

## ARTICLE XII – SPECIAL PERMITS AND CONDITIONS

### 12.4 § I. ACCESSORY DWELLING UNITS

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#### GENERAL REQUIREMENTS

##### 1) Purpose

The purpose of this Bylaw is to enable owner occupants of single family homes to provide:

- a. Safe, decent, and affordable housing that meets the changing needs of the Saugus community while protecting the character and property values of the Town’s single-family residential neighborhoods.
- b. An opportunity for family members who choose to live in proximity, but separate from other family members;
- c. Homeowners with a means of obtaining rental income, companionship, and/or security, thereby enabling them to remain more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- d. Housing for persons with disabilities;
- e. Affordable rental property in the Town of Saugus that meets the regulations of M.G.L. Chapter 40B, § 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

This Bylaw shall achieve these goals by providing owner-occupants of single-family homes with the option of creating two categories of Accessory Dwelling Units: family units and affordable units.

##### 2) Definitions

###### a. Accessory Dwelling Unit

An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling, (not within accessory structures in accordance with this By-law) that is clearly a subordinate part of the single-family dwelling and complies with the criteria stated in the following subsections.

###### b. Deed-Restricted Accessory-Dwelling Units (Affordable)

An Accessory Dwelling Unit designated for households earning at or below 80% of the Area Median Income for the Boston MSA, carrying a deed-restriction ensuring the unit’s affordability to said households using affirmative marketing and outreach to households in need following

M.G.L. Chapter 40B, 20-23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

**c. Family Accessory Dwelling Unit**

For the purposes of carrying out the intent of this by-law, family accessory dwelling units shall be designated for one or more persons related to the primary owner-occupant, specifically: parents, grandparents, children and their respective spouses, grandchildren, siblings, nieces, nephews, aunts, and uncles.

**d. Primary Residence**

A dwelling where the owner-occupant has a true, fixed, and permanent home and principal establishment, and occupies it for a major portion of a calendar year, except for bona-fide temporary absences.

**3) Applicability**

An accessory dwelling unit shall be permitted in the Residential A - Single Family R-1 and Residential B - Single Family R-2 districts only when added to an existing dwelling unit and does not increase the existing building footprint. All accessory dwelling units shall meet the same criteria, except relative to those with restrictions under M.G.L. Chapter 40B§ 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

**PROCEDURES**

**1) Use and Dimensional Regulations for both Family and Deed-Restricted Accessory Dwelling Units**

- a. Accessory Dwelling Units, both Family and Deed-Restricted, created under this by-law shall require a special permit from the Board of Appeals.
- b. The Board of Appeals may issue a special permit authorizing the installation and use of an accessory dwelling unit within existing owner occupied dwelling units when the following conditions are met:
  - i. The unit will be a complete, separate housekeeping unit containing both a kitchen and bath.
  - ii. Only one (1) accessory dwelling may be created within a dwelling.
  - iii. The lot on which the accessory dwelling unit is located shall have a minimum lot size of 10,000 square feet.

- iv. The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.
- v. The accessory dwelling must be designed so that the appearance of the building remains unchanged, and there shall be no change to the front façade of the dwelling. Unless otherwise required by the State Building Code, any new exterior stairs needed to provide primary or secondary means of egress for the accessory dwelling unit shall be located on the side or rear of the building.
- vi. The gross floor area of an accessory unit shall not be greater than nine hundred (900) square feet or thirty-three (33) percent of the total square footage of the primary dwelling unit, whichever is greater. The unit may not be enlarged beyond the square footage allowed by this Bylaw unless the Board of Appeals, after making findings of fact that support the decision, approve modifications that will not exceed the use and dimensional regulations of this by-law by more than ten (10) percent.
- vii. An accessory dwelling unit may not be occupied by more than three (3) people nor have more than two (2) bedrooms.
- viii. 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 Bylaws and regulations.
- ix. Off-street parking spaces shall be available for use by the owner-occupant(s) and tenants. Two private off-street parking spaces shall be available for use by occupants of the accessory dwelling.
- x. In order to encourage the development of housing units for disabled individuals and persons with limited mobility, the Board of Appeals may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility.

