

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

NOVEMBER 18, 2025

A meeting of the Planning and Economic Development Committee was held Tuesday, November 18, 2025, at 7:01 p.m. in the Aldermanic Chamber and duly noticed in two places, including the City's website, in accordance with the requirements of RSA 91-A:2 II.

The roll call was taken with 5 members of the Planning and Economic Development Committee present:

Alderman-at-Large Melbourne Moran, Jr., Chairman
Alderman Derek Thibeault, Clerk
Alderman Ernest A. Jette
Alderman-at-Large Ben Clemons
Alderman Tyler Gouveia, Vice-Chair

Members not in Attendance:

Also in Attendance: Matt Sullivan, Community Development Director
Sam Durfee, Planning Manager (via Zoom)

PUBLIC HEARING

O-25-073

AMENDING THE LAND USE CODE REGARDING APPROVED SUBDIVISION EXEMPTION

Chairman Moran

Is there any introductions to each of these before we call for testimony Director Sullivan?

Matt Sullivan, Community Development Director

Yes. Thank you, Mr. Chair. Matt Sullivan, Community Development Director for the City of Nashua. Manager Durfee and I have prepared some brief comments on each piece of legislation. Perhaps what I can do is just provide a brief overview of why we're here with these five pieces of legislation. Dive into the first piece - so 25-073 and then we can either go right in a row or happy to allow the public hearing between each piece subject to your discretion Mr. Chair.

Chairman Moran

Yeah, let's just go straight through.

Matt Sullivan, Community Development Director

Okay.

Chairman Moran

That way we can just open up right to the public.

Matt Sullivan, Community Development Director

Great and I did note that the clicker wasn't working for me earlier so perhaps if the Clerk or Chair could advance the slides when we get to - we can stay on the slide for a minute but unfortunately, I couldn't find a way to move the slides along from up here.

The first piece of legislation before you this evening - before I jump into that actually. There's a reason why we're here this evening for these five pieces of land use legislation. You're well aware that we're underway with our Land Use Code update, the ReCode effort that Mr. Durfee has been for the Committee presenting on for several months. You're also aware that we're doing our best to avoid substantial changes to the Land Use Code while their effort is underway, recognizing that the Code will likely not be in place until mid-2026.

But the five pieces of legislation before you this evening are actually initiated completely at the State level through legislature changes over the last two years with four of these amendments being the result of 2025 legislative actions at the State level and one being the result of a 2024 effort. So with the exception of a few small items tonight, few small items within the five pieces of legislation, all of these changes are well prescribed by State legislative actions and I'll talk about what those exceptions are as we go through the items this evening.

I did just want to quickly note the text in italics there and that is to say that these five pieces of legislation are not the only changes to how we apply our Land Use Code based on recent State legislative actions. One example being HP631 that changed how certain uses are allowed in different zones, but these are the five that required immediate action on our behalf because of their effective date and immediate changes that were needed to our ordinances in order to comply with the State law changes.

So Mr. Clerk or Mr. Chair if you wouldn't mind going to the next slide, I'm happy to jump into the first one. Manager Durfee who's on as well will cover any of the gaps in my knowledge. He and his team directly developed the language that you see before you but we'll fill in any gaps that might arise during certainly our overview and then during the Public Hearing and the Committee meeting.

The first change to O-25-073 is a modification to what's referred broadly to what was referred broadly as the "vesting statute". Currently within the City's Land Use Code when applying for a subdivision if an applicant is granted an approval, their approval lasts for a period of five years. Their approval is vested from changes in land use regulations for a period of five years. They get that five-year vesting or protection from changes only if they complete what we refer to as "active and substantial development within 24 months of the approval". So if you receive your approval today, within 24 months of today, you have to complete active and substantial development and if you do that, you get five years of protection from changes to the Land Use Code or other regulations that would impact your proposal. If of course you don't complete active and substantial development or you don't complete the work within five years, you'd be subject to changes to the regulations and the ordinances and would have to come back before the Planning Board or any other applicable board in order to comply.

But the change that happened recently is that those deadlines have been extended. A State statute now mandates that we provide applicants or approved developments with three years for active and substantial development and then seven years is granted to them should they achieve active and substantial development within that three-year initial window. Like many of the proposals before you this evening, there are some challenges with this. I think these State changes were well intended but ultimately, this will provide more time for a given development proposal to move forward. So applicants or approved applications will have more time to actually go forth and finish their work and more resilient perhaps to changing market conditions that happen after their approval.

One of the other interesting features of this is typically we look forward when we implement a land use change like this and it impacts only proposals that happen in the future. This piece of legislation was interesting because it actually was very explicit about the fact that any approvals that had happened as of July 1st 2023 - so going back in time - would now be subject to this. So there's actually a retroactive impact where had the Planning Board approved a subdivision on August 1st of 2023, they would be given the three-year active and substantial allowance and then the seven-year protection under the ordinances should they achieve active and substantial development. I realize this is a relatively technical concept. One that staff deal with quite a bit and certainly our Planning Board does as well, but one that we are again required to implement here in the City as a result of the State level changes. Happy to answer any questions during the Committee meeting or address any public comments that might arise.

Chairman Moran

Maybe we can hold the questions to the Committee.

Matt Sullivan, Community Development Director

Great. I'm happy to go into the next change if you'd like.

This is the one product of a 2024 action. This was 2024 HB1567 that dealt with - really was really focused on the creation of more opportunity for child care facilities and removing some of the barriers to creating small home-based child-care facilities around the State of New Hampshire and what it functionally required is that municipalities allow child care facilities within dwelling units by right. That they're permitted without any additional zoning action being necessary provided that those child care facilities met all the requirements of DHHS Administrative Code under HEC4002. If you have questions that are specific to that section of the administrative rules, I can absolutely pull that up this evening and try to answer those

but generally, these child care facilities have to be accessory to the residential use on site but the idea is to allow more small child care facilities.

So there are a few things that we had to do to bring our zoning ordinance into compliance. One - within our use table that you may have seen, it has hundreds of uses. You've talked about this at your prior PEDC meetings. We specifically made an amendment to allow use #241, which is daycare family as an accessory permitted use within all residential zones. So this is the use that most clearly aligns with the change that was made at the statutory level. So what we've done is we've made it permitted in all the appropriate zoning districts as an accessory use. Further within our major home occupation section of the ordinance, we've made some changes to remove size restrictions that existed within that Section 190-47. You can see this within the language that you have before you this evening.

And then finally not specific to the change that happened at the State level but we actually had some content-based signage regulation for home occupations. That's something that was actually - it was made illegal several years ago by a different Supreme Court action. We've taken out those content-based regulations as well just as a matter of cleaning up the ordinance to make sure that it's legally compliant. But again, the goal here is to make child based- sorry - home-based child-care facilities permitted in all residential zones when accessory to residential uses and I believe we've done that.

Happy to go into the next change. O-25-074. This is relative or rather 75 and this is relative to onsite parking requirements. This has gotten a great deal of press over the last year. What this essentially did under SB284 is it prohibited municipal zoning ordinances from requiring more than one parking space per unit and we refer to a unit here in the City of Nashua, we're talking about several different housing typologies - accessory dwelling units, duplex dwelling units, single family dwelling units, multi-family units, and modular homes. So for any one of those housing types for every unit, the City cannot require more than one parking space. In some sections of the Code as you'll see in the amendment, we require 1.5 spaces. We had some other requirements as well but those have essentially all been leveled out to be one space per unit across the board and again, we have no ability to really change that. Honestly I think for the City of Nashua, this already aligns pretty well with a lot of our goals when it comes to parking particularly in our downtown core. So I put this last bullet in just to remind folks that at least in our current zoning code where there are sections of the City where no parking is required, this doesn't change that at all. Again, no parking will be required. We just can't require more than one space for each dwelling unit that's created and happy to answer any questions or address public comments as they may arise.

Moving on to perhaps the piece of legislation that received the most public attention. This is HB577 relative to accessory dwelling units. This was made effective as many of these were earlier this year. So it's been in effect for quite some time. This changed several of the parameters around accessory dwelling units and how they can be treated by zoning ordinances across the State of New Hampshire. There are a few sort of critical changes that I wanted to highlight here before we get into the changes that are proposed in our ordinance.

One critical thing is that there was a change to not only do municipalities have to allow accessory dwelling units in the attached form, but you now have to actually allow detached accessory dwelling unit while still having the ability to restrict it to one accessory dwelling unit per property. Further for all accessory dwelling units whether detached or attached, they must be allowed by right. Therefore a municipality cannot require a special exception or a conditional use permit. Our current ordinance contemplated that each ADU required a special exception from our Zoning Board of Adjustment. It was an additional permitting process requiring applicants to meet several conditions in order to get a permit being subject to a public hearing and abutter notification. That requirement is functionally wiped out and we'll get back to that in just a second here.

One other thing that the language modification was really clear about at the State level is that ADUs shall be allowed without any additional requirements that were specific to ADUs relative to lot coverage, setbacks, esthetics. So basically if you're doing an accessory dwelling unit, a municipality cannot choose to apply other dimensional or other standards simply because you're doing an accessory dwelling unit. Sort of an interesting stand taken by the legislature here to really say that there shall be no different treatment of ADUs than any other dwelling unit. So I think they were explicitly clear. So when it comes to the changes that we're making in our ordinance if we could perhaps go to the next slide, we're really just mirroring these conditions that exist within the new Statute. Of course, they're all accessory dwelling units provided they meet certain conditions that we've laid out are by right and do not require zoning relief from the Zoning Board by a special exception. They may be detached or attached. Just to be clear, we've maintained a one accessory dwelling unit per primary dwelling unit standard. So you can't have multiple accessory dwelling units in our proposed ordinance.

One thing that I know - one of the committee members grabbed me before the meeting to ask a great question about our maximum ADU size increasing from 750 to 980 square feet. I know Manager Durfee is on. He can explain a little bit how we got to that 980 square feet because that's one of the few items this evening where we have gone above and beyond

what the Statute calls for. The Statute called for a 950 maximum. We've actually gone above and beyond that allowing up to 980 square feet for either detached or attached accessory dwelling units and we can talk a little bit about how we got to that number.

One carve out is for if you are creating an attached accessory dwelling unit within an existing structure provided that you're not expanding the existing structure to build the ADU, you can actually have an accessory dwelling unit up to 1,200 square feet. So again, you have an existing building permit, an existing structure, you can create an ADU provided that that ADU does not result in structural expansion up to 1,200 square feet in size. So that's sort of the first slide on the changes that we're making.

Chairman Moran

Director Sullivan.

Matt Sullivan, Community Development Director

Yes.

Chairman Moran

Would an example of that be a garage that's turned into like a room?

Matt Sullivan, Community Development Director

Yes, it could. Well it would have to be an attached accessory dwelling.

Chairman Moran

An attached garage.

Matt Sullivan, Community Development Director

So that could yes. That absolutely could yes. If it were an attached structure, certainly that would qualify yes.

Chairman Moran

Okay. Thank you.

