



Land Use Committee

Date: Friday, October 7th, 2022
Time: 9:00 AM
Location: Municipal Complex, Conference Room A
Subject: Land Use Committee Meeting

CALL TO ORDER – Councilor Beth Moreau

- I. Review of the latest redline drafted ADU Ordinance and discussion
- II. Review of the Assisted Living proposed changes to the Table of uses
- III. Public Input
- IV. Adjournment

**Members of the public also have the option to join this meeting over Zoom using the link below:*

Join Zoom Meeting

<https://us06web.zoom.us/j/88341502931>

Meeting ID: 883 4150 2931

Passcode: 027484

Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts

The proposed Zoning Ordinance amendments set forth in this document are intended to achieve three broad policy objectives:

- (1) to remove barriers and provide more flexibility for the creation of accessory dwelling units (ADUs);
- (2) to strengthen provisions for ensuring that ADUs fit into established neighborhood patterns and minimize any adverse impacts on abutting properties; and
- (3) to simplify the ordinance and make it easier for users to understand and navigate

Before beginning the zoning revision project, the Planning Department reached out to stakeholders via a series of small group meetings and a survey of abutters to ADUs. This public involvement process revealed six broad **themes** that helped guide the zoning revision process:

- (1) Process navigational support is needed.
- (2) Dimensional relief is both an obstacle and a protection.
- (3) There is considerable cost and risk in the process and this is a deterrent.
- (4) Regulations for ADUs need to be clear and implementable.
- (5) Foremost among abutters’ concerns are: parking, short term rentals, neighborhood character, and buffering and separation.
- (6) Abutters were generally positive about ADUs.

The revisions to the Table of Uses below result in a table that is more detailed than the existing table, with two categories of attached ADUs and four categories of detached ADUs. This additional complexity reflects two proposed policy changes in support of the above objectives: (1) to allow ADUs with the least potential neighborhood impact as of right (“P”) instead of requiring a conditional use permit (“CU”) as currently; and (2) to fold the existing Garden Cottage use into the broader Detached Accessory Dwelling Unit (DADU) use.

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	...
1. Residential Uses															
1.10 Single family dwelling	P	P	P	P	N	P	P	P	P N	N	P	P	N	N	...
1.20 Accessory dwelling unit 1.21 Attached		CU	CU	CU	CU	CU	CU	CU	CU	N	CU	CU	N	N	CU

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	...
1.21 Attached accessory dwelling unit (AADU)															
1.211 Up to 750 sq. ft. GFA and entirely within an existing single-family dwelling	P	P	P	P	N	P	P	P	N	N	CU	CU	N	N	...
1.212 More than 750 sq. ft. GFA, or in an addition to or expansion of an existing single-family dwelling	CU	CU	CU	CU	N	CU	CU	CU	N	N	CU	CU	N	N	...
1.22 Detached	CU	CU	CU	N	N	N	N	N	N	N	N	N	N	N	...
1.22 Detached accessory dwelling unit (DADU)															
1.221 Up to 600 sq. ft. GFA and entirely within an existing accessory building that complies with all dimensional standards for accessory buildings	P	P	P	P	N	P	P	P	N	N	N	N	N	N	...
1.222 Up to 600 sq. ft. GFA in an existing accessory building where any of the following apply: (a) the existing building does not comply with a dimensional standard for an accessory building , or (b) the DADU requires any modification of a standard in Section 10.814, or any variance; or (c) the DADU includes any expansion of the existing accessory building	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	...

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	...
<u>1.223 Up to 750 sq. ft. GFA in a new building that complies with all lot and building dimensional standards for a single-family dwelling</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>...</u>
<u>1.224 Up to 1,000 sq. ft. GFA in a new building that does not comply with a dimensional standard for a single-family dwelling, or that requires any variance to construct the DADU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>...</u>
1.25 Garden Cottage	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N	N	N	N	...
1.30 Two-family dwelling	N	N	P	P	P	P	P	P	P	N	P	P	N	N	...
...