## **2) Family Accessory Dwelling Units**

In addition to Section 1) above, family accessory dwelling units shall comply with the following:

- a. Upon filing an application for a special permit, the owner-occupants of single-family dwelling units shall also submit a signed affidavit denoting familial status with the Board of Appeals.

- b. The owner-occupant shall annually re-certify the status of occupants and family status with the Building Inspector. The property owner shall be required to notify the Building Inspector of a change of tenants at any time during the twelve-month period within thirty calendar days of said change.
- c. The use shall lapse in the event of changed or transferred ownership of the primary unit and the owner shall record with the Registry of Deeds a notice of cancellation of the special permit.

**3) Deed-Restricted Accessory-Dwelling Units**

The purpose of this section is to satisfy an immediate need for more rental housing units in the Town of Saugus that meets the regulations of the M.G.L. Chapter 40B, § 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments and provides a means of renting accessory apartments that are not used for family members.

- a. All affordable Accessory Dwelling Units shall comply with Section 1 Use and Dimensional Regulations.
- b. A special permit from the Board of Appeals shall be required for an Affordable Accessory Unit. The applicant shall show to the satisfaction of the Board of Appeals that the applicant has complied with or will comply with the requirements set forth in (c), below.
- c. Applicants will be required to demonstrate to the satisfaction of the Zoning Board of Appeals compliance with all requirements set forth in M.G.L. Chapter 40B, § 20 to 23 and 760 CMR 56.00, Local Initiative Program for Accessory Apartments during the special permit process, including:
  - i. Execution by the owner(s) of a Regulatory Agreement for Affordable Accessory Apartment Projects and a declaration of restrictive covenants.
  - ii. Said regulatory agreement and declaration of restrictive covenants shall further provide that for as long as the special permit remains in effect, the property shall be subject to the terms, conditions and restrictive covenants contained therein.
  - iii. Said regulatory agreement with the Town shall provide that upon receipt by the owner(s) of a special permit from the Board of Appeals, the owner(s) shall execute and record in the Essex South District Registry of Deeds or file with the Registry District of the Land Court forthwith said regulatory agreement and declaration of covenants.

- iv. Said regulatory agreement with the Town shall provide that the lease may be terminated at anytime, but in all cases the owner must provide an existing tenant at least 60 (sixty) days prior written notice that a lease will not be renewed. If the owner desires to terminate the special permit, the owner shall give written notice to the Board of Appeals and shall file a notice of cancellation with the Registry of Deeds or Land Court.

#### **4) Administration and Enforcement**

The Town Manager shall appoint a Local Project Administrator to administer Affordable Accessory Dwelling Units (deed-restricted) as required by 760 CMR 56.00, Local Initiative Program for Accessory Apartments.

It shall be the duty of the Building Inspector to enforce the provisions of this Bylaw for both family and affordable (deed-restricted) accessory dwelling units as follows:

- a. No building shall be constructed or changed in use or configuration until the Building Inspector has issued a permit. No accessory dwelling unit shall be occupied until a certificate of occupancy has been issued by the Building Inspector where required.
- b. The Building Inspector shall refuse to issue any permit, which would result in a violation of any provision of this by-law or in violation of the conditions or terms of any Special Permit or variance granted by the Zoning Board of Appeals or its agent.
- c. Construction or use according to a building permit or special permit shall conform to any subsequent amendment of this section unless the construction or use is begun within a period of not more than six (6) months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.
- d. The primary homeowner unit must remain owner-occupied, continuing to occupy at least one of the dwelling units as their primary residence for a minimum of one hundred eighty-five (185) days per calendar year. Under no circumstance may both the primary and accessory unit be simultaneously occupied by tenants.
- e. There shall be no boarders or lodgers within either the primary dwelling or accessory dwelling unit.

- f.** Any accessory living area without proper documentation recorded and filed with the Town will be subject to fines noted in the Saugus Zoning Bylaw §10.
- g.** The Saugus Zoning Bylaw §10 shall be applied in the event of violations, prosecution of violations, and building fees.
- h.** Appeals shall refer to the procedures in the Saugus Zoning Bylaw §11.4.
- i.** Accessory dwelling units created under this Bylaw shall not be sold separate or apart, as a condominium, from the principal structure to which it is an accessory use.

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