



## Entry Form 2017 Annual Awards for Program Excellence

**Entry Deadline: Thursday, June 15, 2017, Midnight ET**

Each entry must include a completed entry form. Please complete a form for each entry your HFA is submitting. The completed entry form will become the first page of your entry.

This form is a fillable PDF. Type your information into the entry form and save it as a PDF. Please do not write on or scan the entry form. **Questions: Call 202-624-7710 or email [awards@ncsha.org](mailto:awards@ncsha.org).**

**Entry Title:** Enter your entry's title exactly as you wish it to be published on the NCSHA website and in the awards program.

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**Category:**

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**Subcategory:**

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**Entry Summary:** A 15-word (max) summary of the program, project, or practice you are entering.

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**HFA:**

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**HFA Staff Contact:**

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**Phone:**

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**Email:**

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### Visual Aids:

Are you mailing to NCSHA 10 copies of any visual aids that cannot be included in your entry PDF?      Yes      No

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## **NCSHA 2017 ANNUAL AWARDS FOR PROGRAM EXCELLENCE**

### **Category: Legislative Advocacy – State Advocacy**

#### **New Hampshire Housing Finance Authority**

#### **Not Just for the In-laws: NH's Accessory Dwelling Unit Law**

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##### **Overview**

New Hampshire has long faced a tight rental market due, in large part, to restrictive local zoning ordinances. While some strides have been made over the past decade to increase opportunities for developing new rental housing, the state's rental housing market has become increasingly tight and unaffordable.

New Hampshire Housing Finance Authority (NHHFA) had long identified accessory dwelling units (ADUs) as one way to ease the market demand. And in 2014, an opportunity arose to work with a coalition of business organizations, housing advocates, and private market housing stakeholders to draft and support legislation to create a state ADU law. In 2016 the New Hampshire Legislature passed the law, which took effect on June 1, 2017. The delayed effective date gave time for municipalities to vote on new zoning ordinances to comply with the law.

Sometimes called in-law apartments, granny flats, or secondary units, the New Hampshire law defines an accessory dwelling unit as a residential living unit that is associated with a single family dwelling, 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.

NHHFA recognized that ADUs serve a valuable role in communities around the state for many reasons, including their ability to:

- Increase a community's housing supply without further land development,
- Facilitate efficient use of existing housing stock & infrastructure,
- Provide an affordable housing option for low- and moderate-income residents,
- Provide economic benefits for homeowners and those in the building trades,
- Enable elderly and/or disabled individuals to live close to family/friend support networks, and
- Provide housing for caregivers, empty nesters, young adults, etc.

Through coalition building and forging relationships with key legislators (our state's House of Representatives has 400 members), NHHFA's legislative draftsmanship and advocacy helped lead the way to the passage of Senate Bill 146, which requires New Hampshire's municipalities to allow ADUs that are attached to single family homes. Under the law, municipalities may also allow detached ADUs at their discretion.

##### **The Need**

It has long been recognized that New Hampshire needs to increase its rental housing supply and that options such as the construction of ADUs can be a significant contributor to that supply without the expenditure of scarce public resources. NHHFA can provide subsidy financing for only 200-300 units per year versus the many thousand units per year needed to make up the deficit in the market and sustain a growing economy. Local zoning ordinances have for decades restricted the development of new housing. A benefit of ADUs is that they add units without increasing the physical footprint that even small rental housing projects create.

NHHFA's 2017 *Residential Rental Cost Survey* reflects trends shown in its rental housing surveys over the past decade. This year, the median gross rental cost for 2-bedroom units across the state is \$1,259, which is affordable only to those households earning 131% or more of the state's renter median income. The statewide vacancy rate for a 2-bedroom unit stands at a mere 1.4%.

In 2014, NHHFA commissioned a study of [\*Housing Needs in New Hampshire\*](#). Its findings bore out what New Hampshire Housing staff had long observed: slower population growth and an aging population have created a mismatch of housing stock that no longer meets the needs and desires of a changing population. Older adults who want to remain in their communities in smaller dwellings are competing with younger workers who are looking for similarly sized and priced units, whether to rent or purchase.

The study offered a number of suggestions for how to bring the housing supply into alignment with demand. Encouraging municipalities to allow the creation of accessory dwelling units was included in that list. While some New Hampshire communities allowed this type of housing, many unreasonably restricted residency to family members or placed other restrictions that made this housing option impractical.

