

Summary of Proposed Amendment: To establish requirements and regulations for Accessory Dwelling Units, including definition and site plan review.

To further amend Title 12 of the Code of the City of Malden as follows:

1. Section 12.12.030 (Use Regulations). To amend the Table of Use Regulations, to add the following new Residential use categories and regulations:

Zoning District	A	B	C	RO	BN	BC	BH	I1	I2	MEOD
Accessory Dwelling Unit <u>(Attached)</u>	<u>SPR Yes</u>	<u>SPR Yes</u>	<u>SPR Yes</u>	<u>SPR Yes</u>	<u>SPR Yes</u>	No	No	No	No	-
<u>Accessory Dwelling Unit (Detached)</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>-</u>
Accessory Dwelling Unit (second or subsequent ADU)	SP	SP	SP	SP	SP	No	No	No	No	-

2. Section 12.16.010 (Table of Intensity Regulations). To amend to add the following:

	Area SF	Frontage	Front	Side	Both sides	Rear	Min Usable Open Space	Coverage Principal Building	Coverage Accessory Building	Density	Max. height
Accessory Dwelling Unit (Any/all)	<u>7,500</u> <u>5,000</u>	50'	10'	10' <u>or existing per side, whichever is lesser</u>	20' <u>or existing per side, whichever is lesser</u>	<u>20'</u> <u>15'</u>	1,000	<u>30%</u> <u>40% or existing whichever is greater</u>	<u>30%</u> <u>40% #</u>	-	2 ½ stories <u>but no more than 30' or existing height measured by the highest point of the principal dwelling</u>

*# provided that coverage for an accessory building used as an Accessory Dwelling Unit shall be no greater than 900 square feet.*

3. Section 12.20.010 (Table of Offstreet Parking and Loading Regulations). To amend to add the following:

	Minimum Number of Parking Spaces	Minimum Number of Loading Bays/spaces
Accessory Dwelling Unit	MCC, Section 12.32.030.D.7	0

4. New Section 12.32.030.D (Administration, Certificates and Permits): To amend to add Site Plan Review for Accessory Dwelling Units.

Section 12.32.030.D. Site Plan Review for **Detached** Accessory Dwelling Units:

1. Purpose and Intent.

The purpose of this section is to provide for site plan review of **Detached** Accessory Dwelling Units ~~(ADU)~~ protected by M.G.L.A. c. 40A, § 3. **Attached Accessory Dwelling Units are not required to go through the site plan review process and are allowed by right.**

The intent of this ordinance is to address the potential impacts that the addition of an Accessory Dwelling Unit to a property may have on the surrounding neighborhood and adjacent residences, including but not limited to impacts related to health, safety, density, congestion, nuisance and parking; and to comply with M.G.L. c.40 A, Section 3, the ~~so-called~~, “Affordable Homes Act.”

2. Applicability.

A. Prior to the issuance of any building permit or certificate of occupancy, the establishment, alteration, change, extension, or reconstruction of any **Detached** Accessory Dwelling Unit, a Site Plan Review and Site Plan Approval from the Site Plan Review Committee shall be required pursuant to this section, except where a special permit is required under this ordinance (Special Permits for Accessory Dwelling Units).

**B.** The Building Commissioner as Zoning Enforcement Officer shall determine whether a unit is an Accessory Dwelling Unit. This determination may be appealed to the Board of Appeal as an administrative appeal under this ordinance.

**B.C.** **Attached Accessory Dwelling Units are not required to go through the site plan review process and are allowed by right.**

3. Scope of Site Plan Review. Under this section, site plan review shall be limited to this inquiry:

**A.** What reasonable regulations concerning the bulk and height of structures as well as determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, if any, should be imposed on the use.

