

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS  
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**7:00 PM Public Hearing begins**

**February 23, 2023**

**AGENDA**

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**REGULAR MEETING 7:00pm** *(Continued from February 16, 2023)*

**I. PUBLIC HEARINGS -- OLD BUSINESS**

*The Board's action in these matters has been deemed to be quasi-judicial in nature.  
If any person believes any member of the Board has a conflict of interest,  
that issue should be raised at this point or it will be deemed waived.*

- A. Phase II Regulatory Amendments** – The Planning Board will consider a recommendation to City Council to adopt amendments to Article 8 Supplemental Use Standards: Section 10.440 Table of Uses, Section 10.814 Accessory Dwelling Units, and Section 10.815 Garden Cottages; Article 11 Site Development Standards: Section 10.1110 Off-Street Parking; and Article 15 Definitions related to Accessory Dwelling Units and Garden Cottages.

**II. OTHER BUSINESS**

**III. ADJOURNMENT**

*\*Members of the public also have the option to join this meeting over Zoom. A unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

[https://us06web.zoom.us/webinar/register/WN\\_yALGNh0WSB2451cYdwULFg](https://us06web.zoom.us/webinar/register/WN_yALGNh0WSB2451cYdwULFg)

## Summary of changes from the 2-16-23 meeting.

The changes can be summarized as the following:

- 10.440 – Table of Uses: Add “Administrative Permit” for Attached accessory dwelling unit (AADU) 1,211 Up to 750 sq. ft. GLA and entirely within an existing single-family dwelling.
- All other ADUs will require a CUP.
- 10.814.26 – Parking: add requirement that 1 parking space is required for an ADU in addition to the required parking for the single-family dwelling.
- 10.814.131 – Dimensional Requirements: Add language from State statute clarifying that no additional requirements (including no increase in lot size) shall be required for dimensional standards for the combination of a single-family dwelling and an ADU.
- 10.814.133- New DADUs: Revise language to state that newly constructed DADUs must meet the side and rear yard requirements.
- 10.814.221 – Standards for All ADUs: Revise section when property is owned by an “entity”.
- 10.814.60 – Review and Approval Process:
  - 61 – added language for administrative approval.
  - 611 – added language that the City will send certified mail to abutters.
  - 613 – revised language about administrative approval process for the Planning Director.
  - 624 - added language that the ADU will be compatible with the character of the neighborhood.
- 10.814.63- Removed ordinance section references for exceptions and added language that size and height of any ADU shall not be able to be modified.
- 10.1530 – Definitions:
  - Revised definition for Gross Living Area.
- General wordsmithing throughout section as shown in the clean document with highlighted text.

## 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 ~~three~~<sup>four</sup> 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 by Administrative Approval as-of-right (“AP”) 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.

## 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	...
<b>1. Residential Uses</b>															
1.10 <b>Single family dwelling</b>	P	P	P	P	N	P	P	P	<u>PN</u>	N	P	P	N	N	...
1.20 <b>Accessory dwelling unit</b>															
<del>1.21 Attached</del>	<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>CU</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>N</u>	<u>N</u>	<u>...</u>
<u>1.21 Attached accessory dwelling unit (AADU)</u>															
<u>1.211 Up to 750 sq. ft. GLA and entirely within an existing single-family dwelling</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>N</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>N</u>	<u>N</u>	<u>...</u>
<u>1.212 Up to 750 sq. ft. GLA and in an addition to or expansion of an existing 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>CU</u>	<u>CU</u>	<u>N</u>	<u>N</u>	<u>...</u>
<del>1.22 Detached</del>	<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>

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	...
<b>1.22 Detached accessory dwelling unit (DADU)</b>															
1.221 Up to 600 sq. ft. GLA and entirely within an existing <b>accessory building</b> that <del>complies with all dimensional standards for accessory building</del> conforms with the <del>dimensional</del> requirements of this Ordinance.	<del>CUP</del>	<del>CUP</del>	<del>CUP</del>	<del>CUP</del>	N	<del>CUP</del>	<del>CUP</del>	<del>CUP</del>	N	N	N	N	N	N	...
1.222 Up to 600 sq. ft. GLA in an existing <b>accessory building</b> where any of the following apply: (a) the existing <del>building</del> does not comply with a dimensional standard for an <b>accessory building</b> , or (b) the <b>DADU</b> requires any modification of a standard in Section 10.814, or any variance; or (c) the <b>DADU</b> that does not conform with the <del>dimensional</del> requirements of this Ordinance or includes any the expansion of the existing <b>accessory building</b>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	N	<del>CU</del>	<del>CU</del>	<del>CU</del>	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. GLA on a lot and in a new building that complies with all lot and building dimensional standards of this Ordinance 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>
<del>1.25 Garden Cottage</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>N</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>CU</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>...</del>
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)”.

