

ARTICLE VII. Accessory Dwelling Unit

7.01 Purpose and Intent:

The intent of permitting Accessory Dwelling Units (ADUs) is to:

1. Encourage a more balanced and diverse population and income mix;
2. Provide older homeowners with a means of obtaining, through tenants in Accessory Dwelling Units, 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 moderate income households who might otherwise have difficulty finding housing within the Town;
4. Develop housing units ~~in single family neighborhoods~~ that are appropriate for households at a variety of stages in their life cycle;
5. Provide housing units for persons with disabilities;
6. Protect stability, property values, and the residential character of a neighborhood.

7.02 Procedural Requirements:

- ~~1. Review procedure: Refer to Section 3 (Use Regulations) for procedures.~~

7.023 Definitions:

Accessory Dwelling Unit, Protected Use (Protected Use ADU): - A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a ~~P~~principal ~~D~~dwelling, subject to otherwise applicable dimensional and parking requirements, that:

- (1) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress;
- (2) is not larger in gross floor area than 1/2 the ~~G~~gross ~~F~~floor ~~A~~area of the ~~P~~principal ~~D~~dwelling or 900 square feet, whichever is smaller; and
- (3) is subject to such additional restrictions as may be imposed by a municipality, including, but not limited to, additional size restrictions and restrictions or prohibitions on short-term rental, as defined in section 1 of chapter 64G; provided, however, that no municipality shall unreasonably restrict the creation or rental of an accessory dwelling unit that is not a short-term rental.

Accessory Dwelling Unit, Special Permit (Special Permit ADU): ~~An accessory dwelling unit over ½ the Gross Floor Area of the Principal Dwelling or over 900 square feet Gross Floor Area. A Special Permit ADU is no larger than 1200 square feet in Gross Floor Area.~~

Principal Dwelling: A structure, regardless of whether it, or the Lot it is situated on, conforms to Zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and

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height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

Transit Station: A subway station, commuter rail station, ferry terminal, bus station, or similar designated location for the boarding and alighting of a vehicle or craft for the purpose of public transportation

Gross Floor Area: The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches and similar spaces.

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7.034 Use and Dimensional Regulations:

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1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new Principalsingle-family dDwelling, or in a detached structure on a -single-family home-Lot only when the following conditions are met:
 - a. The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
 - b. Only one (1) Accessory Dwelling Unit may be created within a Principal Dwellingssingle-family house or on a Lot by right.
 - ~~e.~~ Any new separate outside entrances serving an Accessory Dwelling Unit shall be located on the side or in the rear of the building.
 - ~~d.c.~~ The minimum floor area of an Accessory Dwelling Unit shall be in accordance with the State Building Code.
 - ~~e.d.~~ The Gross Floor Area of an Accessory Dwelling Unit, including any additions, shall not exceed the area or height of the main residence but shall be clearly subordinate to the main residence. The new dwelling unit shall not exceed 900 square feet or ½ the area of the primary dwelling unit, whichever is smaller. Where there are multiple Principal Dwellings on the Lot, the Gross Floor Area of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.
 - ~~f.c.~~ The construction of any Accessory Dwelling Unit must be in conformity with the State Building Code, Title V of the State Sanitary Code, and other local by-laws and regulations.
 - ~~g.f.~~ There is no minimum lot size for an Accessory Dwelling Unit provided that all dimensional regulations are met, provided that the dimensional regulations are not in conflict with the State regulations for ADUs, -and there is sufficient space to provide for adequate and safe water supply and sewage disposal.
 - ~~h.g.~~ At least one (1) off-street parking space shall be available for use by the occupants with adequate access and egress from the site. If the Accessory Dwelling Unit is within a 0.5 mile radius of a Transit Station, no off-street parking is required. To limit the development of additional curb cuts, occupant parking spaces should be accessible using existing driveways on the lot.

i.h. Accessory Dwelling Units built after the acceptance of this by-law may not be used as Short Term Rentals and if rented must have a minimum rental period of at least thirty-one (31) consecutive calendar days, one (1) month.