**A.B.** **The site plan review committee shall be empowered to grant zoning relief where appropriate.**

4. General.

A. Any Accessory Dwelling Unit shall conform to all requirements and comply with all regulations of this ordinance.

~~B. There shall be no variance of any provision of this section.~~

~~C.B.~~ Short-term rental of an Accessory Dwelling Unit is prohibited **pursuant to [INSERT].**

~~D.~~ Any Accessory Dwelling Unit shall conform to the Building, Fire and Sanitary Codes and written proof of compliance shall be provided prior to **issuance of a occupancy permit.**  
~~beginning the Site Plan Review process.~~

**E.C.** **The provisions of Section 12.28.010 (Nonconforming Uses, Lots, Buildings and Structures) of this ordinance shall not apply to Accessory Dwelling Units.**

**F.D.** **If the establishment of an Accessory Dwelling Unit creates a violation of dimensional controls and/or parking requirements for the principal dwelling, i.e., eliminates open space or parking required for the existing dwelling, the violation shall require a variance.**

5. Design Standards.

- A. Siting and location. An Accessory Dwelling Unit may be allowed only on a property that contains a building with at least one ~~single-family residential~~ dwelling unit.
  - B. Relationship to principal dwelling. An Accessory Dwelling Unit may be located in the same building as the principal dwelling, in an addition to the same building as the principal dwelling, or in a building detached from the building where the principal dwelling is located.
  - C. Dimensional requirements. Any Accessory Dwelling Unit shall not be regulated by the requirements of Section 12.16.010 of this ordinance for single-family residential dwelling use, including an Accessory Dwelling Unit located in a detached structure or building. Section 12.16.070.G shall ~~not~~ apply to an Accessory Dwelling Unit in a detached structure or building.
  - D. Any expansion of a building's footprint or addition to an existing principal dwelling for an Accessory Dwelling Unit shall may not comply with all dimensional controls ~~and shall be limited to that required to provide access/egress pursuant to the Building Code.~~
  - E. Size. The maximum size of an Accessory Dwelling Unit is 900 square feet or half the size of ~~the smallest existing dwelling unit in~~ gross floor area of the principal dwelling, whichever is ~~greater~~ lesser.
  - F. Layout. The maximum number of kitchens in an Accessory Dwelling Unit is one.
  - G. Open space. Required open space shall be provided for an Accessory Dwelling Unit, in conformance with the Minimum Usable Open Space Requirements of this ordinance.
6. Parking requirements.
- A. For property that is within one-half (1/2) mile of the MBTA Oak Grove Station or Malden Center Station or Bus Station, no parking space shall be required for an Accessory Dwelling Unit.
  - B. For property located more than one-half (1/2) mile from the MBTA Oak Grove Station or MBTA Malden Center Station or Bus Station, one parking space onsite shall be required for the accessory dwelling unit, in conformance with the parking requirements of this Ordinance, including but not limited to, dimensions, aisles, grades.
  - C. Distance shall be measured from property line to property line.
  - D. Bus Station as used herein is defined to be a location serving as a point of embarkation for any bus operated by the Massachusetts Bay Transportation Authority established by M.G.L. c. 161A, s. 2 or other local or regional transit authority established pursuant to M.G.L. c. 161B, s. 3 or M.G.L., c. 161B, s. 14.
7. Submission requirements. All applications for site plan review shall be in writing and provide the following:
- A. Site plan. A site plan, prepared by a registered architect, landscape architect, or professional engineer, with the following information:
    - 1) Scale and north point
    - 2) Name and address of applicant
    - 3) Total land area of the site and boundaries of the site
    - 4) Locus plan
    - 5) Present and proposed use of the land and existing buildings, if any
    - 6) Location and use of structures within 100 feet of property line
    - 7) Locations, elevations, and dimensions of existing and proposed building(s) or other structures, showing setback(s) from property lines
    - 8) Locations and dimensions of any easement and public or private rights-of-way, existing or proposed
    - 9) Wetlands, ponds and surface water bodies, as defined under the Wetlands Protection Act, M.G.L. c. 131, § 40, and rules promulgated therein, 310 CMR 10.00

