

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

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

N. ACCESSORY DWELLING UNITS:

1. PURPOSE. For the purpose of providing expanded housing opportunities and flexibility in household arrangements, accessory dwelling units shall be permitted by special exception granted by the Board of Adjustment in any district in conformance with these regulations.
2. DEFINITIONS: The following definitions specifically apply to this section of the Zoning ordinance.

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

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

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

3. REQUIREMENTS/LIMITATION OF ACCESSORY DWELLING UNITS

- a. An applicant for an Accessory Dwelling Unit shall be required as a condition of approval to record a restrictive covenant in the Registry of Deeds indicating that the structure and lot shall not be converted into a condominium or any other form of legal ownership distinct from the ownership of the existing one family dwelling.
- b. **One (1) attached or detached Accessory Dwelling Unit may be allowed per one family home “by right” (with a building permit and restrictive covenant filed with the Hillsborough County Registry of Deeds),**
 - i. **the total square footage of the living space may be up to 950 sq. ft.;**
 - ii. **the ADU shall demonstrate access to an adequate water supply, utilities and sewage disposal (the septic system must meet the requirements of the NH Department of Environmental Services or an application for approval for a sewage disposal system shall be submitted in accordance with RSA 485-A).**
- c. A second Accessory Dwelling Unit may be allowed per ~~single~~ one family home by special exception of the Zoning Board of Adjustment, ~~when~~**provided**
 - i. the lot size is 2 or more acres,
 - ii. **only one detached Accessory Dwelling Unit is permitted;**

- 53 iii. one of the units is within or attached to the primary residence,
54 iv. the land properties and the soil based considerations will support additional
55 dwelling capacity (referencing “Soil Based Lot Sizing” as recommended by
56 the Society of Soil Scientists of Northern New England, or Env-Wq 1005
57 “Minimum Lot Sizes-Residential” from NH code of administrative rules.);
58 subject to the following provisions:
59

60 d. One (1) Accessory Dwelling Unit with up to 1250 sq. ft. of living space may be
61 allowed per one family home by special exception of the Zoning Board of
62 Adjustment **provided**

- 63 i. the square footage of the Accessory Dwelling Unit is appropriate for the
64 district, site and neighborhood; and
65 ii. the design is consistent with the architectural style, and other design
66 elements of the primary dwelling unit and/or the surrounding
67 neighborhood.
68

69 e. ~~Only one (1) Detached Accessory Dwelling Unit is permitted;~~
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71 f. ~~In cases where a second Accessory Dwelling Unit is permitted on the same property~~
72 ~~as a Detached Accessory Dwelling Unit, the second unit must be an Attached~~
73 ~~Accessory Dwelling Unit~~
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75 g. Accessory Dwelling Units are subject to the following provisions
76

77 i. An Accessory Dwelling Unit must be ~~subordinate and clearly secondary to~~
78 ~~the principal dwelling unit~~ **appropriate for the site and neighborhood;**
79 **preserving the village or rural residential district within which it is**
80 **proposed;**
81

82 ii. An Accessory Dwelling Unit shall not alter the general character of the
83 neighborhood or reduce the value of the surrounding properties;
84

