

## Article 11 Zoning Bylaws Amendment: Accessory Dwelling Units

RECOMMENDED that the Town vote to amend Chapter 275 of the General Bylaws, known as the Zoning Bylaw, as follows:

(1) By striking Section 3.2, Subsection A, Paragraph (6),

and

(2) By inserting the following:

### Section xxxx: Accessory Dwelling Units

#### A. Purpose and Intent

The intent of permitting Accessory Dwelling Units (“ADU”) is to:

- (1) Increase the range of housing choices;
- (2) Add dwelling units to meet the needs of smaller households and make dwelling units available to moderate income households who might otherwise have difficulty finding housing;
- (3) Allow dwelling units on single-family residential properties or in single-family districts that are appropriate for households at a variety of stages in life;
- (4) Encourage more economic and energy-efficient use of the Town’s housing supply while maintaining the appearance and character of the Town’s single-family neighborhoods;
- (5) Encourage the reuse of existing accessory structures, which may have historical or cultural significance, or the preservation of which would generally contribute aesthetic value to the landscape, neighborhood, or Town; and
- (6) Provide an opportunity for homeowners who can no longer physically or financially maintain their single-family home to remain in homes they might otherwise be forced to leave.

#### B. Definitions

**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:

- (a) 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 Code for safe egress;
- (b) 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
- (c) is subject to such additional restrictions as contained in the Section.

**Building Code:** The Massachusetts state building code, 780 CMR.

**Bus Station:** A location serving as a point of embarkation for any bus operated by a Transit Authority.

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**Commuter Rail Station:** Any commuter rail station operated by a Transit Authority with year-round service with trains departing at regular time intervals, rather than intermittent, seasonal, or event-based service.

**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.

**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 definition does not include a mobile home trailer, however mounted.

**EOHLC:** The Executive Office of Housing and Livable Communities.

**Fire Code:** The Massachusetts state fire code, 527 CMR 1.00.

**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 GFAS of the largest Principal Dwelling shall be used for determining the maximum size of an ~~Protected Use~~ ADU.

**Historic District.** A district in a Municipality established pursuant to M.G.L. c. 40C or other state law that is characterized by the historic or architectural significance of buildings, structures, and sites, and in which exterior changes to and the construction of buildings and structures are subject to regulations adopted by the Municipality pursuant to M.G.L. c. 40C or other state law.

**Lot.** An area of land with definite boundaries that is used, or available for use, as the site of a building, or buildings.

**Modular Dwelling Unit.** A pre-designed Dwelling Unit assembled and equipped with internal plumbing, electrical or similar systems 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.

**Principal Dwelling.** A structure, regardless of whether it conforms to Zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is located on the same Lot as an ~~Protected Use~~ ADU.

**Short-term Rental.** Short-term rental, as defined in M.G.L. c. 64G, s. 1.

**Single-Family Residential Dwelling.** A structure on a Lot containing not more than one Dwelling Unit.

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**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.

**Site Plan Review.** A process established by local ordinance or by-law by which a Municipal board or authority may review and impose terms and conditions on the appearance and layout of a proposed use of land or structures prior to the issuance of a building permit.

**Transit Station.** A Subway Station, Commuter Rail Station, Ferry Terminal, or Bus Station.

**Zoning District.** A geographic area within the Town which, pursuant to Zoning, is subject to use requirements that are generally uniform throughout the area.

### C. General Conditions and Requirements for all Accessory Dwelling Units:

- (1) An ADU may be a detached unit, a unit that is part of an accessory structure, such as a detached garage, or a unit that is part of a new, remodeled, or expanded primary dwelling, and shall be permitted “by right” in 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, by special permit, variance, waiver, or other zoning relief or discretionary zoning approval.
- (2) There shall be no more than one (1) ADU accessory dwelling unit, either internal or detached, on any lot. ADUs shall not be eligible for zoning dimensional variances proposing to increase the number of allowable ADUs on a lot.
- (3) No ADU shall be separated from the Principal Dwelling through condominium conversion or be held in separate ownership from the Principal Dwelling. Neither the Principal Dwelling nor the ADU shall be sold or otherwise conveyed or transferred separately from the other.
- (4) A detached unit shall meet the dimensional requirements for a Single-Family Residential Dwelling in the Zoning District in which it is located.
- (5) An ADU may be located within an existing Primary Dwelling or an existing accessory structure with non-conforming setbacks, provided that any new construction of floor area complies with the applicable setback standards.
- (6) The Gross Floor Area of an ADU shall not be larger than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller, and shall not be less than 350 square feet. Once an ADU has been added to a primary dwelling or lot, the ADU accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.
- (7) An ADU may not be rented for periods less than twelve (12) six (6) months at a time and is prohibited from being rented on a weekly or daily basis. The ADU shall not be used for boarding and lodging, or other commercial use.
- (8) A property owner granted approval for a Temporary Apartment under Section 275-3.1, Subsection I may, upon written application to the Building Commissioner, request approval of such apartment as an ADU under the provisions of this Section.