### **How We All Came Together**

The path that led to the enactment of this law offers a template for other states to follow, as does the language of the ADU law (attached). Through the diligence, persistence, and coalition building skills of the NHHFA leadership team, a range of partners advocated and lobbied for the bill. Whenever there was a sticking point, we would use our ability to convene different factions to bring groups together to discuss issues.

In 2014, the New Hampshire Home Builders Association convened a small discussion group, which included Ben Frost, the director of legal and public affairs for New Hampshire Housing. The group discussed options for increasing the housing supply in the face of stifling municipal regulations. One of the discussion points was whether ADUs could be allowed by right and whether that could be done through legislation.

The New Hampshire legislature is unique. The House is the largest state legislative body in the United States, with 400 members; there are 24 senators. At the time the bill was introduced, Republicans held (and continue to hold) majorities in the House and Senate. Republican Senator Boutin introduced the initial draft of the bill, but as originally written by others SB 146 would not have passed, so Ben Frost was asked to rewrite the bill. This was essentially the version that became the new ADU law.

The law passed in the Senate easily on a simple voice vote. The House policy committee, however, retained the bill for five months where a subcommittee worked with NHHFA and other partners to address concerns brought forth in public testimony. The strong, respectful relationship NHHFA's Ben Frost has with the House policy committee chair enabled NHHFA to make its case to influential members. NHHFA's case focused on the economic development benefits of the legislation, citing the need for sufficient housing for workers to live in and to draw business employers to the state, as well as supporting the building trades.

When the bill was finally presented to the full House, SB 146 passed by a 2-to-1 margin. The legislation was supported by House Democrats as both a social and an economic development cause. The libertarian wing of the House Republicans tended to view ADUs as a property rights matter. While the Republicans were divided, a majority ended up voting for it. The amended bill then passed unanimously in the Senate.

Various coalitions were unified in favor of the law, and they each sought letters of support from their business communities. There also was positive coverage of the bill in the statewide business paper, *New Hampshire Business Review*.

Our partners included the NH Home Builders Association, NH Association of Realtors, AARP New Hampshire, the NH Business and Industry Association, Housing Action New Hampshire, regional workforce coalitions, Granite State Independent Living, and the NH Developmental Disabilities Council. The NH Home Builders Association helped build bipartisan support within the legislature. In addition, NHHFA relied on its long-standing collaborative relationship with the NH Municipal Association, which represents all of the state's municipalities, to help craft language that would achieve housing advocates' objectives while preserving as much municipal control and flexibility as possible.

### **Municipalities Must, May, and May Not**

The New Hampshire accessory dwelling unit law includes the following provisions:

- Municipalities must allow an attached ADU in any single family zone by right, a special exception, or conditional use permit.
- If the zoning ordinance is silent on ADUs, then they are allowed in any single family home (regardless of zone).
- Standards for a single family home also apply to combined square feet and ADU (e.g., setbacks and frontage).

A municipality may:

- Require adequate parking to accommodate an ADU,
- Require owner occupancy of one of the units (but can't say which one),
- Require demonstration that a unit is the owner's principal place of residence
- Control for architectural appearance ("look and feel"),
- Limit the number of ADUs per single family dwelling, and
- Limit the number of unrelated individuals occupying a single unit (concern of college towns).

A municipality must not:

- Limit an ADU to one bedroom,
- Require a minimum size to be less than 750 square feet,
- Require a familial relationship between the occupants of principal dwelling and ADU,
- Require the interior door between primary unit and ADU remain unlocked, and
- Require additional lot area or other dimensional standards for ADU (but it may increase lot size for a detached ADU).

### **Reception of the New ADU Law**

Although the law imposes a statewide mandate – a phrase particularly unpopular in a state whose motto is "Live Free or Die" – it passed because it offers a great deal of municipal flexibility. Municipalities maintain control of regulating the owner occupancy of one of the units, the look/feel of the property, and reasonable minimum/maximum sizes.

Our housing advocacy manager and Ben Frost continue to make presentations around the state to educate municipalities, local organizations and industry professionals about the ADU law, and support community acceptance, understanding and implementation. ADU guides for municipalities and citizens are being developed, and will be available free of charge online and in print.

