

Request by the Planning Board for the Town Council to Initiate An Amendment to the Randolph Zoning Ordinance –Chapter 200 of the General Code of the Town of Randolph.

That the Town Council of the Town of Randolph hereby initiates an amendment to the Randolph Zoning Ordinance, Chapter 200 of the General Code of the Town of Randolph, concerning Accessory Dwelling Units (ADU's) , pursuant to M.G.L. chapter 40A, Section 5, and hereby amends the Zoning Ordinance as follows:

I. Amend section 200-3, concerning Word usage; definitions, as follows:

Delete the following term(s):

IN-LAW APARTMENT

A separate dwelling unit within a detached single-family dwelling subordinate in size to the single-family dwelling and which maintains the appearance of the structure as a single-family dwelling. [Added 5-22-2006 ATM by Art. 50, approved 10-17-2006]

Add the following terms:

ACCESSORY DWELLING UNIT (ADU)

A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling **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; and, (ii) is not larger in Gross Floor Area than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller**

GROSS FLOOR AREA

The sum of the areas of all floors of the building, including basements, cellars, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior faces of exterior walls or from the centerline of walls separating buildings, but excluding: (i) covered walkways, open roofed-over areas, porches and similar spaces; and (ii) pipe trenches, exterior terraces or steps, chimneys, roof overhands and similar features.

HISTORIC DISTRICT

A district in a Municipality established pursuant to M.G.L. c. 40C or other state law that is characterized by the historic or architectural significance of buildings, structures, and sites, and in which exterior changes to and the construction of buildings and structures are subject to regulations adopted by the Municipality pursuant to M.G.L. c. 40C or other state law, as the case may be.

MODULAR DWELLING UNIT

A pre-designed Dwelling Unit assembled and equipped with internal plumbing, electrical or similar systems prior to movement to the site where such Dwelling Unit is affixed to a foundation and connected to external utilities; or any portable structure with walls, a floor, and a roof, designed or used as a Dwelling Unit, transportable in one or more sections and affixed to a foundation and connected to external utilities. A Modular Dwelling Unit shall not include a manufactured home, such as those defined under M.G.L. c. 140, s. 32Q.

PROTECTED USE ADU

An attached or detached Accessory Dwelling Unit that is located, or is proposed to be located, on a Lot in a Single-Family Residential Zoning District and no other Accessory Dwelling Unit is located on said Lot and which is protected from Prohibited Regulations and Unreasonable Regulations pursuant to M.G.L. c. 40A, s. 3, para. 11 and 760 CMR 71.00.

SHORT-TERM RENTAL

An owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where:

- (i) at least 1 room or unit is rented to an occupant or sub-occupant for a period of less than thirty (30) days at a time ; and
- (ii) all accommodations are reserved in advance.

- II. Amend section 200-45 C by deleting “in-law apartments” and renumbering the section as applicable.

The Planning Board shall be the special permit granting authority for the following:

(1) Construction of or conversion to a two-family dwelling.

(2) Shared elderly housing.

(3) ~~in-law apartments.~~

~~(4)~~ (3) Scientific research, development production when identified as a SPPB on the Table of Allowable Activity.[2]

[2] Editor's Note: The Table of Allowable Activity is included as an attachment to this chapter.

- III. Amend section 200-91 C.2.(b)[2] by deleting the term “in law”
...except this provision shall not apply to single-family dwelling units, two-family dwelling units or dwelling units used as “~~in-law~~” accessory dwelling units.

IV. Delete section 200-46.B.11 sections [a] through [l] in their entirety

V. Insert a new section 200-10.E as follows:

Accessory Dwelling Units (ADU).

1. Purpose

This section authorizing the provision of accessory dwelling units is intended to:

- (a) Increase the number of small dwelling units available in the Town;
- (b) Increase the range of choice of housing accommodations to meet the needs of households;
- (c) Increase the supply of housing and the diversity of housing options, in response to demographic changes;
- (d) Encourage the efficient use of the Town's housing supply while preserving the character of the town's neighborhoods;
- (e) Maximize privacy, dignity, and independent living among family members preserving domestic family bonds as well as to protect the stability, property values, and the residential character of the neighborhood.