NOTES:

(1) DADU uses no. 1.221 and 1.222 replace use no. 1.25 – Garden Cottages.

(2) In the “Supplemental Regulations” column, insert the following reference for uses 1.211 and 1.221: “10.814.61 (administrative approval)”.

Article 8 Supplemental Use Standards

10.814 Accessory Dwelling Units

10.814.10 Purpose and Eligibility

10.814.11 The purpose of this section is to provide for additional modest **dwelling units** within single-family neighborhoods in order to increase the supply of affordable housing without the need for more infrastructure or further land development. The **accessory dwelling units** allowed by this section can address the housing needs of a range of community members. The standards in this section are intended to integrate affordable housing into the community with minimal negative impact on the surrounding neighborhood.

10.814.~~10~~12 One, and only one, **accessory dwelling unit (ADU)** shall be allowed on any **lot** containing a **single-family dwelling**. An **accessory dwelling unit** shall not be allowed under this Section 10.814 on a **lot** that contains more than one **dwelling unit**.

10.814.~~20~~13 Except as provided elsewhere in this Section 10.814, in order for a **lot** to be eligible for an **accessory dwelling unit**, the **lot** and all proposed **structures** and additions to existing **structures** shall conform to all zoning regulations as follows:

10.814.~~21~~131 Any municipal regulation applicable to **single-family dwellings** shall also apply to the combination of a principal **dwelling unit** and an **accessory dwelling unit** including, but not limited to, ~~lot area, yards, open space, off street parking, building coverage, and building height.~~ the dimensional standards set forth in Sec. 10.521 and the off-street parking requirements set forth in Sec. 10.1110.

This revision reorganizes the provisions of Section 10.814 into a more logical sequence and adds subsection headings to make it easier for users to navigate the ordinance.

New purpose statement – balancing affordable housing with neighborhood quality of life.

These changes are meant to clarify that ADUs are subject to all applicable regulations, not just the ones that are itemized in the current ordinance.
(But see next sentence.)

Notwithstanding the above, the combination of a principal dwelling unit and an accessory dwelling unit does not need to comply with the minimum lot area per dwelling unit for the zoning district, but must comply with the minimum lot area for the district.

This change allows an ADU to be created on a lot meeting the area requirement for a single-family dwelling.

10.814.~~22~~132 An **attached accessory dwelling unit** is permitted on an existing nonconforming lots and within an existing nonconforming buildings as long as there is ~~no increase in building height or building footprint for any portion of the existing building and~~ no increase to or extension of the any existing nonconformity and no new nonconformity is created.

This simplifies the language of no increase in any nonconformity.

10.814.~~23~~133 A **detached accessory dwelling unit** that is not created within an existing accessory building is not an **accessory building** ~~or structure~~ for the purposes of this Ordinance, and therefore shall be governed by the applicable minimum **yard** dimensions in Section 10.521 for a **principal building** ~~or structure~~ and not by the **side yard** and **rear yard** standards applicable to an **accessory building**.

The inserted phrase reflects the merging of the Garden Cottage use into the broader Detached ADU use. An existing accessory building converted to a DADU continues to be governed by the yard standards for accessory buildings.

10.814.14 Notwithstanding all of the above provisions, an accessory building existing on the effective date of this ordinance may be converted to a detached accessory dwelling unit as provided in Section 10.440, uses 1.221 and 1.222, and as further provided in this Section 10.814.

This is the key provision that folds the Garden Cottages use into the Detached ADU section.

10.814.20 Standards for All Accessory Dwelling Units

~~10.814.30~~ All **accessory dwelling units** shall comply with the following standards:

10.814.~~31~~21 The principal **dwelling unit** and the **accessory dwelling unit** shall not be separated in ownership (including by condominium ownership).

10.814.~~32~~22 Either the principal **dwelling unit** or the **accessory dwelling unit** shall be occupied by the owner of the **dwelling** as his or her principal place of residence. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence.

10.814.~~321~~221 When the property is owned by one or more trusts, one of the **dwelling units** shall be the principal place of residence of the beneficiary(ies) of the trust(s).