**KEY TO ZONING DISTRICTS**

(See Zoning Articles 4 through 5B for use, dimensional and intensity standards)

R	Rural Residential	CD4-L1	Character District 4-L1
SRA	Single Residence A	CD4-L2	Character District 4-L2
SRB	Single Residence B	CD4-W	Character District 4-W
GRA	General Residence A	CD4	Character District 4
GRB	General Residence B	CD5	Character District 5
GRC (A)	General Residence C	GB	General Business
GA/MH	Garden Apartment / Mobile Home Park	G1	Gateway Neighborhood Mixed Use Corridor
MRO	Mixed Residential Office	G2	Gateway Neighborhood Mixed Use Center
MRB	Mixed Residential Business	B	Business
		WB	Waterfront Business

## 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 ~~municipal~~ infrastructure or further land development; ~~meet contributing to~~ 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.

~~10.814.1012~~ ~~One, and only one, 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 any lot that contains more than one **dwelling unit**. ~~An ADU shall not constitute a two-family use of the lot.~~

~~10.814.2013~~ 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 of the following provisions of this Ordinance: zoning regulations as follows:

~~10.814.24131~~ Any municipal regulation applicable to **single-family dwellings** shall also apply to the combination of a principal **dwelling unit** and an **accessory dwelling unit**, ~~specifically 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.

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.

This change allows an ADU to be created on a lot meeting the area requirement for a single-family dwelling, in accordance with state law.

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

~~10.521 and the off-street parking requirements of this Ordinance set forth in Sec. 10.1110. However an accessory dwelling unit shall be allowed without additional requirements for lot area, lot area per dwelling unit, or frontage beyond those required for a single family dwelling without an ADU in the same zoning district.~~

~~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.~~

10.814.22132 An **attached accessory dwelling unit** is permitted on an existing **nonconforming lots** ~~and or~~ within an existing **nonconforming buildings** ~~as long as there is provided 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 or new nonconformity is created.~~

This simplifies the language of no increase in any nonconformity.

~~10.814.23133 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 and 10.5A40 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.

10.814.133 Newly constructed **detached accessory dwelling units** shall be governed by the provisions of this Ordinance and the **side** and **rear yard requirements** for the applicable zoning or Character District.

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

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



**detached accessory dwelling unit** as provided in this Ordinance. ~~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**

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

~~10.814.31~~<sup>21</sup> The principal **dwelling unit** and the **accessory dwelling unit** shall not be separated in ownership (including by condominium ownership).

~~10.814.32~~<sup>22</sup> Either the principal **dwelling unit** or the **accessory dwelling unit** shall be occupied ~~as the owner's principal place of residence. by the owner of the dwelling as his or her principal place of residence.~~ The owner shall provide documentation demonstrating compliance with this provision to the satisfaction of the City. ~~that one of the units is his or her principal place of residence.~~

~~10.814.32~~<sup>22</sup><sup>21</sup> When the property is owned by ~~one or more trusts~~an entity, one of the **dwelling units** shall be the principal place of residence of ~~the beneficiary(ies) of the trust(s) one or more principals of that entity, such as a member or beneficiary.~~

~~10.814.23~~ ~~The a~~**Accessory dwelling units** shall not have more than two bedrooms.

~~10.814.33~~<sup>24</sup> 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 ~~occupied by the owner that he or she occupies~~ as allowed or permitted elsewhere in this Ordinance.

~~10.814.34~~<sup>25</sup> Where municipal sewer service is not provided, the septic system~~(s)~~ 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** 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

~~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 **AADU 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. ~~in gross floor living area (GLA).~~ For the purpose of this provision, the gross floor living area of the AADU shall not include ~~existing~~ storage space, shared entries, or other spaces not exclusive to the **accessory dwelling unit AADU**.

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

~~10.814.43~~331 ~~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 door(s) 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:

Section 10.814.32 coordinates with the proposed changes to the table of uses:

- An AADU up to 750 sq. ft. is a permitted use (use 1.211) or a use allowed by conditional use permit (use 1.212).
- An AADU more than 750 sq. ft. is not allowed anywhere (this provision).