Matt Sullivan, Community Development Director

And if we could just go to the next slide very briefly. I want to comment on a few other changes that we're making. Again, very much in alignment with the statutory changes. We've removed some of the esthetic or design considerations that we had in our current ordinance. We're no longer able to require these because the Statute is now clear that you cannot have unique design review requirements related to accessory dwelling units. So we had some clear standards in our current ordinance that we now need to take out. We've made it clear that one parking space is required per ADU in alignment with the previous change that we talked about but that space can either be provided on site or can be provided off site if there's a permanent – rather there's a dedicated parking space for the ADU whether that's on an adjacent property or on the property itself. So we're providing some flexibility there.

One thing to be clear about is the ADUs are not permitted as accessory to multifamily housing units. So if you have a four- or five-bedroom multifamily building, you can't add a unit as an accessory dwelling unit. That's a different – there would be a different zoning interpretation applied to that. It can only be to really single-family dwelling units in that format.

We haven't taken away the requirement for a covenant. One thing we have changed is that the covenant and fees have to be paid prior to the building permit for the ADU rather than prior to the COB granted. We've actually accelerated the need for the covenant to be recorded and that covenant all it does is it says, I'm aware of the ADU restrictions. I'm aware of the rules. I'm going to comply with them and we've always kept that as part of our ordinance and intend to do that moving forward.

And then finally, we are asking because the Statute allows us to for proof that adequate water and sewer supply exists. So

if you're creating an ADU, your existing water service or sewer service have to be proven to be adequate. So if you have an issue that needs to be addressed, you're required to address that prior to adding additional dwelling unit demand. That's a summary of the changes that we're proposing to make within the ADU amendment.

And then finally an interesting one and particularly interesting in the context of several conversations that have happened in this Committee and elsewhere, we had several debates over recent years about unrelated individuals and occupancy limitations. You may recall that we had gone back and forth about whether to introduce new occupancy requirements, particularly in the context of recovery housing. We had had some pretty substantial committee debates. The State has - I don't want to say taken care of this issue because I think it depends how you feel about unrelated occupancy thresholds - but the State has made it very clear as I've bolded, underlined, italicized there not to overdo it that zoning ordinances that are based on familial or non-familial relationships, marital status, occupation, employment status, or educational status shall not be enforced. We cannot enforce any ordinances that do that.

If you recall within our ordinance, Table 16-1 which you'll see in the zoning change before you, does exactly that. It regulates households based on whether they're related or not. So how have we rectified this? We've taken Table 16.1 out. There are no longer any limitations on unrelated occupancy within our zoning ordinance because we frankly don't have the legal right to regulate that way any longer. I expect there could be some conversation this evening about in a future change whether we should add occupancy limitations. Either Manager Durfee or myself can speak to that. It's beware of the unintended consequence kind of thing where because you can't regulate household size or occupancy based on whether it's a family or nonfamilial relationship, it could have substantial unintended consequences when you have families that are non-traditional or required to occupy smaller spaces. There may be cultural differences. I think I'm being clear here with what my message is. We really would need to understand if there's any conversation about trying to limit occupancy with any types of dwelling units in the City. We would have to do a really clear and full analysis to understand what the implications of those changes would be and as a result, we've proposed to remove any occupancy standards that exist in the ordinance.

Happy to answer any questions from the Committee or address those from the public as well.

Chairman Moran

On that last one, I just want to note before the Public Hearing that my colleague from Ward 6 had reached out to me to ask why this because it's almost the opposite of what he had proposed and because he saw my name come on the legislation and I said State mandate. We're just updating. It's not a direct result of some kind of back and forth on what we consider right on this particular ordinance. The State's decided for us.

Matt Sullivan, Community Development Director

Absolutely. I agree, yes.

Chairman Moran

Alright, thank you.

Matt Sullivan, Community Development Director

Thank you.

Chairman Moran

All right, so I'll start the Public Hearing in order. O-25-073 Amending the Land Use Code Regarding Approved Subdivision Exemption. Anyone testimony in favor? Please state your name and address for the record.

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

The public hearing on O-25-073 was declared closed at 7:21 p.m.

The public hearing on O-25-074 was opened at 7:21 p.m.

O-25-074

AMENDING THE LAND USE CODE REGARDING FAMILY DAY-CARE FACILITIES

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

The public hearing on O-25-074 was declared closed at 7:22 p.m.

The public hearing on O-25-075 was opened at 7:22 p.m.

O-25-075

AMENDING THE LAND USE CODE REGARDING ON-SITE PARKING REQUIREMENTS FOR RESIDENTIAL USES

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

The public hearing on O-25-075 was declared closed at 7:22 p.m.

The public hearing on O-25-076 was opened at 7:22 p.m.

O-25-076

**AMENDING THE LAND USE CODE BY AMENDING THE ACCESSORY DWELLING UNIT ORDINANCE AND
DEFINITION OF DWELLING UNIT, ACCESSORY**

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION

Dan Richardson

My name is Dan Richardson. I live at 70 Berkeley Street, Nashua, NH. I come in opposition to O-25-076. These two ordinances, this along with 77, are intent on destroying some of the better qualities of Nashua. And excuse me, I have to wear double glasses because a single prescription doesn't work for me...

Chairman Moran

Take your time.

Dan Richardson

Any more. Back in the 1990s and 2000, it is well known that there were a number of folks that came from Massachusetts and did what's known as "property flipping". That's where they purchase a property which is perceived to be undervalued, they give it modest or minor improvements, and then they resell it for a higher value. That is something that can come back to bite us with these ADUs, which if you take the better parts of Nashua which are the properties with the larger lots and they start adding ADUs in them creating rental areas, they're called "ADUs" but they can be used for rental purposes

and flipping those after having put in ADUs on otherwise previously the better parts of Nashua, larger lots, it's inviting a great deal of damage to the City - to the character of the City. From the prior gentleman - the staff person who talked about setbacks - by its interpretation from what he said is that setbacks do not apply for these ADUs. I could be wrong. It would be great for him to clarify that but setbacks are very important and the intrusion in the setbacks are only in the event that there is a hardship for the primary residence currently. For ADUs allowing them into a setback would be devastating. His material also said that there's a limitation of one ADU and I'm not terribly sure that that is accurate.

Looking at the O-76 changes, the very first one talks about changing the limitation on the number of square feet for the ADU from 750 to 980. Now you have to recognize - you take the square root of that and assume a square property. It's a way of figuring. That's a 35 by 35 footprint for a single family - for a single level house. That is the footprint of a house. Basically what you'd be doing is you'd be allowing another house on the same lot of equivalent size or even greater depending on the primary residence. Kind of asinine, my opinion.

Going to the next page talks about making provisions for adequate water supply and sewage disposal. What is adequate? It's undefined. I think you really ought to define it either reference some other ordinance or something but adequate doesn't do it for me. It could be anything.

Going on to where it talks about the granting of a Certificate of Occupancy has been crossed out and instead, it inserted "building permit for the accessory dwelling unit shall be continued upon the receipt of the covenant and fees". This is a place where people are going to live. You need a Certificate of Occupancy not just a Building Permit unless you just don't care about your fellow citizens. So I would consider looking at that with a greater degree of skepticism.

Moving on to number 7 where it says, "one additional off-street parking space is required above the minimum standard for a single-family house" and this adds now either on site or off-site location and legally dedicated via lease agreement or other instrument deemed acceptable by the administrative officer. That's basically the guy in charge of the Planning Department. Deemed acceptable. What does that mean? There's no definition here for it. He can just sort of wing it. It could be his opinion.

Moving on. So I'm going over to the Table 15-1 Use Matrix where in the Use Matrix under row 3, which is accessory dwelling units, all of the S's in there have been crossed off and S's means special exception. We required a special exception before. Now we don't apparently and instead inserted in there across the board, are A's and A means, as an accessory use including what was previously a blank. They didn't allow accessory dwelling units in airport industrial areas. Now apparently with this ordinance, we would be accepting accessory dwelling units in the airport industrial area. In addition to that, there's other areas - highway business area, park industrial area, general industrial area. I don't know maybe it makes sense to you. It doesn't make sense to me.

Also in the staff person's material, he noted that these are allowed by right. By right would be a P in that area and there used to be P's. P's for what is it - downtown? D1 downtown and D3 downtown and now there are A's there, which is accessory dwelling unit. So basically, you took away the buy right there and you put in as an accessory dwelling unit. I don't know if that was intentional or not but that's what you got there. And that's what I have for O-25-76.

Chairman Moran

Thank you. Director Sullivan would you be able to respond to the member of the public's questions and then that will allow him and others, unless there's someone else in opposition who would like additional questions? I probably should ask and then that'll allow the other setup in favor/opposition to come up after you Director Sullivan if there's additional questions. But alright, go ahead - looks like you're good.

Matt Sullivan, Community Development Director

Thank you very much. Matt Sullivan. I appreciate Mr. Richardson's questions and comments because they give you an opportunity to clarify some of the statements that I've made. The first regarding the application of setbacks and other dimensional controls to accessory dwelling units - what the Statute provides for is that you cannot make unique setback and other requirements for accessory dwelling units but the customary setbacks that exist for structures within the zone continue to apply. So ADUs are still subject to all the same dimensional controls and that's a good question because the way I stated it initially, I almost suggested like the dimensional controls do not apply. They certainly do. They continue to apply to ADUs when they're created. So setbacks, height restrictions, all of those things continue to be in place.

There was a question raised relative to the reference to RSA 485-A:38. This is water and sewer adequacy. I want to be careful to not give an indirect answer here but 485-A:38 lays out exactly what's required for adequacy and we rely heavily

upon either our septic reviewers in Public Health, our water utility at Pennichuck who does a review of the water connection, or our Sewer Department who does a review of the sewer tap to determine whether or not the line running to the property is adequate. To be honest, I can't speak to every case and I don't think that's what Mr. Richardson is asking me to do but 485-A:38 does lay out exactly what water and sewer adequacy are. If we want to try and provide an overview of that, we certainly can but I didn't come prepared to do that tonight. That's the customary reference that we use throughout our Code however when we're talking about adequate utility provision to a site whether for ADUs or something else. So happy to provide further information if necessary but that reference is pretty standard and it's actually provided for it within the ADU Statute as well.

Another item that Mr. Richardson raised which is - I'm happy he did is the striking of Certificate of Occupancy to replace with Building Permit. We absolutely still require a Certificate of Occupancy. That's not what our intent is with this change. This is a timing related section of the Code. It says that the covenant dictating the ADU rules in the old Code had to be recorded prior to when a Certificate of Occupancy was granted at the very last stage of a construction project happening for an ADU. What we've now set is actually more stringent. We're requiring that the covenant be recorded prior to Building Permit but that a Certificate of Occupancy would still be absolutely required for any accessory dwelling unit. So we're actually adding an additional requirement to protect the occupant, the property owner, etc. So I'm glad that that opportunity for clarification was provided.

Relative to the Table 15-1 and the changes there, we certainly could have changed those A's to P's. However in our zoning code, the term "A" we believe is a more clear identifier because A includes that the use is permitted. It is defined as a permitted use - an A use, but it also makes it clear to someone reviewing the use table that that use is only permitted when accessory to another use and in this case, it's accessory to a principal dwelling unit on a lot. So when drafting these changes, staff felt that rather than putting P that A would be the proper identifier because it would make it clear that it had to in fact be accessory. So I hope that explanation makes sense, but that's why we chose not to put P in place within the Table.