10.814.~~33~~23 Neither the **principal dwelling unit** nor the **accessory dwelling unit** shall be used for any business, except that the property owner may have a **home occupation** use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

10.814.~~34~~24 Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

10.814.30 Additional Standards for Attached Accessory Dwelling Units

~~10.814.40~~ — An **attached accessory dwelling unit (AADU)** shall comply with the following additional standards:

10.814.~~41~~31 An interior door shall be provided between the **principal dwelling unit** and the **accessory dwelling unit**.

10.814.~~42~~32 The ~~accessory dwelling unit~~**AADU** shall not have more than two bedrooms and shall not be larger than 750 sq. ft. **gross floor area** except as permitted through a conditional use permit as provided in Section 10.440. In no case shall the AADU be larger than 1,000 sq. ft. gross floor area. For the purpose of this provision, the gross floor area of the AADU shall not include existing storage space, shared entries, or other spaces not exclusive to the ~~accessory dwelling unit~~**AADU**.

Section 10.81.32 coordinates with the proposed changes to the table of uses:

- An AADU up to 750 sq. ft. is a permitted use (use 1.211).
- An AADU up to 1,000 sq. ft. may be allowed by a conditional use permit from the Planning Board (use 1.212).
- An AADU more than 1,000 sq. ft. is not allowed anywhere (this provision).

10.814.33 The **AADU** shall be subordinate to the principal **dwelling unit** in scale, height and appearance, as follows:

~~10.814.43331~~ Any exterior changes to the single family dwelling shall maintain the appearance of a single family dwelling. If there are two or more doors in the front of the **principal dwelling unit**, one door shall be designed as the principal entrance and the other doors shall be designed to appear to be secondary.

~~10.814.44~~ No portion of the AADU shall be closer to the front lot line than the existing front wall of the principal dwelling unit.

~~10.814.45~~ An AADU that is attached to the single family dwelling (i.e., created by an expansion of the existing structure) shall comply with the following:

~~10.814.451~~ An exterior wall of the AADU that faces a street on which the lot has frontage shall comprise no more than 40 percent of the total visible façade area of the dwelling as seen from that street.

10.814.332 An addition to or expansion of an existing **building** for the purpose of creating an **AADU** shall be recessed or projected at least 18 inches from the existing front wall of the **principal dwelling unit**. Where the addition includes the construction of an attached, street-facing garage, it shall be set back at least 10 feet from the front wall of the **principal dwelling unit**.

~~10.814.452~~ The addition to or expansion of the existing single family dwelling may include an increase in building height only as an upward expansion of the existing principal building with no increase in building footprint.

The standards for subordination of the AADU to the principal dwelling unit are refined based on experience with ADUs that have been created since the adoption of the ordinance, and on comments from residents.

10.814.~~453~~333 The **building height** of any addition or expansion that includes an increase in **building footprint** shall be ~~less than the building height of the existing principal building no~~ greater than 75% of the height of the existing **building**. In the case of a single-story **building**, an addition or expansion may include an additional story to the existing **building** or a single-story addition at the same height as the existing **building**.

~~10.814.454~~ The **AADU** shall be architecturally consistent with the principal ~~dwelling~~

10.814.40 Additional Standards for Detached Accessory Dwelling Units

~~10.814.50~~ A **detached accessory dwelling unit (DADU)** shall comply with the following additional standards:

~~10.814.51~~ In a General Residence district, the combination of the **principal dwelling** and the **DADU** shall comply with the minimum **lot area per dwelling unit** specified for the district. (For example, the required **lot area** for a **single-family dwelling** with a **DADU** in the GRA district is 7,500 sq. ft. per **dwelling unit** multiplied by 2 **dwelling units**, or 15,000 sq. ft.) In a Single Residence or Rural district, a lot with a **DADU** shall comply with the minimum **lot area** for the district, but need not comply with the minimum **lot area per dwelling unit**.

