

DRAFT – FOR DISCUSSION PURPOSES ONLY

Note: The text marked in red in this draft diverges from the Commonwealth's Housing Choice provisions. Housing Choice is a recently adopted state-wide initiative intended to support housing production by modifying the vote needed to pass certain zoning amendments from a two-thirds majority vote to a simple majority vote. The provisions in the red text will be considered separately from the remainder of the proposed ADU ordinance and will require a two-thirds majority vote to pass.

Proposed Accessory Dwelling Unit Zoning Amendment

Chapter 240: Zoning

ARTICLE XIV: Amendment; Definitions, Moratorium

240-128 Definitions

ACCESSORY DWELLING UNIT (ADU): An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain 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. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller, *[unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage.]*

DWELLING UNIT (NEW)

Complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING, SINGLE-FAMILY (REVISED)

A detached residential building designed for and occupied by a single family and providing complete independent living facilities for one or more persons.

ARTICLE V: Accessory Uses

240-47.2: Accessory Dwelling Units (ADUs)

A. Purpose and Intent.

The intent of permitting Accessory Dwelling Units is to:

- (1) Increase the number of dwelling units available for year-round rental in Town while remaining within our current wastewater capacity limitations;
- (2) Adapt single-family residential properties so they are supportive of residents at a variety of stages in their life cycle;
- (3) Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and
- (4) Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
- (5) Provide homeowners with a means of obtaining rental income to defray housing costs.

B. Procedural Requirements

- (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful single family dwelling use, except that no ADU shall be permitted on a lot at the same time as a family apartment exists on that lot pursuant to § 240-47-1.
- (2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new building and improvements on a lot associated with a proposed ADU.
- (3) The construction of any accessory dwelling unit must be in conformity with the Federal, State, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.

C. Use and Dimensional Requirements

The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

- (1) No more than one (1) ADU may be created per lot. This provision is not subject to variance.
- (2) If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.

- (3) An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property. Any addition or new construction shall be consistent in design with the principal single family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials. Any person aggrieved by the determination of a Town official with respect to a determination under this subsection may appeal said determination to the Zoning Board of Appeals.
- (4) The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms [and/or a maximum habitable floor area greater than 900 square feet] may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.
- (5) Occupancy of the ADU shall not exceed two persons; occupancy limitations shall not apply to children ages 18 and under. Occupancy of an ADU by more than two persons over the age of 18 may be permitted by special permit from the Zoning Board of Appeals.
- (6) Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.
- (7) All parking for the ADU shall be off street.
- (8) The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit.
- (9) The rights and requirements of this ordinance hereby transfer upon the sale of a property containing an ADU built under the provisions of this ordinance.
- (10) An ADU and the principal dwelling to which it is accessory may be rented only in accordance with the terms of this section.
- (11) An ADU shall be used only as a rental, except that the owner of the property may reside in the ADU while renting the principal dwelling. The rental period for an ADU and for a principal dwelling shall not be shorter than 12 consecutive months. Both the ADU and the principal dwelling may be rented concurrently.
- (12) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.