

Malden, Massachusetts

Date: January 31, 2025

His Honor the Mayor has approved Paper # 13 Series of 2025

Below is a true attest copy of same:

Be it ordained by the Malden City Council that the Code of the City of Malden (MCC) Title 12 ZONING is hereby amended to establish requirements and regulations for Accessory Dwelling Units, including definitions and the establishment of Site Plan Review Committee for Accessory Dwelling Units (SPRC ADU) by amending Chapters and Sections 12.030, 16.010, 20.010, 32.060 and by adding new Subsections 12.28.010(K) and 32.030(D)

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	SPR	SPR	SPR	SPR	SPR	No	No	No	No	-
Accessory Dwelling Unit (more than one, second or subsequent ADU)	No	No	No	No	No	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)	See MCC Section 12.32.030.D.5										

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 Accessory Dwelling Units:

1. **Purpose and Intent.**
The purpose of this section is to provide for site plan review of Accessory Dwelling Units (ADU) protected by M.G.L. c. 40A, § 3.
The intent of this ordinance is to protect the health, safety and general welfare of the City's present and future inhabitants and to address the potential impacts that the addition of an Accessory Dwelling Unit to a property may have on the principal dwelling, surrounding neighborhood, and adjacent residences, including, but not limited to, impacts related to density, congestion, nuisance and parking; and to comply with M.G.L. c.40 A, Section 3, the "Affordable Homes Act."
2. **Applicability.**
 - A. Prior to the issuance of any building permit or certificate of occupancy for any Accessory Dwelling Unit, a Site Plan Review and Site Plan Approval from the Site Plan Review Committee shall be required pursuant to this section. Site plan review is part of the building permit application and there shall be no additional fee for the site plan review.
 - B. The Building Commissioner as Zoning Enforcement Officer shall determine whether a unit is an Accessory Dwelling Unit.
3. **Scope of Site Plan Review.** Under this section, site plan review shall be limited to this inquiry:
Through site plan review, the City may review and impose reasonable terms and conditions on, the appearance and layout of a proposed use of land or structures for an ADU prior to the issuance of a building permit; and may consider what reasonable requirements concerning dimensional standards, such as, dimensional setbacks, lot coverage, open space, bulk, height and number of stories of the structure, if any, should be imposed on the use.
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. Short-term rental of an Accessory Dwelling Unit is prohibited.
 - D. The provisions of Section 12.28.010 (Nonconforming Uses, Lots, Buildings and Structures) of this ordinance shall not apply to Accessory Dwelling Units.
 - E. Only one ADU shall be allowed on a single lot.
5. **Design Standards.**
 - A. Siting and location. An Accessory Dwelling Unit may be allowed only on a property that contains a principal dwelling.
 - 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. The requirements shall be those required or existing for the principal dwelling, or a single-family residential dwelling, or an accessory structure in the zoning district in which the ADU is located, whichever results in more permissive regulation.
- D. Size. The maximum size of an Accessory Dwelling Unit is 900 square feet of gross floor area or half the size of gross floor area of the principal dwelling, whichever is smaller.
- E. Layout. The maximum number of kitchens in an Accessory Dwelling Unit is one.
- F. 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.

7. Submission requirements. All applications for site plan review shall be in writing and shall provide the information identified in Title 4 of the Code of the City of Malden.

8. Site Plan Review Committee.

- A. Composition: The Site Plan Review Committee for Accessory Dwelling Units (SPRC ADU) shall have the following three regular members and one associate member:
 - Building Commissioner (or designee)
 - Director of Public Health (or designee)
 - Director of OSPCD or designee (designee shall be member of OSPCD staff)
 - The Board of Appeals shall appoint one of its members as an associate member of the SPRC ADU to serve as an alternative voting member when needed.
- B. Quorum. All regular members of the Committee are required to approve, approve with conditions, or deny an application for site plan approval, unless recused for a conflict of interest.
- C. Voting by Simple Majority: A simple majority of the full membership is required to take any action.

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 14 days of the close of the public hearing.

Failure to file a decision within said 14-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 M.G.L. c. 40A, § 3 or 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. 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.

6. 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.

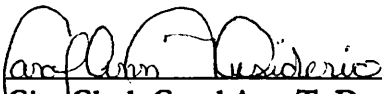
Sponsored by Amanda Linehan

Paper # 13 Series of 2025, of which the above is a true copy


Ordained, by the City Council, by ten (10) yea and zero (0) nay votes, the City Council consisting of eleven members at their January 29, 2025 meeting.

Approved, January 31, 2025 by His Honor, Mayor Gary J. Christenson

Attest:


City Clerk Carol Ann T. Desiderio


Council President Ryan J. O'Malley


Mayor Gary J. Christenson