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- (9) A minimum of one (1) parking space shall be provided for each ADU located on a Lot that is more than 0.5 mile from a ~~B~~us ~~S~~tation, ~~C~~ommuter ~~R~~ail ~~S~~tation, or trolley stop. The parking required for an ADU is in addition to that required for the Primary Dwelling.
- (10) Utilities such as water, sewer, electricity and gas, for the ADU may be on the same services as the Primary Dwelling subject to the requirements of the authority having jurisdiction and the utility service provider. Utility connections for a detached ADU are subject to the requirements of the authority having jurisdiction and the utility service provider.

### D. Design Standards

- (1) Exterior modifications to a Principal Dwelling or accessory structure, as well as the construction of a new ~~d~~etached ~~U~~nit, ~~shall~~ is encouraged to be architecturally compatible with the Principal Dwelling, including the use of complimentary color palettes, exterior finishes, window types, roof pitch, and other design features.
- (2) Where a driveway or parking space abuts a Principal Dwelling or an ADU, a landscape area with a minimum depth of three (3) feet is encouraged to be provided for the entire length of the driveway and/or parking space.
- (3) Should an additional curb cut be required, it is subject to the requirements of the authority having jurisdiction.
- (4) All stairways to upper stories shall be enclosed within the exterior walls of the building in which the ADU is located.
- (5) The ADU shall have an entrance separate from the entrance to the Principal Dwelling provided that there may be a common entry hall or corridor for separate entrances.
- (6) Pedestrian paths shall be provided from the sidewalk or driveway to the entrance(s) of the Principal Dwelling and the ADU.
- (7) Energy-efficient features and sustainable materials are encouraged, but not required, unless the Building Code, Fire Code, ~~e~~Energy ~~c~~ode, and/or any other applicable code ~~requiring~~ such to be incorporated into the design of the ADU. This could include solar panels, energy-efficient lighting and appliances, high insulation values for the walls, roof, windows and doors, and eco-friendly building materials.

### E. Process and Procedural Requirements

- (1) The Building Commissioner shall administer and enforce the provisions of this Section.
- (2) Creation of an ADU in an expansion of an existing Principal Dwelling or in a detached accessory structure shall require site plan approval by the Planning Board in compliance with the provisions of this Section and provisions of Section 275-12.4 Site Plan Approval.
- (3) Site Plan Approval Submission Requirements:
  - a) A completed application form and a filing fee in an amount determined by the Building Department;
  - b) The existing and proposed square footage of each ~~D~~welling ~~U~~nit;
  - c) The existing and proposed floor layouts of each ~~D~~welling ~~U~~nit to an architectural scale of  $\frac{1}{4}$  inch = 1 foot- 0 inches;

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- d) Exterior elevations of new and existing buildings to an architectural scale of 1/4 inch = 1 foot- 0 inches;
- e) Any proposed changes to the exterior of the existing building;
- f) A site plan showing new and existing buildings, setbacks, parking, drives, grading, drainage, utilities including gas, water, electric, sewer, and septic lines, and landscaping, including existing hardscape and stone walls; and
- g) The site plan shall be prepared by a registered land surveyor.

(4) The Planning Department shall notify the Board of Health of the application for a site plan approval and allow them a reasonable time to inspect and comment upon said application at those Lots with septic systems or wells.

(5) One hard copy of said information and one electronic file of the complete filing shall be submitted to the Planning Department.

### F. Authority of the Board

- (1) The Board may impose reasonable conditions to satisfy compliance with the Design Standards in Section D.
- (2) The decision of the Board shall be by a majority vote of the Board as constituted (i.e., three affirmative votes).

And to authorize the Town Clerk to make clerical revisions to section numbers and headings.