**NCSHA 2017 ANNUAL AWARDS FOR PROGRAM EXCELLENCE**

**Category: Legislative Advocacy – State Advocacy**

**New Hampshire Housing Finance Authority**

**Not Just for the In-laws: NH's Accessory Dwelling Unit Law**

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**Attachments to Award Entry**

SB 146 Bill Text – as passed

SB 146 Legislative Docket

NH RSA 674 sections – ADU Law

Sample PowerPoint Presentation – used to educate, inform various audiences about the ADU law

Article from [AARP Livable Communities Newsletter](#) – “New Hampshire Says Yes to ADUs”

Article from [Seacoast Online](#) – “Portsmouth approves first accessory dwelling units”

CHAPTER 6  
SB 146 - FINAL VERSION

03/12/2015 0740s  
03/12/2015 0832s  
7Jan2016... 2424h  
02/11/2016 0375EBA

2016 SESSION

15-0314  
03/05

SENATE BILL ***146***

AN ACT relative to accessory dwelling units.

SPONSORS: Sen. Boutin, Dist 16; Sen. Cataldo, Dist 6; Sen. Feltes, Dist 15; Sen. Fuller Clark, Dist 21;  
Sen. Little, Dist 8; Sen. Reagan, Dist 17; Sen. Watters, Dist 4; Rep. Hunt, Ches 11; Rep.  
Matthews, Rock 3

COMMITTEE: Public and Municipal Affairs

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ANALYSIS

This bill establishes requirements for local regulation of accessory dwelling units.

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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.

03/12/2015 0740s  
03/12/2015 0832s  
7Jan2016... 2424h  
02/11/2016 0375EBA  
15-0314  
03/05

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Sixteen*

AN ACT relative to accessory dwelling units.

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

6:1 Findings. The general court declares that:

I. There is a growing need for more diverse affordable housing opportunities for the citizens of New Hampshire.

II. Demographic trends are producing more households where adult children wish to give care and support to parents in a semi-independent living arrangement.

III. Elderly and disabled citizens are in need of independent living space for caregivers.

IV. There are many important societal benefits associated with the creation of accessory dwelling units, including:

(a) Increasing the supply of affordable housing without the need for more infrastructure or further land development.

(b) Benefits for aging homeowners, single parents, recent college graduates who are saddled with significant student loan debt, caregivers, and disabled persons.

(c) Integrating affordable housing into the community with minimal negative impact.

(d) Providing elderly citizens with the opportunity to live in a supportive family environment with both independence and dignity.

6:2 New Subdivision; Accessory Dwelling Units. Amend RSA 674 by inserting after section 70 the following new subdivision:

#### Accessory Dwelling Units

674:71 Definition. As used in this subdivision, "accessory dwelling unit" means a residential living unit that is within or attached to a single-family dwelling, 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.

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.

674:73 Detached Accessory Dwelling Units. A municipality is not required to but may permit detached accessory dwelling units. 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.

6:3 Innovative Land Use Controls. Amend RSA 674:21, I(l)-(o) to read as follows:

(l) ~~[Accessory dwelling unit standards.~~

~~(m)]~~ Impact fees.

~~(n)]~~ (m) Village plan alternative subdivision.

~~(o)]~~ (n) Integrated land development permit option.

6:4 Innovative Land Use Controls; Accessory Dwelling Units. Amend RSA 674:21, IV to read as follows:

IV. As used in this section:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

(b) ~~["Accessory dwelling unit" means a second dwelling unit, attached or detached, which is permitted by a land use control regulation to be located on the same lot, plat, site, or other division of land as the permitted principal dwelling unit.~~

~~(c)]~~ "Phased development" means a development, usually for large-scale projects, in which construction of public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board. In a phased development, the issuance of building permits in each phase is solely dependent on the completion of the prior phase and satisfaction of other conditions on the schedule approved by the planning board. Phased development does not include a general limit on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23.

6:5 Effective Date. This act shall take effect June 1, 2017.