~~The following conditions require the issuance of a Special Permit by the Planning Board:~~

j.i. ~~If~~ The area of the proposed Accessory Dwelling Unit exceeds 900 square feet or ½ the area of the primary dwelling unit, whichever is smaller, a Special Permit must be obtained from the Planning Board. Accessory Dwelling Units may be built up to 1200 square feet in area by Special Permit. No more than one ADU (either Protected Use ADU or Special Permit ADU) shall be allowed on each Lot.

2. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Building Commissioner may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

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3. Prior to issuance of a building permit, a floor plan must be submitted to the Building Commissioner showing the proposed interior and exterior changes to the building.

7.04 Procedural Requirements for Special Permit ADUs:

1. The Special Permit Granting Authority for Special Permit ADUs shall be the Planning Board.

2. For the purposes of Special Permit ADUs, this section shall supercede the requirements of Section 1.06, governing all other Special Permits.

3. Application Materials:

a. An application form completed by the applicant and signed by the property owner.

b. A site plan of the proposed ADU prepared by a registered professional engineer or architect. Such site plan shall show, at a minimum, all existing and proposed buildings, setbacks, lot area, lot line dimensions, structures, parking spaces, driveway openings, driveways, service areas, waste disposal locations, fences, and walks. Seven copies of the site plan shall be filed with the application.

c. A floor plan of the proposed Special Permit ADU, including proposed interior and exterior changes to the building, all points of access and egress, and the location and use of space within the area designated for the ADU.

4. Application Procedure:

a. Application Submittal. All applications for a Special Permit ADU must be filed by the petitioner with the Planning Department who shall forthwith transmit a copy thereof to the Town Clerk, the Building Commissioner, the Assessor, the Conservation Agent, the Health Agent, the Fire Department, the Police Department, and any other relevant departments, boards, or committees.

b. Public Hearing. A public hearing must be held by the Planning Board within sixty-five (65) days after the application is deemed complete and filed with the Planning Department.

c. Consideration. The Planning Board shall review the site plan and consider the following in making their decision:

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- i. Compliance with the regulations for parking, lot size, frontage, setbacks, yards, heights, and coverage of buildings and all other applicable provisions of this by-law.
 - ii. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties, or improvements.
 - iii. Arrangement and appearances of proposed buildings, structures, signs, screening, and landscaping.
 - iv. Adequacy of methods for waste disposal, surface and subsurface drainage, and lighting.
 - v. Protection of adjoining premises and the general neighborhood from any detrimental use of the lot or tract.
- d. Decision. The Planning Board must reach a decision within ninety (90) days of the close of the public hearing with a required vote of four (4) members of a five (5) member board.
 - i. A decision in the affirmative shall be duly followed by a written decision within fourteen (14) days of the vote. After a twenty (20) day appeal period, if no appeal has been made, the written decision must be filed with the Worcester Registry of Deeds by the applicant, and receipt of filing must be submitted to the Planning Department.
 - ii. A decision in the negative shall be duly followed by a written decision within fourteen (14) days of the vote. The Planning Board may not restrict the applicant from pursuing an as-of-right Protected Use ADU, provided all applicable regulations are met.
- e. Withdrawal. The applicant is free to withdraw from the special permit process at any time and construct a Protected Use ADU as-of-right as authorized by M.G.L. c.40A Section 3 if the applicant so chooses and provided all applicable regulations are met.
- f. Appeal. Appeals are as provided for in M.G.L. Section 17, Chapter 40A.

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7.05 Administration and Enforcement:

1. It shall be the duty of the Building Commissioner and Planning Board to administer and enforce the provisions of this ~~B~~by-law.
2. No building shall be constructed or changed in use or configuration until the Building Commissioner 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 town's laws and by-laws. Any new building or structure shall conform to all adopted state and town laws, by-laws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.
3. The Building Commissioner shall refuse to issue any permit which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any special permit or variance granted by the Zoning Board of Appeals or its agent.
4. The Building Commissioner 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. Construction of use according to a building permit or special permit shall conform to any subsequent amendment of this chapter unless the construction or use is begun before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.