

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	N	N	P	P	N	N	...
1.20 Accessory dwelling unit 1.21 Attached accessory dwelling unit (AADU) 1.211 Up to 750 sq. ft. GFA and entirely within an existing single-family dwelling 1.212 More than 750 sq. ft. GFA, or in an addition to or expansion of an existing single-family dwelling															...
															...

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	...
1.22 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	...
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	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	...
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	CU	CU	CU	N	N	N	N	N	N	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 **dwelling units** within single-family neighborhoods in order to: increase the supply of smaller, more affordable housing units without the need for more infrastructure or further land development; meet local housing needs; and provide opportunities for adapted reuse of existing **accessory structures**. The standards in this section are intended to integrate more housing options into the community with minimal negative impact on the surrounding neighborhood.

10.814.12 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**.

10.814.13 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:

10.814.131 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, the dimensional standards set forth in Sec. 10.521 and the **off-street parking** requirements set forth in Sec. 10.1110. 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.

10.814.132 An **attached accessory dwelling unit** is permitted on an existing **nonconforming lot** and within an existing **nonconforming building** as long as there is no increase to or extension of any existing nonconformity and no new nonconformity is created.

10.814.133 A **detached accessory dwelling unit** that is not created within an existing **accessory building** is not an **accessory building** 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** and

not by the **side yard** and **rear yard** standards applicable to an **accessory building**.

- 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.

10.814.20 Standards for All Accessory Dwelling Units

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

- 10.814.21 The principal **dwelling unit** and the **accessory dwelling unit** shall not be separated in ownership (including by condominium ownership).

- 10.814.22 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. Furthermore, an affidavit of this restriction shall be recorded at the Rockingham County Registry of Deeds.

- 10.814.221 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).

- 10.814.23 The **accessory dwelling unit** shall not have more than two bedrooms.

- 10.814.24 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.

- 10.814.25 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.

- 10.814.26 At least 1 **off-street parking** space shall be provided for an **ADU** with up to 750 sq. ft. GFA, and at least 2 spaces shall be provided for an **ADU** with more than 750 sq. ft. GFA, in addition to the 2 spaces that are required for the principal **single-family dwelling**.

10.814.30 Additional Standards for Attached Accessory Dwelling Units

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

- 10.814.31 An interior door shall be provided between the **principal dwelling unit** and the **accessory dwelling unit**.

10.814.32 The **AADU** 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 **AADU**.

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

10.814.331 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.

10.814.332 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**.

10.814.333 The **building height** of any addition or expansion that includes an increase in **building footprint** shall be 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**.

10.814.40 Additional Standards for Detached Accessory Dwelling Units

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

10.814.41 The **DADU** 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, use no. 1.224.

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.
- 10.814.43 The **DADU** shall be subordinate to the principal **single-family dwelling** in scale, height and appearance, as follows:
- 10.814.431 The front wall of a **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 principal **dwelling unit**.
 - 10.814.432 The **building height** of the entire **building** containing the **DADU** shall be no greater than 22 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 1,600 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 are located outside the required setbacks from property lines and occupy no greater than 33% of any individual roof plane.
 - 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.

10.814.44 The **DADU** shall comply with the minimum separation requirements established by the Building Code.

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.

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 For a period of at least 30 days from the date of application to the City, the property owner shall post a notice, provided by the city, that describes the proposed **ADU** application. Such notice shall be located on the perimeter of the site

where it can easily be viewed and readable from all abutting public ways. Prior to approval of the application for a **building permit** the applicant shall provide a written statement, including photographic evidence, confirming that the notice requirement has been met. Furthermore, the sign information will be mailed to the direct abutters of the **lot**.

- 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.
- 10.814.62 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.
 - 10.814.622 The exterior design of the **ADU** is consistent with the existing principal **dwelling** on the **lot**.
 - 10.814.623 The site plan provides adequate and appropriate **open space** and **landscaping** for both the **ADU** and the principal **dwelling unit**, and complies with the **off-street parking** requirements of Section 10.1110.
 - 10.814.624 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.
- 10.814.63 In granting a conditional use permit for an **accessory dwelling unit**, the Planning Board may modify a specific standard set forth in Sections 10.814.30 through 10.814.50 (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 10.814.62.

10.814.70 Post-Approval Requirements

- 10.814.71 Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds.
- 10.814.72 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 section 10.814.71.

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**.

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**.

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 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

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.