Approved: March 16, 2016

Effective Date: June 1, 2017



## New Hampshire General Court - Bill Status System

**Docket of SB146**

Docket Abbreviations

**Bill Title:** relative to accessory dwelling units.*Official Docket of SB146:*

Date	Body	Description
1/8/2015	S	<b>Introduced</b> and Referred to Public and Municipal Affairs; <b>SJ 4</b>
1/29/2015	S	Hearing: 2/4/15, Room 102, LOB, 9:00 a.m.; <b>SC8</b>
3/5/2015	S	Committee Report: Ought to Pass with Amendment <b>#2015-0740s</b> , 3/12/15; <b>SC12</b>
3/12/2015	S	Committee Amendment 0740s, Division 13Y-9N, AA
3/12/2015	S	Sen. Boutin Floor Amendment <b>#2015-0832s</b> , AA, VV
3/12/2015	S	<b>Ought to Pass with Amendments</b> 0740s and 0832s, MA, VV; OT3rdg; <b>SJ 8</b>
3/12/2015	H	Introduced and Referred to Municipal and County Government; <b>HJ 26</b> , PG. 1275
3/31/2015	H	Public Hearing: 4/21/2015 10:30 AM LOB 301
3/31/2015	H	==CANCELLED==Executive Session: 4/23/2015 10:00 AM LOB 301
4/28/2015	H	Full Committee Work Session: 5/5/2015 1:00 PM LOB 301
4/28/2015	H	Executive Session: 5/12/2015 10:00 AM LOB 301
5/12/2015	H	Retained in Committee
8/3/2015	H	Retained Bill - Subcommittee Work Session: 9/9/2015 10:00 AM LOB 301
9/16/2015	H	Executive Session: 10/6/2015 2:00 PM LOB 301
11/12/2015	H	Committee Report: Ought to Pass with Amendment <b>#2015-2424h</b> for Jan 6 (Vote 11-2; RC); <b>HC 67</b> , PG. 25-26
1/28/2016	H	Amendment <b>#2015-2424h</b> : AA VV 01/07/2016 <b>HJ 6</b> P. 38
1/28/2016	H	<b>Ought to Pass with Amendment</b> 2424h: MA <b>RC</b> 188-93 01/07/2016 <b>HJ 6</b> P. 38
1/28/2016	S	Sen. Birdsell Concurs with House Amendment # 2424h, MA, VV; 01/21/2016; <b>SJ 3</b>
2/17/2016	H	Enrolled Bill Amendment <b>#2016-0375e</b> (Rep. A. Christie): AA VV 02/04/2016 <b>HJ 11</b> P. 25
2/17/2016	S	Enrolled Bill Amendment <b>#2016-0375e</b> Adopted, VV, (In recess of 02/11/2016); <b>SJ 5</b>
3/9/2016	H	Enrolled 03/09/2016
3/4/2016	S	Enrolled (In recess 03/03/2016); <b>SJ 7</b>
3/21/2016	S	Signed by the Governor on 03/16/2016; Chapter 0006; Effective 06/01/2017 <b>SJ 9</b>

NH House

NH Senate

# **TITLE LXIV PLANNING AND ZONING**

## **CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS**

### **Accessory Dwelling Units**

#### **Section 674:71**

[RSA 674:71 effective June 1, 2017.]

**674:71 Definition. –**

As used in this subdivision, "accessory dwelling unit" means a residential living unit that is within or attached to a single-family dwelling, 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.

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

# 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.

# **TITLE LXIV PLANNING AND ZONING**

## **CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS**

### **Accessory Dwelling Units**

#### **Section 674:73**

[RSA 674:73 effective June 1, 2017.]

##### **674:73 Detached Accessory Dwelling Units. –**

A municipality is not required to but may permit detached accessory dwelling units. 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.

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

# ACCESSORY DWELLING UNITS IN NEW HAMPSHIRE

June 2017



New Hampshire Housing  
*Bringing You Home*

# ADUs – What Are They?

- A second, smaller **dwelling** on the same grounds as a single-family house – attached or detached
  - ▣ An apartment over the garage, in the basement, in an outbuilding
  - ▣ Also called: granny flats, in-law apartments, family apartments, or secondary units
- “Accessory” is a word that has meaning – customarily incidental and subordinate to the primary use

# Benefits of ADUs

- Increases a community's housing supply without further land development
- Facilitates efficient use of existing housing stock & infrastructure
- An affordable housing option for many low- and moderate-income residents
- Improves homeowner cash flow
- Helpful to elderly and/or disabled people; enables them to live close to family members
  - ▣ Also helpful to caregivers, empty nesters, young adults, etc.