2. General Requirements

ADU's are permitted by right in a residential single-family high-density district (RH/RSFHD) and Residential Single Family Medium Density (RSFMD) subject to the following:

- (a) No ADU shall be constructed without the issuance of a building permit by the Building Commissioner.
- (b) No ADU shall be occupied unless a certificate of occupancy for such unit has been issued by the Building Commissioner and remains in effect.
- (c) ADU's are allowed within or attached to an existing single-family structure or as a detached accessory building with a permanent foundation and that is accessory to an existing single-family structure.
- (d) One (1) ADU is permitted per primary structure or lot ~~except by Special Permit.~~
- (e) Only one (1) Protected Use ADU is permitted.
- (f) The ADU must maintain a separate entrance sufficient to meet the requirements of the state building code for safe egress.
- (g) All ADUs must comply with all applicable requirements of law including of those of the building, fire sanitary and stormwater state codes and local ordinances.
- (h) The accessory dwelling unit shall not be served by any separate utility meter. Electricity, water, oil, heat, gas and sanitary shall be provided by a single service to both the ADU and the principal dwelling. **Nothing in these provisions shall prohibit the requirement of a submeter or other applicable device.**

- (i) The Fire Chief or Designees are authorized to require additional fire protection for any dwelling with limited or challenging access (no pavement, long distances, limited water supply, etc.).

3. Prohibitions

- (a) ADU's are not permitted on any lot or any structure that contains two (2) or more primary dwelling units.
- (b) Short-term rentals, as defined, are prohibited in both the ADU and principal dwelling units.
- (c) The ADU may not be sold or title transferred separate and apart from the principal dwelling to which it is an accessory use. The principal dwelling and the accessory dwelling unit shall remain in common/single ownership and shall not be severed in ownership.

4. Dimensional Requirements

- (a) The ADU may not be larger in gross floor area than 1/2 the gross floor area of the principal dwelling *or* 900 square feet, whichever is smaller.
- (b) The proposed ADU must meet the zoning district's primary structure zoning dimensional requirements for height, setbacks and lot coverage.
- (c) No ADU shall be sited closer to the front lot line than the primary structure.
- (d) Any new detached ADU, any ADU created by adding gross floor area to a single-family dwelling or any ADU created by adding gross floor area to an existing detached accessory building or structure shall be in accordance with the open space and building coverage requirements as established by the Table of Dimensional Requirements for the applicable zoning district.

5. Parking Requirements

- (a) One (1) additional parking space shall be required for an accessory dwelling unit
[1] If the ADU is located not more than 0.5 miles from a commuter rail station, no additional parking space is required.
- (b) All parking must be off-street on a designated driveway in compliance with Article IV Off-Street Parking Regulations.

6. Exterior Appearance

The ADU shall be designed to maintain the appearance and essential character of a one-family dwelling with accessory structures subject further **to any other requirements of the zoning district.** ~~the following conditions and requirements:~~

- ~~(a) Where two or more entrances exist on the front facade of a dwelling, one entrance shall appear to be the principal entrance and other entrances shall appear to be secondary.~~
- ~~(b) When the ADU is created in an accessory structure, the exterior appearance shall be visibly compatible with the primary dwelling and the character of the neighborhood.~~
- ~~(c) All stairways to second or third stories shall be enclosed and comply with the Massachusetts Building Code 780CMR or its successor.~~

7. Application

The application for a building permit and/or occupancy permit for an ADU or an application for a special permit for an ADU shall include the following:

- (a) A plot plan of the principal dwelling unit with square footage, proposed accessory dwelling unit with square footage, showing the location of all existing and proposed buildings on the lot, zoning matrix and required parking.
- (b) A certified plot plan, stamped by a professional land surveyor registered in the State of Massachusetts.
- (c) When the creation of an ADU requires the alteration of the exterior of a structure, the application shall include elevation plans showing the sides of the building affected by the construction both prior to and after completion of construction.
- (d) By filing the application for a building permit for an ADU, all owners consent to an inspection without a warrant upon reasonable notice by the Building Commissioner to ensure compliance with all terms of this section.
- (e) The Building Commissioner shall issue a cease-and-desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this section.

