

For Final Public Hearing 1/27/2010

The following is a proposed amendment to the Town of Mason Planning Ordinance of 1967.

Article XX: Accessory Dwelling Unit Ordinance

An Accessory Dwelling Unit (ADU) is a second dwelling unit, attached or detached, permitted by this ordinance to be located on the same lot as the principal dwelling unit. It is a complete housekeeping unit with independent cooking, living, sanitary and sleeping facilities.

A. Purpose and Intent

1. To provide expanded rental housing opportunities in the Town of Mason, including rental opportunities that qualify as workforce housing.
2. To provide flexibility in household arrangements by permitting a second dwelling unit on a single residential lot, to the benefit of the owner occupants and tenants (elderly persons, extended family members, etc).
3. To preserve the single-family residential character of the neighborhood by ensuring that the accessory dwelling unit preserves the appearance of the principal dwelling unit as a residence, is permitted only on owner-occupied property, and does not endanger the health, safety and welfare of the public.

B. Authority

This ordinance is adopted under the authority of RSA 674:21, Innovative Land Use Controls and the authority of NH RSA 674:58 – 61, Workforce Housing.

RSA 674:58, IV states: "Workforce housing" ... means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

Rental housing provided by ADUs is not constructed in developments, but by individual landowners. Landowners designing ADUs shall be made aware of these criteria; however, these shall not be requirements for ADUs under this Ordinance.

C. Requirements and Limitations

1. An accessory dwelling unit shall be secondary and accessory to a principal single family dwelling unit.
2. Accessory dwelling units may be established in the General Residential, Agricultural and Forestry zone (GRAF), the Village Residential zone (VR) or the Historic Preservation district (HP).
3. One accessory dwelling unit shall be allowed on a lot containing a single residential structure.
4. The ADU shall be similar in appearance to the principal dwelling unit and not change the character of the principal dwelling unit as a single family residence.
5. In relationship to the principal dwelling unit, an ADU may be:

- a. Interior to the principal dwelling.
- b. Attached to the principal dwelling.
6. Accessory dwelling units shall be designed to allow for reincorporation with the principal dwelling unit.
7. The owner of record of the principal dwelling unit must reside in either the principal dwelling unit or the accessory dwelling unit.
8. Size limitations:
 - a. The gross living area above ground (GLAAG) of an ADU shall be a minimum of 350 square feet for a 1-bedroom ADU, 500 sq. ft. for a 2-bedroom ADU and a maximum of 1,000 sq. ft. for any ADU.
 - b. Attached accessory dwelling units shall occupy no more than 40% of the GLAAG of the principal dwelling. (E.g. Existing principal dwelling = 2,000 sq. ft. - 40% of 2,000 sq. ft. = 800 sq. ft ADU maximum size).
 - c. Where interior to the principal dwelling, the ADU shall not reduce the principal dwelling GLAAG to less than 1200 sq. ft. (E.g. Before ADU, principal dwelling GLAAG = 2,000 sq. ft. – Interior ADU = 800 sq. ft., leaving a remainder of 1,200 sq. ft. as principal dwelling GLAAG)
9. Access:
 - a. ADUs shall have one interior direct access between the ADU and the principal dwelling unit, and one exterior access.
 - b. If an exterior access requires stairs to a level higher than the entry level of the principal dwelling unit, it shall be at the side or rear of the ADU.
10. Vehicular access:
 - a. Adequate space shall be provided within the property for ingress, turning around and egress of vehicles.
 - b. Adequate off street parking shall be provided for the combined needs of the principal dwelling unit and the accessory dwelling unit.
11. Health and Safety:
 - a. An accessory dwelling unit shall meet all fire and building safety codes.
 - b. The existing, replacement and/or new septic system shall be certified by a licensed septic designer or engineer as adequate to support the accessory dwelling unit and principal dwelling unit in accordance with New Hampshire regulations.
 - c. Well capacity shall be demonstrated to be sufficient to support the accessory dwelling unit and principal dwelling unit.

D. Procedural Requirements

An accessory dwelling unit (ADU) shall be granted a Special Exception by the Board of Adjustment provided the Board of Adjustment finds the submitted complete plan set for the ADU to be in compliance with all requirements specified in Section C of this article.

1. Establishment of an accessory dwelling unit requires:
 - a. A Special Exception for an ADU shall be granted to the owner of record of the principal dwelling unit by the Board of Adjustment before a building permit can be obtained (Appeal period shall expire prior to final approval and granting of Certificate of Occupancy).
 - b. A Building Permit for an ADU shall be approved and issued by the Building Inspector prior to the construction of an accessory dwelling unit.
 - c. A Certificate of Occupancy shall be approved and issued by the Building Inspector. Required inspections of the accessory dwelling unit shall be performed by the Town Building Inspector, Fire Chief, or their designees.
 - d. A License to Rent shall be obtained by the property owner before any tenant can reside in an accessory dwelling unit, or within 12 months of the date the Certificate of Occupancy was granted, whichever comes first.
 - e. The License to Rent requires inspection(s) of the accessory dwelling unit by the Town Building Inspector, Fire Chief, or their designees. If the inspections required to obtain the Certificate of Occupancy have occurred within the previous 90 days, these inspections may be waived.
2. Maintenance of an accessory dwelling unit requires:
 - a. The License to Rent is issued for a period of 3 years. The License must be renewed before expiration, unless the ADU is discontinued. Renewal requires inspections to be performed by the Town Building Inspector and Fire Chief, or their designees.
 - b. If the license is not renewed before its expiration date, a fine shall be levied to the owner of the property, according to the provisions of RSA 676:17-a, Cease and Desist Orders. This fine shall be \$25 per day, commencing 14 days after the license expiration and continuing until the license is renewed or the accessory dwelling unit is discontinued.
3. Discontinuance of an accessory dwelling unit:
 - a. A property owner can notify the Board of Selectmen in writing that he or she wishes to discontinue use of an accessory dwelling unit.
 - b. The accessory dwelling unit shall not be occupied at the time it is discontinued.
 - c. An accessory dwelling unit is deemed to be discontinued when the Board of Selectmen revokes the Certificate of Occupancy and the License to Rent.
4. If the owner of record of the property ceases to reside on the property, a fine shall be levied to the owner of the property, according to the provisions of RSA 676:17-a, Cease and Desist Orders. This fine shall be \$50 per day, commencing 14 days after the owner is no longer a resident and continuing until an owner resides on the property or the accessory dwelling unit is discontinued.
 - a. Owners who are temporarily absent from the property, such as members of the armed forces called to active duty, may apply for relief from this provision to the Board of Selectmen. (Reference: Service-members Civil Relief Act, Public Law 108-189, December 2003.)

5. If a property with an accessory dwelling unit is conveyed to a new owner, the new owner may either:
 - a. Obtain a new License to Rent to continue use of the accessory dwelling unit, following the provisions of paragraph 14 above, or
 - b. Discontinue the accessory dwelling unit, following the provisions of paragraph 15 above.

If a new license is not obtained or the use is not discontinued, a fine shall be levied to the owner of the property, according to the provisions of RSA 676:17-a, Cease and Desist Orders. This fine shall be \$25 per day, commencing 14 days after the property has been conveyed to the new owner and continuing until the license is renewed or the accessory dwelling unit is discontinued.

E. Enforcement Authority

The Board of Selectmen and/or their designed code enforcement officer shall be the final authority on compliance and enforcement of this article.