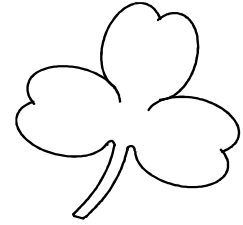




*Happy St. Patrick's Day*

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## *"Tip of the Month"*

### **Accessory Dwelling Units**

Accessory Dwelling Units, sometimes called in-law apartments, were historically built to provide independent living spaces for aging relatives. Today, however, ADUs serve the broader purpose of helping to create low-cost housing for people of all ages by allowing homeowners to add in-law apartments, au-pair suites, or spaces for young adults starting employment in the community or moving home after college.

With these benefits in mind, New Hampshire passed the Accessory Dwelling Units law (RSA 674:71-73) on June 1, 2017. An ADU is defined as a residential housing unit within or attached to a single-family dwelling that provides its occupants with independent living facilities, such as provisions for sleeping, eating, cooking and sanitation.

The law requires that all New Hampshire towns allow ADUs nearly everywhere single-family houses are permitted. It provides that "[o]ne accessory dwelling unit shall be allowed without additional requirements to lot size, frontage, space limitations or other controls beyond what would be required for a single-family dwelling without an accessory unit." Communities are prohibited from requiring that ADUs have fewer than two bedrooms, be smaller than 750-square-feet or be occupied by a relative of the primary dwelling.

The statute gives municipalities the flexibility of permitting detached ADUs on the same parcel as the primary single-family dwelling, such as an ADU as a stand-alone building or an ADU within a separate building such as a garage or barn.

Local zoning ordinances are required to allow ADUs as a matter of right, by conditional use permit or by special exception.

When allowed as a matter of right, homeowners are not required to obtain special permission to construct or utilize an existing ADU beyond normal building permits or any required zoning compliance permits.

When allowed by a conditional (or special) use permit, homeowners are required to submit an ADU application for review by the municipality. A municipality that chooses to regulate ADUs in this manner determines the conditions under which the permit will be issued and must include such criteria in the town's local zoning laws.

When governed by special exception, the town's Zoning Board of Adjustment will regulate ADUs through a special exception process. As with conditional use permits, the special exception criteria and process must be included in the town's zoning ordinance, as provided in RSA 674:33, IV.

If you or someone you know has questions about or needs assistance with seeking approval for an accessory dwelling unit, please contact the attorneys at Mesmer & Deleault by calling (603) 668-1971 or by email at [mailbox@biz-patlaw.com](mailto:mailbox@biz-patlaw.com).

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