10.814.~~52~~41 The **DADU** shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area; ~~except that the maximum gross floor area shall be 1,000 sq. ft. if the lot area is 2 acres or more.~~ except as permitted through a conditional use permit as provided in Section 10.440, use no. 1.225.

10.814.411 In no case shall a **DADU** be larger than 1,000 sq. ft. **gross floor area**.

10.814.412 In no case shall a DADU that is created from an existing **accessory building** that does not comply with the **minimum yard requirements for a principal structure** be larger than 600 sq. ft. **gross floor area**.

10.814.42 A **DADU** that is created from an existing **accessory building** that does not comply with the **minimum yard requirements for a principal structure** shall comply with the following additional requirements:

10.815.421 The existing **accessory building** shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.; except that the Planning Board may grant a conditional use permit to allow the **gross floor area** of the **accessory building** to be expanded up to a total of 600 sq. ft. as provided in Section 10.440.

10.815.422 A **DADU** that is within a required **side yard** or **rear yard** setback for the zoning district shall not have any windows or doors higher than eight feet above grade facing the adjacent property.

~~10.814.53~~43 The DADU shall be ~~clearly~~ subordinate to the principal **single-family dwelling** in scale, height and appearance, as follows:

~~10.814.55~~431 The front wall of ~~the~~ **DADU** that is not created within an existing **accessory building** shall be set back at least 10 feet further from the **front lot line** than the existing front wall of the ~~single family~~-**principal dwelling unit**.

~~10.814.531~~ ~~The façade area of the DADU that faces a street on which the lot has frontage shall be no more than 40 percent of the~~

These two provisions limit a DADU to 1,000 sq. ft. if it complies with all zoning setbacks, and to 600 sq. ft. if it is created from an existing accessory building that does not comply with the yard requirements for a principal structure. (Note that these size limits are reinforced in Section 10.814.63 below.)

The provisions in Section 10.814.42 are carried over from the existing Garden Cottages section of the ordinance, and apply to any detached ADU that is created by converting an existing garage or other accessory building that does not comply with the yard requirements for a principal structure.

The addition of “that is not created within an existing accessory building” is due to merging the Garden Cottage use into the DADU use and reflects the possibility that an existing garage or other accessory building may not be 10 feet back from the front line of the house.

~~combined visible façade areas of the principal single family dwelling and the DADU facing the same street.~~

10.814.532432 The **building height** of the entire building containing the DADU shall be ~~less than the building height of the principal single family dwelling~~ no greater than 25 feet.

10.814.433 When the building containing the DADU is taller than the principal building, its required setback from all property lines shall be increased by the difference in building height between the DADU and the principal building.

10.814.434 The building footprint of the entire building containing the DADU shall be no greater than 750 sq. ft.

10.814.435 The gross floor area of the entire building containing the DADU shall be no greater than 2,000 sq. ft. GFA or 75 percent of the gross floor area of the principal dwelling unit, whichever is less.

10.814.436 The DADU may include roof dormers provided they occupy no greater than 33% of any individual roof surface.

10.814.437 The DADU shall comply with the drainage requirements listed under Section 10.1320.

10.814.438 The DADU shall comply with the lighting requirements listed under Section 10.1140.

~~10.814.533 The DADU shall be architecturally consistent with the principal dwelling through the use of similar materials, detailing, and other building design elements.~~

10.814.5444 The DADU shall be separated from the single family dwelling by at least 20 feet comply with the minimum separation requirements established by the Building Code.

In response to concerns raised by residents about particular detached ADUs that have been created in the City, Sections 10.814.432 through 10.814.436 are all meant to set upper limits on the absolute and relative size and scale of the building containing a DADU (as opposed to the size of the DADU itself).

This architectural consistency provision is replaced by more detailed requirements in Section 10.814.50 below.