The standards for subordination of the AADU to the principal dwelling unit (Section 10.814.33) are refined based on experience with ADUs that have been created since the adoption of the ordinance, and on comments from residents.

~~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.~~

~~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 either 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~~10.814.41 ~~The A~~ **DADU** shall not have more than two bedrooms and shall not be larger than 750 sq. ft. in gross floor living area; except that the maximum **gross floor area** shall be 1,000 sq. ft. if the **lot area** is 2 acres or more.

~~10.814.411~~ ~~In no case shall a~~ **DADU** that is created from an existing **accessory building** that does not comply with ~~theits~~ minimum **yard** requirements ~~for a principal structure be larger than~~ shall not exceed 600 sq. ft. in gross floor living area.

10.814.42 A **DADU** that is created from an existing **accessory building** that does not comply with ~~theits~~ 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**

This provision limits a DADU 600 sq. ft. if it is created from an existing accessory building that does not comply with the yard requirements for a principal structure. (This size limit is 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.

**living area** of the **accessory building** to be expanded up to a total of 600 sq. ft. as provided in [this Ordinance 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, balconies, or doors higher than eight feet above grade facing ~~the~~ adjacent property.

10.814.5343 The DADU shall be ~~clearly~~ subordinate to the principal **single-family dwelling** in scale, height and appearance, as follows:

10.814.55431 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 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 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. in gross floor area.

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.

In response to concerns raised by residents about the scale of DADUs (including some units that have been created under the current ordinance), Sections 10.814.432 through 10.814.436 establish 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).

Regardless of the size of the DADU that it contains, the detached building cannot have a footprint of more than 750 sq. ft. nor a gross floor area of more than 1,600 sq. ft. This would permit a 750 sq. ft. DADU (the maximum allowed with a conditional use permit) over a two-car garage.

10.814.435 The **gross floor area** of the ~~entire building~~ containing the **DADU** shall be no greater than 1,600 sq. ft. **gross floor area** ~~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 all 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 of this Ordinance.

10.814.438 The **DADU** shall comply with the lighting requirements of this Ordinance 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.

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

~~10.814.544~~ 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.

~~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 or similar in appearance to the **principal building** using the following design standards:

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

10.814.51 The new **building**, addition or expansion shall be architecturally consistent with or the same as or similar in appearance 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 overall character;
- Roof forms, slopes, and shingling materials projections;
- Siding material, texture, and profile;
- Window spacing, shapes, proportions, style and general detailing;
- Door style, material and general 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 architecturally consistent with -as or similar in appearance to the corresponding elements on the **principal building** in terms of proportions, materials, style and trim details:

- 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, all street-facing 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 by administrative approval (“AP”), the following shall apply:

- 10.814.611 For a period of at least 30 days ~~from~~following the date of application to the City, the applicant shall post a notice, ~~by~~in the form of a sign provided by the city, that describes the proposed **ADU** application. Such sign(s) shall be located on the perimeter of the ~~lot site~~where it can easily be viewed and readable from all abutting public ways. The applicant shall also ~~send~~provide the sign notice information to the City. ~~The City shall send -by certified mail to all owners of any property located within 100 feet of the lot. Prior to approval of the application for a building permit the applicant shall provide a written statement, including photographic evidence, confirming that these notice requirements have been met.~~
- 10.814.612 Any person may submit written comments on the **ADU** application. ~~In order to be considered by the Planning Director, s~~Such comments shall be submitted to the Planning Director within the 30-day notice period.
- 10.814.613 The determination as to whether the **ADU** complies with all requirements shall be ~~made by~~as an administrative ~~approval~~review by the Planning Director. If the Planning Director determines that the application ~~does not comply with any standard in this Section 10.814~~is not appropriate for an AP, the ~~proposed ADU~~application **may be denied or shall** may require a conditional use permit.
- 10.814.64 The Planning Director shall not approve an application for an **ADU** until the conclusion of the 30-day notice period.



10.814.6062 ~~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 ~~or as may be except as~~ modified by the conditional use permit.

10.814.61622 The ~~E~~ exterior design of the **ADU** is architecturally consistent with or similar in appearance to the existing principal **dwelling** on the **lot**.

10.814.62623 The site plan provides adequate and appropriate **open space, and landscaping and off-street parking** for both the **ADU** and the ~~primary dwelling~~ principal dwelling unit, and complies with the off-street parking requirements of Section 10.814.26.