- 10) Existing proposed contour elevations in one foot increments
  - 11) Proposed surfacing
  - 12) Parking and loading areas
  - 13) Driveways and access to site; and evidence of the ability of site to handle emergency vehicles
  - 14) Facilities for vehicular and pedestrian circulation
  - 15) Locations of existing and proposed on-site public utilities and facilities (water, sewerage, and drainage) showing size and direction of flows
  - 16) Landscaping and screening, including trees, stone walls, fences and other features to be retained or removed
  - 17) Outdoor lighting, including location and intensity of lighting facilities
  - 18) Signs, proposed and existing
  - 19) Location and significance of historic structures. B. The information requested below:
    - 1) Name and address of applicant person or entity;
    - 2) Name and address of property owner;
    - 3) Description of the proposed use and any documents necessary to establish threshold compliance with M.G.L. c. 40A, § 3; and
    - 4) Reason that relief is requested from otherwise applicable zoning requirements.
  - C. If necessary to reach a decision on the application, the SPRC may request further information from the applicant consistent with M.G.L.A. c. 40A, § 3, specifying in detail the information required.
8. Site Plan Review Committee.
- A. Composition: The Site Plan Review Committee for Accessory Dwelling Units (SPRC ADU) shall have the following three members:
- A City Councilor designated by the City Council President.
  - Director of Public Health (or designee)
  - Director of OSPCD or designee (designee shall be member of OSPD staff)
- B. Quorum. All members of the Committee are required to conduct any business.
9. Public Hearing. The SPRC ADU shall conduct a public hearing in accordance with M.G.L. c. 40A, § 11 and the notice provisions of this ordinance.
10. Decision. The SPRC ADU may approve, approve with conditions, or deny an application for site plan approval; provided, however, that any denial of an application shall be predicated only upon applicant's failure to provide necessary information. In making its decision, the SPRC ADU shall be guided exclusively by M.G.L. c. 40A, § 3.
- The SPRC ADU shall file a written decision with the city clerk within 90 days of the close of the public hearing.
- Failure to file a decision within said 90-day period shall constitute approval of the site plan.
11. Appeal. Any appeal of the SPRC ADU's decision under this section shall be made pursuant to M.G.L. c. 40A, § 17, to a court of competent jurisdiction.
12. Severability. If any provision of this ordinance is deemed to be invalid because contrary to regulations that may be promulgated by the state Executive Office of Housing and Livable Communities, all other provisions will remain in full force and effect.

5. New Section 12.32.030.E (Administration, Certificates and Permits): To amend to add Special Permit for Accessory Dwelling Units.

Section 12.32.030.E Special Permit for Accessory Dwelling Units:

A special permit shall be required for the use of land or structures for an ADU on a lot in which an ADU is already located and an additional ADU may be allowed only by special permit granted by the Planning Board in conformance with the following requirements and controls:

1. For construction of new buildings, compliance with the dimensional controls and parking requirements of this Ordinance. A variance shall be required to grant relief from any noncompliance with dimensional controls and parking requirements of this Ordinance.
2. For the addition of a residential use to a lawfully existing building, or for alteration, conversion or other change to a residential use, which was lawfully existing or begun prior to the first publication of notice of the public hearing on this amendment, the Planning Board must make a finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood; and if the Planning Board makes the finding that any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood, then any new or increased violations of dimensional controls or parking requirements may be allowed by special permit and shall not require a variance.
3. The Planning Board must find that the residential use is in the interest of the common good.

6. Section 12.32.060 (Definitions): To add the following definition for Accessory Dwelling Unit.

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 smallest unit in the principal dwelling or 900 square feet, whichever is smaller; (iii) that may not be used for Short Term Rental as defined by this ordinance and section 1 of M.G.L. Chapter 64G; and (iv) that conforms to the requirements and regulations of Site Plan Review of this ordinance.

7. Section 12.28.010 (Nonconforming Uses, Lots, Buildings and Structures). To amend to add the following new subsection:

~~K. The provisions of this section shall not apply to Accessory Dwelling Units.~~