Chairman Moran

I'm going to call on Alderman Clemons just because the interest of the public on this particular matter.

Matt Sullivan, Community Development Director

Sure.

Alderman Clemons

Thank you and further - and you can correct me if I'm wrong - but A meaning accessory dwelling unit by State Statute, they are by right. So if it says A, we're going to know it's by right anyway because the Statute says so.

Matt Sullivan, Community Development Director

Correct.

Alderman Clemons

Okay.

Matt Sullivan, Community Development Director

That's correct.

Chairman Moran

Thank you Alderman Clemons.

Matt Sullivan, Community Development Director

I believe I may have missed one of Mr. Richardson's comments but the other that I did want to just speak to quickly is the Item 7, the Administrative Officer discretion. I'm happy to amend this language if the Committee feels it necessary. The intent here was to frankly, avoid trying to be too prescriptive in what an acceptable dedication of a parking space would

look like because it can look very different in different forms whether that's an abutting property, a property 100 feet down the road, the mechanism may be different. We were hesitant to lay out every potential possible dedication of a parking space here. What I would welcome a conversation about during the Committee meeting is whether that needs to be more clearly defined as to what those possible alternatives are for dedicated parking space. I think we're happy to add more language there. We weren't intending to provide entire latitude to the administrative officer. We were just attempting to try to limit the text needed to capture the same concept. So happy to talk about that more on the Committee level if the group feels it necessary.

I think there may have been one of Mr. Richardson's comments. I didn't grab but I think I covered but think I ..

Chairman Moran

And he'll be able to have an opportunity to come back up in a moment but I can certainly appreciate the members of the public being concerned with this combined with the next one ..

Matt Sullivan, Community Development Director

Sure.

Chairman Moran

...where Airbnb and such could take advantage of maximizing space if they were to buy a property. So I understand the fear and concern in the community.

Matt Sullivan, Community Development Director

Sure.

Chairman Moran

Thank you.

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION

Dan Richardson

Dan Richardson, 70, Berkeley Street, Nashua, New Hampshire. I think what he missed was the rationale in accessory dwelling units in highway/business area, park/industrial area, airport/industrial area, and general/industrial area. Thank you.

Chairman Moran

Thank you.

Matt Sullivan, Community Development Director

That's a great question. So within our AI District, our PI District, our GI District, our Industrial Districts, there are single family homes. Those districts are not exclusively occupied by industrial tenants. We have to provide those single-family homes with the ability to add an accessory dwelling unit. This would not mean that a factory could add an accessory dwelling unit. In fact, that wouldn't be allowed but if an existing single-family home existed and wanted to add an ADU, they would have the right to do that and so that's why we've codified it that way. I hope that addresses the question. I think the intent was not to provide for a proliferation of accessory dwelling units in those industrial zones but to instead allow existing, non-conforming residential uses to take advantage of the Statute in the same way that they're allowed. That was the intent there.

Chairman Moran

Great. Thank you.

Matt Sullivan, Community Development Director

Yes.

Chairman Moran

And there'll be another opportunity to comment on all of these after public hearing to open up the Committee at Public Comment as well. So with that, anyone else in opposition? Seeing none.

The public hearing on O-25-076 was declared closed at 7:39 p.m.

The public hearing on O-25-077 was opened at 7:39 p.m.

O-25-077

AMENDING THE LAND USE CODE REGARDING UNRELATED HOUSEHOLDS

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION

Dan Richardson

Daniel Richardson, 70 Berkeley Street, Nashua, New Hampshire. Back a number of years when Alderman Pressly was on the Board of Aldermen, the issue of density of unrelated individuals living in single homes or homes - let's call them houses - they're not homes and that came up and it was found through little research at the time that there were people living in houses like cockroaches packed in there - 10 to 20 individuals in a house and it was obviously against Code. However, there was no way of proving that these individuals were not related. So it's my understanding that came to naught. So Nashua still has that presently as a situation. Not much you can do about it I understand.

However this ordinance as it is appearing to present itself would completely eliminate any such restriction at all even if it's an unenforceable ordinance. What's crossed off is no household other than a family shall have a number of members exceeding figure provided in Table 16-1 below entitled occupancy restrictions a that's that. That in addition to the prior ordinance that we looked at 076 are very damning to the City of Nashua. We're not talking about my neighborhood. We're talking about the quality of life in the City of Nashua. We're talking about Ward 6, Ward 8, Ward 9, Ward 3. We're talking about a lot of different places in Nashua that can be affected by this.

One further change here is that Table 16-1 is crossed off. This is occupancy restrictions and this table provides for limit on the type of dwelling. It has a number of persons per square feet that can be there and previously, there was a limitation on 300 square feet - number of persons per 300 square feet. So the first line is single family dwelling - one person - 300 square feet. Do you understand what 300 square feet is? If you use a simple square root to come up with a square area, that's 17 x 17. That's a size of room, a single room. So we allowed one person per room. Now we're completely eliminating that table. We are saying that we don't care how many people we pack into any of our residences. We don't have a fire code restriction. Nope, they don't go around inspecting for fire code on these places because we won't have an ordinance on that.

So it goes on. It talks about duplex, townhouses, apartments, bed and breakfast, rooming, dormitory, fraternity, sorority, nursing home, elderly housing. Get rid of the limitation on elderly housing too. Let's pack in grandma's and grandpa's. Talk about devastating to the quality of life in Nashua. You really got to pay attention to this. Thank you.

Chairman Moran

I'll call for anyone else in opposition and then Director Sullivan can respond to those public's comments. Anyone else in opposition?

Matt Sullivan, Community Development Director

Thank you, Mr. Chair. I don't know that there are direct questions to be addressed relative to the prior comments.

Chairman Moran

Concerns, sorry.

Matt Sullivan, Community Development Director

Yeah, no, absolutely and I think Mr. Richardson has raised some very valid concerns that have been debated in this chamber several meetings in the past and I think given an opportunity to set realistic and clear over occupancy thresholds, I think members of the Board would choose to do that for fire safety and life safety reasons. However, we functionally lost that ability and it's very - while it may seem that there's a clear line as to what over occupancy looks like, I'd suggest that that's really not the case. We have couples living with a young child in apartments that are 750 square feet that wouldn't meet this requirement. We have young adults that are struggling to make student loan payments living in small apartments and small homes that are over occupying based on the table that you see before you. So I'm not suggesting that there shouldn't be some life safety standards. I'm simply saying that it's very difficult to define what the appropriate occupancy is.

As I mentioned before, I expect that this change may spark a conversation about whether or not we should have - again we can't regulate family versus non-family - but whether we should have general occupancy standards. But again, I would urge caution because we have many situations throughout the City where people are living far beyond the limitations that are laid out in this table and in some cases, it is just fine and there isn't over occupancy. So where do you draw the line? And you certainly can't draw it based on whether people are related by blood, marriage, or the other. We know that now through the State Statute that has passed. But I really can't offer additional comments.

I don't disagree with Mr. Richardson and I'm not debating him at all because I think there is some line where safety becomes an issue and overcrowding does happen. My challenge is it's very difficult to actually define what that line is and you can't do it based on familial relationship so we need to have a broader conversation if that's something that the Board would like to do. So I guess that's a general response to Mr. Richardson's concerns.

Alderman Thibeault

May I clarify something?

Chairman Moran

Yes, of course.

Derek Thibeault

Thank you. So one, this is laws coming down from the Governor and the State legislature so that's part of this. But the one thing I thought I read in there is about fire code. That still holds up, right?

Matt Sullivan, Community Development Director

There are still fire code requirements and I expected I might get that question. I don't have that number right in front of me right now but there are still fire codes that apply but they apply based on the occupancy classification, right. So they're going to apply differently in a single-family home versus in a multi-family context. There are different code requirements for that and they focus on fire suppression and adequate ingress/egress to a unit. So I can try and grab some of those numbers for you but those codes do still exist. Those have not been undermined. It's simply that a Land Use Code can't further regulate based on familial relationship. Again, you have the right to regulate occupancy. It's just a bit of a dangerous game as to what the right way to do that is and what the what the right numbers are that mean over versus under occupancy. It's a very challenging thing to do I guess I would say.

Alderman Clemons

Actually, I'll wait for the Committee.

Chairman Moran

Okay. Thank you, Director Sullivan, I appreciate the comments.

TESTIMONY IN FAVOR - None

TESTIMONY IN OPPOSITION - None

The public hearing on O-25-077 was declared closed at 7:47 p.m.

The regular meeting opened at 7:48 p.m.

Regular Meeting

PUBLIC COMMENT- None

COMMUNICATIONS

Without objection, Chairman Moran suspended the rules to allow for communications that were received after the agenda was prepared.

From: Connor Muise, Deputy Planning Manager

Re: Referral from the Board of Aldermen on Ordinance O-25-073: Amending The Land Use Code Regarding Approved Subdivision Exemption

From: Connor Muise, Deputy Planning Manager

Re: Referral from the Board of Aldermen on Ordinance O-25-074: Amending The Land Use Code Regarding Family Day-Care Facilities

From: Connor Muise, Deputy Planning Manager

Re: Referral from the Board of Aldermen on Ordinances O-25-075: Amending The Land Use Code Regarding Parking Requirements For Residential Uses

From: Connor Muise, Deputy Planning Manager

Re: Referral from the Board of Aldermen on Ordinances O-25-076: Amending The Land Use Code By Amending The Accessory Dwelling Unit Ordinance And Definition of Dwelling Unit, Accessory

From: Connor Muise, Deputy Planning Manager

Re: Referral from the Board of Aldermen on Ordinances O-25-077: Amending The Land Use Code Regarding Unrelated Households

From: Alderman Thomas Lopez

Re: Support for O-25-075, O-25-076, and O-25-077

There being no objection, Chairman Moran accepted the communications and placed them on file.

PETITIONS - None

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS - None

NEW BUSINESS – ORDINANCES

O-25-073

Endorser: Alderman-at-Large Melbourne Moran, Jr.

AMENDING THE LAND USE CODE REGARDING APPROVED SUBDIVISION EXEMPTION

MOTION BY ALDERMAN THIBEAULT TO RECOMMEND FINAL PASSAGE

MOTION CARRIED

O-25-074

Endorser: Alderman-at-Large Melbourne Moran, Jr.

AMENDING THE LAND USE CODE REGARDING FAMILY DAY-CARE FACILITIES

MOTION BY ALDERMAN THIBEAULT TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Jette

I think I have something but I'm having trouble catching up. So I guess the changes in Paragraph B where we say that ...

Chairman Moran

Alderman Jette, hold on one second. Director Sullivan can you join us? I'm sure most of these questions will probably be more apt for you or Manager Durfee to answer. My apologies, continue Alderman Jette.

Alderman Jette

It's okay.

Matt Sullivan, Community Development Director

I believe a comment was made relative to Alderman Jette using the microphone just to make sure.

Chairman Moran

Right in there Alderman Jette, right into the microphone.