~~10.814.56 No portion of the DADU shall be located in any required front yard, regardless of the location of the single family dwelling.~~

10.814.50 Architectural Design Standards

Where the creation of an **accessory dwelling unit** involves the construction of a **new building** or an addition to or expansion of an existing **building**, the exterior design shall be architecturally consistent with the **principal building** using the following design standards:

10.814.51 The new **building**, addition or expansion shall be the same as or similar to the existing **principal building** with respect to the following elements:

- Massing, including the shape and form of the **building footprint**, roof or any projecting elements;
- Architectural style, design, quality and character;
- Roof forms, slopes, and shingling materials;
- Siding material, texture, and profile;
- Window spacing, shapes, proportions, style and detailing;
- Door style, material and detailing;
- Trim details, including window and door casings, cornices, soffits, eaves, dormers, shutters, railings and other similar design elements;
- Exposed foundation materials and profiles.

10.814.52 If provided, the following elements shall be the same as or similar to the corresponding elements on the **principal building** in terms of proportions, materials, style and trim:

- Projections such as dormers, porticos, bays, porches and door canopies;
- Chimneys, balconies, railings, gutters, shutters and other similar design elements.

This new section establishes detailed standards for architectural consistency of an ADU with the principal single-family dwelling.

Note that these standards are requirements (“shall”), not guidelines (“should”). Section 10.814.612 provides that if the Planning Director determines that an ADU that is otherwise permitted (“P”) does not comply with any of these standards (or any other standard in Section 10.814), then the proposed use will require a conditional use permit, including a public hearing by the Planning Board.

10.814.53 If provided, garage doors shall be limited to 9 feet in width.

10.814.60 Review and Approval Process

10.814.61 When Section 10.440 indicates that an **attached** or **detached ADU** is permitted (“P”), the following shall apply:

10.814.611 The property owner shall post a notice describing the proposed **ADU** application on the perimeter of the site where it can easily be viewed and readable from the public way and shall maintain such notice until the application is approved. The application for a **building permit** shall be accompanied by a statement from the owner confirming that the required notice has been posted.

10.814.612 The determination as to whether the **ADU** complies with all requirements shall be by administrative approval by the Planning Director. If the Planning Director determines that the application does not comply with any standard in this Section 10.814, the proposed **ADU** shall require a conditional use permit.

~~10.814.60~~62 ~~Before granting~~ When Section 10.440 requires a conditional use permit for an **attached** or **detached ADU**, the Planning Board shall make the following findings before granting approval:

10.814.621 The **ADU** complies with all applicable standards of this Section 10.814.

~~10.814.61~~622 The ~~E~~ exterior design of the **ADU** is consistent with the existing principal **dwelling** on the **lot**.

This requirement for posting notice of the application is in response to resident concerns about lack of notification without a public hearing requirement.

10.814.~~62~~623 The site plan provides adequate and appropriate **open space, and landscaping and off-street parking** for both the **ADU** and the ~~primary~~ **principal dwelling unit, and complies with the off-street parking requirements of Section 10.1110.**

This change replaces a general determination of “adequate and appropriate” parking with a specific finding that the plan complies with the off-street parking standards of the ordinance.

10.814.~~63~~624 The **ADU** will maintain a compatible relationship to **adjacent** properties in terms of location, design, and **off-street parking** layout, and will not significantly reduce the privacy of **adjacent** properties.

~~10.814.64 The ADU will not result in excessive noise, traffic or parking congestion.~~

10.814.~~70~~63 In granting a conditional use permit for an **accessory dwelling unit**, the Planning Board may modify a specific standard set forth in Sections 10.814.~~40-30 or 10.814.52~~ through 10.814.~~56~~50 (excepting Section 10.814.41), including requiring additional or reconfigured **off-street parking** spaces, provided that the **Board** finds such modification will be consistent with the required findings in Section 10.814.~~60~~62.

The phrase “excepting Section 10.814.41” means that (1) no detached accessory dwelling unit may exceed 1,000 sf in area, and (2) no DADU created in an existing accessory building may exceed 600 sf in area unless it complies with the required setbacks for a principal structure.

10.814.70 Post-Approval Requirements

10.814.~~80~~71 Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds.

