

**ARTICLE #06
AMENDMENT #5**

Hampton Zoning Ordinance Amendment

Article III-A – Accessory Dwelling Units to Single-Family Dwellings

**Amend Sections 3-A.4 Occupancy Requirements; 3-A.5 - Site Location and Size;
Section 3-A.7 - Dimensional Requirements; 3-A.10 Impact Fees;
and 3-A.11 Removal of an Accessory Dwelling Unit**

Amend Article VI – Parking, Section 6.3 - Parking Requirements (6.3.1)

~~Strikethrough~~ = Proposed Deletion

Underline = Proposed Addition

Highlighting = All Proposed Changes

**ARTICLE III-A – ACCESSORY DWELLING UNITS TO
SINGLE-FAMILY DWELLINGS** (Adopted March 2017)

3-A.1 Location and Quantity

Accessory dwelling units, as defined in Section 1.6. Definitions, may be located only in those zones where single-family dwellings are permitted as set forth in Section 3.1, and only one accessory dwelling unit shall be permitted to accompany any single-family dwelling. Only lots with single-family dwellings used exclusively for residential purposes shall be permitted to have an accessory dwelling unit. No lot with more than one single-family dwelling or manufactured housing located upon it shall be eligible for an accessory dwelling unit.

3-A.2 Permits Required

- a) No accessory dwelling unit may be constructed within or added to any single-family dwelling (whether attached or detached) without a Conditional Use Permit having first been applied for and obtained from the Hampton Planning Board pursuant to RSA 674:21 and until a Building Permit therefor has been applied for and obtained under Article XI of the Hampton Zoning Ordinance and in compliance with the applicable provisions of Article XI of the Hampton Zoning Ordinance.
- b) An applicant proposing an accessory dwelling unit shall submit to the Hampton Planning Board a plan drawn to scale showing the proposed accessory dwelling unit, distances from the property lines, and required parking spaces. The applicant shall also submit exterior elevations and floor plans drawn to scale which show the interior layout of the proposed accessory dwelling unit.

- c) In cases where a proposal involves any enlargement of an existing building and/or any increase in impervious coverage of the lot, where the Building Inspector determines that compliance with dimensional requirements is questionable, the applicant shall be required to submit to the Board with the application for a Conditional Use Permit a certified plot plan prepared by a licensed land surveyor in the State of New Hampshire with the existing and proposed setbacks and impervious coverage calculations for the lot provided on said plan. The Building Inspector's determinations may be appealed to the Zoning Board of Adjustment under the terms of N.H. RSA 676:5. (Adopted 2021)

3-A.3 Provisions for Living Facilities

An accessory dwelling unit must provide independent living facilities for one to four persons including provisions for sleeping, eating, cooking (stove, refrigerator and sink), and sanitation (shower/tub, toilet and sink) on the same parcel of land as the principal dwelling unit it accompanies. An accessory dwelling unit shall contain no more than two bedrooms, of which no bedroom shall be less than 7 feet x 10 feet in dimension per the State Building Code and in no case shall any such bedroom be more than 200 square feet in size.

3-A.4 Occupancy Requirements

- a) Owner occupancy of either the single-family dwelling unit or the accessory dwelling unit shall be required. The owner shall demonstrate, to the satisfaction of the Planning Board, that one of the units is his or her principal place of residence.
- b) No more than two persons may occupy each bedroom in the accessory dwelling unit.
- c) This ordinance is intended to offer additional permanent rental housing opportunities in the Town of Hampton without negatively impacting neighborhoods. In furtherance of these ends, an accessory dwelling unit or principal dwelling unit having an accessory dwelling unit shall not be rented out for less than six (6) months at a time.
- d) A Certificate of Rental Occupancy shall be required and kept current for the rental unit.
- e) Any use of the principal dwelling unit or the accessory dwelling unit for a home occupation or other business purpose is prohibited.
- f) An accessory dwelling unit may be used exclusively as the primary or secondary residence of an individual(s) related to the owner by blood, adoption, or other domestic relationship, and during such time shall not be subject to the rental requirements in Sections 3-A.4c and 3-A.4d. A notarized attestation signed by the owner and the related individual(s) shall be filed with the Planning Office and the Building Department prior to use. The unit shall not be rented out without reporting this change in status to the Building Department and submitting an impact fee in accordance with Section 3-A.10.

3-A.5 Site Location and Size

- a) Accessory dwellings must be attached to or contained within the principal, single dwelling unit (except as provided in Section 3-A.5c) with the attachment between them being an enclosed living space, but there shall be an interior door between the accessory dwelling unit and the principal dwelling unit.
- b) Where a dwelling structure of 3 or more stories in height is proposed to include an accessory dwelling unit above the second story, additional means of egress which do not require access to the primary dwelling unit shall be provided in accordance with the current Building Code. If an exterior staircase is constructed as a means of egress, it shall also meet the required setbacks from property lines for the zoning district in which it is located.

- c) Detached accessory dwelling units may only be permitted under Section 3-A.2 when they are to be located within a structure that predates the enactment of Article III-A and that is already detached from the principal dwelling unit, as follows:
 - 1. A detached structure, legally existing prior to March 12, 2024, may be utilized for an accessory dwelling unit consistent with Article III-A.
 - 2. A detached structure, legally constructed on or after March 12, 2024, may be used for an accessory dwelling unit consistent with Article III-A, provided that the footprint of the structure does not exceed 5% of the total lot area.
 - 3. For all detached accessory dwelling units, the Planning Board may require screening with mature deer-resistant evergreen plantings (at least 6 feet in height at the time of planting) and/or fencing to provide a sufficient buffer with adjoining residential lots.
- d) For detached accessory dwelling units, the existing foundation shall establish the footprint that meets the criteria outlined in Section 3-A.5c. The enlargement of any structure which already contains a detached accessory dwelling unit, and/or the enlargement of its foundation, is prohibited.
- e) Any accessory dwelling unit shall be no more than 800 square feet in size.
- f) An accessory dwelling unit shall be subject to all applicable provisions of the Wetlands Conservation District Ordinance, including but not limited to Section 2.3.7C regarding special minimum lot area, minimum lot area per dwelling unit, and setback requirements.