Alderman Jette

Thank you. Thank you for pointing that out. So as I'm reading the Paragraph B, "childcare facilities located within a dwelling unit are permitted by right as an accessory unit to the primary residential use, provided all requirements for such programs adopted by rule by the Department of Health and Human Services are met". And then sub paragraphs 1, 2, 3, 4, 5, 6 are eliminated. So my question is does this now allow someone to care for children in their home - any number of children? There are no restrictions on the number of kids that can be in there or does the Health and Human Services rule take care of that?

Matt Sullivan, Community Development Director

Yes, thank you for the question and I should have mentioned that you may have heard me say at the beginning, I was a little hesitant to go into the detail of HE-C 4002. HE-C 4002 is an 85-page document of rules and regulations produced by the Department of Health and Human Services and included within that is a variety of different childcare typologies, licensure requirements for different sizes of facilities, licensure requirements for childcare providers. I'm going to give a relatively undefined answer Alderman Jette to say that I believe that would limit size to a certain number of children based on the size of the care facility that a small household would not be able to take on 50 or 75 children without adequate space because there are spacing requirements within that administrative rule. But I can't speak to the detail of whether that would be 5 individuals, or 5 children, 10 children but I do know that those space requirements and area requirements do exist within that Administrative Code. So we're very much relying on the State to continue to apply the same thresholds for child cares that they have for many, many years. But if there are specifics about what those numbers are, I'd have to return to the Committee to answer those questions. I apologize for not knowing that the answer tonight.

Alderman Jette

Okay. So maybe I could ask some more questions and if you don't know the answer, you could ..

Matt Sullivan, Community Development Director

Sure.

Alderman Jette

...say so. So what I'm concerned about without knowing a whole lot about this but what I'm concerned about is are we going to be allowing unlicensed people to care for children in their homes?

Chairman Moran

Director Sullivan?

Matt Sullivan, Community Development Director

Yes, thank you. No, I'm happy you answer that question Alderman Jette. The answer is no. They're still subject to the licensure requirements of the of DHHS. There's just an alternative process for these facilities. Yep, the stringency of the licensure has not changed as I understand it. It's simply that for smaller in-home facilities, there's an alternative process that they get licensed through the State of New Hampshire but these are still, as I understand it, qualified individuals providing child care and there's still a review process by the State for each of these physical facilities. It's just that there's a slightly modified process to do that.

Alderman Jette

Okay. So I guess the corollary of that is so is it prohibited for a woman who has small children and wants to go to work is there anything prohibiting her from leaving her children with a relative or a friend? What exactly - what's the difference and how is that defined?

Matt Sullivan, Community Development Director

Sure. I'm gonna take a stab here and I think there's a certain level at which I can't speak to and I'll get to that a second. Certainly, a component of this is whether there's a financial transaction happening. So if someone is operating a commercial child care facility and they're getting paid to provide child care, that's when certainly in the context of our zoning ordinance and also I believe in the context of DHHS Administrative Code there becomes a requirement for licensure when you're providing child care as a commercial service. So if I were to leave my children with you Alderman Jette and you're doing me a favor to watch them, that that wouldn't require child care license through the State.

What I don't know the answer to is whether or not there are any exemptions in the State Administtry of Code for one child, or two children, or if I have a babysitter overseeing my two children off site. I can't speak to what the Administrative Code calls for there Alderman Jette. So there's certainly a you know it if you see it and likely a definition within the administrative rule but I do not know what that number is and I'd have to get back to you, unfortunately.

Alderman Jette

But by amending this ordinance what we're dealing with is not the supervision of child care but we're dealing with whether or not we allow child care in a use from a zoning use ..

Matt Sullivan, Community Development Director

Yes.

Alderman Jette

...point of view.

Matt Sullivan, Community Development Director

Correct. From an accessory residential perspective, that's absolutely right, yes. Yes.

Alderman Jette

Okay.

Chairman Moran

So in summary if someone is licensed by DHHS and meets the State level requirements, the State is saying there's no additional steps you need to take locally for your facility to operative. We've determined it's appropriate to continue without that additional burden?

Matt Sullivan, Community Development Director

That is correct. Subject to any permitting that's needed to build out inside or make the facility ready, they are by right - I would want to confirm this - but I believe it's possible we'd still require what we refer to as a "land use permit", which is basically a signal to the City that you're implementing a new use within a given area. But again, that would be by right. There wouldn't be a public hearing process or anything of that nature but we would document that child care use is being created within a given area, and we'd also be ensuring that they have an adequate license to the State of New Hampshire, and in the context of these requirements here.

Alderman Thibeault

Thank you.

Alderman Jette

Thank you.

Alderman Thibeault

And I think, too, based on what I read in the 85-page document - and I didn't read the whole thing - but some of the stuff I looked at is there's still rules around - you got to have, I believe, a fence. Kids have to be in the backyard. There's got to be certain place in the house that's separate from that so many footage. So all those rules still exist. We just no longer are the gatekeeper of that. It's the State. I mean obviously we would be involved but the State rules now apply and if we didn't pass this, we can't really apply our rules to it because we got to go by the State rules. That's basically what all these - all this legislation is. All the pieces we have tonight are the State has made changes and our rules do not exist anymore for the things that they have altered, or changed or required. So we might as well put in line with what the rest of the State has ..

Matt Sullivan, Community Development Director

That is correct.

Alderman Thibeault

Is that correct?

Matt Sullivan, Community Development Director

Yes.

Alderman Thibeault

Okay, thank you.

Chairman Moran

And that's a lot of the feedback I've gotten from my peers. Like why are you putting this forward? Like what's going on here and the conversation has been it's dictated by the State. It's almost like we have no choice except for some minor little changes here and there.

Alderman Gouveia

Thank you. I just pulled up the - kind of the regulation document from the State and based on my 2.5 - 3 minutes of just searching through it, it does seem that there's a minimum of 35 feet of net floor area per child inside the rooms used by children and then there's a bunch of other kind of calculations that go into that as well. But it does seem that 35 feet of net floor area per children was the basis block of size.

Alderman Jette

Through you to Alderman Gouveia. So your quick reading does it talk about the exception that I was kind of looking for

where a parent who knows somebody whether it's a relative, or a non-relative, a friend, or whatever does the parent have the right to entrust their child to that other person without having to go through the State?

Alderman Gouveia

I swear I thought I read something that said it was like two or more but I'm not positive. It was in here. I found it and I have not been able to find it since but if I do, I will let you know.

Chairman Moran

I will say that the DHH requirements for a lot of the services that they oversee just like this one are rigorous. The issue is enforcement. But it may be a benefit that the City of Nashua doesn't have to enforce this and the State is taken out of our hands as we've seen recently with the disabled homes that have come under scrutiny. This is a move that they find that they need to oversee and that's where we probably should leave it if that's - if they think that's best and hopefully they can enforce their law.

Alderman Clemons

I think this may be a situation where if you hire a babysitter to babysit your 3 kids, maybe they should have a license. They should probably also report that income to the IRS and whether or not both of those things are gonna happen, I doubt it.

Chairman Moran

Oh, my.

Alderman Clemons

It is what it is.

Chairman Moran

You've sparked my (inaudible). If people could report their income, I would just be happy because then it would make me feel better about all the taxes I pay. Sorry for the going off. All right. So any further conversation? All right, seeing none.

MOTION CARRIED

O-25-075

Endorser: Alderman-at-Large Melbourne Moran, Jr.

AMENDING THE LAND USE CODE REGARDING ON-SITE PARKING REQUIREMENTS FOR RESIDENTIAL USES

MOTION BY ALDERMAN THIBEAULT TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Clemons

Thank you. So, yeah, I had a question on this one on the maximum parking spaces that we put in for manufactured home and then also multi-family dwellings of three or more. Looks like that one stayed the same but the manufactured home, it looks like it said 22. Was that correct or?

Chairman Moran

Director Sullivan? I'm going to continue to call on you because I really don't want to upset Sam's new baby.

Matt Sullivan, Community Development Director

Yeah and I think we're actually having audio issues.

Chairman Moran

Oh, good.

Matt Sullivan, Community Development Director

So Sam said he can't really ..

Chairman Moran

Good for him.

Matt Sullivan, Community Development Director

He has a 90 second delay right now. So, yes, he'd like to contribute but hasn't.

When you say correct, that's a matter of perspective. It was clearly an error that existed in the Code. We don't know how it got there. It wasn't supposed to be a maximum of 22 spaces.

Alderman Clemons

That's what I thought.

Matt Sullivan, Community Development Director

What we found is that it was supposed to be 2. So we're simply - frankly, we're just maintaining this at what it was before.

Alderman Clemons

Okay.

Matt Sullivan, Community Development Director

One question I was actually a little nervous about getting so, you know, here I'm offering is the 1.9 per unit on multi-family. We did a little digging on that about where that number came from. I think there was some study that created that number in the past. We're going to change that obviously in the new Code but we're not proposing to modify it whatsoever but there was a data-based approach to develop that 1.9 number on the multi-family. But 22, that is not - it's not right. So we're changing it and correcting it.

Alderman Clemons

All right. Thank you.

Chairman Moran

Do we do that now or wait for the State to or is this a copy/paste? What's going?

Matt Sullivan, Community Development Director

You can take a leadership role and do it now.

Chairman Moran

Yeah, does anyone offer an amendment?

Matt Sullivan, Community Development Director

No.

Chairman Moran

It's already in there. Oh, it's already in there? Oh, okay, sorry. My mistake.

Alderman Gouveia

Thank you. I guess my question to go off of that was why are there maximums? If I'm developing or building, why put a cap on extra parking?

Matt Sullivan, Community Development Director

Yes, it's a great question. Mr. Chair, if I can just address that?

Chairman Moran

Yes.

Matt Sullivan, Community Development Director

So certainly within our downtown core area particularly, we have tried to make most efficient the use of land and so we have tried in some cases, particularly urban environments, to limit the creation of parking to not create large vacant parking fields where they may not be needed and to try and align parking strategically with dwelling unit demand. So it's not uncommon in urban community settings to see maximums established to prevent the creation of parking that won't be a productive use of land because it won't be used by the surrounding multi-family dwellings and so that number was studied to be sort of a demand number. We actually see the demand number range anywhere from 1.1, to 1.3, to 1.4 spaces. It's a number that Manager Durfee, Director Cummings, and others and I go back and forth on all the time but the goal is essentially to eliminate the creation of large parking areas that won't be used. That's why.

Alderman Gouveia

Thank you.

Chairman Moran

Anyone else? Seeing none.

MOTION CARRIED

O-25-076

Endorser: Alderman Thomas Lopez

AMENDING THE LAND USE CODE BY AMENDING THE ACCESSORY DWELLING UNIT ORDINANCE AND DEFINITION OF DWELLING UNIT, ACCESSORY

MOTION BY ALDERMAN THIBEAULT TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Chairman Moran

That Motion's in order and I'll say that we do have one meeting left before the end of the year. So if there is amendments that need to be made, we can do that sufficiently if we can also commit on being present in a quorum before the holidays. But otherwise if we do leave it tabled and we can't get back here in December, we'll continue to the next Board because I know this one of the next one are of some contention and no need to rush.

Alderman Clemons

Are we on 7, which one are we on? I'm sorry.

Chairman Moran

76.