*COMMENT: This Article is seeking an amendment to Chapter 275 of the Town of Milton General Bylaws, known as our Zoning Bylaws. This would remove the current bylaw concerning Accessory Dwelling Units (ADU) and replace that with the recommended language which contains typographical and other changes made by the Warrant Committee which were accepted unanimously by the Planning Board. A majority of the corrections made to the article were typographical in nature, however there were some small language changes giving the article more flexibility.*

*The Affordable Homes Act, signed into law by Governor Healey on August 6, 2024, introduces significant zoning reforms. That law took effect on February 2, 2025. Section 8 of the Act amends the Zoning Act, allowing ADU's, defined as a self-contained unit, inclusive of sleeping, cooking and sanitary facilities, of up to 900 square feet by right in single-family zoning districts. This change enables homeowners to create additional housing without special permits, aiming to increase affordable housing options.*

### *Summary of Commonwealth ADU Regulations*

#### *ADU Restrictions:*

- **Size Limits:** Maximum of 900 sq. ft. or half the gross floor area of the principal dwelling, whichever is smaller.
- **Entrance Requirements:** Must have a separate entrance, either directly outside or through a shared entry hall that meets state building code egress standards.
- **Local Regulations:** Municipalities may add restrictions on short-term rentals.

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### *Municipal Authority on ADUs:*

- **Site Plan Review:** Towns may require a site plan review process.
- **Title V Requirements:** ADUs must comply with septic system (Title V) regulations if applicable.
- **Dimensional & Structural Rules:** Towns may set rules on setbacks, height, and bulk.
- **Short-Term Rental Limits:** Municipalities may regulate or prohibit short-term rentals.

### *Municipal Restrictions Not Allowed:*

- **Owner-Occupancy:** Cannot require the property owner to live on-site.
- **Family-Only Occupancy:** Cannot restrict ADU rentals to family members.
- **Special Permits:** Cannot require special permits or discretionary zoning approvals.
- **Excessive Parking:**
  - **Within 0.5 miles of transit:** No parking required.
  - **Beyond 0.5 miles of transit:** Only one parking space may be required.

*The goal is to streamline ADU construction while allowing municipalities reasonable oversight on what is constructed.*

*The Milton Planning Board and Warrant Committee held a joint meeting to discuss the new ADU law and the Planning Board's recommended conditions:*

### *General Conditions:*

- **Types:** ADUs allowed as detached, in accessory structures, or part of the principal dwelling.
- **Limit:** Only one ADU per lot, no exceptions.
- **Ownership:** ADUs cannot be sold separately from the principal dwelling.
- **Size:** 900 sq. ft. or half the main home's size, whichever is smaller; minimum size allowed is 350 sq. ft.
- **Rental:** Minimum lease of 12 months; no short-term rentals.
- **Parking:** One space required if more than 0.5 miles from transit.
- **Utilities:** Shared utilities with the principal dwelling permitted.

### *Design Standards:*

- **Architecturally Compatible:** ADU style should complement the principal dwelling.
- **Landscaping:** Add a three (3)-foot buffer along driveways or parking spaces.
- **Entrances:** ADUs must have a separate entrance.
- **Walkways:** Provide pathways to both entrances.
- **Stairways:** Must be enclosed within exterior walls of the building where the ADU is located.
- **Sustainability:** Use of eco-friendly features encouraged.

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### *Process and Approval:*

- **Administration and Enforcement: Building Commissioner is responsible.**
- **Approval:** Site plan approval required for expansions or detached ADUs.
- **Submission:** Include floor plans, site plans, and building elevations.
- **Health Review:** Board of Health review required for properties with septic or wells.

### *Board Authority:*

- **Conditions:** The Board may impose design requirements.
- **Voting:** Decisions require a majority (at least three votes).

*The Warrant Committee overwhelming agreed with the ADU Article draft, as amended and subsequently recommended by the Planning Board. The main items that were discussed concerned the Requirement for all ADUs and the design standards. Here, the Warrant Committee discussed with the Planning Board and debated the twelve (12) month lease requirement. Town Counsel stated it did not violate state law, and that the Attorney General's Municipal Law Unit would review compliance of the article as whole, after submission by the Town Clerk. The Warrant Committee favored the lease requirement for promoting community stability and school/neighborhood continuity for children. It was mentioned in the Warrant Committee's discussions that the likely enforcement of ADU regulations will rely on citizen reports to the Building Commissioner. Furthermore, concerns about design standards and compatibility with the Principal Dwelling Unit were changed, using less restrictive language and allowing for more flexibility for the ADU construction.*

*The Executive Office of Housing and Livable Communities (EOHLC) promulgated regulations that provide guidance on how cities and towns may further regulate ADUs. The Planning Board also followed this guidance in crafting the article. The Warrant Committee was informed by Town Counsel that as of the week of February 9, 2025, EOHLC posted a new "draft" ADU bylaw as a guide for any municipality seeking guidance.*

*The Planning Board informed the Warrant Committee that in the drafting of this article, many other towns' ADU bylaws were reviewed and taken into consideration. The language in this Article was approved by Town Counsel but will still be subjected to review for compliance with state law by the Attorney General's Office-Municipal Law Unit.*