

D. Accessory Apartments: **[Amended 5-22-2012 ATM, Art. 24]**

- (1) Purpose and Intent: The intent of permitting accessory apartments is to:
 - (a) Recognize that the housing needs of the Town are changing and that zoning by-laws must be crafted to allow greater flexibility in the provision of housing to its citizens.
 - (b) Provide homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
 - (c) Develop housing units in residential neighborhoods that are appropriate for households at a variety of stages in their life cycle and for multi-generational households.
 - (d) Encourage a more balanced and diverse population and income mix, with particular attention to young adults and senior citizens.
 - (e) Encourage the creation and addition of moderately priced rental units to the housing stock that meet the needs of small and moderate-income households who might otherwise have difficulty obtaining affordably priced housing in the community.
 - (f) Protect the stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments meet the criteria specified in this section.
- (2) Accessory Apartment Applicability: The Building Inspector shall issue a building permit authorizing the installation and use of an accessory apartment within an existing or new owner-occupied single-family dwelling, and the Zoning Board of Appeals (ZBA), as Special Permit Granting Authority, may issue a Special Permit authorizing the installation and use of an accessory apartment in a detached accessory structure on the same lot as a single-family dwelling when the following conditions and requirements are met:
 - (a) General Requirements:
 - 01) The accessory apartment will be a complete, separate housekeeping unit that contains both kitchen and bath and has its own means of egress.
 - 02) The owner(s) of the residence in which the accessory apartment is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences of six months or less. The zoning permit or special permit for the accessory apartment

automatically lapses if the owner no longer occupies one of the dwelling units.

- 03) For the purposes of this section, the “owner” shall be one or more individuals residing in a dwelling unit, who holds title and for whom the dwelling is the primary residence for voting and tax purposes.
 - 04) The gross interior floor area of the primary dwelling (excluding unfinished attic and basement, garage, and porch) shall be at least sixteen hundred (1,600) square feet.
 - 05) The gross interior floor area of the accessory apartment (excluding unfinished attic and basement, garage, and porch) shall not be greater than 35% of the gross interior floor area of the primary dwelling as defined in § 97-10.D.(2)(a)04) above or one thousand (1,000) square feet of gross interior floor area, whichever is less.
 - 06) No more than one accessory apartment may be created within a single-family house or accessory structure or on a house lot. There shall be no more than two dwelling units in a structure, and no more two dwelling units on a single-family house lot.
 - 07) There shall be no boarders or lodgers within either unit of a dwelling or lot with an accessory apartment.
 - 08) An accessory apartment may not have more than two bedrooms. The total number of bedrooms in the primary dwelling and the accessory dwelling unit combined may not exceed the capacity of the permitted septic system, per Title V requirements.
 - 09) The existing house and the accessory apartment shall comply with all applicable health, safety, building and other applicable codes in effect at the time of the granting of the building permit, and of the special permit where required. The Board of Health shall give its approval prior to the issuance of a building permit.
 - 10) The proposed use shall not violate any deed restrictions applicable to the subject property.
 - 11) Utilities such as water, electric and gas necessary for the accessory dwelling unit shall be extensions of the existing utilities serving the principal single-family dwelling.
 - 12) A minimum of one parking space shall be required for the accessory apartment. Parking spaces shall be located so that both the principal dwelling unit and the accessory apartment shall have at least one parking space with direct and unimpeded access to the street without passing through a parking space designated to serve the other dwelling unit.
- (b) Attached Accessory Apartments: All attached accessory apartments shall meet the conditions and requirements set forth in § 97-10.D.(2)(a) above. In addition,

an attached accessory apartment shall not change the single-family character of the principal dwelling, except for the provision of an additional access or egress, subject to the following conditions and requirements:

- 01) An accessory apartment added to a single-family house shall be within or have a common wall and may have a common interior door with the single-family dwelling unit.
 - 02) All stairways to second or third stories shall be enclosed within exterior walls;
 - 03) Any new entrance shall be located on the side or on the rear of the building.
 - 04) Prior to issuance of a building permit, a floor plan and elevations, drawn to scale, shall be submitted showing the proposed interior and exterior changes to the building to demonstrate that the accessory apartment will not significantly alter the appearance of the single-family dwelling.
- (c) Detached Accessory Apartments: The ZBA, as the Special Permit Granting Authority, may approve an application for a Special Permit for an Accessory Apartment in a detached accessory structure if the apartment meets the conditions and requirements set forth in § 97-10.D.(2)(a) above and the following additional criteria are met:

01) ~~The minimum lot size for accessory apartments in detached structures constructed after the date of adoption of this By-Law allowed by Special Permit in detached structures~~ shall be 60,000 s.f.

~~01)02)~~ The minimum lot size for accessory apartments in detached structures in existence as of the date of adoption of this By-Law shall be 40,000 s.f.

~~02)03)~~ Where accessory apartments are permitted in existing detached accessory structures, the appearance of the accessory structure shall maintain the essential character of the purpose for which it was originally constructed. If an accessory apartment is incorporated into a new accessory structure, the new structure shall be compatible in style with the principal dwelling on the same lot.

~~03)04)~~ The proposed building scale shall be consistent with the single-family residential character of the lot and of the surrounding neighborhood.

05) The abutting properties shall be protected from the proposed use on the site by provision of adequate buffers or screening against light, sight, and sound.

- (d) Waiver of Strict Compliance: Strict compliance with the provisions of this By-Law may be waived if the Zoning Board of Appeals finds that the application contains all necessary information required by this By-Law and in the Board's opinion the granting of such waiver is not contrary to the public interest and is

consistent with the intent and purpose of the By-Law. Any request from an applicant for a waiver from any provision of this By-Law must be submitted in writing to the Zoning Board of Appeals and must clearly identify the provision or provisions for which a waiver is being sought, and if applicable, must describe the alternative location of information or method of compliance. In addition, such request shall be accompanied by a statement setting forth the reason or reasons why, in the applicant's opinion, the granting of such a waiver or waivers would not be contrary to the public interest and would be consistent with the intent and purpose of the By-Law.

- (e) In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the ZBA as Special Permit Granting Authority may allow reasonable deviation from the stated conditions and requirements where necessary to install features that facilitate access and mobility for disabled persons.
- (3) Occupancy Requirements:
- (a) Approval for an accessory dwelling unit requires that the owner(s) of record must occupy one of the dwelling units.
 - (b) Prior to issuance of a building permit, the owner(s) shall send a notarized letter to the Building Inspector stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences of six months or less.
 - (c) The building permit, and special permit where applicable, shall be recorded by the owner in the Southern Essex District Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Inspector, prior to the occupancy of the accessory dwelling unit.
 - (d) When a lot with a structure which has received a permit for an accessory dwelling unit is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within sixty (60) days of the sale, submit a notarized letter to the Building Inspector stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences of six months or less.