

DOINGS AT THE ANNUAL TOWN MEETING
COMMONWEALTH OF MASSACHUSETTS
TOWN OF SOUTHWICK
May 20, 2025

ARTICLE 25. The Town of Southwick voted to amend the Zoning Bylaws of the Code of the Town of Southwick by adding to Chapter 185 a new Section 23.3 entitled “Accessory Dwelling Units” as follows, and further that non-substantive changes to the lettering and numbering of the Bylaw be authorized in order to make it consistent with the numbering format as sequencing of the code of the Town of Southwick:

§185-23.3 *Accessory Dwelling Units*

A. Purpose

The purpose of this Section 23.3 is to allow for Accessory Dwelling Units (ADUs), as defined under M.G.L. c. 40A, §1A, to be built as-of-right in Single-Family Residential Zoning Districts in accordance with Section 3 of the Zoning Act (M.G.L. c. 40A), as amended by Section 8 of Chapter 150 of the Acts of 2024, and the regulations under 760 CMR 71.00: Protected Use Accessory Dwelling Units. This zoning provides for by-right ADUs to accomplish the following purposes:

- (1) Increase housing production to address local and regional housing needs across all income levels and at all stages of life.
- (2) Develop small-scale infill housing that fits in the context of zoning districts that allow single-family housing while providing gentle/hidden density.
- (3) Provide a more moderately priced housing option to serve smaller households, households with lower incomes, seniors, and people with disabilities.
- (4) Enable property owners to age in place, downsize, or earn supplemental income from investing in their properties.

B. Terms Defined.

As used in this Section 23.3, the following terms shall have the meanings indicated:

(1) Accessory Dwelling Unit (ADU)

A self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that 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 Building and Fire Code for safe egress. ADUs may be detached, attached, or internal to the Principal Dwelling.

(2) Design Standards

Clear, measurable and objective provisions of zoning, or general ordinances or by-laws, which are made applicable to the exterior design of, and use of materials for an ADU when those same design standards apply to the Principal Dwelling to which the ADU is an accessory.

(3) Dwelling Unit

A single-housing unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. This can include a housing unit within a single-family, duplex, or multi-unit development.

(4) EOHLC

The Executive Office of Housing and Livable Communities.

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(5) 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. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

(6) Local ADU

An ADU that is not a Protected Use ADU but includes rules specific to the non-protected circumstances described herein. Local ADUs shall require a Special Permit with Site Plan

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Approval under Chapter 185, §9 and §10 of the Zoning Bylaw of the Town of Southwick, Massachusetts.

- (7) Lot
An area of land with definite boundaries that is used, or available for residential use, as the site of an existing residential structure or structures, regardless of whether the site conforms to requirements of zoning.
- (8) Modular Dwelling Unit
A pre-designed Dwelling Unit assembled and equipped with internal plumbing, electrical or similar systems, in compliance with the Building and Fire Code, prior to movement to the site where such Dwelling Unit is affixed to a foundation and connected to external utilities; or any portable structure with walls, a floor, and a roof, designed or used as a Dwelling Unit, transportable in one or more sections and affixed to a foundation and connected to external utilities.
- (9) Pre-Existing Nonconforming Structure
A structure that does not conform to zoning.
- (10) 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 height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.
- (11) Protected Use ADU
An attached, detached or internal ADU that is located, or is proposed to be located, on a Lot in a Single-Family Residential Zoning District and is not larger in Gross Floor Area than ½ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller, provided that only one ADU on a Lot may qualify as a Protected Use ADU. An ADU that is nonconforming to zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.
- (12) Short-Term Rental
An owner-occupied, tenant-occupied, or non-owner occupied property as defined in M.G.L. c. 64G § 1 and Chapter 185, Section 38 *Short-Term Rentals*, including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant for a period of 31 consecutive days or less; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.
- (13) Single-Family Residential Dwelling Unit
A structure on a Lot containing not more than one Dwelling Unit.
- (14) Single-Family Residential Zoning District
Any zoning district where Single-Family Residential Dwellings are a permitted or an allowable use, including any zoning district where Single-Family Residential Dwellings are allowed as-of-right, or by Special Permit.

C. Regulations

- (1) General Provisions for All ADUs
 - a. Code Compliance
 - i. ADUs shall maintain a separate entrance from the Principal Dwelling sufficient to meet safe egress under the Building Code and Fire Code.
 - ii. ADU construction shall comply with 310 CMR 15.000: The State Environmental Code, Title 5 regulations for a Single-Family Residential Dwelling in the Single-Family Residential

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Zoning District in which the Protected Use ADU is located.

b. Short-Term Rentals

ADUs may not be used as Short-Term Rentals as defined herein or otherwise rented for a period shorter than thirty-one (31) days.