10.814.~~90~~72 A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department and shall be renewed annually upon submission of such documentation as the Planning Department may require to verify compliance. A certificate of use shall not be issued prior to recording of documentation as required by ~~this section~~ 10.814.8071.

~~10.815 Garden Cottages~~

~~10.815.10 One **garden cottage**, and only one, shall be allowed on any **lot** containing a **single family dwelling**.~~

~~10.815.20 Relationship to other provisions of this Ordinance:~~

~~10.815.21 No **garden cottage** shall be allowed on the same **lot** as an **accessory dwelling unit** authorized under this Ordinance.~~

~~10.815.22 The establishment of a **garden cottage** results in two **dwelling units** on the property and thus makes the property ineligible to establish an **accessory dwelling unit** under RSA 674:72-73 and this Ordinance. As a condition of receiving a conditional use permit for a **garden cottage**, the property owner shall waive all rights under RSA 674:72 and RSA 674:73.~~

~~10.815.23 A **garden cottage** that complies with the standards of this section is exempt from the residential density standards of the Zoning Ordinance. A second **dwelling unit** on a **lot** that does not comply with the standards of this section shall be considered to be either a second primary **dwelling** or an **accessory dwelling unit** and shall comply with the applicable standards and provisions of the Ordinance.~~

~~10.815.30 **Garden cottages** shall comply with the following standards:~~

~~10.815.31 The existing **accessory building** shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.~~

~~10.815.32 A **garden cottage** shall not be larger than 600 sq. ft. **gross floor area**.~~

The entire Garden Cottages section is deleted because the GC use is being folded into the broader category of Detached Accessory Dwelling Unit (DADU).

~~10.815.33~~ A ~~garden cottage~~ that is within a required ~~yard~~ for the zoning district shall not have any windows or doors higher than eight feet above grade facing the ~~adjacent~~ property.

~~10.815.34~~ The ~~principal dwelling unit~~ and the ~~garden cottage~~ shall not be separated in ownership (including by condominium ownership); and either the ~~principal dwelling unit~~ or the ~~garden cottage~~ shall be occupied by the owner of the property. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence.

~~10.815.341~~ When the property is owned by one or more trusts, one of the ~~dwelling units~~ shall be the principal place of residence of the beneficiary(ies) of the trust(s).

~~10.815.35~~ Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.

~~10.815.40~~ Before granting a conditional use permit for a ~~garden cottage~~, the Planning Board shall make the following findings:

~~10.815.41~~ Exterior design of the ~~garden cottage~~ is consistent with the existing ~~single family dwelling~~ on the lot.

~~10.815.42~~ The site plan provides adequate and appropriate ~~open space, landscaping, and off street parking~~ for both the ~~garden cottage~~ and the primary ~~dwelling~~.

~~10.815.43~~ The ~~garden cottage~~ will maintain a compatible relationship to ~~adjacent~~ properties in terms of location and design, and will not significantly reduce the privacy of ~~adjacent~~ properties.

~~10.815.44~~ The ~~garden cottage~~ will not result in excessive noise, traffic or parking congestion.

~~10.815.50~~ In granting a conditional use permit for a ~~garden cottage~~, the Planning Board may modify a specific dimensional or parking standard set forth in Section 10.815.30, including requiring additional or reconfigured ~~off-street parking~~ spaces, provided that the Board finds such modification will be consistent with the required findings in Section ~~10.815.40~~.

~~10.815.60~~ Documentation of the conditional use permit approval shall be recorded at the ~~Rockingham County Registry of Deeds~~.

~~10.815.70~~ A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department and shall be renewed annually upon submission of such documentation as the Planning Department may require to verify compliance. A certificate of use shall not be issued prior to recording of documentation as required by ~~10.815.60~~.

Article 11 Site Development Standards

Section 10.1110 Off-Street Parking

10.1113 Location of Vehicular Use Facilities

10.1113.20 Location of Parking Facilities on a Lot

Required **off-street parking** spaces shall not be located in any required **front yard**, or between a **principal building** and a **street** (including on a **corner lot**). This restriction shall not apply to required **off-street parking** for a **single-family dwelling** (including the combination of a **single-family dwelling** and an **accessory dwelling unit**) or **two-family dwelling**.