# ADUs – History and Evolution

- Early 20<sup>th</sup> century – they were a common feature in single-family homes
- With post-WWII suburbanization and deployment of “Euclidean” zoning, ADUs became far less prevalent
  - ▣ Baby boom/Car boom/Sprawl
  - ▣ Less interest in efficient use of space
  - ▣ Easier mortgage financing
- ***But things are changing...***



# Housing Needs and Preferences

- New Hampshire Center for Public Policy Studies report *“Housing Needs and Preferences in New Hampshire”* (2014)
  - ▣ Slower population growth; aging population
  - ▣ Mismatch of housing stock and needs and desires of changing population, young and old
  - ▣ Older adults want to “age in place” or “age in community”

# What Does It Mean?

- What are the housing implications of these demographic changes?
  - ▣ We need to attract and retain a younger workforce
  - ▣ We need to house an aging population
- What are the policy implications of these demographic changes?
- Do these different populations want the same (or similar) things?

# Impetus for NH's ADU Law

- Demographic and market changes
- Homebuilders were unable to fulfill homeowner requests to create ADUs for a family member or caregiver
  - ▣ Stymied by local land use restrictions
  - ▣ Sought legislative relief

# ADU Law – The Basics

## □ Defining Characteristics

- Independent living unit (sleeping, cooking, eating, sanitation)
- Adequate water supply and sewage disposal required
- Interior door between primary unit and ADU required

## □ Municipal Role

- Municipalities **must allow** an ***attached*** ADU in any single-family zone by right, special exception, or conditional use permit
- If the zoning ordinance is silent on ADUs, then they are allowed in any single-family home (regardless of zone)
- Standards for a single-family home also apply to combined square feet and ADU (e.g., setbacks and frontage)

# ADU Law – Options

- Municipality *may*
  - ▣ Require adequate parking to accommodate an ADU
  - ▣ Require owner occupancy of one of the units (but can't say which one)
  - ▣ Require demonstration that a unit is the owner's principal place of residence
  - ▣ Control for architectural appearance ("look and feel")
  - ▣ Limit the number of ADUs per single family dwelling
  - ▣ Limit the number of unrelated individuals that occupy a single unit (concern of college towns)

# ADU Law – Prohibitions

- Municipality ***must not***
  - ▣ Limit ADU to 1 bedroom
  - ▣ Require minimum size to be less than 750 s.f.
  - ▣ Require a familial relationship between the occupants of principal dwelling and ADU
  - ▣ Require the interior door between primary unit and ADU to remain unlocked
  - ▣ Require additional lot area or other dimensional standards for ADU (but it may increase lot size for a detached ADU)

# ADU Law – Other Aspects

## □ Detached ADUs

- Municipalities may allow at their discretion
- A municipality may require increased lot size, but other statutory standards for attached ADUs will apply

## □ Amends NH RSA 674:21

### Innovative Land Use Controls

- ADUs are removed from list along with its definition – no longer a voluntary land use regulation

# ADU Law – What Next?

- RSA 674:71-73 became effective June 1, 2017
- Introduced in 2017 NH legislative session:
  - ▣ Allow municipalities to limit ADUs in townhouses and manufactured housing, and to prohibit condo conversion of ADUs (HB 265 – will take effect upon Governor signing)



# NHHFA ADU Contacts

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Alert

Close

How Does Your Brain Score? Take the Staying Sharp [Brain Health Assessment](#)



## New Hampshire Says Yes to ADUs

**By allowing accessory dwelling units (or secondary residences) on single-family lots, a state law helps create needed housing for people of all ages**

by Peter Morelli, [AARP Livable Communities](#)

Towns, cities and communities throughout New Hampshire are experiencing one of the biggest housing policy changes in their state — or any state.

As of June 1, 2017, [a new law requires local zoning ordinances to allow Accessory Dwelling Units](#) (commonly referred to as ADUs) nearly everywhere single-family houses are permitted.

**SUBSCRIBE FOR FREE:** [AARP Livable Communities eNewsletter](#)

The law, which does provide for some local exceptions, originated with the [New Hampshire Home Builders Association](#), then drew strong support from a broad coalition of housing advocates, including [Housing Action New Hampshire](#) and [New Hampshire's Business and Industry Association](#), which together convinced the state legislature that ADUs would help create needed low-cost housing by allowing homeowners to add in-law apartments, au-pair suites, or spaces for young adults moving home after college or moving into a community to start a new job.