10.814.63624 The **ADU** will maintain a compatible relationship ~~to~~ with the character of **adjacent and neighborhood** 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.~~

10.814.7063 In granting a conditional use permit for an **accessory dwelling unit**, the Planning Board may modify a specific standard set forth in Sections 10.814.26 and 10.814.40-30 or 10.814.52 through 10.814.5650 ~~(excepting the size and height of any ADU -Sections 10.814.41 and 10.814.42)~~, 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 10.814.6062.

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.

The phrase “excepting Sections 10.814.41 and 10.814.42” means that (1) no detached accessory dwelling unit may exceed 750 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.~~8071~~ Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, together with an affidavit that either the principal **dwelling unit** or the **accessory dwelling unit** will be occupied by the owner of the **dwelling** as the owner's ~~his or her~~ principal place of residence, as required by Section 10.814.22.

10.814.~~9072~~ 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 Ordinance. this Section 10.814.8071.

10.814.73 The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.

#### ~~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.~~

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

~~10.815.22~~ — 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**.

~~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

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### 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

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### Section 10.1530 Terms of General Applicability

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#### A

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##### **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)**

An ~~attached or detached~~ **-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. ~~An ADU shall not constitute a two-family use of the lot.~~

##### **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**.

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## G

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**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.



**Gross living area (GLA)**

The total area of finished residential space in an accessory dwelling unit, including all conditioned living space ~~that has heating, lighting and ventilation,~~ but excluding unconditioned ~~unheated~~space such as decks, ~~and porches, or~~ garages, ~~or other such spaces~~ that have not been converted into living space. **GLA** is calculated by measuring the interior perimeter of the **accessory dwelling unit**.

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 three 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 by **Administrative Approval** ("AP") 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.

## 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	...
<b>1. Residential Uses</b>															
1.10 <b>Single family dwelling</b>	P	P	P	P	N	P	P	P	N	N	P	P	N	N	...
1.20 <b>Accessory dwelling unit</b>															
1.21 <b>Attached accessory dwelling unit (AADU)</b>															
1.211 Up to 750 sq. ft. GLA and entirely within an existing <b>single-family dwelling</b>	AP	AP	AP	AP	N	AP	AP	AP	N	N	CU	CU	N	N	...
1.212 Up to 750 sq. ft. GLA and in an expansion of an existing <b>single-family dwelling</b>	CU	CU	CU	CU	N	CU	CU	CU	N	N	CU	CU	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	...
1.22 <b>Detached accessory dwelling unit (DADU)</b>															
1.221 Up to 600 sq. ft. GLA and entirely within an existing <b>accessory building</b> that conforms with the dimensional requirements of this Ordinance.	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	...
1.222 Up to 600 sq. ft. GLA in an existing <b>accessory building</b> that does not conform with the dimensional requirements of this Ordinance or includes the expansion of the existing <b>accessory building</b>	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	...
1.223 Up to 750 sq. ft. GLA on a lot and in a new <b>building</b> that complies with all lot and <b>building</b> dimensional standards of this Ordinance for a <b>single-family dwelling</b>	CU	CU	CU	CU	N	CU	CU	CU	N	N	N	N	N	N	...
1.30 <b>Two-family dwelling</b>	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)”.

KEY TO ZONING DISTRICTS  
(See Zoning Articles 4 through 5B for use, dimensional and intensity standards)

R	Rural Residential	CD4-L1	Character District 4-L1
SRA	Single Residence A	CD4-L2	Character District 4-L2
SRB	Single Residence B	CD4-W	Character District 4-W
GRA	General Residence A	CD4	Character District 4
GRB	General Residence B	CD5	Character District 5
GRC (A)	General Residence C	GB	General Business
GA/MH	Garden Apartment / Mobile Home Park	G1	Gateway Neighborhood Mixed Use Corridor
MRO	Mixed Residential Office	G2	Gateway Neighborhood Mixed Use Center
MRB	Mixed Residential Business	B	Business
		WB	Waterfront Business

## Article 8 Supplemental Use Standards

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### 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 **with less** need for more **municipal** infrastructure or further land development; **contribute to** 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 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 on **any 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 **of the following provisions of this Ordinance**:

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**. **However, an accessory dwelling unit shall be allowed without additional requirements for lot area, lot area per dwelling unit, or frontage beyond those required for a single family dwelling without an ADU in the same zoning district.**

10.814.132 An **attached accessory dwelling unit** is permitted on an existing **nonconforming lot** or within an existing **nonconforming building** provided no increased or new nonconformity is created.

10.814.133 Newly constructed **detached accessory dwelling units** shall be governed by the provisions of this Ordinance and the **side** and **rear yard requirements** for the applicable zoning or Character District.

