

Rye Accessory Dwelling Units

- Rye Currently has an Accessory Apartments Zoning Ordinance Section 506 Adopted in March 1998—it outlines the purpose, performance standards, & applications
- NH Senate Bill 146 is entitled Accessory Dwelling Units and mandates that Towns/Cities allow for one accessory dwelling unit per single family dwelling with requirements & restrictions (copy attachment #1)
- Senate Bill 146 was passed by the NH legislature and will go into effect June 1, 2017
- Obligations and Options for Rye under Senate Bill 146 are (Attachment #2)
- Rye Warrant Article #3, (Amendment #1) updates the current Accessory Apartments Ordinance in accordance with the rules of Senate Bill 146 (Attachment #3)

Significant changes to Rye's current Accessory Apartment Ordinance are:

- All references to Accessory Apartments are changed to **Accessory Dwelling Units**
- Accessory Units previously were only allowed in the Single Residence District. Under Warrant Article 3, they are now also allowed in the General and Business Residence Districts (this significantly increases the opportunities for additional units in Rye)
- Although not a change, Rye allows for Accessory Dwelling Units up to 1200 sq ft in size where the State mandates they only be 750 sq ft or over
- The application for an Accessory Dwelling Unit is submitted to the Planning Board in lieu of the Zoning Board of Adjustment and will be granted as a conditional use permit
- The limit on the ages of the occupants has been eliminated. A one bedroom accessory unit shall be restricted to no more than two occupants is added (in my opinion the changes now allow a two bedroom unit to be occupied by two adults and two children of any age)
- Rye Sewer Commission approval is required
- No more than one accessory unit is allowed per lot
- Unit rentals are required to be for a term of three months or more
- An interior door is required between the principal & rental unit
- A unit must be attached to the main dwelling unit

Phil Winslow 2/22/2017

#1

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Accessory Dwelling Units

Section 674:72

[RSA 674:72 effective June 1, 2017.]

674:72 Accessory Dwelling Units. –

I. A municipality that adopts a zoning ordinance pursuant to the authority granted in this chapter shall allow accessory dwelling units as a matter of right or by either conditional use permit pursuant to RSA 674:21 or by special exception, in all zoning districts that permit single-family dwellings. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single-family dwelling without an accessory dwelling unit. The municipality is not required to allow more than one accessory dwelling unit for any single-family dwelling.

II. If a zoning ordinance contains no provisions pertaining to accessory dwelling units, then one accessory dwelling unit shall be deemed a permitted accessory use, as a matter of right, to any single-family dwelling in the municipality, and no municipal permits or conditions shall be required other than a building permit, if necessary.

III. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but a municipality shall not require that it remain unlocked.

IV. Any municipal regulation applicable to single-family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to lot coverage standards and standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development. A municipality may require adequate parking to accommodate an accessory dwelling unit.

V. The applicant for a permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.

VI. A municipality may require owner occupancy of one of the dwelling units, but it shall not specify which unit the owner must occupy. A municipality may require that the owner demonstrate that one of the units is his or her principal place of residence, and the municipality may establish reasonable regulations to enforce such a requirement.

VII. A municipality may establish standards for accessory dwelling units for the purpose of maintaining the aesthetic continuity with the principal dwelling unit as a single-family dwelling. A municipality may also establish minimum and maximum sizes for an accessory dwelling unit, provided that size may not be restricted to less than 750 square feet.

VIII. A municipality may not require a familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit.

IX. A municipality may not limit an accessory dwelling unit to only one bedroom.

X. An accessory dwelling unit may be deemed a unit of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59 if the unit meets the criteria in RSA 674:58, IV for rental units.

Source. 2016, 6:2, eff. June 1, 2017.

2016 SB 146 – Accessory Dwelling Units (ADUs)

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This legislation was motivated partly by studies conducted in 2014 by the NH Center for Public Policy Studies on *Housing Needs and Preferences in New Hampshire*. The studies identified a serious mismatch between the existing housing stock in the state and the needs and desires of our changing population. Although we have a preponderance of large single family homes, both younger and older people increasingly want smaller and more “urban” homes. The creation of ADUs will help people to age in place, and it will create a greater supply of housing for the young professionals we want to live here.

SB 146 will require municipal zoning ordinances to allow, in all districts that permit single-family residences, one *attached* ADU by right, special exception, or conditional use permit. If the ordinance is silent on the matter, attached ADUs will be deemed allowed in any single-family home. At its discretion, a municipality may allow detached ADUs.

A local zoning ordinance’s dimensional standards for single-family homes will also apply to the combination of the primary dwelling unit and the ADU – this means no added lot size, no increased setbacks or road frontage, and no greater standards for lot coverage or other space limitations.