85 iii. **Accessory dwelling units may be constructed at the same time as the**
86 **principal dwelling unit;**
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88 iv. A Mobile/**Manufactured** Home is not allowed to be used as an Accessory
89 Dwelling Unit;
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91 v. **Accessory Dwelling Unit/s shall be built or remodeled according to NH**
92 **State Building Codes consistent with NH RSA 155-A.**
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94 vi. The Accessory Dwelling Unit/s and the primary dwelling unit must share an
95 access to a town or private street;
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97 vii. Adequate off-street parking (~~2 per unit~~) outside of the public right-of-way shall
98 be provided. **At least one per unit is required (on the property or a legally**
99 **dedicated off-site location),** and adequate provisions must exist or be made
100 for ingress, egress and turning of vehicles within the site;
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- viii. All setbacks, buffers, and other zoning requirements shall apply to Accessory Dwelling Units;
- ix. The existing or proposed septic system must be certified by a licensed septic designer or engineer as adequate to handle and treat the increased waste volumes generated by the Accessory Dwelling Unit in accordance with New Hampshire RSA 485-A:38 and the Town of New Ipswich septic regulations. If the existing septic system is not capable of adequately handling and treating the waste of the principal dwelling unit and the Accessory Dwelling Unit in accordance with New Hampshire RSA 485-A:38 and the Town of New Ipswich septic regulations, state permitted plans for a new or upgraded septic system conforming to the most recent state and local septic standards and regulations shall be required.
- ~~x. When the addition of an ADU causes the septic to exceed the current approved bedroom count, the homeowner may submit an affidavit stating that there is existing capacity based on the current occupancy of the home to compensate for bedrooms in the ADU. This affidavit shall allow the code enforcement officer to issue a temporary certificate of occupancy which has a one time 6 month use. The affidavit must state that a state permitted plan for a new or upgraded septic system shall be submitted to the code enforcement officer within 6 months to obtain a final certificate of occupancy. Failure to do so will result in a revocation of the temporary occupancy permit for the ADU.~~
- ~~xi. There are no exterior alterations that alter the property's character or appearance as a one family residence with an accessory barn or garage.~~
- ~~xii. The square footage of the Accessory Dwelling Unit is appropriate for the site and neighborhood~~
- h. ADUs are not allowed on properties with multiple single-family dwellings attached to each other such as townhouses, and with manufactured housing as defined in RSA 674:31
- i. **ADUs are prohibited to be built on rented or leased land**
- j. An Accessory Dwelling Unit shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size;
- k. The owner of the property must **demonstrate that**~~occupy~~ one of the dwellings on the property as his or her principal place of residence **(the place of abode or domicile that is designated by a person as his or her principal place of physical presence to the exclusion of all others consistent with N.H. Admin. Code § Rev 401.19 – Principal place of abode);** in cases where the property is part of a trust, one of the trustees must ~~occupy~~**demonstrate that** one of the dwellings on the property as his or her principal place of residence. **(Proof of occupancy may be required for enforcement of this provision by code enforcement);**
- l. A purchaser of a home that had a special exception granted for an Accessory Dwelling Unit who wants to continue its use as an Accessory Dwelling Unit must

154 comply with all conditions of the permit previously granted. Any change to the prior
155 conditions will require a new application;
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- 157 m. A building permit for an Accessory Dwelling Unit must be approved and issued prior
158 to its construction. In the case where no building permit is required, the building
159 inspector must certify compliance with **local and state** building codes and the New
160 Ipswich Zoning Ordinance; and
161
- 162 n. An Accessory Dwelling Unit use shall be recorded by deed addendum at the Registry
163 of Deeds, indicating all the terms of the approval granted. The addendum shall read
164 substantially as follows:
165

166 **(Note: the following deed language applies all ADUs)**

167 “_____ of _____ covenants and agrees that the property
168 located at _____ contains an Accessory Dwelling as defined
169 by the Town of New Ipswich Zoning Ordinance (Article XIII, section O).
170 **(Proviso: the Zoning article number/section will be updated once document**
171 **amendments are complete)**
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173 **(Note: the following section should be included in deeds where ADUs are**
174 **permitted under RSA 674:71-73)**

175 That use of the property is permitted through RSA 674:71-73. The continued
176 use of the Accessory Dwelling Unit is conditioned upon compliance with all
177 ordinances and statutes applicable to the property.”
178

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

181 That use of the property is permitted by special exception granted by the
182 Zoning Board of Adjustment on _____, _____. The continued use of
183 the Accessory Dwelling Unit is conditioned upon compliance with all
184 ordinances and statutes applicable to the property.”
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- 186 4. NON-MUNICIPAL RESTRICTIONS: The granting of a **Building Permit or ZBA** Special
187 Exception for an Accessory Dwelling Unit does not alter non-municipal restrictions, such as deed
188 restrictions or HOA limitations on the property. **Land owners shall be responsible for reviewing**
189 **relevant deeds and covenants prior to applying for an ADU, and land owners bear any/all**
190 **responsibility for legal actions taken against them by neighbors, home owner associations or**
191 **similar organizations for violating relevant deeds/covenants/agreements.**
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- 193 5. SEVERABILITY: The invalidity of any other provision, nor any prior decisions made on the basis
194 of the valid provisions of this Article shall not affect the validity of any other provision, nor any
195 prior decisions made on the basis of the valid provisions of this article.
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- 197 6. EFFECTIVE DATE: This Article shall take effect upon its passage, and as amended
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