

***DRAFT* Local Ordinance: Accessory Dwelling Units (ADUs) – Malden, MA**

Sources: AARP Public Policy Institute, American Planning Association (APA), Amy Dain/Dain Research: “Zoning for Accessory Dwelling Units,” the City of Salem (MA) Planning Department, City of Malden Zoning Ordinances.

Be it Ordained by the Malden City Council, as follows:

The Revised Ordinances of 2020 - Section 800.6.2.29 of the City of Malden Zoning Ordinance to add the following definition:

Dwelling, Accessory Unit: A housekeeping unit, with its own sleeping, cooking and sanitary facilities, located within a principal dwelling that is subordinate in size to the primary unit(s), separated from it in a manner which maintains the appearance of the primary unit(s), and allowed pursuant to the City of Malden Zoning Ordinance with Amendments (2018).

By amending (to be edited further with appropriate numbered Sections)

- Parking
- Zoning districts
- Dimensional controls

(Section 800.6.2.29 currently reads:

“800. 6. 2.29 Dwelling Unit: One (1) or more rooms providing living facilities for one (1) family including equipment for both cooking and sanitation or provisions for the same within the building in which the dwelling unit is located.”)

Accessory Dwelling Units shall be allowed as provided set forth in this section.

1. Purpose

- a. To encourage the creation of affordable housing in a manner that enhances and preserves the character of residential neighborhoods, while meeting the needs of existing residents and supporting the future diversity of the community.
- b. To ensure the efficient use of the city’s existing housing stock while addressing the large unmet need for smaller-scale affordable units, without additional government subsidies.
- c. To benefit older residents, those on a fixed income, single parents, young home buyers, residents with disabilities, students living independently, and homeowners in need of extra income to handle rising home-ownership costs.
- d. To provide the means for adult children and caregivers to support aging-in-place.
- e. To integrate affordable homes more evenly across neighborhoods, ensuring equitable access to opportunity without adding strain on local infrastructure.
- f. To enhance the property tax base while protecting property values.
- g. To reduce the rate of absentee ownership and thereby discourage community blight, disinvestment in property upkeep, and promote neighborhood stability.

2. Procedure

- a. The Building Inspector shall enforce and administer the provisions of this section.

3. Application

- a. The application for Building Permit shall be signed by one hundred (100) percent of the record title ownership of the primary dwelling and shall include a copy of the deed, and must include a floor plan of the proposed Accessory Dwelling Unit (ADU), including its proposed location in relation to/within the primary residence. All plans shall be drawn to scale and must identify the existing primary structure and any proposed modifications required to create the Accessory Dwelling Unit

4. Requirements

- a. The Accessory Dwelling Unit must be constructed within the existing footprint of the primary residence, unless one of the following applies: 1) it will be constructed within a detached carriage house not currently being used as a dwelling, but which conforms to all dimensional controls; 2) it will be constructed in whole or in part to replace an existing, assessed detached garage that adheres to all current height and setback requirements; 3) it will be constructed in a cellar/basement that is not currently habitable but will be brought up to current code in order to accommodate an Accessory Dwelling Unit.
- b. The owner of the principal residence must occupy said dwelling full time as their primary residence, including holding all property and excise taxes, utilities for both the primary and accessory dwelling, and the principal and accessory unit must remain as one common/single ownership, not to be severed or sold as separate dwellings, in perpetuity.
- c. The Accessory Dwelling Unit shall have one (1) dedicated off-street parking space, which may include tandem parking, unless sufficient on-street capacity can be proved or parking is otherwise waived due to special circumstance. The parking for the primary residence shall not count as off-street parking toward the ADU.
- d. There shall not be a net loss of private trees or permeable surfaces on the lot where the Accessory Dwelling Unit will be located, or in order to facilitate its construction.
- e. The Accessory Dwelling Unit shall be clearly subordinate to the primary dwelling and may not exceed 1,000 square feet in total habitable space, nor shall it be smaller than 350 square feet. It shall not contain more than one (1) bedroom.
- f. No more than one Accessory Dwelling Unit shall be located upon a single lot.
- g. An Accessory Dwelling Unit shall not be permitted in, attached, or adjacent to a building larger than a 3-unit dwelling (add above: table of zoning districts in which ADU is allowable. Res A and B?)
- h. There shall be no occupancy in the Accessory Dwelling Unit until such time as the Building Inspector has issued a certificate of occupancy confirming its compliance with all applicable health, safety, and building codes. The occupancy permit may be revoked at any time if such conditions are no longer met.
- i. Short-term rentals, as defined in the Malden Zoning Ordinance (pending October 2020 legislation update) shall not be permitted in any Accessory Dwelling Unit.

5. Special Permit

- a. A Special Permit shall be required for any non-conforming existing Accessory Dwelling Unit to be converted to a legal ADU, subject to all aspects of the City of Malden Zoning Ordinances.

6. Waivers

- a. Upon the request of the applicant, the Planning Board (or should it be ZBA) may waive the following requirements in the interest of design flexibility and overall project quality, as well as the peculiarities of topography and lot configuration in the City, so as long as the overarching objectives of this ordinance are still met:
 - i. Parking stipulations may be waived due to proximity to public transportation, the availability of private/rented off-street parking nearby, situations whereby adding off-street parking would necessitate tree or permeable surface removal, or would damage to the public way.
 - ii. Tree regulations may be waived if an equivalent tree is replaced elsewhere on the property, a previously compromised tree that would have been removed regardless is displaced, or a monetary contribution is made to replace an equivalent tree elsewhere in the city.

7. Termination

- a. The Accessory unit shall terminate immediately upon any violation of this ordinance. Duties of termination include:
 - i. The owner shall discontinue the use of the Accessory unit as a separate dwelling and all kitchen facilities removed, as well as all exterior entrances permanently closed, unless waived by the Building Inspector.