Alderman Gouveia

76.

Chairman Moran

So I think the most specific thing here, and correct me if I'm wrong, is the square footage of what the maximum can be, etc.

Matt Sullivan, Community Development Director

Yes, that's correct. Mr. Chair, there are a few other things that we've changed here based on Nashua's processes but I'd say that the most substantial deviation is the creation of that 980 square foot maximum. I know Manager Durfee can't speak verbally but if you'd like more explanation on that, we'd certainly be happy to provide it in written format. As I mentioned before, it was derived from study of DBA actions.

Chairman Moran

And to represent to the Committee, I did meet with Manager Durfee before this legislation was introduced and that is what he represented to me through the consultants that the City uses. This is identified as ideal square footage based on overall bird's eye view of the need for the City and our current requirements. I may have misrepresented that but you can correct me if I'm wrong.

Matt Sullivan, Community Development Director

No, I think that's correct.

Alderman Clemons

So am I understanding this correctly that the minimum is 750 or is the minimum 980?

Matt Sullivan, Community Development Director

The maximum is 980 square feet Alderman Clemons.

Alderman Clemons

What is the minimum?

Matt Sullivan, Community Development Director

There is no minimum. The minimum would be controlled functionally by how small you can build an accessory dwelling unit - fit the kitchen, cooking, sleeping, and bathroom facilities in one area. So technically, you could create a very small accessory dwelling unit.

Alderman Clemons

Yeah, so I'm thinking like if you were to put a tiny home in a backyard or something like that, 350 square feet maybe.

Matt Sullivan, Community Development Director

So to address - I get very antsy when we talk about tiny homes.

Chairman Moran

It wouldn't be a tiny home. It would be an ADU.

Matt Sullivan, Community Development Director

Yeah, no, good. Yeah, a small home –

Chairman Moran

I know what you mean.

Matt Sullivan, Community Development Director

A very small home on a permanent foundation connected to sewer and water could absolutely exist at about 400 square feet, absolutely. As long as it's on a permanent foundation and has the facilities, absolutely. There's sort of this battle going on right now in the construction world as to how small you can make a unit but it turns out to be around 350 to 400 square feet in size.

Alderman Clemons

So my other question is why would we - so the 980 is only for a detached and it's 1,200 if it's within the unit? Is that correct?

Matt Sullivan, Community Development Director

So the 980 applies both for a detached unit and also for an attached unit where structural expansion is happening. So if you're adding on an addition to build an ADU, you're capped at 980 square feet. Where you get an exemption is if you have an existing footprint and you're building fully within that existing footprint, you get up to 1200 square feet. The idea there is that if it's an existing structure, sort of to some of the public testimony, it's an established structure that your neighbors and the neighborhood is aware of. So if you're keeping within that, the impact is lessened. That's sort of the theory there. Hopefully that makes sense.

Chairman Moran

Yep. Follow up?

Alderman Clemons

Now on all of these if someone wanted to go to the Zoning Board and get an exception because maybe instead of 980 square feet they want to do 1,000 square feet, they could still apply for that exception and go through that process to try to do something like that or vice versa if it was in within the existing unit and for some reason it was 1,300 square feet, they could go and get that exception.

Matt Sullivan, Community Development Director

They could absolutely seek a variance through the Zoning Board of Adjustment. They'd have full rights to do that absolutely and there may be some hardship that would justify that. So yes, that could be an option.

Alderman Clemons

Okay. I just want to make sure that that opportunity exists because, you know, having - I like having limits but, you know, thinking for older units or older houses where there might be the opportunity to do something within an existing structure, you know, you might run into a situation where if you're splitting a duplex for example, right, or you have a single-family house and you're making it a duplex with one on one floor one on the other but they're both 1,400 square feet but it's a very easy divide, right, then that's something that, you know, you'd want that person to be able to go to the Zoning Board and ask for a variance to be able to do something like that, right? So that's kind of my thought process behind, you know, the ability for somebody to be able to do that.

Chairman Moran

And before I move on to Alderman Gouveia, it's just one ADU per residence, lot?

Matt Sullivan, Community Development Director

Dwelling unit.

Chairman Moran

Dwelling unit.

Matt Sullivan, Community Development Director

Yes.

Chairman Moran

So if someone had one dwelling unit on 10 acres, they could only do one ADU.

Matt Sullivan, Community Development Director

That is correct.

Chairman Moran

Great. I'll save more for a little bit after Alderman Gouveia.

Alderman Gouveia

No mine was just what Alderman Clemons brought up about turning a house into a duplex in that kind of situation. Because I could see this kind of opening the door for that a little bit more, which I don't think in some areas of town is necessarily the worst thing in the world but.

Matt Sullivan, Community Development Director

I'm glad that question is being asked because duplexes are allowed in a large portion of the City. So ignore the ADU law for a second. You know, there are several properties in some of our most sensitive neighborhoods that could be converted into duplexes today. I mean that could happen. Some of the City's most historic structures could theoretically be divided into equal footprints and converted into duplex and even condo wise. I'm not saying that would happen, but it could be done. So I mean I just want to like ADU legislation may be viewed as being very problematic but a lot of the permissions or a lot of the fears around ADUs are actually things that could already be done today in the existing zoning code - not every neighborhood certainly, but some of these permissions already exist.

Chairman Moran

Now can you put an ADU on the property and then five years later split up the land with one - now you have one?

Matt Sullivan, Community Development Director

That's a great question. If you had a lot, and you had a house on it, and you added an ADU, you were allowed to do so by right today but you had enough land to subdivide, build another house and build an ADU with that, you would technically have that right today. Yes.

There have been prior iterations of this bill at the State level that had two ADUs by right for every dwelling unit. To be very frank, City staff – well I'll speak for myself only - we expressed concern about those pieces of legislation because we felt that for many neighborhoods that would have been - it would have been too impactful to the character of those neighborhoods. So I think there is a line where this could go too far but I believe that one detached ADU can be done in concert with the existing fabric in most neighborhoods in the City.

Chairman Moran

But keeping in mind, oh, sorry, keeping in mind the members of the public, too, like the square footage. My first house in Dickerman Street here was 950 square feet. That is a house and the State is saying that that's now an ADU depending if it's on an existing dwelling unit, or detached, etc. So I could see how the risk of one side - people can build these have generational living, have their in-laws move in, stabilize their immediate family, nuclear family, then just like we've seen in other communities, which I've been attuned to is the people coming in like VRBO, Airbnb, not that platform specifically but a company that buys it up, makes these ADUs, next thing you know they're writing off the main house, the ADU, and you've lost your neighborhood. It happens but again, out of our hands.

Alderman Thibeault

Thank you. Yeah, don't say classic or historic. I'm on the Historic District Commission. I don't want you touching any of those houses and I know somebody in your Department would probably might be after you tomorrow morning. Don't split up those places. So you may have answered this when we talked about the parking but so you put one of those little tiny houses in the back on a foundation, and hooked up to water, and they never had a parking space available for someone else. Do they have to build one there? Do they have to make one? Is it required? Is it not? Like how do they I guess rectify that or?

Matt Sullivan, Community Development Director

So let's take a few different scenarios. One, you have an existing home. It has one parking space on site and I want to build an ADU and I can't fit a second parking space. Well, that's a problem because for each ADU, you're required to have one parking space and if you only have one on site, that's your single-family parking space and you need to find another one.

You can reach an agreement with an abutter to have a perpetuity restriction on a parking space there, a dedicated parking space. You can reach an agreement with an abutter down the road or maybe not direct abutter but someone down the road for a dedicated parking space. You can provide parking in a variety of different forms in the ordinance as it's drafted but you got to find that parking space.

Now let's say I have a single-family home but I have two parking spaces on site right now. I can add an ADU without any issue. I have two parking spaces available to me. State law says the City can't require me to have more than one per dwelling unit whether it's a single family or an ADU. I've met the requirements. Now am I going to run into practical concerns because, you know, my family has three cars and the ADU is going to have one or two more cars? Yes, I think that's some of the challenge with the one parking space per dwelling unit legislation that the State passed. Quite honestly, I think it's a little bit context ignorant but technically that would be allowed today.

Alderman Thibeault

Follow up?

Chairman Moran

Yes.

Alderman Thibeault

Thank you. So is that something that you guys need to look at before they can put the ADU? Is that part of the all the stuff you have to fill out because I mean, they just park on the street, right? I know it's against the rule, right, overnight parking but I see it throughout the City all the time even on my street, right? So I mean somebody could just park on the street. They could say yeah, we don't have it but we're fine, you know, whatever. You guys have to prove that first for them to get it. So that could prevent someone from putting an ADU on if they don't have the parking space?

Matt Sullivan, Community Development Director

Absolutely.

Alderman Thibeault

Okay. Thank you.

Chairman Moran

Any further conversation?

Alderman Jette

So Alderman Thibeault brings up a good point. He mentions the Historic District. He said I don't want you touching the Historic District but if we pass this ordinance, you know, we won't be able to eliminate ADUs from the Historic District.

Matt Sullivan, Community Development Director

Well, you won't be able to limit ADUs within the Historic District from a use perspective. The Historic District will maintain fully its jurisdiction when it comes to applying the Historic District review process to building permits necessary for ADUs required within the Historic District.

Now there are a couple different scenarios here. If an ADU is being created in an existing structure and the building permits that are necessary are just to fit up that structure, that the HDC's review is going to be very limited and I would urge them not to deny any of those permits. Now if in the Historic District I am building a brand new, very modern structure for my nice detached accessory dwelling unit, I believe the Historic District has some discretion to review that proposed building and determine whether it's compliant with the Historic District rules and guidelines provided that that HDC review is in no way different from any other permit review that it does. I believe they can equitably apply those rules and regulations.

So I hope I'm being clear without being unclear. HDC could deny building permits related to accessory dwelling units. They simply could not do so on the basis of use alone. They would have to do it on the basis that it doesn't comply with the Historic District standards.

Alderman Jette

Okay.

Chairman Moran

Follow up?

Alderman Jette

I thought - I'm not finding it right now but I thought there were in the proposed ordinance there were specific things like no exterior design of the accessory dwelling unit shall be compatible with the single-family dwelling through architectural use of building form, scale, and construction materials. That's struck out.

Matt Sullivan, Community Development Director

Correct but what the ordinance doesn't - so that's correct. Those very specific focus requirements that exist in the ordinance before that were applied uniquely to accessory dwelling units, those have been removed because we can't treat accessory dwelling units uniquely any longer. But what can be done Alderman Jette, in my opinion, is that the Historic District rules that would apply to a new single-family home being built can absolutely apply to an accessory dwelling unit that's being constructed. You just can't unduly restrict or regulate ADU's any more than a single-family home or other. I hope - does that make sense?

Alderman Jette

I found what I was thinking about.

Matt Sullivan, Community Development Director

Okay.

Alderman Jette

It's in Paragraph B, sub-paragraph 11. This is being added ..

Matt Sullivan, Community Development Director

Yes.

Alderman Jette

It says where the standards of this section conflict with those found elsewhere in Chapter 190 land use, the standards of this section apply. So I'm reading that as saying that this overrules anything else that might be in Chapter 190. I'm not sure about that but I'm just raising the question.

