

1 **New Ipswich Zoning Regs – Proposed Updates Accessory Dwelling Units (approved**
2 **to move to warrant)**

4 Motion to amend Article XIII Section N of New Ipswich Zoning Ordinance by deleting text in strikethrough
5 (~~strikethrough~~) and **adding the text underlined in bold**.

7 N. **ACCESSORY DWELLING UNITS:**

9 1. PURPOSE. For the purpose of providing expanded housing opportunities and flexibility in
10 household arrangements, accessory dwelling units shall be permitted by special exception
11 granted by the Board of Adjustment in any district in conformance with these regulations.

13 2. DEFINITIONS: The following definitions specifically apply to this section of the Zoning
14 ordinance.

16 Accessory Dwelling Unit: A residential dwelling unit subordinate to a one family principal
17 dwelling unit and that provides independent living facilities for one or more persons,
18 including provisions for sleeping, eating, cooking and sanitation on the same parcel of land
19 as the principal dwelling unit it accompanies.

21 Attached Accessory Dwelling Unit: An Accessory Dwelling Unit that is within or attached
22 to a one family dwelling, or completely contained within a pre-existing detached
23 structure (built prior to 2025). Attached accessory dwelling units shall have either an
24 independent means of ingress and egress or ingress and egress through a common
25 space shared with the principal dwelling.

27 Detached Accessory Dwelling Unit: A unit that is neither within nor physically
28 connected to the principal dwelling unit. An Accessory Dwelling Unit located within a
29 structure with the appearance of a barn or garage accessory to the principal dwelling unit.

31 3. REQUIREMENTS/LIMITATION OF ACCESSORY DWELLING UNITS

33 a. An applicant for an Accessory Dwelling Unit shall be required as a condition of
34 approval to record a restrictive covenant in the Registry of Deeds indicating that the
35 structure and lot shall not be converted into a condominium or any other form of
36 legal ownership distinct from the ownership of the existing one family dwelling.

38 b. One (1) attached or detached Accessory Dwelling Unit may be allowed per one
39 family home “by right” (with a building permit and restrictive covenant filed
40 with the Hillsborough County Registry of Deeds),

42 i. the total square footage of the living space may be up to 950 sq. ft.;
43 ii. the ADU shall demonstrate access to an adequate water supply, utilities and
44 sewage disposal (the septic system must meet the requirements of the NH
45 Department of Environmental Services or an application for approval for a
46 sewage disposal system shall be submitted in accordance with RSA 485-A).

48 c. A second Accessory Dwelling Unit may be allowed per ~~single~~ one family home by
49 special exception of the Zoning Board of Adjustment, ~~when provided~~

51 i. the lot size is 2 or more acres,
52 ii. only one detached Accessory Dwelling Unit is permitted;

- iii. one of the units is within or attached to the primary residence,
- iv. the land properties and the soil based considerations will support additional dwelling capacity (referencing “Soil Based Lot Sizing” as recommended by the Society of Soil Scientists of Northern New England, or Env-Wq 1005 “Minimum Lot Sizes-Residential” from NH code of administrative rules.);
subject to the following provisions:
- d. One (1) Accessory Dwelling Unit with up to 1250 sq. ft. of living space may be allowed per one family home by special exception of the Zoning Board of Adjustment provided
 - i. the square footage of the Accessory Dwelling Unit is appropriate for the district, site and neighborhood; and
 - ii. the design is consistent with the architectural style, and other design elements of the primary dwelling unit and/or the surrounding neighborhood.
- e. Only one (1) Detached Accessory Dwelling Unit is permitted;
- f. In cases where a second Accessory Dwelling Unit is permitted on the same property as a Detached Accessory Dwelling Unit, the second unit must be an Attached Accessory Dwelling Unit
- g. Accessory Dwelling Units are subject to the following provisions
 - i. An Accessory Dwelling Unit must be subordinate and clearly secondary to the principal dwelling unit appropriate for the site and neighborhood; preserving the village or rural residential district within which it is proposed;
 - ii. An Accessory Dwelling Unit shall not alter the general character of the neighborhood or reduce the value of the surrounding properties;
 - iii. Accessory dwelling units may be constructed at the same time as the principal dwelling unit;
 - iv. A Mobile/Manufactured Home is not allowed to be used as an Accessory Dwelling Unit;
 - v. Accessory Dwelling Unit/s shall be built or remodeled according to NH State Building Codes consistent with NH RSA 155-A.
 - vi. The Accessory Dwelling Unit/s and the primary dwelling unit must share an access to a town or private street;
 - vii. Adequate off-street parking (2 per unit) outside of the public right-of-way shall be provided. At least one per unit is required (on the property or a legally dedicated off-site location), and adequate provisions must exist or be made for ingress, egress and turning of vehicles within the site;