According to Paul Morin, a leader of the builders association effort, the legislation stemmed in large part from the frustration of building contractors who, because of local prohibitions or limitations on ADUs, couldn't construct the type of housing options their clients desired.

Like most states, New Hampshire was initially reluctant to override local land use regulations. So how did builders, business associations and housing advocates prevail?

### The Need for ADUs



An accessory dwelling unit (or ADU) is a smaller home or apartment located on the property of, or attached to, a larger home. — Image from 123rf

[From New Hampshire SB 146, codified at New Hampshire RSA 674:72](#)

**Findings: The general court declares that:**

I. There is a growing need for more diverse affordable housing opportunities for

"Develop a strong and broad-based coalition, not just the usual suspects," advises Ben Frost, who helped draft the bill and worked hard for its passage.

Frost, an attorney and executive with the [New Hampshire Housing Finance Authority](#), notes, "Mandates are hard for local communities to swallow, so there has to be very strong business community support for such a measure. Overwhelming numbers are hard to ignore." [AARP New Hampshire](#) also took part in the effort.

According to the 2014 study [Housing Needs and Preferences in New Hampshire](#) by the [New Hampshire Center for Public Policy Studies](#), an aging population, a mismatch of housing stock with residents' needs and desires, and a desire by older adults to age in place or community were identified needs. The legislation was responsive to those issues, says Frost, and to a very low rental vacancy rate statewide.

[New Hampshire State Senator Dan Feltes](#), a lead sponsor of the law, says support was bipartisan because the policy is a good way to "maximize existing housing stock and advance workforce housing."

New Hampshire has "a graying population and people with a wish to age in place," Feltes said. He sees the measure as a way to dramatically increase the housing supply in a way that will particularly help seniors, people with disabilities and caregivers.

There was some opposition. The city of Portsmouth expressed concern about overcrowding, short-term rentals and parking. A potential source of opposition, the [New Hampshire Municipal Association](#), was consulted early and, with its concerns addressed, did not oppose the bill, says Frost.

## What is an ADU?

The New Hampshire law defines an ADU as *"a residential living unit that is within or attached to a single-family dwelling, 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..."*

The law permits some local differences, including allowing a detached unit, above a garage, for instance. This also provides a great opportunity for designs emerging from the [Tiny House](#) movement.

The law directs communities that "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 unit."

the citizens of New Hampshire.

II. Demographic trends are producing more households where adult children wish to give care and support to parents in a semi-independent living arrangement.

III. Elderly and disabled citizens are in need of independent living space for caregivers.

IV. There are many important societal benefits associated with the creation of accessory dwelling units, including:

(a) Increasing the supply of affordable housing without the need for more infrastructure or further land development.

(b) Benefits for aging homeowners, single parents, recent college graduates who are saddled with significant student loan debt, caregivers, and disabled persons.

(c) Integrating affordable housing into the community with minimal negative impact.

(d) Providing elderly citizens with the opportunity to live in a supportive family environment with both independence and dignity.

Unlike some local ADU ordinances, the New Hampshire law prohibits communities from requiring that the units have fewer than two bedrooms, be smaller than 750-square-feet, or that a person related to the owner live in the added unit. However, towns and cities may create parking requirements, limit ADUs to one per home and require that the design fit with the neighborhood. Local municipalities can also choose to require the property owner to live in one of the units. (If such a rule is created, it may or may not dictate which of the units the property owners select. Flexibility is helpful since living in the larger unit makes sense at some stages of life, while living in the smaller unit makes sense at others, such as if the property owners are empty nesters.)

Livability and housing advocates have long considered ADUs to be part of a sensible housing policy because such residences:

- Can be helpful to people of all ages and abilities
- Provide an affordable housing option
- Use existing housing stock efficiently
- Increase the housing supply without further land development
- Improve a homeowner's cash flow



A bungalow-sized house makes a perfect ADU. — Image from 123rf

Senator Feltes' advice to policymakers seeking to replicate New Hampshire's ADU policy is to "focus on the need for seniors to live independently, on those with disabilities and on caregivers." Contrary to being a usurpation of local control, the ADU law is seen by some as an effort to "enhance private property rights," observes Feltes.