Matt Sullivan, Community Development Director

What I believe the function is of number 11 is to identify any areas where there's direct conflict between provisions of the proposed ADU language and Section 190. But conflict does not exist between the proposed language and the Historic District regulations. They're completely different sets of regulations. I think would both apply to an accessory dwelling unit.

I think what we're really talking about is something more direct such as if the Parking Table said that .8 parking spaces were required for an accessory dwelling unit but this ordinance says 1 space is required, this ordinance would supersede the Parking Table. But I view the Historic District regulations and this accessory dwelling unit section as entirely different and not conflicting in the way that Section 11 is meant.

Chairman Moran

If I can add maybe this is a question that if we continue to move forward and it doesn't get tabled, that bring this question through you and ..

Matt Sullivan, Community Development Director

Sure.

Chairman Moran

...Corporation Counsel. That way if it does get to the full Board either way, that there's a clear answer so all the members not just here but the full Board has a 30 on it. Does that make sense?

Matt Sullivan, Community Development Director

Yeah and Alderman Jette's question is a good one so it requires a thorough answer. I'm not - I'm answering it but I think we should look at it further if there's any question.

Chairman Moran

And if it turns out the conversation is – I got Alderman Thibeault after Alderman Clemons. But if it turns out that its a conversation continues and there's not many more clarifying if that's just the one or two, then we can just clarify at the full Board as well so you have a straight answer from Legal, Alderman Jette?

Alderman Jette

Are you asking...

Chairman Moran

Yes.

Alderman Jette

...a question to me?

Chairman Moran

Yes. Would that be sufficient to get making sure you had the right answer?

Alderman Jette

Yeah, so how do you feel? I mean would you rather have time? Would you rather we table this particular ordinance and so you have time to come back to the Committee?

Matt Sullivan, Community Development Director

Yeah.

Alderman Jette

Or are we - I can tell by the expression on your face the answer is no.

Matt Sullivan, Community Development Director

Mr. Chair, if I may?

Chairman Moran

Yes.

Matt Sullivan, Community Development Director

I'm always concerned about waiting until the last meeting of the session. So if I'm being transparent, that is my concern. I'm also thinking that the answer to your question relative to Section 11, Alderman Jette, is a fairly simple one that I can get you prior to a full Board meeting. However if there are other things that you think you need clarification on that I can't answer tonight, I'll accept that I have to gamble on a December PEDC Meeting. But my goal would be to take all the questions that you have tonight, go to work before Friday of this week developing a communication for full Board that addresses the Committee's questions, and take my chances next week with you. That would be my goal and I'd be happy to be there next week to speak during Public Comment or during the consideration of the legislation as well to address any of those items.

Alderman Jette

Okay, if I could respond?

Chairman Moran

Yes.

Alderman Jette

I agree with you wholeheartedly about doing things at the last minute but ..

Matt Sullivan, Community Development Director

Understood.

Alderman Jette

...aren't you the one that's bringing this to us at the last minute, you know? I mean ..

Matt Sullivan, Community Development Director

Yeah.

Alderman Jette

...is there, you know, if we don't pass this this year, I mean is the legislature requiring that we do this before the end of the year?

Chairman Moran

Can I just jump in? I don't want to have that energy go straight to Director Sullivan but it was the end of the term of the State House coming in the summer followed by the having enough weeks for the public hearing notices, and making sure that we wrote, and updated the orders as in between these. I mean it wasn't like a jam through. It was just the time from passage to here.

Matt Sullivan, Community Development Director

Alderman Jette is correct. We could have brought this legislation in September. So it's a self-inflicted procedural dilemma.

Chairman Moran

I tried to get you out of these ..

Matt Sullivan, Community Development Director

You did. You did and I'm going to accept –

Chairman Moran

We wouldn't do that for Director Cummings.

Matt Sullivan, Community Development Director

What I'm going to do is I'm going to blame Manager Durfee for having a child - no, I'm just kidding. He knows I'm kidding.

Alderman Jette

Oh, we're pulling the child card.

Matt Sullivan, Community Development Director

No in all seriousness, I do accept blame for that and I think to answer directly - in the event that this needs to continue on to next year's session, that's fine if we think we need more time. I guess what I would ask is if we at the end of the discussion this evening, I would like to try and get you a communication in advance of next week. If you don't feel comfortable, I accept that we'll go to a December PEDC and have discussion. I'm absolutely okay with that. But so far what I've heard this evening, they do not seem like significant issues that need to be addressed. Frankly, my tendency is to try to get you a communication like tomorrow or Thursday so that you have an answer immediately so that you have enough time to prepare for a meeting next week. But again, I agree. We would absolutely accept if we have to go into the next session. It is a matter of timing and we accept that. That's not a problem at all.

Alderman Jette

So do I still have the floor?

Chairman Moran

You do have the floor, yes.

Alderman Jette

So the other issue is the restriction on the number of people that can occupy, you know, whether it's the ADU or any of these things.

Matt Sullivan, Community Development Director

Yeah.

Alderman Jette

I mean we had this discussion some time ago when we were looking in anticipation of the new Code changes.

Matt Sullivan, Community Development Director

Yup.

Alderman Jette

We had a discussion with Mr. Durfee about - I guess we didn't know about what the legislature was doing at the time because we had a big discussion about family members and non-family members.

Alderman Clemons

Mr. Chairman is this?

Chairman Moran

Yeah, that's the next ordinance.

Alderman Clemons

That's the next ordinance.

Chairman Moran

That's O-25-077 Alderman Jette.

Alderman Jette

Okay.

Chairman Moran

Thank you, Alderman Clemons.

Alderman Jette

Thank you.

Chairman Moran

Yeah. So I think if there's any further conversation - oh my Gosh you're right. I forgot Alderman Clemons.

Alderman Clemons

No, I'm good.

Chairman Moran

And Alderman Thibeault, sorry. Alderman Jette distracted me.

Alderman Thibeault

So it was your fault for bringing up the Historic District Commission. We probably wouldn't ever even talked about that. I look at it this way. If you want to put an ADU in the back of a Historic District house and it's shaped like a UFO, it's not going to fly with the Historic District Commission. I think we have that kind of leniency to deny that. If you're going to put one in the back that has a similar feel to it, I think it works, right, because you don't want to go against the ADU but you want to still have that feeling that you're in the Historic District. It's like saying we all have the right to put windows on our house but in the Historic District, those windows need to fall in line with the period, right? So I look at it that way. So I think Historic District is separate from the ADU because it goes against things that are in the law now that reside within the rest of the town, right? So that's how I look at that otherwise, we don't even need the Historic District Commission anymore if they can't rule on things like that. But you're right, the ADU would still be part of that. You still could put that in a historic house. It just has to have the feel of it. That's from my experience with the Historic District Commission. That's how I feel it's going to run.

Now again, I would certainly check with somebody and make sure that it's aligned but these changes that we have here are - it's not like we're coming up with them and we're like hey, we got to do all this stuff before the end of the year. Our rules now aren't in effect anymore. The State rules are in effect.

Matt Sullivan, Community Development Director

That's right.

Alderman Thibeault

So it doesn't matter if these are on our books now or not. Except for a couple of tweaks, we can't enforce the stuff that's in our ordinances for these things because the State law takes effect. So believe me, I don't like some of these things. I don't like the next one certainly and I don't like the this one to a certain extent, but that's going to be State law no matter what. We can't change that. None of us here are State legislators so we're not going to be able to change that. So that's how I look at these. I don't look at as a bigger problem as is if we were creating the legislation ourselves and then we could say, oh, we don't like this. We don't like - change this, change that. That's different because it would be in our control. I don't think a lot of this is in our control so.

Chairman Moran

So Alderman Clemons - also Director Sullivan is there a way to find out who did and didn't vote from the Nashua delegation both State Reps and Democrats – just? I'm sorry, both State Reps and Senators?

Matt Sullivan, Community Development Director

I'm sure there is a way.

Chairman Moran

Just curious if this is something that they advocated for and supported and represented on behalf of the City for changes.

Matt Sullivan, Community Development Director

Let me discuss that with the Mayor's office. I'm not sure who voted but we can certainly ..

Chairman Moran

No, I know but I would just be curious if ..

Matt Sullivan, Community Development Director

Yes. No, we can find out.

Chairman Moran

If the whole Board here would not make some of these changes and then our State delegation supported such, it doesn't seem like a good cross communication between the two bodies of local and State government representation. Sorry.

Alderman Clemons

No, I'm good.

Chairman Moran

Any further discussion?

Matt Sullivan, Community Development Director

Mr. Chairman, may I just ask? The items - so I owe some response on the function of item number 11 and how it relates to other sections of the Code. I'd like to specifically address the HDC Standard Application and whether these ADUs will be subject to the HDC and all their power and authority. I'm going to give you a little more depth on 980 square feet. I think you've addressed it, Mr. Chair but I'll get something in writing and I can certainly get something about what members of the Nashua delegation weighed in. I'm not aware of any other specific items that you'd like information on. I was just trying to remember if Alderman Jette had any other questions that I needed to follow up on?

Chairman Moran

And if anything comes up afterwards, feel free to direct them through me to Director Sullivan.

Alderman Jette

I don't think so. I think, you know, what Alderman Thibeault - if he's reminding me that if what he's saying is true, that this is being dictated to us by the State legislature. I thought there were tweaks that you kind of hinted that we could make but if we can't, we can't and I accept that. I don't want you to – you know, I'd want you to be chasing down stuff just out of curiosity. I think if we're stuck with what has been proposed, then we're stuck with it but if we're not, then it's worth pursuing. But if we don't have any choice in the matter, I don't want to make extra work for you.

Matt Sullivan, Community Development Director

If I can just briefly respond. So thank you and Alderman Jette there are a few items in here that are of our own making. The item - the 980 square feet certainly exceeds the 950 that's contemplating the Statute. We've gone 30 square feet above what the Statute contemplates as a maximum ADU size. So that's one example.

The 1,200 square feet that we've included for contained ADUs with existing structures is something of our own making as well. That flexibility to provide for bigger ADUs within existing structures. That's something that our team came up with based on experience in our office reviewing applications. The timing of the covenant restriction being tied to the building permit, that is something that we devised to try and get that covenant in place earlier so that enforcement could happen easier if the conditions weren't being met.

Relative to parking being allowed off site. That's something that our team came up with. The municipality has the right to require parking. We wanted to provide more flexibility for off-site parking and certainly that's something that we came up with. So Section 7 could be amended.

The final section that I'm aware of that is a creation of ours is Item 10, though I'm not - I think there might be backing for this in the Statute and that is to say explicitly that ADUs are associated with single family dwelling units and not with multifamily dwellings. We wrote that language more for clarification purposes. I think the Statute's implicit about that but that's something that I believe our team came up with to make it very clear what we intended by ADUs. So there's some creative thought at work here based on our staff's knowledge of the process but the other pieces of this, the bigger pieces where it's detached, that's all coming from State statute. So hopefully that summarizes it.