103 viii. All setbacks, buffers, and other zoning requirements shall apply to Accessory
104 Dwelling Units;

105 ix. The existing or proposed septic system must be certified by a licensed septic
106 designer or engineer as adequate to handle and treat the increased waste
107 volumes generated by the Accessory Dwelling Unit in accordance with New
108 Hampshire RSA 485-A:38 and the Town of New Ipswich septic regulations.
109 If the existing septic system is not capable of adequately handling and treating
110 the waste of the principal dwelling unit and the Accessory Dwelling Unit in
111 accordance with New Hampshire RSA 485-A:38 and the Town of New
112 Ipswich septic regulations, state permitted plans for a new or upgraded septic
113 system conforming to the most recent state and local septic standards and
114 regulations shall be required.

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116 x. ~~When the addition of an ADU causes the septic to exceed the current
117 approved bedroom count, the homeowner may submit an affidavit stating that
118 there is existing capacity based on the current occupancy of the home to
119 compensate for bedrooms in the ADU. This affidavit shall allow the code
120 enforcement officer to issue a temporary certificate of occupancy which has
121 a one time 6 month use. The affidavit must state that a state permitted plan
122 for a new or upgraded septic system shall be submitted to the code
123 enforcement officer within 6 months to obtain a final certificate of
124 occupancy. Failure to do so will result in a revocation of the temporary
125 occupancy permit for the ADU.~~

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127 xi. ~~There are no exterior alterations that alter the property's character or appearance as
128 a one family residence with an accessory barn or garage.~~

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130 xii. ~~The square footage of the Accessory Dwelling Unit is appropriate for the site and
131 neighborhood~~

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133 h. ADUs are not allowed on properties with multiple single-family dwellings attached
134 to each other such as townhouses, and with manufactured housing as defined in
135 RSA 674:31

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137 i. **ADUs are prohibited to be built on rented or leased land**

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139 j. An Accessory Dwelling Unit shall not be considered to be an additional dwelling
140 unit for the purposes of determining minimum lot size;

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142 k. The owner of the property must demonstrate that~~occupy~~ one of the dwellings on
143 the property as his or her principal place of residence (the place of abode or
144 domicile that is designated by a person as his or her principal place of physical
145 presence to the exclusion of all others consistent with N.H. Admin. Code § Rev
146 401.19 – Principal place of abode); in cases where the property is part of a trust,
147 one of the trustees must ~~occupy~~demonstrate that one of the dwellings on the
148 property as his or her principal place of residence. (Proof of occupancy may be
149 required for enforcement of this provision by code enforcement);

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151 l. A purchaser of a home that had a special exception granted for an Accessory
152 Dwelling Unit who wants to continue its use as an Accessory Dwelling Unit must

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comply with all conditions of the permit previously granted. Any change to the prior conditions will require a new application;

- m. A building permit for an Accessory Dwelling Unit must be approved and issued prior to its construction. In the case where no building permit is required, the building inspector must certify compliance with local and state building codes and the New Ipswich Zoning Ordinance; and
- n. An Accessory Dwelling Unit use shall be recorded by deed addendum at the Registry of Deeds, indicating all the terms of the approval granted. The addendum shall read substantially as follows:

(Note: the following deed language applies all ADUs)

“ _____ of _____ covenants and agrees that the property located at _____ contains an Accessory Dwelling as defined by the Town of New Ipswich Zoning Ordinance (Article XIII, section O). To join the Zoning Ordinance with this document, _____

(Proviso: the Zoning article number/section will be updated once document amendments are complete)

Note: the following section should be included in deeds where ADOS are permitted under RSA 674:71-73)

That use of the property is permitted through RSA 6/4.71-75. The continued use of the Accessory Dwelling Unit is conditioned upon compliance with all ordinances and statutes applicable to the property.”

(Note: the following section should be included in deeds where ADUs are granted by Special Exception by the Zoning Board of Adjustment)

That use of the property is permitted by special exception granted by the Zoning Board of Adjustment on _____, _____. The continued use of the Accessory Dwelling Unit is conditioned upon compliance with all ordinances and statutes applicable to the property.”

4. NON-MUNICIPAL RESTRICTIONS: The granting of a Building Permit or ZBA Special Exception for an Accessory Dwelling Unit does not alter non-municipal restrictions, such as deed restrictions or HOA limitations on the property. Land owners shall be responsible for reviewing relevant deeds and covenants prior to applying for an ADU, and land owners bear any/all responsibility for legal actions taken against them by neighbors, home owner associations or similar organizations for violating relevant deeds/covenants/agreements.
5. SEVERABILITY: The invalidity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this article.
6. EFFECTIVE DATE: This Article shall take effect upon its passage, and as amended