



TOWN OF UPTON, MASSACHUSETTS

Planning Board

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Below is the language that has been approved by Special Town Meeting November 2024.

ARTICLE 27: ZONING BYLAW AMENDMENT – SECTION 300-7.6 ACCESSORY DWELLING UNITS & SECTION 300-10.1 DEFINITIONS AND WORD USAGE

§300-10.1 Definitions and word usage.

ACCESSORY DWELLING UNIT

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: (i) 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; (ii) is not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet, whichever is smaller; and (iii) 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.

§ 300-7.6. Accessory Dwelling Units

- A. Purpose and intent. The intent of permitting Accessory Dwelling Units is to develop housing units in the residential zoning districts that are appropriate for households at a variety of life cycle stages.
- B. Use Allowed by Right or By Special Permit
 - (1) Accessory Dwelling Unit By Right: Accessory Dwelling Units which meet the requirements of the definition as stated in Section 300-10.1 of this bylaw, M.G.L Chapter 40A, Section 1A, and M.G.L Chapter 40A, Section 3, shall be allowed by-right in residential zoning districts
 - (2) Accessory Dwelling Unit by Special Permit- Accessory Dwelling Units that exceed the size requirements set forth in the definition in Section 300-10.1 may only be allowed in the AR, SR-A, SR-B, SR-C, and SR-D residential zoning districts through the grant of special permit from the Zoning Board of Appeals in accordance with the

special permit process as set forth in this section, 300-7.6C and 300-7.6D as well as § 300-9.3 of this Zoning Bylaw. For more than one (1) accessory dwelling unit, or rental thereof, on a lot in the AR, SR-A, SR-B, SR-C, and SR-D residential zoning districts, there shall be a special permit for the use of land or structures for an accessory dwelling unit.

- (3) Accessory Dwelling Unit not located in a Residential Zone. Accessory Dwelling Units as defined in a Section 300-10.1 may be allowed in nonresidential zoning districts UCBD, through the grant of a special permit by the Zoning Board of Appeals in accordance with the special permit process as set forth in this section, 300-7.6C and 300-7.6D, as well as § 300-9.3 of this Zoning Bylaw.

C. Special Permit Procedures

- (1) Applications shall be filed in accordance with the Rules and Regulations of the Zoning Board of Appeals. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Zoning Board of Appeals.
- (2) The Zoning Board of Appeals shall hold a public hearing as required by MGL c. 40A, § 11.
- (3) The Zoning Board of Appeals shall file its decision with the Town Clerk as required by MGL c. 40A, §9
- (4) The special permit decision may be appealed pursuant to MGL c. 40A, § 17, and filed within 20 days after the date the decision notice was filed with the Town Clerk.
- (5) No special permit, or any extension, modification, or renewal thereof, can take effect until a copy of the decision bearing the certification of the Town Clerk is recorded in the Registry of Deeds.
- (6) The special permit shall lapse if a substantial use thereunder has not begun within 24 months following the filing of the special permit approval with the Town Clerk; provided, however, if before the expiration of the 24 months, the Zoning Board of Appeals finds that there is good cause for such lack of substantial use, the Zoning Board of Appeals may extend the permit.

D. Special Permit Criteria. The Zoning Board of Appeals may grant a special permit for an accessory dwelling unit if it determines that all the requirements set forth in this bylaw have been met and such use will not be detrimental to the public good. The determination shall include consideration of each of the following criteria:

- (1) Plans. A plot plan of the existing dwelling unit and proposed Accessory Dwelling Unit shall be submitted to the SPGA showing the location of the building on the lot, the proposed Accessory Dwelling Unit, location of any septic system and the required parking.
- (2) Physical size. The Accessory Dwelling Unit shall not exceed fifty percent (50%) of the total gross living area of the primary dwelling.

- (3) Number of units. More than one Accessory Dwelling Unit may be established on a lot by grant of a Special permit by the Zoning Board of Appeals pursuant to M.G.L Chapter 40A, Section 3. No more than two (2) Accessory Dwelling Units shall be permitted on a lot.
- (4) Services. The Board of Health may issue a recommendation as to the suitability of the disposal of sewage, waste and drainage generated by the occupancy of the - Accessory Dwelling Unit. In addition, no special permit shall be granted without a condition that the - Accessory Dwelling Unit shall conform to the provisions of Title V of the Sanitary Code, 310 CMR 15.00.
- (5) Building exterior. The external appearance of the building in which the Accessory Dwelling Unit is to be located shall not be significantly altered from the appearance of a single-family building. All stairways to upper floors shall be enclosed within the exterior wall of the building. There shall be no enlargement or extension of the building except for the - Accessory Dwelling Unit itself and minimal additions necessary to comply with building, safety or health codes, handicap accessibility (if needed), or the enclosure of an entryway or stairway. Any new exterior entrance shall be located on the side or rear of the building.
- (6) Off-street parking. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking space for the Accessory Dwelling Unit, except for Accessory Dwelling Units located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal, or bus station, which shall not require an additional parking space. No parking spaces shall be located within the boundary of a street right-of-way. In no case shall parking spaces which are more than two spaces deep be considered in computing the required number of parking spaces. Said parking space(s) shall be constructed of materials similar to the existing driveway and shall have vehicular access to the driveway.

E. Decision. Special permits for an - Accessory Dwelling Unit may be granted by the SPGA upon a finding that the construction and occupancy of an apartment will not be detrimental to the neighborhood in which the subject property is located and after consideration of all criteria set forth in this bylaw section as well as § 300-9.3 of this Zoning Bylaw.

F. Conditions. Accessory Dwelling Units shall be subject to the following conditions in addition to any other conditions that may be provided for in the special permit:

- (1) The ownership of an Accessory Dwelling Unit dwelling unit shall not be conveyed or otherwise transferred separately from the principal dwelling.
- (2) The applicant for a special permit shall file with the Zoning Board of Appeals such plans, specifications and other information concerning the unit and its proposed use as the Board may require by general rule or request to the applicant.

(3) Except as provided herein, all requirements of the Town's Zoning districts for which the Accessory Dwelling Unit is located will apply as provided in the Town of Upton Zoning Bylaw.

G. Grandfathering. Accessory Dwelling Units permitted or allowed by special permit at the time of adoption of this bylaw section are exempt from these provisions.