Chairman Moran

Alright. We'll look forward to all those questions. If there's anything else, feel free to email myself and Director Sullivan. I will add one benefit of this is for folks who do own property and are maybe in have the ability to add on an ADU and then make extra income through renting it out to support retirement or whatever it might be just like we talked about earlier. Side gigs, and 1090s, and people not wanting to pay their taxes. This way it's much more likely someone will have legitimate revenue that they can make leveraging their property value at the same time.

But again, the side fear for me would be who's scooping up properties and building the ADUs and are they short term rentals? Long term rentals? Are they actually impactful to the housing crisis? Those seem to be have really taken away from us with this State legislation but we're dealing with the State.

Alderman Jette

Before we leave so, now that you kind of reviewed things, it kind of reminded me of Paragraph B's, sub-paragraph 1, sub sub-paragraph A where you talk about if an accessory dwelling unit is proposed to be developed within an existing structure and no expansion of the footprint of that existing structure is proposed, the accessory dwelling unit may consist of an area up to 1,200 square feet. I guess I don't understand why that's necessary. I'm thinking of somebody who owns a large home and you know it's a parent who is a single parent now living - a widow for example, living in a large home and she wants to invite her married daughter and her two children to come and live but they want separate units. The house could be, I don't know, 4,000 square feet and Alderman Clemons talked about making it a duplex. But even without making it a duplex if one of the units is a smaller unit in the building, and then the other unit is larger, or if they're both equal but exceed the 1,200, requiring them to go before the Zoning Board to show hardship to get a variance doesn't seem fair to me. I'm not sure why you're limiting it to the 1,200. What problem are you trying to solve and are you creating different problems that's unnecessary?

Chairman Moran

Director Sullivan do you want to add on to that or?

Matt Sullivan, Community Development Director

That's a great question and I think I need to think about that Alderman Jette. I mean, I think we have to remember first that- or I guess I'm remembering first that, that scenario you've laid out makes a lot of sense to me and I don't think there should be really any restriction but our ordinance needs to – our ordinance cannot contemplate whether the ADU is being occupied by a family member or non-family member. So I think the question is at what point are you functionally creating a duplex arrangement within a single-family home? Maybe that's okay. I mean maybe this Committee, this Board feels that duplexes by right or something else that should be discussed across the City but I think our goal there was to look at the average single-family home size and come up with a reasonable maximum square footage that would still keep the unit size accessory in nature. But I think that's another one that I should come back with a more thorough response on because I think if you were to ask me why 1,200 square feet Alderman Jette, I don't know that I can answer that question well. So I think it's worth me getting more insight from the team as to why they came up with that number.

But I do think whatever we come up with has to work in the scenario that you've just discussed and it also has to work in a scenario where, you know, a family of three is occupying the accessory dwelling unit and are fully allowed to do so or three unrelated individuals are occupying the accessory dwelling unit and it's in an existing single-family home neighborhood. Should the size of that unit be limited and I think that's what we were attempting to do here but let me get you - let me get you more of an answer. I'm just thinking out loud in front of the Committee and probably shouldn't be doing that.

Chairman Moran

Thank you Director Sullivan.

Alderman Clemons

Personally, I like it because I think what it does is it strikes a balance between what the State has contemplated and it strikes a balance between the concerns that Mr. Richardson brought up which is, you know, are we just going to allow every single house everywhere to have one of these without going through some sort of process? I think it's reasonable to say that 1,200 square feet - okay if you're in the 1,200 square feet, go ahead. You can do it, right. Kind of meets the spirit of the intention of the law from the State. But I think if you're going over that, yeah you should have to go make your case in front of the Zoning Board and decide and they should be able to decide whether or not it fits the character of the neighborhood and I think – you know, we have the zoning variance signs out there. Your neighbors would be able to know. I think it's a good thing. I think it strikes the balance of compromise and so I don't have a problem with it. I think it should remain the way that it is in the ordinance.

Alderman Jette

So I would just like to - I hear what you're saying and I'd just like to remind you that when you talk about going before the Zoning Board for a variance and you talk about how the Zoning Board would have to make sure it's consistent with the neighborhood, so remember variances have five specific requirements. One of them and the most difficult to meet is the hardship and the hardship has been defined as not being a poor widow who needs income. You know, a hardship has to be there's something unique about this particular property which makes it different than others properties in the neighborhood.

So you know if you've got a neighborhood of large houses, they're all similar situated. There's no hardship. I suppose somebody could probably prove a hardship but it's not that easy and, you know, you have to show that your property - the typical law school example is you've got a pie shaped lot and so now the setback requirements don't work very well for you because it's a pie shaped lot and you've got a rectangular house. So that can be a hardship but just, you know, saying that somebody needs extra income or they have a family that needs a place to stay, that type of hardship is not what's contemplated by the law when you're talking about variances. It's different than a special exception where you just have to show that it's not out of character with the neighborhood.

Chairman Moran

Thank you. One last point I can make, hopefully it's last point, but one other thing that this benefits is the small business developer because these aren't great big builds that are going to happen. This is like a local builder/general contractor

who's gonna have these opportunities to expand their business through the use of the changes to ADUs. So it's another benefit to more working-class stable housing options in the City as well.

MOTION CARRIED

O-25-077

Endorser: Alderman-at-Large Melbourne Moran, Jr.

AMENDING THE LAND USE CODE REGARDING UNRELATED HOUSEHOLDS

MOTION BY ALDERMAN THIBEAULT TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Clemons

Yeah, I do have questions on this and it's related to the Table 16.1 and my question is in here there's things listed like bed and breakfast, rooming, boarding, nursing homes, elderly housing, fraternity, sorority, things like that. Is there another section in the Code that does have occupancy limits for those? For example, bed and breakfast or elderly housing?

Matt Sullivan, Community Development Director

I'm going to confirm on elderly housing in just a second Alderman Clemons but there's no further restriction of occupancy relative to bed and breakfasts that I'm aware of. We don't further stipulate square footage anywhere else that I'm aware of within the Code. I'll confirm elderly housing in just a minute because we do have a set of supplemental use regulations that refer to that use but I'm not aware of anything related to bed and breakfast or any of the other uses on this Table that might sort of fall into that category as well. I'm not aware of any such restrictions.

Chairman Moran

Follow up.

Alderman Clemons

Yeah, I'm not going to support the way that this is. I'm not going to support this tonight because I do believe that when you have a - for all intents and purposes - a business which is offering units to the public to rent, right? So that would be a nursing home, that could be a dormitory because it's a college, right? That could be a rooming house, it could be a bed and breakfast. Things of that nature where it's a commercial property and anything that has more than four units is considered a commercial property at least in Nashua, New Hampshire. So I think we do need to put limits on the occupancy of those types of places because they're a business and I think that it would serve the public right for us to figure out what that limit is.

If it's a single-family house, if it's a duplex, an apartment, an ADU, you know, basically a private residence, if it's below that 4-unit mark, fine. We can leave it out of the Code. It doesn't pass State law but if it's above that, I think we should try to figure out what is it that we as a community have a standard on for what/how many people per square foot we should have in those places because it's not like these folks are not going to know. And while I don't want to limit like families and things like that right to rent an apartment or something, I think we need to think about other situations like the nursing home, or like a dormitory, or things like that. So I think there's a larger discussion here that needs to be really like fine-tuned for us to be able to move forward with legislation that really does what we want to do on the many different scenarios that exist out there.

I think eliminating this completely - while I understand that all it's doing is getting us in line with the State, I just think that I don't want this discussion to be lost down the line because we pass this, and then forget about it, or we pass this, and it's not a priority to the administration anymore. I think, and not to say that it wouldn't be but I'm just saying because people are busy and because there are other more important things going on, I would prefer not to pass this and instead try to figure out what it is, which types of property we want to restrict, and get that into the Code. We do it for hotels, right? You can only have so many people in a hotel. I think we should really think about our nursing homes. We should think about our dormitories. We should think about things like that.

Matt Sullivan, Community Development Director

Alderman Clemons is raising a point that I think some of us thought about when we were we were actually drafting this legislation and that is that the line between what the statutory change said or called “dwelling units/residential dwelling units” and what is a commercial use that’s residential is a little bit murky. So Alderman Clemons I think we took a broad approach here but I think we could work to try and narrow that approach a little bit.

What I would say is that we are fairly adamant that single family dwellings, duplex, or townhouse, apartments, and elderly housing are required to be removed from this Table because they are true, pure residential uses and we cannot restrict occupancy within those. I would agree generally that for bed and breakfasts, rooming houses, dormitories, fraternities potentially, and nursing homes, they cross a line of being quasi commercial/quasi residential and there may be some ability to further restrict.

I will just note that within our Ordinance, we do have supplemental use standards for bed and breakfasts where we restrict the number of uses - or sorry, the number of rooms. We have a tiered system that says certain numbers of rooms are allowed in certain contexts. We don't restrict occupancy but we do restrict the size of the of the B and B. So I guess where I'm landing on this unlike with ADUs where I think we can address the Committee's concerns on ADUs, we can go back over the coming weeks and have a conversation about whether or not some of these uses could be reclassified out of that residential dwelling unit category and produce an amendment to this legislation that might address that concern. I've just been texting with Manager Durfee and I think we're in agreement with your concern and we'd welcome some additional time to come back to the Committee to maybe present an alternative strategy to address that. It's possible we'll come back and say for this reason or that reason, we don't think we can do that but I think we should at least explore that option and we did have some discussion at the staff level.

Alderman Clemons

Yeah, so my only follow up would be obviously, you know, I would not be looking for the unrelated part, right? This would just be ..

Matt Sullivan, Community Development Director

Across the board.

Alderman Clemons

...how many people per square feet, right? And, you know, I don't know base it on a fire code I guess.

Matt Sullivan, Community Development Director

You could. Yup.

Alderman Clemons

And kind of use that as our standard and come back for these commercial properties that fit into these areas that are quasi residential and that's I guess would be my ask.

Matt Sullivan, Community Development Director

Okay.

Alderman Clemons

So I appreciate it.

Matt Sullivan, Community Development Director

We can do that, yeah.

Alderman Thibeault

Thank you. I tend to agree with what Alderman Clemons said. I mean I don't want to be stacking up grannies either. The thing that you said about murky. If something is murky and we think we can have some control in there, I say we take that

control because if they're going to leave it that way – murky, then we decide as the City how that should be done. I know some of those other things are very specific in some of the Statutes but if this isn't defined and we can define it, I say we do that. Because know when the State doesn't give you, you gotta make the rule, right? I think if you're saying this is murky and this is something we can actually - my question before you kind of answered Alderman Clemons was - what tweaks can we make to what's here compared to the other ones where there were some things we couldn't do except for like square footage and stuff like that. So if we can actually do this, I say let's work on that and do it. I probably wouldn't support it tonight either and hope to have something stronger with those particular things.

Matt Sullivan, Community Development Director

Okay.

Alderman Thibeault

Thank you.

Alderman Gouveia

I was gonna make a motion.

Chairman Moran

Anybody else? Oh and Alderman Jette? Those people at the State House just taking over local control and removing our ability to govern is very difficult. You know, I just don't understand the philosophy behind those politics.

Alderman Jette

So I heard you say that when it comes to residential - single family residential homes ..

Matt Sullivan, Community Development Director

Yes.

Alderman Jette

...there's nothing we can do to restrict the number of occupants?