3-A.6 Provisions for Water Supply and Sewage Disposal

- a) An accessory dwelling unit shall be connected to the Town of Hampton Sewer System or to the private system that the principal dwelling unit utilizes legally. Construction of an accessory dwelling unit or its inclusion within an existing dwelling shall provide the proper design/construction of sewer services that are protected from freezing during the applicable months. All sewer connection and construction shall follow the Town of Hampton Sewer Ordinance and the wastewater development charge be paid prior to the issuance of a Building Permit. If the accessory dwelling unit is to be connected to a legal private system, it must be demonstrated to the Building Inspector that said private sewer system is rated and permitted with the Town or State of New Hampshire to handle the combined maximum occupancy load that will be generated by the principal dwelling and the accessory dwelling unit. If neither the existing sewer service nor the private sewer system can handle and/or if either is not permitted under the requirements of the Town and the State of New Hampshire to handle, the additional flow, then the sewer service/private system shall first be permitted through the Town or the State of New Hampshire and then be reconstructed or upgraded at the expense of the lot owner to accommodate the sewage that would be generated by the combined maximum occupancy load. The Department of Public Works shall be notified of all accessory dwelling unit applications.
- b) The water source utilized by the principal dwelling unit shall also be utilized by the accessory dwelling unit and if the Aquarion Water Company of New Hampshire, Inc. (Aquarion) its successors and assigns, is the provider of water for the primary dwelling unit, then Aquarion shall be notified in advance of the addition of the accessory dwelling unit or its inclusion within the principal dwelling unit of the accessory dwelling unit and Aquarion's metering and connection requirements shall govern. Construction of an accessory dwelling unit or its inclusion within an existing dwelling shall provide the proper design/construction of water services that are protected from freezing during the applicable months.
- c) If the principal dwelling unit is served by a private drinking water well, it must be demonstrated to the Building Inspector that said private well is capable of providing sufficient water for the maximum occupancy loads for both the principal dwelling unit and the accessory dwelling unit, or a new well must be installed that will provide such sufficient water before the accessory dwelling unit is allowed to be added or incorporated into the principal dwelling. Construction of an accessory dwelling unit or its inclusion within an existing dwelling shall provide the proper design/construction of water services that are protected from freezing during the applicable months.

3-A.7 Dimensional Requirements

The addition of an accessory dwelling unit shall be governed by the Dimensional Requirements set forth in Article IV of the Hampton Zoning Ordinance. For the purposes of the applicability of the footnotes to Article IV, any lot in the RA or RAA zone on which an accessory dwelling unit is proposed to be added shall not be considered a pre-existing lot of record for the purposes of Article III A if said accessory dwelling unit expands the footprint of the principal dwelling.

3-A.8 Sprinkler Systems

Any accessory dwelling unit that is attached to a principal dwelling unit of 3 or more stories in height shall require both units to be furnished with a sprinkler system in accordance with Article XI, Section 11.4.a.

3-A.9 Condominium Conversion

By virtue of its being an accessory to the principal dwelling, the accessory dwelling unit and the principal dwelling shall remain under the same ownership as the lot owner and shall not be converted to condominium form of ownership.

3-A.10 Impact Fees

Each accessory dwelling unit shall be subject to the payment of an impact fee, which shall be submitted to the Building Department in an amount equal to the current fee per unit for a two-unit structure. Accessory dwelling units shall not be eligible for a full or partial waiver of the required impact fee. The impact fee requirement shall not apply to situations where a two-family property is converted under this Article to one single-family dwelling and one accessory dwelling unit, or to an arrangement as described in Section 3-A.4f above unless or until the accessory dwelling unit becomes a conventional rental. (Amended 2021)

3-A.11 Removal of an Accessory Dwelling Unit

- a) Prior to issuance of a Certificate of Occupancy for an accessory dwelling unit, a Declaration of Covenants, Conditions and Restrictions in an approved form shall be recorded at the Rockingham County Registry of Deeds which states that the property must revert to single-family use (with only one dwelling unit) if the current or future owner no longer occupies either the principal dwelling unit or the accessory dwelling unit as his or her principal place of residence. This requirement shall only apply to lots located in the RA or RAA zoning district. (Amended March 2019)
- b) An accessory dwelling unit legally established under this ordinance may be removed only following approval of a Use Change by the Planning Board and with the required Building Permit issued by the Building Department.

ARTICLE VI - PARKING

Section 6.3 Parking Requirements

6.3.1 Dwelling units (single, double, multi-family): Two spaces per dwelling unit ~~and per each accessory dwelling unit~~ plus one guest space per eight units.* (Amended March 2017)

*Dwelling units with an area of 330 square feet to 400 square feet will require 1 ½ spaces per unit, plus one guest space per eight units.

6.3.1a Short-Term Rentals: See Article XXI, Section 21.5. (Adopted March 2023)

6.3.1b Accessory Dwelling Unit: At least one unobstructed 9' x 18' parking space must be provided on-site.