Currently, one- and two-family dwellings are exempted from the prohibition on providing required parking spaces in the front yard. This change extends the exemption to lots containing a single-family dwelling and an ADU, since an ADU is typically smaller than a unit in a two-family dwelling.

Article 15 Definitions

Section 10.1530 Terms of General Applicability

A

Accessory building or structure

A subordinate **building** located on the same **lot** with the principal **building**, occupied by or devoted to an **accessory use**. Where an **accessory building** is attached to the main **building** in a substantial manner, as by a wall or roof, such **accessory building** shall be considered part of the main **building**. For the purpose of this Ordinance, a **detached accessory dwelling unit** that is not created within an existing accessory building is not an **accessory building or structure**.

The inserted phrase is needed because the Garden Cottage use (which by definition is in an accessory building) is being folded into the Detached ADU use.

Accessory dwelling unit (ADU)

A **dwelling unit** that is constructed on the same **lot** as a **single-family dwelling** and complies with the standards for **accessory dwelling units** set forth in this Ordinance.

Attached accessory dwelling unit (AADU)

An **accessory dwelling unit** that is constructed within or attached to a **single-family dwelling**. For the purpose of this definition, “attached” means:

- (a) located within the **dwelling** and separated from the **principal dwelling unit** either horizontally or vertically, or
- (b) sharing a common wall for at least 25 percent of the length of the side of the **single-family dwelling**.

“Attached” does not include connection to the **single-family dwelling** solely by an unenclosed **structure** (such as a breezeway) or by an enclosed but unconditioned space.

Detached accessory dwelling unit (DADU)

An **accessory dwelling unit** that is constructed within ~~an accessory a~~ detached building on a lot containing one **single-family dwelling**. A **detached accessory dwelling unit** may be connected to the **single-family dwelling** by an unenclosed **structure** (such as a breezeway) or by an unconditioned space.

Accessory use

A **use** that is incidental and subordinate to the **principal use** and located on the same **lot** with such **principal use** or **building**.

G

~~**Garden cottage**~~

~~A **dwelling unit** that is constructed through conversion of an **accessory building** on the same **lot** as a **single-family dwelling** and complies with the standards for **garden cottages** set forth in the Ordinance.~~

This definition is being deleted because the Garden Cottage use is being merged into the Detached ADU use.

Gross floor area (GFA)

The sum of the areas of the several floors of a **building** or **buildings** as measured by the exterior faces of the walls, but excluding the areas of fire escapes, unroofed porches or terraces, and areas such as basements and **attics** exclusively devoted to **uses** accessory to the operation of the **building**. If the exterior walls are greater than 6 inches thick, then the **gross floor area** shall be adjusted to a maximum of a 6-inch thick wall.

**Assisted Living – Proposed Changes to Table of Uses
September 23, 2022**

The attached excerpt from the table of uses proposes several changes for assisted living facilities. The shading of cells in the use table pairs the two types of assisted living facilities with their multifamily dwelling counterparts in terms of scale:

- assisted living home (up to 5 residents) is paired with 3- and 4-unit multifamily dwelling; and
 - assisted living center (6 or more residents) is paired with 5-unit or larger multifamily dwelling.
- The following tables explain the proposed changes.

Assisted living home (up to 5 residents):

This use would likely be similar to a large single- or two-family dwelling or a small multifamily dwelling. (An example would be the Greengard Residence on Brewery Lane.) As such, it should not be restricted more than a 3- to 4-unit multifamily building. Siting issues, including landscaping, buffers, lighting and off-street parking, can be addressed through the site plan review process.