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 this Ordinance.

#### 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 as the owner's principal place of residence. The owner shall provide documentation demonstrating **compliance with this provision** to the satisfaction of the City.

10.814.221 When the property is owned by **an entity**, one of the **dwelling units** shall be the principal place of residence of **one or more principals of that entity, such as a member or beneficiary.**

10.814.23 **Accessory dwelling units** 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 **occupied by the owner** as allowed or permitted elsewhere in this Ordinance.
- 10.814.25 Where municipal sewer service is not provided, the septic system(s) shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.
- 10.814.26 **1 off-street parking** space shall be provided for an **ADU** in addition to the 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 **AADU**.
- 10.814.32 The **AADU** shall not be larger than 750 sq. ft. in **gross living area (GLA)**. For the purpose of this provision, the **gross living area** of the **AADU** shall not include 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 door(s) 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 either 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 A **DADU** shall not be larger than 750 sq. ft. in **gross living area**.
- 10.814.411 A **DADU** that is created from an existing **accessory building** that does not comply with **its** minimum **yard** requirements shall not exceed 600 sq. ft. in **gross living area**.
- 10.814.42 A **DADU** that is created from an existing **accessory building** that does not comply with **its** minimum **yard** requirements 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**

**living area** of the **accessory building** to be expanded up to a total of 600 sq. ft. as provided **in this Ordinance**.

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, balconies, or doors higher than eight feet above grade facing 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 **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 **building** containing the **DADU** shall be no greater than 750 sq. ft.

10.814.435 The **gross floor area** of the **building** containing the **DADU** shall be no greater than 1,600 sq. ft. **gross floor area** 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 all property lines and occupy no greater than 33% of any individual roof plane.

10.814.437 The **DADU** shall comply with the drainage requirements of this Ordinance.

10.814.438 The **DADU** shall comply with the lighting requirements of this Ordinance.

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 or similar in appearance to the **principal building** using the following design standards:

10.814.51 The new **building**, addition or expansion shall be architecturally consistent with or similar in appearance 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, and overall character;
- Roof forms, slopes, and projections;
- Siding material, texture, and profile;
- Window spacing, shapes, proportions, style and general detailing;
- Door style, material and general 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 architecturally consistent with or similar in appearance to the corresponding elements on the **principal building** in terms of proportions, materials, style and details:

- 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, all street-facing 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 by **administrative approval (“AP”)**, the following shall apply:

10.814.611 For a period of at least 30 days **following** the date of application to the City, the applicant shall post a notice, in the form of a sign provided by the city, that describes the proposed **ADU** application. Such sign(s) shall be located on the perimeter of the **lot** where it can easily be viewed and readable from all abutting public ways. The applicant shall also provide the sign notice information **to the City. The City shall send by** certified mail to all owners of any property located within 100 feet of the **lot**.

10.814.612 Any person may submit written comments on the **ADU** application. In order to be considered by the Planning Director, such comments shall be submitted to the Planning Director within the 30-day notice period.

10.814.613 The determination as to whether the **ADU** complies with all requirements shall be made **as an administrative review** by

the Planning Director. If the Planning Director determines that the application is **not appropriate for an AP**, the application **may be denied or may** require a conditional use permit.

10.814.64 The Planning Director shall not approve an application for an **ADU** until the conclusion of the 30-day notice period.

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 **or as may be** modified by the conditional use permit.

10.814.622 The exterior design of the **ADU** is architecturally consistent with or similar in appearance to 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 10.814.26.

10.814.624 The **ADU** will maintain a compatible relationship **with the character of adjacent and neighborhood** 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 10.814.26 and 10.814.30 through 10.814.50 (except the size and height of any ADU), 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, together with an affidavit that either the principal **dwelling unit** or the **accessory dwelling unit** will be occupied by the owner of the **dwelling** as **the owner's** principal place of residence, as required by Section 10.814.22.

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. A certificate of use shall not be issued prior to recording of documentation as required by **this Ordinance**.

10.814.73 The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.

## Article 11 Site Development Standards

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### 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

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### Section 10.1530 Terms of General Applicability

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#### A

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##### **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)**

An **attached or detached 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**.

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**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.

**Gross living area (GLA)**

The total area of finished residential space in an **accessory dwelling unit**, including all **conditioned** living space, but excluding **unconditioned space such as** decks, porches, garages, **or other such spaces** that have not been converted into living space. **GLA** is calculated by measuring the interior perimeter of the **accessory dwelling unit**.