~6. **Professional Office (PO)**~~
- ~~7. **Church Hill (CH)**~~
- ~~8. **Courthouse (C) and**~~
- ~~9. **Coe's Corner (CC)**~~

~~(Note that there may be more restrictive occupancy requirements than these under the New Hampshire State Building Code and Fire Code and the Durham Rental Housing Ordinance.)~~

~~B. **Minimum floor area per occupant in unrelated household.** The minimum required habitable floor area per occupant in an unrelated household is shown in Table 175-56 below. (See definition for "Household.")~~

Table 175-56. MINIMUM HABITABLE FLOOR AREA BY DWELLING TYPE FOR UNRELATED HOUSEHOLD

DWELLING TYPE	Minimum habitable floor area per occupant in unrelated household
Single-family dwelling	300

<i>Duplex or townhouse</i>	<i>300</i>
<i>Apartment (but not including apartments in the CB District as delineated in Section 175-42(B)(8) and (9), accessory apartments and apartments in the ORLI and MUDOR districts).</i>	<i>400</i>
<i>Apartment in the Central Business District (excluding apartments in the CB District as delineated in Section 175-42(B)(8) and (9) and accessory apartments) where the number of unrelated occupants does not exceed two</i>	<i>300</i>
<i>Apartment in the CB District located in a building within the area of the district delineated in Section 175-42 (B) (8) and (9) where the maximum height of three stories applies</i>	<i>250</i>
<i>Apartment in the ORLI and MUDOR districts (but not including accessory apartments)</i>	<i>200</i>
<i>Accessory Apartment</i>	<i>200</i>
<i>Rooming/boarding, including accessory rooming/boarding</i>	<i>150</i>
<i>Dormitory</i>	<i>100</i>
<i>Fraternity or sorority</i>	<i>150</i>
<i>Nursing home</i>	<i>150</i>
<i>Senior housing</i>	<i>200</i>

(Note that there may be more restrictive occupancy requirements than these under the New Hampshire State Building Code and Fire Code and the Durham Rental Housing Ordinance.)

➤ *Add new section A. and reletter subsequent sections accordingly.*

A. Fire Code. Note that Fire Code NFPA 101 2021 ED, as amended, requires a minimum of 200 square feet per person (consult the Durham Fire Department for more information).

ARTICLE XX - STANDARDS FOR SPECIFIC USES

➤ **Delete the section below:**

175-109. Compliance Required.

C. Accessory Dwelling Units and Accessory Apartments. Accessory dwelling units and accessory apartments shall conform to the following standards:

1. Only one accessory dwelling unit or one accessory apartment shall be located on a lot with a single-family residence. The location of an accessory dwelling unit and an accessory apartment in conjunction with one single-family residence shall not be permitted.

2. An accessory dwelling unit shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
3. An accessory apartment shall contain a minimum of 300 and a maximum of 850 square feet of floor space.
- ~~4. *In zoning districts where no more than three unrelated persons may occupy a dwelling unit (as specified in subsection 175-56 General Dimensional Standards), there shall be no more than three unrelated occupants in total for the single-family dwelling and the accessory dwelling unit combined or for the single-family dwelling and the accessory apartment combined.*~~