

ARTICLE 03. To see if the Town will vote to amend the Rye Zoning Ordinance in accordance with the recommendation of the Rye Planning Board, as follows:

Amendment 8

- I. Amend Article V, Section 190-5.3: Condominium Conversion as follows (Note: New language ***emboldened and italicized***. Deleted language ~~struck through~~).

§ 190-5.3 Condominium conversions of existing dwelling units.

[Amended 1982; 3-14-2006; 2007]

Purpose: The purpose of this section is to permit the condominium conversion of existing structures and uses, as related by NH RSA 356-B:5, in any district while protecting the public health, safety and general welfare of the community. The proposed condominium conversion shall comply with the following standards:

- A. Condominium conversion shall require subdivision approval by the Planning Board.***
- B. Existing septic systems supporting a proposed condominium that does not have a current state septic permit shall be replaced with a new septic system in compliance with the then current state septic system requirements.***
- C. Septic systems with current state approvals shall be tested by a professional engineer and certified as functional with no deficiencies or replaced with a state approved septic system.***

~~A. Permitted by Conditional Use Permit special exception. In any district, conversion of existing dwelling units to condominium ownership shall be permitted as a Conditional Use Permit granted by the Planning Board special exception granted by the Board of Adjustment only if all the provisions herein are met. Such conversion may be further subject to the approval of the Planning Board in accordance with Chapter 202, Land Development Regulations. [Amended 3-14-2023 by Art. 3 (Am 6)]~~

~~B. Plan requirements. A complete set of site plans and floor plans, as well as a complete set of all condominium documents, must be filed with the Planning Board Board of Adjustment upon application for the Conditional Use Permit. special exception.~~

~~(1) The plans shall show the location of all utilities on the site and shall indicate the location of all water connections and locations where the shutoff valve will be located for each particular unit in the case of a condominium project containing more than one unit. The plans shall indicate whether or not additional meters other than those existing~~

~~or additional lines from the street will be required as a result of the condominium conversion.~~

- ~~(2) In the case of seasonal properties, the condominium declaration and other documents which are recorded in the Registry of Deeds shall indicate on their face that the property may only be used for seasonal purposes and the months when the property may be used shall be indicated in the documents.~~

~~C. Criteria for Conditional Use Permit special exceptions.~~

- ~~(1) The dwelling units which are subject to the request for condominium conversion must, at the time of the request for condominium conversion, exist as legal dwelling units pursuant to the ordinances of the Town of Rye. The burden shall be on the petitioner to demonstrate that the units sought to be converted have legal status.~~
- ~~(2) Each dwelling unit of the condominium shall contain a minimum of 600 square feet of gross living area. [Amended 3-14-2023 by Art. 3 (Am 6)]~~
- ~~(3) The off-street parking requirements of the Town of Rye existing as of the date of the request for condominium conversion must be met.~~
- ~~(4) The proposed conversion of the existing dwelling unit to condominium ownership shall not adversely affect the values of surrounding properties.~~
- ~~(5) The proposed conversion to condominium ownership must not be injurious or detrimental to the neighborhood or Town.~~
- ~~(6) The septic system and/or private sewer system standards of the New Hampshire Department of Environmental Services and the Town of Rye existing as of the date of the request for condominium conversion must be met or exceeded by all systems used by the dwelling units associated with the condominium conversion, and a certificate to that effect must be filed with the Board of Adjustment, based on review of Town records by the Building Inspector or an on-site inspection of systems and soil conditions by a professional engineer. [Amended 3-11-2014]~~
- ~~(7) For condominium conversions involving detached dwellings, if the amount of land designated as common area is less than 90% of the area of the parcel not designated for buildings, driveways, parking areas, and individual unit owners' vehicles, each limited common area assigned to a detached dwelling shall meet the minimum lot area and frontage requirements of this chapter. [Amended 3-14-2023 by Art. 3 (Am 6)]~~

~~D. Tourist accommodation units. It is hereby determined that tourist accommodation and transient units such as tourist cabins, hotel and motel units and lodging houses (i.e., "tourist~~

units") are different land uses than dwelling units and have different impacts on the land and neighborhood than dwelling units, whether such dwelling units are seasonal or year-round.
[Amended 3-14-2023 by Art. 3 (Am 6)]

(1) ~~Tourist units are sporadically occupied during all but the peak 10 weeks of the summer season. Even during that ten-week period, occupancy typically depends on favorable weather. Due to the lower occupancy levels, tourist units have less impact than dwelling units on:~~

(a) ~~Water consumption and overall septage loading of the land.~~

(b) ~~Automobile usage and the traffic congestion, air pollution and consumption of fuel resulting therefrom.~~

(c) ~~Solid waste generation and the impacts on waste disposal facilities and services.~~

(d) ~~Demand for fire protection and emergency medical services.~~

(2) ~~Tourist units require fewer parking spaces than dwelling units. Therefore, the impact on the land from erosion and pollution due to surface water runoff is less.~~

(3) ~~Tourist units have less impact than dwelling units on municipal facilities such as the library, schools, recreation facilities and permitted beach parking areas.~~

(4) ~~Tourist accommodation enterprises have always had a greater allowed density under this chapter than dwelling units. This chapter has always recognized that more land is required to support a dwelling unit than a tourist unit.~~

