

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:

1. maintains two separate egresses, both meeting the requirements of the state building code for safe egress;
2. is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller

Section XV - ACCESSORY DWELLING UNITS (ADU)

A. Purpose

The provision of Accessory Dwelling Units (ADUs) is intended to:

1. Provide housing options for residents who cannot afford, or who do not desire, a single-unit house with land;
2. Provide older owners with a means of obtaining rental income, companionship, security and services, thereby enabling them to stay more comfortably in their homes and neighborhoods they may otherwise be forced to leave;
3. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and rural character of the Town;
4. Protect the stability, property values, and the single family residential character of the town by ensuring accessory dwelling units are installed only in owner-occupied properties and safe with proper permitting and inspections;
5. Provide housing units for persons with disabilities

B. Accessory Dwelling Units (ADU) Conditions

The Planning Board may issue Site Plan Approval, per Section XII of this bylaw, for only one singular dwelling unit accessory to the use of a single-family dwelling, provided that each of the following conditions is met:

1. The ADU will be a complete, separate housekeeping unit containing both kitchen and bath.
2. There will be two separate egresses. One must open directly to the outside. One may be shared with the principal single-family dwelling through an entry hall or corridor.
3. Only one ADU may be created within a single-family dwelling or house lot.
4. The owner(s) of the residence in which the ADU is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.

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5. Plans must be provided showing all proposed interior and exterior changes to the single-family dwelling.
 6. Site Plan Approval conforms to the Zoning Bylaw, including but not limited to Section XII.
 7. The gross floor area of the ADU (including any additions) shall not be greater in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller.
 8. Once an ADU has been added to a single-family residence, the ADU shall never be enlarged beyond the 900 square feet or more than 1/2 the floor area of the principal dwelling, whichever is smaller, allowed by this bylaw.
 9. Any new separate outside entrance serving an ADU shall be located on the side or in the rear of the building.
 10. A minimum of three off-street parking spaces must be available for use by the owner-occupant(s) and tenants to avoid on-street parking.
 11. The ADU must conform to all applicable Standards and Codes of the Health, Building, Electrical and Plumbing Regulations.
 12. Approval for an ADU requires that the owner must occupy one of the dwelling units. The zoning approval and the notarized letters required in XV.B.13 and XV.B.14 below must be recorded in the Hampshire County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Town Clerk, Building Commissioner and Board of Assessors prior to requesting a Certificate of Occupancy for the ADU.
 13. The owner(s) must provide a notarized letter to the Planning Board 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.
 14. When an ADU is sold, the new owner(s), if they wish to continue to exercise the ADU Certificate of Occupancy, must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fi de temporary absences.
- C. Accessory Dwelling Units in Existence Before the Adoption of an Accessory Dwelling Unit Zoning Bylaw

Statement of intent. The purpose of this section is to ensure that accessory units or conversions in existence before the adoption of this Accessory Unit Bylaw are in compliance with the State Building Code and Health Code.

Application procedure.

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1. The Planning Board may authorize, under a Site Plan Review and in conjunction with the Building Commissioner, an accessory unit (ADU) in an owner-occupied, single-family dwelling or accessory structure. The Board will review, with the Building Commissioner and Board of Health Agent, each existing use on a case-by-case basis to determine if the dwelling conforms to the State Building Code and Health Code.
2. The applicant must follow the same procedures described in this Accessory Unit Bylaw, in particular section XV.B.11.

D. Conflict with Other Laws

The provisions of this bylaw shall be considered supplemental of the existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

E. Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

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Questions:

1. In the case of an ADU being sold, should the new owner have to record their letter with the Registry of Deeds? If so, documentation of such a filing should be presented to the Building Commissioner in order to get the Certificate of Occupancy.
2. Is it reasonable to require the new owner of an ADU to get a Certificate of Occupancy (CoO)? That is not a requirement for the new owner of a Single Family Dwelling. In that case, once a CoO is issued, it remains in effect, as far as I know.
3. If a person with a 1500ft² house builds an ADU, it would be limited to 750ft². If they later expand their house to 2000ft², can they then expand the ADU to 900ft²? The current language suggests they could. Charlene suggests adding the word "original" as in "original principal dwelling" in condition 7. To me this modification would suggest that once the ADU is built at 750ft², it could not be increased.
4. Would trailers or shipping containers be an ok way to make an ADU? Does this language or other language in the Bylaws provide clarity either way?
5. I believe Charlene told Isaac and me that a new detached ADU would require sprinklers. What about an existing detached ADU? This seems like a basically insurmountable obstacle for constructing a new detached ADU. Given our stated purposes for this bylaw, should we explore our options more fully? It seems unfortunate to pass a bylaw that is functionally irrelevant (at least for detached structures).
6. What are the implications with respect to the Board of Assessors?

Outstanding Issues:

1. The section numbering and references need to be adjusted to match the current Zoning Bylaws.