

**ACCESSORY RESIDENTIAL USE  
MODEL BYLAW  
June 2002**

**COMMENTS**

**I. Introduction**

Accessory apartments shall be permitted in all districts [note 1] as noted in the Table of Use Regulations only upon a Special Permit from the Special Permit Granting Authority [note 2] and in accordance with the additional requirements specified herein.

**II. General Description [note 3]**

An accessory apartment shall mean a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is contained within the structure of a single-family dwelling, but functions as a separate unit. An accessory apartment shall have not more than one bedroom. It shall be contained within an existing single-family dwelling, or if added to the exterior of a single-family dwelling, shall be designed to maintain the appearance of a single-family dwelling with a separate entrance located on the side or rear of the building.

**III. Purpose**

The purposes [note 4] of the accessory apartment bylaw are to:

- a. Provide older homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- b. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;
- c. Make housing units available to low and moderate income households which might otherwise have difficulty finding homes within the town;
- d. Protect stability, property values and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw; and
- e. Legalize conversion to encourage compliance with the State Building Code.

**IV. Standards and Requirements**

The SPGA may authorize a Special Permit for a use known as a Accessory Apartment in an Owner-Occupied, Single-Family Dwelling, provided the following standards and requirements are met:

1. The Town should determine if Accessory Apartments will be allowed in all zoning districts or just specific zones and either by right or by special permit.
2. The Town must specify whether the Planning Board, Zoning Board of Appeals or Select Board will act as the Special Permit Granting Authority (SPGA).
3. Either include a general description in the bylaw section or in the Zoning Bylaw's definition section.
4. The Purpose section should be customized to reflect the Town's goals as outlined in any recent comprehensive plan.

- a. The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit [note 5].
- b. Only one apartment will be created within a single-family house.
- c. The lot on which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.
- d. The owner of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises [note 6].
- e. The accessory apartment shall be designed so that the appearance of the building remains that of a single-family residence as much as feasibly possible. In general, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform with the single-family character of the neighborhood.
- f. All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling, to the extent feasible.
- g. There shall be no enlargements or extensions of the dwelling in connection with any accessory apartment except for minimal additions necessary to comply with building, safety or health codes, or for enclosure of an entryway, or for enclosure of a stairway to a second or third story.
- h. An addition to the original building is permitted, provided that the addition does not increase the floor area or volume of the original building by more than ten (10) percent [note 7] and the addition will not alter the character of the building.
- i. The accessory apartment shall be clearly a subordinate part of the single-family dwelling. It shall not have more than one (1) bedroom [note 8].
- j. At least two off-street parking spaces per dwelling unit shall be available for use by the owner-occupant(s) and tenant(s). Parking spaces shall be located to the side or rear of the structure, to the extent feasible.
- k. The Health Officer shall certify [note 9] that the means of water supply and sanitary disposal shall be adequate to support both dwelling units [note 10].
- l. The construction of any accessory apartment must be in conformity with the State Building Code requirements.

**V. Application Procedure**

- 1. The procedure for the submission and approval of a Special Permit by the SPGA for an Accessory Apartment in an Owner-Occupied,

5. The units may share some items such as heat, water, sewer, electricity, etc.

6. These criteria continue to stress that an accessory apartment use is *Incidental* to the primary use as a single-family dwelling unit.

7. The Town should determine what is an appropriate allowed percent or total square feet increase based on the character of their community.

8. The Town should determine the total number of bedrooms to be allowed.

9. Evidence of the Board of Health's certification must accompany any special permit or building permit application.

10. The Town may restrict accessory apartments to only those single-family dwelling units that are served by municipal sewer and water.

Single-Family Dwelling shall be the same as prescribed in the Special Permit section of this bylaw, except it shall include a notarized letter of application from the owner(s) stating that he/they will occupy one of the dwelling units on the premises.

2. A non-refundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application. The applicant shall be responsible for the costs of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, §11 must be notified.
3. In order to provide for the development of housing units for disabled and handicapped individuals, the SPGA will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

#### **VI. Special Permit for Pre-Existing Non-Conforming Unit**

1. Upon presentation of evidence of construction prior to [date of the first publication of notice of the public hearing of the new zoning bylaw], the owner may apply to the SPGA for a special permit for maintenance of a pre-existing non-conforming apartment unit [note 11].
2. The SPGA shall ordinarily grant a special permit for the existing non-complying second dwelling unit unless specific evidence is submitted supporting any claim that the unit has caused a deterioration of the single-family neighborhood or has caused any other substantial detrimental effect on the public welfare and convenience. In weighing such claims and evidence, the SPGA shall consider whether any changes required to bring the second dwelling unit into compliance are sufficient to counteract any prior negative impact.
3. In granting a special permit, the SPGA may impose such additional conditions as it may deem necessary to protect the single-family appearance of the dwelling, and to bring the dwelling as close to conformity with the conditions and requirements for new accessory apartments, as is feasible.
4. If a special permit is granted and corrective changes are required, they must be completed within 90 days of the date of granting the permit. When required changes are completed, the Building Inspector will issue a certificate of occupancy.
5. If a special permit is denied, the second dwelling unit shall be terminated within one year of the date of the denial.

11. A zoning ordinance or bylaw shall not apply to structures or uses *lawfully* in existence or *lawfully* begun, or to a building or special permit issued before the first publication of a notice of the public hearing to adopt new or amendments to such zoning ordinance or bylaw.