Matt Sullivan, Community Development Director

You certainly can. You can establish across the board occupancy limitations in any residential use. It simply can't be different based on familial relationship or any other status as defined in the Statute. So you could say we shall not have no more than one individual per 500 square feet in any residential use across the City of Nashua. I think what I was suggesting Alderman Jette is - and I'm not saying you're suggesting this either but I would be very cautious doing that because we have a lot of arguably very reasonable and acceptable living solutions around the City that would likely violate any such restriction - so I think you absolutely can though. There's no question. You just can't change how you treat family versus non-family.

Alderman Jette

So I guess the problem you're alluding to is somebody might think we don't want to allow a single-family home to be occupied by 20 unrelated people. But, you know, if you have a family there that starts out with two people and they keep multiplying each year they add another person, it's hard to say you can't have any more children or if you have another child, you got to move. I guess that's what you're or somebody is alluding to, I guess.

Matt Sullivan, Community Development Director

I think that's right. I mean that's an extreme example but I do think – I brought the example earlier because I know folks who have been in a situation where folks are renting a 900 square foot apartment or 750 square foot apartment. You have a young couple and they have a child and they technically exceed that limitation. I mean, I think we all know people who have been in that scenario where they have lived in a small apartment and had started a family and ..

Chairman Moran

950 square feet.

Matt Sullivan, Community Development Director

Right.

Chairman Moran

In a house.

Matt Sullivan, Community Development Director

Right and units..

Chairman Moran

3 children.

Matt Sullivan, Community Development Director

And units are even smaller now. And so it's just and I don't think that's what any of you are trying to regulate, right, or even Manager Durfee and I were chatting today and he brought up a 2,000 square foot home. You might remember we had talked about a 600 square foot limitation in this chamber in some committees. If you have a 2,000 square foot home and you have two adults and two children, you violate a 600 square foot requirement. So there's just, it depends. You know, it depends. It depends and different cultures feel comfortable in different densities of living. It's really hard to regulate.

I also from an affordable housing perspective, this gets thrown out a lot but it's real. Like you have young adults that are living in fairly dense environments as well renting individual bedrooms within apartments and it just - I don't think any of you want to restrict that. I think what you're trying to get at is real clear overcrowding and that's a tricky thing to grab but I think in commercial settings, we certainly can regulate that. But in residential, I think it's a slippery slope.

Chairman Moran

I think generational housing is here to stay. I grew up in that and my family still lives in that generational type living because of affordability issues. But, again, the ADUs help solve part of that problem if people can afford to build and shift a generation into the detached or attached unit. These are some pieces of relief. Getting to the nuance of it is practical of course so we'll look for a motion from Alderman Gouveia.

Alderman Gouveia

So I'm hearing we want a table. Does somebody else who wants to talk?

Chairman Moran

Tabled would be great.

Alderman Gouveia

Alright, I'll move to table.

**MOTION BY ALDERMAN GOUVEIA TO TABLE
MOTION CARRIED**

Chairman Moran

Alright. We'll bring this back on the next PEDC meeting before the Christmas break and after I return from Washington State.

Alderman Clemons

Mr. Chair - and I probably should have mentioned this while we were discussing it but ..

TABLED IN COMMITTEE - None

GENERAL DISCUSSION

Chairman Moran

Oh, General Discussion.

Alderman Clemons

Okay.

Chairman Moran

There we go.

Alderman Clemons

So ..

Chairman Moran

Nothing tabled in Committee.

Alderman Clemons

We may want to look at the calendar too because if we make a substantial change to this, it's going to require another public hearing. So I would just look at the calendar and ..

Chairman Moran

And we've done this but where I can be out of State and Alderman Gouveia can Chair if we needed to make it earlier. Although I don't know what his holiday plans are but or yours for and such but.

Alderman Clemons

And I would just also say that we are aboard until that first Sunday in January. So don't forget January 2nd and 3rd, which I believe are, I could be wrong, but it's a Thursday and Friday.

Chairman Moran

I've been telling everyone December 31st my term ends.

Unidentified Speaker

Friday.

Chairman Moran

I think that's on the website too.

Alderman Clemons

No, it's not. It's till the next inauguration and we've had business like that when the inauguration falls. So I just wanted to capture that day into the conversation as well.

Chairman Moran

And if folks ..

Alderman Clemons

Because if we can do something?

Chairman Moran

Yeah, I appreciate that. And folks are on vacation or have requests this month and the very couple days of January, please let me know. I only have something planned at this start of December, everything else I'm local for.

Alderman Clemons

So my mistake. It's actually January 1st is Thursday; January 2nd is a Friday; January 3rd is Saturday but ..

Chairman Moran

So the 2nd would be the ..

Alderman Clemons

So maybe the Friday if we're all around, you know. I'm just throwing it out there.

Chairman Moran

Worst case. Alright.

PUBLIC COMMENT - None

REMARKS BY THE ALDERMEN - None

ADJOURNMENT

MOTION BY ALDERMAN GOUVEIA TO ADJOURN
MOTION CARRIED

The meeting was declared closed at 9:02 p.m.

Alderman Derek Thibeault
Committee Clerk



City of Nashua
Planning Department
229 Main Street
Nashua, New Hampshire 03061-2019

Planning & Zoning 603 589-3090
WEB www.nashuanh.gov

MEMORANDUM

Date: November 17th, 2025

To: Ald. Lori Wilshire, President, Board of Aldermen

From: Connor Muisse, Deputy Planning Manager

RE: Referral from the Board of Aldermen on Ordinance O-25-073: Amending The Land Use Code Regarding Approved Subdivision Exemption

At the Planning Board's regularly scheduled meeting on November 6th, 2025, the Planning Board voted unanimously to make a **favorable** recommendation to the Board of Aldermen on O-25-073.

If you have any questions concerning this notification, please contact me at 589-3110 or via muisecc@nashuanh.gov.

cc: Mayor Jim Donchess
Donna Graham, Legislative Assistant
Daniel Healey, City Clerk
Bob Bollinger, Chair, NPCB



City of Nashua
Planning Department
229 Main Street
Nashua, New Hampshire 03061-2019

Planning & Zoning 603 589-3090
WEB www.nashuanh.gov

MEMORANDUM

Date: November 17th, 2025

To: Ald. Lori Wilshire, President, Board of Aldermen

From: Connor Muise, Deputy Planning Manager

RE: Referral from the Board of Aldermen on Ordinance O-25-074: Amending The Land Use Code Regarding Family Day-Care Facilities

At the Planning Board's regularly scheduled meeting on November 6th, 2025, the Planning Board voted unanimously to make a **favorable** recommendation to the Board of Aldermen on O-25-074.

If you have any questions concerning this notification, please contact me at 589-3110 or via muisecc@nashuanh.gov.

cc: Mayor Jim Donchess
Donna Graham, Legislative Assistant
Daniel Healey, City Clerk
Bob Bollinger, Chair, NPCB



City of Nashua
Planning Department
229 Main Street
Nashua, New Hampshire 03061-2019

Planning & Zoning 603 589-3090
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MEMORANDUM

Date: November 17th, 2025

To: Ald. Lori Wilshire, President, Board of Aldermen

From: Connor Muisse, Deputy Planning Manager

RE: Referral from the Board of Aldermen on Ordinance O-25-075: Amending The Land Use Code Regarding Parking Requirements For Residential Uses

At the Planning Board's regularly scheduled meeting on November 6th, 2025, the Planning Board voted unanimously to make a **favorable** recommendation to the Board of Aldermen on O-25-075.

If you have any questions concerning this notification, please contact me at 589-3110 or via muisecc@nashuanh.gov.

cc: Mayor Jim Donchess
Donna Graham, Legislative Assistant
Daniel Healey, City Clerk
Bob Bollinger, Chair, NPCB



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MEMORANDUM

Date: November 17th, 2025

To: Ald. Lori Wilshire, President, Board of Aldermen

From: Connor Muise, Deputy Planning Manager

RE: Referral from the Board of Aldermen on Ordinance O-25-076: Amending The Land Use Code By Amending The Accessory Dwelling Unit Ordinance And Definition of Dwelling Unit, Accessory

At the Planning Board's regularly scheduled meeting on November 6th, 2025, the Planning Board voted unanimously to make a **favorable** recommendation to the Board of Aldermen on O-25-076.

If you have any questions concerning this notification, please contact me at 589-3110 or via muise@nashuanh.gov.

cc: Mayor Jim Donchess
Donna Graham, Legislative Assistant
Daniel Healey, City Clerk
Bob Bollinger, Chair, NPCB



City of Nashua
Planning Department
229 Main Street
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MEMORANDUM

Date: November 17th, 2025

To: Ald. Lori Wilshire, President, Board of Aldermen

From: Connor Muise, Deputy Planning Manager

RE: Referral from the Board of Aldermen on Ordinance O-25-077: Amending The Land Use Code Regarding Unrelated Households

At the Planning Board's regularly scheduled meeting on November 6th, 2025, the Planning Board voted unanimously to make a **favorable** recommendation to the Board of Aldermen on O-25-077.

If you have any questions concerning this notification, please contact me at 589-3110 or via muisecc@nashuanh.gov.

cc: Mayor Jim Donchess
Donna Graham, Legislative Assistant
Daniel Healey, City Clerk
Bob Bollinger, Chair, NPCB

Graham, Donna

From: Lopez, Thomas
Sent: Tuesday, November 18, 2025 9:10 AM
To: Graham, Donna; Graham, Donna
Subject: Communication to PEDC

Donna could you forward to chair of planning and economic Development, and provide copies to committee members for tonight's meeting? I am not able to attend and I am sponsoring one of the pieces of legislation they are considering

Mr. Chair,

My apologies for being unable to attend tonight's meeting, as I have another important commitment. I trust my colleagues to review tonight's business diligently and city staff to present on these topics with the professional expertise that allows Nashua to be routinely recognized as one of the greatest places in our country to live. I write to express my support for O 25 75 regarding parking, O 25 76 regarding accessory dwelling units, for which I am the prime sponsor, and O 25 77 relative to unrelated household members. As a city we are facing a shortage of low income and fixed income supportive housing. Enabling families to modify attached structures into accessory dwelling units allows them to provide decent dignified housing for dependent elderly family members, for younger members seeking more independence but without the income to support independent housing, it allows for property owners to subsidize their income to compensate for increasing tax burdens piled on property owners by a state that seems in my opinion, more interested in offering tax breaks for the wealthy, than in adequately funding essential services. As city aldermen we struggle every year to manage costs, to deliberately budget and to maintain city services and infrastructure while cognizant of the costs our residents face. While there are many things we can do to manage expenses and costs, there isn't often something we can do to help residents and property owners have more resources with which to thrive. I think these three pieces of legislation do that. Ward 4 struggles with parking availability and landlords frequently rent to tenants without advising them whether a parking plan is available or not. O 25 75 addresses this. We need additional sustainable living capacity, to need modest income needs, O 25 76 empowers this, and O 25 077 avoids unintentional restrictions to this. I encourage my fellow aldermen serving on committee tonight to support these pieces of legislation. Thank you for your attention to this matter

Tom Lopez
Ward 4 Alderman