*Peter Morelli is a freelance writer and livable communities consultant based in Portland, Maine.*

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Take a tour of this "lifelong home." — Photo courtesy Howard and Sharon Johnson

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## Portsmouth approves first accessory dwelling units

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PORTSMOUTH — Alan Brady recently became the first person to gain Planning Board approval to build an accessory dwelling unit under the city's new zoning regulations.

Brady asked for and received permission to build a 750-square-foot, 2-bedroom, detached accessory dwelling unit (ADU) on top of a garage he plans to build on his property at 123 Clinton St. The Planning Board in April unanimously approved his request for a conditional use permit (CUP) needed to build the ADU, and no one spoke for or against it.

The board approved two more ADUs at its meeting last week, again with no one speaking against the request and with relatively little debate. The approvals came even though some city officials previously stated ADUs could change the character of city neighborhoods and lead to a flurry of requests for them.

Brady, who is IT director for the city, said his decision to build the ADU "all boils down to family." The property he owns with his wife features "a relatively decent sized lot, but a small house," which was built in the 1880s, he said. He started thinking about building the ADU to give either his in-laws somewhere to live as they got older or a home for the couple's two children when they become adults.

"It's a relatively small 2-bedroom apartment that maybe the family can go in down the road and have the kids take over the house or we can move in when my kids are teenagers," Brady joked Thursday.

He believes such units will also create more affordable housing in Portsmouth, where home and rental prices have soared. "Think about it: To buy a house in Portsmouth now you need to be able to put \$100,000 down," Brady said. " ... I think it's one way to solve the problem. Instead of going to the developers all the time, go to the homeowners."

It also gives homeowners a way to raise revenue if they decide to rent their ADU, he said.

"We're double-income parents with two kids," Brady said.

Planning Board Chairman Dexter Legg noted Brady's application was "the first to come before the board." He and other board members credited the city's planning department with creating a template to help the board assess each application.

"This one wasn't contentious at all, there may be others that aren't so welcome," Legg said of Brady's application, and then added with a smile, "Congratulations, you're the first, go prosper."

City Councilor Chris Dwyer was one of the strongest critics in the city of the state legislation that allowed homeowners to build ADUs. "It's going to affect our city dramatically. It's going to affect every community in the state," she said at a committee hearing in January 2016. "It got out of control because they didn't know what they were doing and people kept trying to make it a little bit better."

Dwyer said Thursday her concerns were focused on the legislation she said created "a one-size fits all approach" to ADUs. She is much less concerned now because of the work of the planning department, Planning Board and City Council to create the guidelines to "help shape what is appropriate for Portsmouth and for different zoning areas, including the character of the neighborhoods."

City staff and boards put "all the protections in place to make it work," Dwyer said.

The legislation was sold in large part because it would provide more affordable housing in the state, but Dwyer doesn't know if that will happen.

"I don't think it's a realistic way to provide a lot of affordability," she said. "I wouldn't count on it as a solution to the housing problem in the city. I never believed that."

A quick search of Craigslist New Hampshire showed a 1-bedroom apartment renting for

\$1,500 in Portsmouth and a furnished 2-bedroom condo for \$3,500 a month.

Dwyer believes ADU regulations will allow older homeowners in the city to “age in place” or create housing for adult children of homeowners. “It certainly provides more housing. Will they be affordable? I don’t really know,” she said.

The Planning Board last week granted a CUP to Paul and Diane Messier to build a 320-square-foot attached ADU at their 171 Walker Bungalow Road home. Paul Messier told board members last week that they bought the home in 2003 and they “want to live there for the rest of our lives and we want to age in place.”

He said his 77-year-old sister recently broke her ankle and she made them “painfully aware” about the importance of “living on one floor” as people age. The couple’s bedroom in their existing house is on the second floor, he said.

The board approved their request and board member Elizabeth Moreau said their application “really sort of fits the whole idea around this law to a T.”

The board attached a stipulation with all three of the approved ADUs, which states “the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards” of the new ordinance, including the owner-occupancy requirement,” which has to be renewed every year.

A section of the ordinance requires “exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.”

The board makes that determination when considering the conditional use permit, Planning Director Juliet Walker said Thursday. If approved, they then go through the normal building permit process, but they aren’t required to provide anything else, she said. Walker said she is “not surprised we’ve seen so many (applications) so quickly,” after the City Council approved the zoning amendment in January.

“People have been waiting for this to happen,” she said.