District	MF 3-4 units	ALH Current	ALH Proposed	Comments
GRA & GRB	S	S	P	Change from S to P. This is more permissive than for the 3-4 unit multifamily, but consistent with a two-family dwelling.
GRC (A)	P	S	P	Change from S to P to be consistent with small multifamily.
GA/MH	P	S	P	
MRO & CD4-L1	P	S	P	
CD4-L2	P	S	P	
MRB	P	S	P	
CD5 & CD4	P	N	P	Change from N to P to be consistent with small multifamily.
GB	N	N	N	No change.
G1	P	S	P	Change from S to P to be consistent with small multifamily.
G2	P	S	P	
B & CD4-W	P	N	P	Change from N to P to be consistent with small multifamily.

Assisted living center (6 or more residents):

While this use is defined as an assisted living facility for 6 or more residents, in practice it is likely to be much larger than the minimum because of the need to support specialized staffing and services. According to a 2020 report to Congress, assisted living facilities in 2016 ranged in size from 4 to 518 licensed beds, and the average bed capacity was 35 licensed beds. Portsmouth’s Edgewood Centre has a capacity of 156 residents and Clipper Harbor on Jones Road serves 102 residents. Two newer facilities in Durham, which opened in 2012 and 2017, have 24 and 60 residents.

At the same time, the neighborhood impacts of an assisted living center may be less than a comparable-sized multifamily building because most residents will not drive and may not be engaged in active outdoor recreation. Thus, while the physical structure may be similar to a large apartment building, the effects may be more comparable to a smaller development.

District	MF 5+ units	ALC Current	ALC Proposed	Comments
GRC (A)	S/N	N	S	Change from N to S to be consistent with smaller (5- or 8-unit) multifamily uses.
GA/MH	P	N	P	Change from N to P to be consistent with multifamily.
MRO & CD4-L1	P/N	N	S	In these districts, multifamily is permitted up to 8 dwelling units but prohibited with more than 8 units (no middle ground). Assisted living centers are likely to be comparable to the larger multifamily buildings, so if they are allowed it makes sense to require a special exception.
CD4-L2	P/N	N	S	
MRB	P/N	N	S	
CD5 & CD4	P	P	P	No change.
GB	N	P	N	Change from P to N to be consistent with multifamily. (This district is limited to a few parcels around the Route 1 Circle and along the Spaulding Turnpike.)
G1	P	S	P	Change from S to P to be consistent with multifamily.
G2	P	S	P	
B & CD4-W	P	P	P	No change.

Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4	GB	G1	G2	B CD4- W	WB	OR	I	WI	Supplemental Regulations
1. Residential Uses																		
1.10 Single family dwelling	P	P	P	P	N	P	P	P	P	N	P	P	N	N	N	N	N	
1.30 Two-family dwelling	N	N	P	P	P	P	P	P	P	N	P	P	N	N	N	N	N	10.640 (Downtown Overlay district)
1.40 Townhouse	N	N	S	P	P	P	P	P	P	N	P	P	P	N	N	N	N	10.640 (Downtown Overlay district)
1.50 Multifamily dwelling																		
1.51 3 or 4 dwelling units	N	N	S	P	P	P	P	P	P	N	P	P	P	N	N	N	N	10.5A32 (Character district permitted uses)
1.52 5 to 8 dwelling units	N	N	N	S	P	P	P	P	P	N	P	P	P	N	N	N	N	10.640 (Downtown Overlay district)
1.53 More than 8 dwelling units	N	N	N	N	P	N	N	N	P	N	P	P	P	N	N	N	N	10.813 (Multifamily Dwellings in the Business District)
2. Institutional Residence or Care Facilities																		
2.10 Assisted living facility																		
2.11 Assisted living center	N	N	N	NS	NP	NS	NS	NS	P	PN	SP	SP	P	N	N	N	N	
2.12 Assisted living home	S	S	SP	SP	SP	SP	SP	SP	NP	N	SP	SP	NP	N	N	N	N	
2.20 Residential care facility																		
2.21 5 or fewer residents	S	S	S	S	S	S	S	S	N	N	S	S	S	N	N	N	N	
2.22 More than 5 residents	N	N	N	N	N	S	S	S	P	S	S	S	S	N	S	N	N	