(5) ~~In this chapter, tourist units have always been identified as specific business uses permitted only in the Business and Commercial Districts. Tourist units are not permitted in the Single and General Residence Districts.~~

(6) ~~Tourist units have always been specially permitted business uses under § 190-5.4 of this chapter.~~

(7) ~~Tourist units are regulated as "Trade and Commerce" under Title XXXI, RSA 353, Hotels, Tourist Cabins, Etc.~~

(8) ~~Therefore, requests to convert tourist accommodations to permanent occupancy shall not be permitted under this § 190-5.3.~~

E. ~~Accessory Dwelling Units (ADUs). Accessory apartments. An ADU accessory apartment approved as a conditional use permit pursuant to § 190-5.6 of this chapter is required by § 190-5.6 to be a subordinate rental unit. Thus, an approved accessory apartment may not be~~

converted to an ownership unit under the provisions of this section. [Amended 3-14-2023 by Art. 3 (Am 6)]

F. ~~"Grandfathered" in-law apartments. [Amended 3-14-2023 by Art. 3 (Am 6)]~~

(1) ~~In 1998 the enactment of § 190-5.6, providing for accessory apartments, revoked and replaced Section 202.7 of the Zoning Ordinance, which had allowed a property owner to make interior changes to existing buildings or to construct additions for residential use by members of the owner's family (i.e., so-called "mother-in-law apartments").~~

~~definition.~~

- II. Amend Article V, Section 190-5.31: Condominium Conversion as follows (Note: New language ***emboldened and italicized***. Deleted language struck through).

§ 190-5.3.1 Condominium conversion of existing commercial spaces.

Purpose: The purpose of this section is to permit the condominium conversion of existing structures and uses, as related by NH RSA 356-B:5, in any district while protecting the public health, safety and general welfare of the community. The proposed condominium conversion shall comply with the following standards:

- A. Condominium conversion shall require subdivision approval by the Planning Board.***
 - B. Existing septic systems supporting a proposed condominium that does not have a current state septic permit shall be replaced with a new septic system in compliance with the then current state septic system requirements.***
 - C. Septic systems with current state approvals shall be tested by a professional engineer and certified as functional with no deficiencies or replaced with a state approved septic system.***
- ~~A. Permitted by conditional use permit. In any district, conversion of existing commercial spaces within commercial buildings shall be permitted as a conditional use permit granted by the Planning Board, only if all of the provisions herein are met.~~
- ~~B. Plan requirements. A complete set of the site plans required by Chapter 202, Land Development Regulations, and a complete set of all condominium documents and floor plans shall be filed with the Planning Board. The plans and documents shall meet the requirements of § 190-5.3B of this chapter.~~
- ~~C. Public hearing. The Planning Board shall hold a public hearing on all applications for conditional use permits with notice as required by Chapter 202, Land Development Regulations. The hearing may be combined with any hearing required for site plan and/or subdivision approval.~~
- ~~D. Criteria for conditional use permit. All applications for a conditional use permit shall comply with the following requirements. The applicant for a conditional use permit has the burden of establishing that each of the criteria are met. Prior to approving an application for a conditional use permit, the Planning Board shall make findings on the record that each of the criteria below is met: [Amended 3-14-2023 by Art. 3 (Am 6)]~~
- ~~(1) The building which is the subject of the request for condominium conversion must, as of the date of the application for condominium conversion, exist as a legal commercial building pursuant to the ordinances of the Town of Rye.~~

- ~~(2) Each unit of the condominium shall contain a minimum of 600 square feet of floor area. Adjacent existing commercial spaces within a building may be combined and renovated to meet this requirement.~~
- ~~(3) The off street parking requirements of this chapter as of the date of the application for condominium conversion must be met.~~
- ~~(4) The proposed conversion to condominium ownership shall not adversely affect the values of surrounding properties.~~
- ~~(5) The proposed conversion to condominium ownership shall not be injurious or detrimental to the neighborhood or Town.~~
- ~~(6) The septic system and/or private sewer system standards of the Town and of the New Hampshire Department of Environmental Services existing as of the date of the application for condominium conversions shall be met or exceeded by all units and buildings associated with the condominium conversion. A certificate to that effect must be filed with the Planning Board based on a review of Town and state records by the Building Inspector or an on-site inspection of systems and soil conditions by a professional engineer.~~
- ~~(7) For condominium conversions involving detached buildings, if the amount of land designated as common area is less than 90% of the area of the parcel not designated for buildings, driveways, parking areas, and individual unit owners' vehicles, each limited common area assigned to a detached building shall meet the minimum lot area and frontage requirements of this chapter.~~
- ~~(8) The proposed conversion to condominium ownership shall not be injurious or detrimental to the health, safety or general welfare of the owners or occupants of the units, buildings or sites which are part of the proposal.~~
- ~~(9) Appeal. This is an innovative zoning provision adopted pursuant to RSA 674:21. Appeals of decisions on applications for a conditional use permit may be filed with the Rockingham County Superior Court or the Housing Appeals Board within 30 days of the date of decision.~~

Explanation

Replaces the entire 190-5.3 Condominum Conversion of existing dwelling units and 190-5.3.1 Condominium Conversion of existing commercial spaces with new language to align with state laws and town regulations.