

Proposed Amendment to the Regulation of Accessory Dwelling Units

Proposed by Councilors Dolan and Wheeler
Revised 3/4/2020

Summary of revisions:

The most recent version makes the following changes:

- Restores the original three types of ADUs, continuing to allow for all types of ADUs on lots below the minimum lot size for a two-family home.
- Reinstates the original owner-occupancy provision.
- Clarifies that the planning board is the authority for site plan reviews.
- Reinstates the parking minimums and maximums.

200-2.1 TERMS AND WORDS

Amend the following definitions:

ACCESSORY DWELLING UNIT, WITHIN – An Accessory Dwelling Unit that is within a single-family **or two-family** home is a self-contained housing unit incorporated within the single-family **or two-family** home that is clearly a subordinate part of the single-family **or two-family** home and complies with each of the criteria stated in this ordinance.

ACCESSORY DWELLING UNIT, ATTACHED -- An attached Accessory Dwelling Unit is a self-contained housing unit added as an addition to a single-family **or two-family** home that is clearly a subordinate part of the single-family **or two-family** home and complies with each of the criteria stated in this ordinance. This definition does not include a trailer or mobile home, however mounted.

ACCESSORY DWELLING UNIT, DETACHED -- A detached Accessory Dwelling Unit is a self-contained housing unit that is located on the same lot as the structure of a single-family **or two-family** home, and may be incorporated within a garage or carriage house or other accessory structure or as a stand-alone structure that is clearly subordinate to the primary use as a single-family **or two-family** home and complies with each of the criteria stated in this ordinance. This definition does not include a trailer or mobile home, however mounted.

200-8.4 SITE PLAN REVIEW AND APPROVAL

Add the following:

B: Projects requiring site plans. The creation, expansion, substantial alteration, or change in use of the following uses shall require site plan review and approval:

5) Creation of an Accessory Dwelling Unit.

200-7.18 ACCESSORY DWELLING UNITS

Amend as follows:

A. Purpose. The purpose of permitting accessory dwelling units (aka accessory apartments or in-law apartments) is to:

- (1) Develop housing units in owner occupied single-family **or two family** homes that are appropriate for households at a variety of stages in their life cycle;
- (2) Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- (3) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to low and moderate income households who might otherwise have difficulty finding housing;
- (4) Provide housing units for persons with disabilities;
- (5) Protect stability, property values, and the residential character of a neighborhood.
- (6) Encourage increased housing density; and
- (7) Legalize existing conversions to encourage compliance with the State Building Code.

B. Definitions.

ACCESSORY DWELLING UNIT, WITHIN – An Accessory Dwelling Unit that is within a single-family **or two-family** home is a self-contained housing unit incorporated within the single-family **or two-family** home that is clearly a subordinate part of the single-family **or two-family** home and complies with each of the criteria stated in this ordinance.

ACCESSORY DWELLING UNIT, ATTACHED -- An attached Accessory Dwelling Unit is a self-contained housing unit added as an addition to a single-family **or two-family** home that is clearly a subordinate part of the single-family **or**

two-family home and complies with each of the criteria stated in this ordinance. This definition does not include a trailer or mobile home, however mounted.

ACCESSORY DWELLING UNIT, DETACHED -- A detached Accessory Dwelling Unit is a self-contained housing unit that is located on the same lot as the structure of a single-family **or two-family** home, and may be incorporated within a garage or carriage house or other accessory structure or as a stand-alone structure that is clearly subordinate to the primary use as a single-family **or two-family** home and complies with each of the criteria stated in this ordinance. This definition does not include a trailer or mobile home, however mounted.

C. Applicability.

~~(1) Accessory Dwelling Unit, Within. The Inspector of Buildings may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new owner-occupied, single-family home within the Urban Residential (RA), Suburban Residential (RB), Rural Residential (RC), Semi-Residential (SR), and Limited Commercial (LC) Zoning Districts.~~

~~(2) Accessory Dwelling Unit, Attached. An attached Accessory Dwelling Unit shall require a Special Permit granted by the Zoning Board of Appeals within the Urban Residential (RA), Suburban Residential (RB), Rural Residential (RC), Semi-Residential (SR), and Limited Commercial (LC) Zoning Districts.~~

~~(3) Accessory Dwelling Unit, Detached. An~~ detached Accessory Dwelling Unit **of any type shall require a site plan review by the planning board prior to construction.** shall require a Special Permit granted by the Zoning Board of Appeals within the Suburban Residential (RB), Rural Residential (RC), Semi-Residential (SR), Limited Commercial (LC), and Zoning Districts.

(4) Any proposed non-conforming ~~attached or detached~~ ADU is subject to a Special Permit from the Zoning Board of Appeals.

D. Accessory Dwelling Unit Standards.

(1) The Accessory Dwelling Unit shall be a complete, separate housekeeping unit containing both kitchen and bath.

(2) Only one Accessory Dwelling Unit may be created within a single-family **or two-family** house or house lot.

(3) The owner(s) of the residence in which the Accessory Dwelling Unit is created must continue to occupy at least one of the dwelling units as their primary residence.

~~(4) The Accessory Dwelling Unit shall be designed so that the appearance of the building remains that of a single family residence as much as feasibly possible. Any new entrances shall be located on the side or rear of the building. A detached accessory dwelling unit shall be compatible in design with the primary residence. Any stairways, access, or egress alterations serving the Accessory Dwelling Unit shall be enclosed, screened, or located so that visibility from public ways is minimized.~~

(5) The maximum gross floor area of Accessory Dwelling Units shall be 900 sq. ft. or one-third the total gross floor area of the **largest existing unit in the home** single family home, whichever is greater.

