

**Article 206: ACCESSORY DWELLING UNITS ORDINANCE**

(Amended 03/13/2012, 03/10/2015, 03/14/2017, 03/10/2020, 03/08/2022, 03/14/2023)

**206.1 AUTHORITY**

This section is enacted in accordance with the provisions of RSA 674:71.

**206.2 PURPOSE AND OBJECTIVES**

The purpose of the accessory dwelling unit provision is to provide increased flexibility with respect to housing alternatives for families in Kingston while maintaining health, safety, aesthetics and quality of the Town's neighborhoods.

The objectives of this Section are to:

- A. Provide for the construction of accessory dwelling units in single-family dwelling units, thereby lessening fluctuations in the demand for Town services, e.g.: education and elderly care;
- B. Add more units to the housing stock to meet the needs of smaller households, both young and old;
- C. Protect stability and property values in Single Family Residential, Single Family Residential-Agricultural, Rural Residential and Historic I and II Zoning Districts by ensuring that accessory dwelling units are installed only in owner-occupied single-family houses and under such additional conditions as to protect the health, safety, and welfare of the public;
- D. To retain the appearance of a single-family property, whether the Accessory Dwelling Unit is contained within, connected to, or detached from the primary residential structure;
- E. To affirm that an accessory dwelling unit may be deemed a unit of workforce housing for the 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.

### 206.3 DEFINITIONS

- A. **Accessory Dwelling Unit (ADU):** One apartment, provided it is located within a single-family dwelling, or detached structure on a single-family dwelling site, and is clearly a subordinate part thereof, and has safe and proper means of entrance and exit, and meets the requirements set forth in Section 206.4.
- B. **Multi-Family Structure:** A structure (new or existing) with two or more dwelling units.

### 206.4 ADU REQUIREMENTS

- A. The proposed use must conform to the dimensional requirements of a single-family lot and meet all existing building requirements.
- B. Accessory dwelling units in a multi-family structure are prohibited.
- C. The single-family dwelling shall not be located within an innovative zoning development.
- D. The ADU shall be designed so that the appearance of the property remains that of a single-family use. When the dwelling unit is not in a detached structure, there shall be one door located along/through an adjoining wall to the primary living area and one egress shall be located on the side or in the rear of the building. When the ADU is contained in a detached structure (new or existing), it shall have the appearance of an accessory use (for example, a garage or barn), thereby maintaining the appearance of a single-family property. In no case shall it look like a second dwelling unit. *(Amended 3/10/15, 3/8/22)*
- E. The size of the ADU shall not be smaller than 600 square feet. The maximum size of the ADU shall Not Exceed 1/3 of the size of the Gross Living Area, aka GLA (heated or air-conditioned space), as defined in the Town's tax card, of the primary single-family dwelling. *(Amended 03/08/22)* In the case where a home is smaller than 1800 square feet the ADU may be no larger than 600 square feet.

Single family dwelling units that are smaller than 1,200 square feet are not permitted to create an accessory dwelling unit. The

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reason for this is that an accessory dwelling unit in a structure smaller than 1,200 square feet would be more than 50% of the size of the existing structure and no longer deemed to be accessory to the primary unit.

Accessory dwelling units located in a detached structure shall comply with these same size requirements.

- F. Either the principal residence to which an ADU is to be added, or the ADU, shall be, and continue to be, owner occupied.
- G. Up to two bedrooms are permitted in the accessory dwelling unit.
- H. Off-street paved or gravel parking shall be provided for at least four (4) vehicles.
- I. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling.
- J. The applicant for a conditional use 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. This 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. In determining if the existing system is functioning properly an inspection report on the system prepared by a licensed NH septic system inspector will be provided to the Planning Board. *(Amended 3/14/2023)*
- K. The owner shall provide a floor plan of one-quarter inch (1/4") to the foot scale of the dwelling and proposed ADU.
- L. The owner shall provide a sketch plan (drawn to scale) of the lot, with existing and proposed structures, setbacks and parking shown.

- M. The owner shall, as part of their application to the Planning Board for a detached ADU (or one that alters the footprint and/or appearance of the primary dwelling unit), provide a visual rendering or other graphic representation of what the structure will look like once the ADU is completed. *(Amended 3/9/22)*
- N. Evidence must be submitted to the Building Inspector that all building requirements can be met.
- O. A proposed ADU which will alter the exterior of any building or will be a detached ADU, will require application for a Conditional Use Permit from the Planning Board.
- P. An ADU proposed in one of Kingston's Historic Districts which will alter the exterior of any building or will be a detached ADU, will require approval from the Historic District Commission prior to application for a Conditional Use Permit from the Planning Board.

#### **206.5 CONVERSION OF EXISTING ACCESSORY FAMILY APARTMENT TO ADU**

If a property owner has an approved accessory family apartment, or an ADU approved under an earlier version of this ordinance, it is deemed to meet the standards of this ordinance. The property owner is responsible for documentation that their existing accessory family apartment was approved by the Town.

#### **206.6 CONDITIONAL USE PERMIT**

A Conditional Use Permit is required for any proposed ADU that either expands the footprint of the primary single-family dwelling, will alter the exterior of any building or is contained in a detached structure.

- A.** Procedure on application:
  - 1. A Conditional Use Permit application shall be filed with the Planning Board.
  - 2. The Planning Board shall act upon the Conditional Use Permit application in accordance with the requirements of RSA 676:3.

- B.** A Conditional Use Permit may be granted by the Planning Board for construction of an ADU provided that the Board determines all of the ADU requirements outlined in 206.4 herein have been met.

#### **206.7 DENIAL AND APPEAL**

In such cases as the Planning Board may deny a Conditional Use Permit under this section, it shall supply the applicant with a letter citing the reasons for such denial. An appeal of a Planning Board Conditional Use Permit is made to Superior Court.