

HB 1291 - AS AMENDED BY THE HOUSE

28Mar2024... 1203h

2024 SESSION

24-2134

10/02

HOUSE BILL

1291

AN ACT

relative to accessory dwelling unit uses allowed by right.

SPONSORS:

Rep. Read, Rock. 10; Rep. Alexander Jr., Hills. 29; Rep. Baroody, Hills. 39; Rep. Yokela, Rock. 32; Rep. DiLorenzo, Rock. 10; Rep. Damon, Sull. 8; Rep. Gibbs, Merr. 23; Rep. McConkey, Carr. 8; Rep. Wallace, Rock. 8; Rep. Berry, Hills. 39

COMMITTEE:

Special Committee on Housing

ANALYSIS

This bill increases the number of accessory dwelling units allowed by right from one to 2, adds definitions, and increases the maximum square footage. It also gives municipalities the right to require accessory units meet the definition for workforce housing.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to accessory dwelling unit uses allowed by right.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Accessory Dwelling Units; Definition. Amend RSA 674:71 to read as follows:

2 674:71 Definition. As used in this subdivision[;]:

3 **I. "Accessory dwelling unit" means a residential living unit that is ~~[within or attached to]~~**
 4 ***located on a lot containing*** a single-family dwelling, and that provides independent living
 5 facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation
 6 on the same parcel of land as the principal dwelling unit it accompanies. ***Accessory dwelling units***
 7 ***may be constructed at the same time as the principal dwelling unit.***

8 **II. "Attached unit" means a unit that is within or physically connected to the**
 9 ***principal dwelling unit, or completely contained within a preexisting detached structure.***

10 **III. "Detached unit" means a unit that is neither within nor physically connected to**
 11 ***the principal dwelling unit, nor completely contained within a preexisting detached***
 12 ***structure.***

13 2 Accessory Dwelling Units. Amend RSA 674:72 to read as follows:

14 674:72 Accessory Dwelling Units.

15 I. A municipality that adopts a zoning ordinance pursuant to the authority granted in this
 16 chapter shall allow accessory dwelling units ~~[as a matter of right or by either conditional use permit~~
 17 ~~pursuant to RSA 674:21 or by special exception,]~~ in all zoning districts that permit single-family
 18 dwellings. One accessory dwelling unit, ***which may be either attached or detached, shall be***
 19 ***allowed as a matter of right, and a second accessory dwelling unit shall be allowed as a***
 20 ***matter of right or by either conditional use permit pursuant to RSA 674:21 or special***
 21 ***exception. If a detached accessory dwelling unit is established on a property, the***
 22 ***municipality may require that any additional accessory dwelling units must be attached.***
 23 ***The municipality*** shall ~~[be allowed]~~ ***allow at least 2 accessory dwelling units*** without
 24 additional requirements for lot size, ***except as described by this section, setbacks, aesthetic***
 25 ***requirements, design review requirements,*** frontage, space limitations, or other controls beyond
 26 what would be required for a single-family dwelling without an accessory dwelling unit. The
 27 municipality is not required to allow more than ~~[one]~~ ***2*** accessory dwelling ~~[unit]~~ ***units*** for any
 28 single-family dwelling. The municipality may prohibit accessory dwelling units associated with
 29 multiple single-family dwellings attached to each other such as townhouses~~[, and with manufactured~~
 30 ~~housing as defined in RSA 674:31].~~ Subsequent condominium conveyance of any accessory dwelling

unit separate from that of the principal dwelling unit shall be prohibited, notwithstanding the provisions of RSA 356-B:5, unless allowed by the municipality.

II. If a zoning ordinance contains no provisions pertaining to accessory dwelling units, then ~~[one]~~ **2** accessory dwelling ~~[unit]~~ **units** 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.]~~ **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, but the municipality shall not limit the choice of ingress and egress.**

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, **provided that such municipal regulations shall not be more restrictive for accessory dwelling units than for any single-family use in the same zoning district.** ~~[A municipality may require adequate parking to accommodate an accessory dwelling unit.]~~ **If a municipality has established regulations requiring parking for the principal dwelling unit, it may require up to one additional parking space for each accessory dwelling unit; required parking spaces may be provided either on-site or at a legally dedicated off-site location, at the property owner's discretion.**

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. In order to comply with this paragraph and prior to constructing an accessory dwelling unit, an application for approval for a sewage disposal system shall be submitted in accordance with RSA 485-A as applicable. The approved sewage disposal system shall be installed if the existing system has not received construction approval and approval to operate under current rules or predecessor rules, or the system fails or otherwise needs to be repaired or replaced.

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]~~ **apply aesthetic** standards ~~[for]~~ **to** accessory dwelling units ~~[for the purpose of maintaining the aesthetic continuity with]~~ **only if the municipality has also applied such standards to** 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]~~ **1,000** square feet ***for one of the units by right, and 850 square feet for any other units.***

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 ***regional fair share*** obligation under RSA ~~[674:59]~~ **674:59, III** if the unit meets the criteria in RSA 674:58, IV for rental units. ***The municipality may require that if a property has more than one accessory dwelling unit, the additional units shall meet the definition of workforce housing in RSA 674:58, IV as it pertains to rental housing, and shall meet the definition of affordable in RSA 674:58, I. A municipality may require a restrictive covenant to be recorded in the registry of deeds to enforce compliance with these definitions.***

XI. ***A municipality shall allow accessory dwelling units to be converted from existing structures, including, but not limited to detached garages, regardless of whether such structure violates current dimensional requirements for setbacks or lot coverage.***

3 Accessory Dwelling Units; Definition. Amend RSA 674:73 to read as follows:

674:73 Detached Accessory Dwelling Units. A municipality ~~[is not required to but may]~~ ***shall*** permit ***at least one*** detached accessory dwelling ~~[units]~~ ***unit, but may require any other units to be attached.*** Detached accessory dwelling units shall comply with the requirements of, and any municipal ordinances or regulations adopted pursuant to, RSA 674:72, IV through IX. ~~[If a municipality allows detached accessory dwelling units, it may require an increased lot size.]~~ ***A municipality may require a property have a minimum lot size of up to one half acre in order to have more than one accessory dwelling units.***

4 Effective Date. This act shall take effect July 1, 2025.