~~(6) Once an Accessory Dwelling Unit has been added to a single family residence or lot, the Accessory Dwelling Unit shall never be enlarged beyond the square footage of the original permit for the Accessory Dwelling Unit.~~

~~(7) An Accessory Dwelling Unit may not be occupied by more than three (3) people nor have more than two bedrooms.~~

(8) A minimum of two (2) but no more than four (4) off-street parking spaces must be available for use by the owner-occupants and tenants.

(9) The construction of any Accessory Dwelling Unit must be in conformity with the State Building Code, Title V of the State Sanitary Code, 527 CMR – MA Fire Prevention Regulations and other local ordinances and regulations.

(10) Prior to issuance of a permit, the owner(s) must send a notarized letter to the appropriate permitting authority stating that the owner(s) will occupy one of the dwelling units on the premises as the owner's permanent/primary residence.

(11) When a structure which has received a Permit for an Accessory Dwelling Unit is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Inspector of Buildings stating that they will occupy one of the dwelling units on the premises as their primary residence. This statement shall be listed as condition on any Permits which are issued under this Section.

(12) Permits issued under this section shall specify that the owner must occupy one of the dwelling units. The Special Permit and the notarized letters must be recorded in the Franklin County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Inspector of Buildings, prior to the occupancy of the Accessory Dwelling Unit.

(13) Prior to issuance of a Special Permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.

(14) For dwellings to be served by on-site septic system, the owner must obtain a letter from the Board of Health stating that the existing sewage disposal system is adequate for the proposed Accessory Dwelling Unit before a **Building Special Permit** can be obtained.

(15) In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Inspector of Buildings, **the Planning Board**, or Zoning Board of Appeals may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

~~E. Existing Owner-Occupied Single-Family Dwellings within Non-Residential Zoning Districts~~

~~(1) The Zoning Board of Appeals as SPGA may authorize the use of an attached or detached Accessory Dwelling Unit for an existing owner-occupied single-family home or lot within non-residential zoning districts provided that all provisions of this ordinance are met.~~

F. Accessory Dwelling Units in Existence before the Adoption of the Accessory Dwelling Unit Ordinance

(1) To ensure that Accessory Dwelling Units or conversions in existence before the adoption of this Accessory Dwelling Unit ordinance are in compliance with the State Building Code the following application process is available.

(a) The Zoning Board of Appeals may authorize, ~~under a Special Permit~~ and in consultation with the Inspector of Buildings, a use known as an Accessory Dwelling Unit in an Owner-Occupied, Single-Family **or Two-Family** Dwelling. The Board in consultation with the Inspector of Buildings will review each existing use on a case-by-case basis to determine if the dwelling conforms to State Building Code.

(b) The applicant must follow the same procedure described in this ordinance including the submission of a notarized letter declaring owner occupancy.

G. Administration and Enforcement.

(1) It shall be the duty of the Inspector of Buildings to administer and enforce the provisions of this ordinance.

(2) No building shall be constructed or changed in use or configuration, until the Inspector of Buildings has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with the City's laws and ordinances. Any new building or structure shall conform to all adopted state and City laws, ordinances, codes and regulations. No Accessory Dwelling Unit shall be occupied until a certificate of occupancy has been issued by the Inspector of Buildings where required.

(3) The Inspector of Buildings shall refuse to issue any permit, which would result in a violation of any provision of this ordinance or in a violation of the conditions or terms of any special permit or variance granted by the Special Permit Granting Authority or its agent.

(4) The Inspector of Buildings shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.

(5) Upon request of the homeowner applicant, the Zoning Board of Appeals as SPGA may, after making findings of fact that a waiver is merited given the totality of circumstances based on any or all of the following factors, waive standards of Section D of this ordinance.

(a) The showing of good and sufficient cause that a waiver is not inconsistent with the purposes of this chapter as a whole;

(b) A determination that failure to grant the waiver would result in exceptional hardship to the applicant;

(c) Danger to life or property;

(d) The necessity to accommodate requests of the Conservation Commission, Planning Board or Historical Commission or any municipal department;

(e) Extraordinary expense which is undue given the purpose of the provision(s) waived;

(f) The availability of alternative methods to substantially meet the purpose of the provision(s)

waived;

(g) No municipal function, nor any direct abutter, will be substantially affected by the waiver.

Chapter 200: SCHEDULE OF USES

- 200-4.2 RURAL RESIDENTIAL DISTRICT (RC);
- 200-4.3 SUBURBAN RESIDENTIAL DISTRICT (RB);
- 200-4.4 URBAN RESIDENTIAL DISTRICT (RA);
- 200-4.5 SEMI-RESIDENTIAL DISTRICT (SR);
- 200-4.8 LIMITED COMMERCIAL DISTRICT (LC)
 - Add the amended use categories “accessory dwelling unit, attached”, and “accessory dwelling unit, detached” as uses allowed by right within the RC, RB, RA, SR, and LC districts. Currently, these uses are only allowed by special permit in these districts.

- 200-4.11 GENERAL INDUSTRY DISTRICT (GI)
 - Add the amended use categories “accessory dwelling unit, within”, “accessory dwelling unit, attached”, and “accessory dwelling unit, detached” as uses allowed by right within the H, CC, and GC districts. Currently, these uses are only allowed by special permit in these districts.

- 200-4.6 HEALTH SERVICE DISTRICT (H)
- 200-4.7 CENTRAL COMMERCIAL DISTRICT (CC)
- 200-4.9 GENERAL COMMERCIAL DISTRICT (GC)
 - Add the amended use categories “accessory dwelling unit, within”, “accessory dwelling unit, attached”, and “accessory dwelling unit, detached” as uses allowed by right within the H, CC, and GC districts. Currently, these uses are not allowed within these districts.