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(2) Protected Use ADUs

The Zoning Enforcement Officer shall approve a Building Permit authorizing Protected Use ADU installation and use within, or on a Lot with, a Principal Dwelling in a Single-Family Residential Zoning District, including within, or on a Lot with, a Pre-Existing Nonconforming Structure, if the following conditions are met:

a. Site Plan Review

Protected Use ADUs are required to be submitted under Chapter 185, §37 *Site Plan Review* pursuant to the requirements and procedures noted therein, provided that the Site Plan Review criteria shall only be limited to the following:

- i. The ADU should minimize grade changes and tree, vegetation, and soil removal.
- ii. The architectural style of the ADU should be compatible with the existing principal dwelling on the subject property.
- iii. The ADU shall be serviced with adequate water supply and either sanitary sewer or septic service.
- iv. The filing plan shall demonstrate adequate parking, as required hereunder, and shall maximize convenience and safety for vehicular and pedestrian movement within the property and in relation to adjacent ways.

The Planning Board may request reasonable plan modifications of the Site Plan for an ADU and may impose reasonable conditions that are not inconsistent with this bylaw or the provisions of M.G.L. c. 40A, §3. Additionally, upon request of the petitioner, the Planning Board shall have the ability to waive any requirements of 185-10(A) or (B) which are not related to the findings I through IV above.

b. Dimensional Standards

- i. A Protected Use ADU shall not be larger than a Gross Floor Area of 900 square feet or ½ the Gross Floor Area of the Principal Dwelling, whichever is smaller.
- ii. A Protected Use ADU on a Lot with a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for the Single-Family Residential Dwelling or accessory structure within the same district, whichever results in more permissive regulation (refer to Chapter 185, Attachment 3 *Height, Area and Yard Requirements Chart*).
- iii. A Protected Use ADU on a Lot with a Principal Dwelling that is not a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for its Principal Dwelling, or Single-Family Residential Dwelling, or accessory structure within the same district, whichever results in more permissive regulation (refer to Chapter 185, Attachment 3 *Height, Area and Yard Requirements Chart*).

c. Off-Street Parking

One (1) off-street parking space must be provided for all Local ADUs and Protected Use ADUs. The required parking space may be in a driveway or a garage.

d. A finding under M.G.L. c 40A §6 shall be required for a Protected Use ADU at:

- i. Any location within the Town where a lawful pre-existing nonconforming primary residential use or structure exists; and/or
- ii. Any zoning district in which a lawful residential use or structure exists but does not allow single-family residential use as-of-right or by Special Permit;

(3) Special Permit for Local ADUs

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The Planning Board may grant a Special Permit authorizing the installation of a second ADU, classified as a Local ADU, on a qualifying property according to the following circumstances and if the criteria set forth in Chapter 185, §9 of the Zoning Bylaw of the Town of Southwick, Massachusetts and following conditions are met:

- a. Local ADUs may be allowed by a Special Permit with Site Plan Approval at any location within the Town where a Protected Use ADU may be permitted.
 - b. Local ADUs shall conform to the same Dimensional Standards as Protected Use ADUs.
 - c. Only one (1) Local ADU may be permitted on a Lot.
 - d. The Local ADU should minimize grade changes and tree, vegetation, and soil removal.
 - e. The architectural style of the Local ADU should be compatible with the existing principal dwelling on the subject property.
 - f. At least one (1) off-street parking space must be provided for a Local ADU. In its determination of off-street parking adequacy for the use, the Planning Board may require the provision of additional off-street parking spaces beyond the minimum one (1) parking space, which shall be based on the number of bedrooms in the Local ADU and may be as many as one parking space per bedroom.
 - g. The site shall be designed to include adequate buffering or screening to mitigate unsightly visual impacts to adjacent properties.
 - h. As determined by the Health Agent, the site and Local ADU are to be served with adequate water and sanitary sewerage services.
 - i. The design of the site shall provide adequate access for emergency vehicles and services.
- (4) Special Permit for Multiple ADUs on a Lot
- a. Only one (1) ADU is allowed as a matter of right on any qualifying property. A second ADU on any qualifying property shall require a Special Permit from the Planning Board and shall be classified as a Local ADU.
- (5) Nonconformance
- a. A Protected Use ADU shall be permitted within, or on a Lot with, a Pre-Existing Nonconforming Structure so long as the Protected Use ADU can be developed in conformance with the Building Code, 760 CMR 71.00, and state law.
 - b. An application for a Protected Use ADU at a pre-existing nonconforming structure or nonconforming residential use will require a finding under M.G.L. c 40A §6 that the extension or alteration of the pre-existing nonconforming structure and/or nonconforming residential use is not substantially more detrimental than the existing nonconforming use and/or structure to the neighborhood, and shall be made by the Special Permit Granting Authority in an as-of-right process, including Site Plan Review, without requiring another Special Permit or other discretionary waiver.

Or take any other action relative thereto.

PASSED-DECLARED TWO THIRDS
Two Thirds Majority Required