OBLIGATIONS AND OPTIONS UNDER SB 146

An accessory dwelling unit must

- Be an independent living unit (sleeping, cooking, eating, sanitation)
- Have an interior door between it and the principal dwelling unit
- Have adequate water supply and sewage disposal

A municipality may

- Control for appearance to maintain the “look and feel” of a single-family home (e.g., architecture, driveways, off-street parking, etc.)
- Require owner occupancy of one of the units, but it can’t say which one
- Require demonstration that a unit is the owner’s primary dwelling unit
- Regulate the number of occupants per bedroom, consistent with HUD standards
- Continue to limit the number of unrelated individuals within a single unit
- Establish minimum and maximum ADU sizes (but see below)

A municipality must not

- Require an ADU to be smaller than 750 s.f. (but the owner may make it smaller)
- Require a familial relationship between occupants of the principal unit and an ADU
- Require an ADU to have only one bedroom
- Require additional lot area or other dimensional standards for an ADU (but it may require additional lot area for a *detached* ADU)
- Require separate water or septic systems for the principal unit and an ADU
- Require interior doors between the principal unit and an ADU to remain unlocked

The Legislature has passed SB 146 and the Governor will soon sign it. The bill’s effective date will be June 1, 2017, giving municipalities extra time to amend their zoning ordinances.

RYE PLANNING BOARD
PROPOSED ZONING AMENDMENT 2017-01

Re: Accessory Dwelling Units

- I. Amend Section 506 as follows: (Note: Deleted language ~~struck through~~. New language ***emboldened and italicized.***)

SECTION 506 ACCESSORY ~~APARTMENTS~~ DWELLING UNITS

506.1 Purpose: The Town of Rye recognizes the public need for the provision of a variety of housing types, including efficient and affordable housing for singles, couples, single parents, elderly and new households. Throughout the town opportunities exist within underutilized and/or large single family dwellings to create small accessory ~~apartments~~ ***dwelling units*** to meet these needs, as well as to provide a source of income and other assistance for property owners. To accomplish this purpose and to protect the health, safety and welfare of the existing neighborhoods, accessory units may be permitted subject to the following requirements.

506.2 ~~Special Exception Conditional Use Permit:~~ The ~~Board of Adjustment~~ ***Planning Board*** may grant a ~~special exception conditional use permit~~ to allow the construction of, addition to, renovation of and use and occupancy of a single family dwelling in the Single Residence District ~~only, the General Residence District or the Business District~~, in order to create one subordinate ~~rental accessory apartment dwelling~~ unit as an integrated part of said single family dwelling, in accordance with the following performance standards.

506.3 Performance Standards: ~~In addition to making the determinations required by Section 701.3 of this ordinance, the Board of Adjustment~~ ***The Planning Board*** shall determine that an accessory ~~apartment dwelling unit~~ complies with the following standards.

- A. Each accessory ~~apartment~~ ***dwelling unit*** shall have a minimum floor area of 600 sf and a maximum floor area of 1200 sf and shall contain, at a minimum, a separate cooking area with a kitchen sink, one full bathroom, and not more than two bedrooms.
- B. Each accessory ***dwelling*** unit shall be limited to a maximum occupancy of three persons, ~~not more than two of whom may be greater than 18 years of age.~~ ***A one bedroom accessory dwelling unit shall not have more than two (2) occupants.***
- C. Two additional off-street parking spaces shall be provided for the accessory ~~apartment~~ ***dwelling unit.***
- D. The accessory ***dwelling*** unit shall be constructed and maintained in such a manner as to retain the appearance and character of the structure and site as a single family dwelling.
- E. The principal dwelling unit on the premises shall comply with the floor area requirements of Section 203.3, E, of this ordinance.
- F. The property owner shall reside on the premises.

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Revised 11/1/2016

- G. An approval shall be obtained from NHDES relative to the adequacy of the on site waste disposal system.
- H. An approval shall be obtained from the applicable supplier of public water or certification of a well of adequate capacity shall be provided.
- I. *Rye Sewer Commission approval shall be required for an accessory dwelling unit served by town sewers.*
- J. *There shall be no more than one (1) accessory dwelling unit allowed in a single family dwelling.*
- K. *There shall be no more than one (1) accessory dwelling unit allowed on a lot.*
- L. *If a dwelling unit is rented, it shall be for a term greater than three (3) months.*
- M. *An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.*
- N. *An accessory dwelling unit shall not be permitted in a detached accessory building.*
- O I. All other zoning requirements shall be met.

506.4 Applications: All applications for ~~special exceptions~~ conditional use permits shall include the following information:

- A. A property layout, including existing or proposed septic system.
- B. A parking plan.
- C. A floor plan of all rooms on the premises and the uses thereof.
- D. Plans for access and egress.
- E. Approval of the Fire Chief.
- F. Elevation views of buildings whenever exterior changes are proposed.

506.5 Recertification: Every two years after approval and when the dwelling is sold, the owner of the dwelling and all adult occupants of the accessory ~~apartment~~ **dwelling unit** shall file an affidavit with the Building Inspector certifying that the owner lives on the premises and that the occupancy of the accessory **dwelling** unit complies with Section 506.3 B.

506.6 Appeal. *This is an innovative zoning provision adopted pursuant to RSA 674:21. Appeals of decisions on applications for a conditional use permit may be filed with the Rockingham County Superior Court within 30 days of the date of the decision.*