8. Special Permit Required

The following conditions will require a special permit from the Zoning Board of Appeals:

- (a) A detached accessory dwelling unit on a nonconforming lot.
- (b) An accessory dwelling unit within an existing nonconforming structure.
- (c) A special permit for an accessory dwelling unit may only be granted upon a finding that the construction and occupancy of the accessory dwelling unit will not be detrimental to the neighborhood in which the subject property is located and after

consideration of the factors set forth in this ordinance.

9. Decision

- (a) A building permit for an ADU may be granted by the Building Commissioner, or his designee, upon determination that all criteria as set forth in this ordinance have been satisfied.
- (b) A certificate of occupancy for an ADU shall be granted by the Building Commissioner, or his designee, upon determination that the ADU is in conformity with the provisions of this section, any special permit issued and all applicable health and building codes.
- (c) No ADU shall be occupied unless a certificate of occupancy for such unit has been issued by the Building Commissioner.

10. Accessory Dwelling Units in existence before adoption of ordinance

The purpose of this section is to ensure that **in-law apartments** or accessory dwelling units ~~or conversions~~ in existence before the adoption of this ordinance are in compliance with the State Building Code.

- (a) An existing unit that:
 - i. was a legally conforming dwelling **unit as of the date of the adoption of this section, including having received all applicable permits and inspections;**
 - ii. ~~that~~ would be considered an ADU or **Protected Use ADU** under this ordinance; and
 - iii. was granted by special permit (formerly “in-law apartment”)

may continue as ~~an~~ **a legally conforming ADU or Protected Use ADU** under this section.

In order for the unit to be considered a legally conforming ADU or Protected Use ADU under this section, any provision of the special permit for such unit that conflicts with this ordinance is null and void.

- (b) Any other pre-existing dwelling unit that would be considered an ADU under this ordinance, including pre-existing non-conforming units, may be subject to inspections and require renovations to ensure compliance with building, fire and sanitary code. **Such units are not in compliance with this zoning ordinance without the required inspections and permits including an occupancy permit issued by the Building Department.**

11. Enforcement

It shall be the duty of the Building Commissioner to administer and enforce the provisions of this section.

- (a) No building shall be constructed or changed in use or configuration without the issuance of a building permit by the Building Commissioner.
- (b) The construction of any ADU must be in conformity with the State Building Code and, if applicable, Title V of the State Sanitary Code and lawful under all other provisions of applicable Town health, building, zoning and other local laws and regulations.
- (c) The Building Commissioner shall refuse to issue any permit which would result in a violation of any provisions of this section or in violation of the conditions or terms of any special permit or variance granted.
- (d) The building permit shall be revoked upon determination by the Building Commissioner that any condition imposed by this section has not been fulfilled.

12. Historic District

ADU's located on parcels within any historic district shall be visibly compatible with the primary dwelling unit, character of the neighborhood and subject to the following conditions and requirements:

- (a) **Site Planning** –An ADU shall be located behind the rear building line of the primary residence, and be clearly subordinate by location and size, so long as it does not prohibit an accessory dwelling unit of at least 900 square feet.
- (b) **Dimensional Requirements** – An ADU must meet the zoning district's primary structure zoning dimensional requirements for height, setbacks and lot coverage.
- (c) **Building Separation** – A detached ADU must have a minimum building separation of fourteen (14) feet, eave to eave, between the primary residence and detached accessory dwelling unit.
- (d) **Parking** - One (1) additional parking space shall be required for an accessory dwelling unit.
- (e) **Application** – Any application must include either a Certificate of Appropriateness, a Certificate of Non-Applicability or a Certificate of Hardship issued by the Historic District Commission for any construction or alteration of a building or structure within the district that in any way that affects exterior architectural features.