

HB 423 - AS INTRODUCED

2023 SESSION

23-0291

02/08

HOUSE BILL **423**

AN ACT relative to accessory dwelling unit uses allowed by right.

SPONSORS: Rep. Read, Rock. 10; Rep. Seibert, Hills. 21; Rep. Mangipudi, Hills. 11; Rep. Gallagher, Merr. 20; Rep. McWilliams, Merr. 30; Rep. Cushman, Hills. 28; Rep. Hynes, Hills. 2; Rep. Phinney, Straf. 9; Rep. Berry, Hills. 39; Rep. Kuttub, Rock. 17

COMMITTEE: Municipal and County Government

ANALYSIS

This bill increases the number of accessory dwelling units allowed by right from one to 2, changes the definition of attached unit, and increases the maximum square footage from 750 to 1,000. It also gives towns the right to require one unit to meet the definition for workforce housing.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to accessory dwelling unit uses allowed by right.

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

1 1 Accessory Dwelling Units; Definition. Amend RSA 674:71 to read as follows:

2 674:71 Definition. As used in this subdivision, "accessory dwelling unit" means a residential
3 living unit that is within or attached to a single-family dwelling, and that provides independent
4 living facilities for one or more persons, including provisions for sleeping, eating, cooking, and
5 sanitation on the same parcel of land as the principal dwelling unit it accompanies. ***"Attached"***
6 ***under this subdivision shall also include units that are completely contained within***
7 ***preexisting detached structures.***

8 2 Accessory Dwelling Units. Amend RSA 674:72 to read as follows:

9 674:72 Accessory Dwelling Units.

10 I. A municipality that adopts a zoning ordinance pursuant to the authority granted in this
11 chapter shall allow accessory dwelling units as a matter of right or by either conditional use permit
12 pursuant to RSA 674:21 or by special exception, in all zoning districts that permit single-family
13 dwellings. ~~[One]~~ ***Two*** accessory dwelling units shall be allowed without additional requirements for
14 lot size ***except as described in this section***, frontage, space limitations, or other controls beyond
15 what would be required for a single-family dwelling without an accessory dwelling unit. The
16 municipality is not required to allow more than ~~[one]~~ ***2*** accessory dwelling ~~[unit]~~ ***units*** for any
17 single-family dwelling. The municipality may prohibit accessory dwelling units associated with
18 multiple single-family dwellings attached to each other such as townhouses, and with manufactured
19 housing as defined in RSA 674:31. Subsequent condominium conveyance of any accessory dwelling
20 unit separate from that of the principal dwelling unit shall be prohibited, notwithstanding the
21 provisions of RSA 356-B:5, unless allowed by the municipality.

22 II. If a zoning ordinance contains no provisions pertaining to accessory dwelling units, then
23 ~~[one]~~ ***2*** accessory dwelling units shall be deemed a permitted accessory use, as a matter of right, to
24 any single-family dwelling in the municipality, and no municipal permits or conditions shall be
25 required other than a building permit, if necessary.

26 III. An interior door ~~[shall]~~ ***may*** be provided between the principal dwelling unit and the
27 accessory dwelling unit, but a municipality shall not require that it remain unlocked.

28 IV. Any municipal regulation applicable to single-family dwellings shall also apply to the
29 combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to
30 lot coverage standards and standards for maximum occupancy per bedroom consistent with policy

1 adopted by the United States Department of Housing and Urban Development. A municipality may
2 require adequate parking to accommodate an accessory dwelling unit.

3 V. The applicant for a permit to construct an accessory dwelling unit shall make adequate
4 provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with
5 RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling
6 units. In order to comply with this paragraph and prior to constructing an accessory dwelling unit,
7 an application for approval for a sewage disposal system shall be submitted in accordance with RSA
8 485-A as applicable. The approved sewage disposal system shall be installed if the existing system
9 has not received construction approval and approval to operate under current rules or predecessor
10 rules, or the system fails or otherwise needs to be repaired or replaced.

11 VI. A municipality may require owner occupancy of one of the dwelling units, but it shall not
12 specify which unit the owner must occupy. A municipality may require that the owner demonstrate
13 that one of the units is his or her principal place of residence, and the municipality may establish
14 reasonable regulations to enforce such a requirement.

15 VII. A municipality may establish standards for accessory dwelling units for the purpose of
16 maintaining the aesthetic continuity with the principal dwelling unit as a single-family dwelling. A
17 municipality may also establish minimum and maximum sizes for an accessory dwelling unit,
18 provided that size may not be restricted to less than ~~[750]~~ **1,000 square feet for one of the units**
19 **allowed by right, and 850 square feet for any other units.**

20 VIII. A municipality may not require a familial relationship between the occupants of an
21 accessory dwelling unit and the occupants of a principal dwelling unit.

22 IX. A municipality may not limit an accessory dwelling unit to only one bedroom.

23 X. An accessory dwelling unit may be deemed a unit of workforce housing for purposes of
24 satisfying the municipality's obligation under RSA 674:59 if the unit meets the criteria in RSA
25 674:58, IV for rental units. **The municipality may require that if a property has 2 or more**
26 **accessory dwelling units, one of them shall meet the criteria in RSA 674:58, IV for rental**
27 **units.**

28 3 Detached Accessory Dwelling Units. Amend RSA 674:73 to read as follows:

29 674:73 Detached Accessory Dwelling Units. A municipality is ~~[not]~~ required to~~[but may]~~ permit
30 detached accessory dwelling units **for at least one unit allowed by right under this chapter,**
31 **but may require any other units to be attached.** Detached accessory dwelling units shall comply
32 with the requirements of, and any municipal ordinances or regulations adopted pursuant to, RSA
33 674:72, IV through IX. **A municipality may require a property have a minimum lot size of up**
34 **to one half acre in order to have two or more accessory dwelling units.**

35 4 Effective Date. This act shall take effect January 1, 2024.