

TEXT of SB146 (new RSA):

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**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.~~

(e)] "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.

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## Madbury ZO excerpt with proposed revisions:

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### Section 4. Accessory Apartments

#### A. Purpose:

Accessory Apartments are permitted in order to provide expanded housing opportunities and flexibility in household arrangements to accommodate family members or nonrelated people of a permitted, owner occupied, Single Family Dwelling, while maintaining aesthetic and residential use compatible with homes in the neighborhood. Accessory Apartments are permitted to enhance reasonable and realistic opportunities within Madbury for a balanced supply of housing affordable to persons and families of low and moderate income. (See RSA 672:1,III-e, [674:71](#))

#### B. Requirements and Limitations

1. Accessory Apartments shall be attached secondary and accessory to a principal Single Family Dwelling unit.
2. The Accessory Apartment should be developed in a manner consistent with the character or appearance of the principal dwelling unit as a Single Family Dwelling.
3. An Accessory Apartment shall not be considered to be an additional Dwelling Unit for the purpose of determining minimum lot size.
4. Only one Accessory Apartment shall be allowed per Single Family Dwelling and lot. Lots must conform to current requirements for Single Family Dwellings.
5. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.
6. Accessory Apartments shall be designed to allow for reincorporation into the principal Dwelling Unit.
7. The gross living area of an Accessory Apartment shall not be less than 350 square feet and not greater than 650 square feet.
8. Accessory Apartments shall have not more than one bedroom.
9. Adequate off street parking shall be provided to serve the combined needs of the principal Dwelling Unit and the Accessory Apartment.
10. Adequate provisions must exist or be made for ingress and egress of vehicles.
11. The existing, replacement or proposed septic system must be certified by a licensed septic designer as adequate to support the Accessory Apartment in accordance with New Hampshire RSA 485A:38.
12. A building permit for an Accessory Apartment must be issued prior to the construction of such unit. A Building Permit shall not be issued unless all requirements of this ordinance are met.
13. [In accordance with RSA 674:72, Accessory Apartments of up to 750 square feet and up to two bedrooms are permitted by Special Exception.](#)<sup>1</sup>

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<sup>1</sup> Adopted March 2017