



**HUDSON**  
MASSACHUSETTS

**Accessory Dwelling Unit By-law Update**  
**MARPA/DLS Meeting**  
**October 8, 2024**



## **Disclaimer**

The information provided in this presentation and is not intended to, constitute legal advice; instead, all information, content, is for general informational purposes only. Please consult with your municipal counsel to discuss specific legal questions.

# Definition of an Accessory Dwelling Unit

- An Accessory Dwelling Unit (ADU) is a secondary residential living space located on the same lot of a single-family home
- Colloquially known as “granny flats” or “in-law suites”
- ADUs can be within an existing primary residence, like converting a basement into an apartment, attached to a primary residence as a new construction addition, or completely detached, like a cottage or converted detached garage in a backyard.
- Maximum size of an ADU is no more than half of the gross floor area of the principal dwelling, or 900 square feet, whichever is smaller (as defined in statute)
- ADUs are not considered a multifamily unit



# Hudson's Accessory Dwelling Unit By-law

- Hudson adopted an ADU Zoning By-law in 2007
- Attached and detached ADUs less than 900 square feet are allowed in a single family zoned district by Special Permit of the Zoning Board of Appeals.
- Requires two off-street parking spaces (not tandem)
- Requires owner occupancy of either the main dwelling of the ADU. Enforced via an affidavit kept on file with the Town and recorded at the Middlesex County of Deeds
- Requires a separate entrance to the ADU be located on the side or the rear of the building.
- Requires that the ADU not be occupied by more than three people
- Since 2016, **24 ADUs** have been permitted by the Zoning Board of Appeals



# Recent Amendments to State Statute

On August 6, 2024, Governor Healey signed the Affordable Homes Act into law ([Chapter 150 of the Acts of 2024](#)). Section 8 of the Affordable Homes Act amends the Zoning Act (MGL Chapter 40A) which requires municipalities allow attached and detached ADUs up to 900 square feet to be built by right in single-family zoning districts



# Recent Amendments to MGL Chapter 40A (Zoning Act)

Section 8 of the Affordable Homes Act becomes effective on February 2, 2025

## WHAT THIS MEANS...

MUNICIPALITIES CAN REGULATE/REQUIRE	MUNICIPALITIES <b>CANNOT</b> REGULATE/REQUIRE
Site Plan Review if review thresholds are triggered.	Any discretionary zoning approval for the use or rental of an ADU in a single family zoning district. Only a Building Permit is required.
Compliance with Title 5 requirements/other Board of Health regulations.	Require owner occupancy for the ADU or principal single or regulate who can live in the ADU.
Conformance to existing dimensional standards in the Zoning by-laws	Require more than one (1) parking space.
Impose a prohibition on the use of the ADU for short-term rentals as defined by MGL Chapter 64G Section 1	

# Definition of Short Term Rentals- MGL Chapter 64 G Section 1

"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; and
- (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.





# Hudson's Approach to Updating the Existing ADU By-law

## 5.2.6 Accessory Dwelling Units

### 5.2.6.1 Purpose and Intent

The intent of allowing accessory dwelling units is to:

- 1) Preserve the residential character of a neighborhood.
- 2) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate-income households who might otherwise have difficulty finding housing;
- 3) Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
- 4) Provide housing units for persons with disabilities;

### 5.2.6.2 Definitions:

- 1) Accessory Dwelling Unit (ADU): A self-contained housing unit incorporated within a single-family dwelling or existing detached structure that is clearly a subordinate part of the single-family dwelling and which complies with each of the use and dimensional regulation stated in section 5.2.6.4 below.

- 2) Building, Attached: A building having any portion of one or more walls in common or within five feet of an adjacent building.

- 3) Building, Detached: A building having five feet or more of open space on all sides.

- 4) Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.

- 5) Dwelling Unit: One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of single-family maintaining a household. This definition does not include a trailer, however mounted.

- 6) ~~Primary Domicile: That place where a person has his or her true, fixed, and permanent home and principal establishment, and to which he or she is never absent more than 6 months.~~

- 7) ~~Temporary Absence: Absence of no more than 6 months.~~

### 5.2.6.3 Procedural Requirements:

- 1) 1) An application for an Accessory Dwelling Unit Special Permit shall be filed with the Zoning Board of Appeals in accordance with its applicable filing requirements. ~~A Building Permit application for an Accessory Dwelling Unit shall be filed with the Building Commissioner.~~

- 2) ~~The Zoning Board of Appeals shall not grant any variances under this section except as noted in 5.2.6.4 (2). The Accessory Dwelling Unit shall comply with dimensional standards in Section 7.3 and Section 7.2.1.3 and relief from thereof shall not be granted except as noted in Section 5.2.6.4 (1)~~

### 5.2.6.4 Use and Dimensional Regulations:

- 1) ~~The Zoning Board of Appeals as the Special Permit Granting Authority (SPGA) may issue a Special Permit authorizing the installation and use of an accessory dwelling unit in a single-family home or lot provided the following conditions are met: The Building Commissioner shall issue a Building Permit authorizing the installation and use of an accessory dwelling unit in a single-family home or lot provided the following conditions are met.~~

- a) ~~The accessory dwelling unit may be located in the ~~primary domicile~~ single-family dwelling.~~

- b) ~~The primary domicile to be altered to include an accessory dwelling unit shall maintain the appearance of a single-family structure. The single-family dwelling may be altered to include an Accessory Dwelling Unit.~~

- c) ~~The unit will consist of a complete, separate housekeeping unit containing both kitchen and bath. The Accessory Dwelling Unit shall consist of a complete, separate housekeeping unit containing both kitchen and bath~~

- d) ~~Only one accessory dwelling unit may be created within a single-family house or house lot. Pursuant to MGL Chapter 40A Section 3A, more than one accessory dwelling unit within a single-family home or house lot shall require a Special Permit from the Zoning Board of Appeals pursuant to MGL Chapter 40A Section 9 and Section 9.2 of the Hudson Zoning By-laws.~~

- e) ~~The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.~~

- f) Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building as remote as possible from one another.

- g) ~~The habitable floor area of the accessory unit shall not exceed twenty-five (25%) of the habitable floor area of the entire dwelling or 900 square feet, whichever is greater. The habitable area of the Accessory Dwelling shall not exceed ½ the gross floor area of the principal dwelling or 900 square feet, whichever is smaller.~~

- h) ~~An accessory dwelling unit may not be occupied by more than three (3) people nor have more than two bedrooms. An Accessory Dwelling Unit may not have more than two bedrooms~~

- i) The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws and regulations.



# Hudson's Approach to Updating the Existing ADU By-law

j) Sufficient and appropriate space for at least ~~two (2)~~ one (1) additional parking spaces shall be provided by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of material consistent with the existing driveway and shall have vehicular access to the driveway. Stacking of vehicles for the different dwelling units shall not be allowed. A separate driveway opening for the accessory dwelling unit shall not be allowed.

k) The proposed use is determined to be in harmony with the intent and purpose of the Zoning By-Law.

l) ~~The use of the Accessory Dwelling Unit for short-term rentals, as defined in MGL Chapter 64G Section 1, shall be prohibited.~~

2) ~~The Accessory Dwelling Unit shall comply with the dimensional requirements pursuant to Section 7.3 and Section 7.2.1.3 of this By-law.~~ In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the SPGA may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

3) ~~Approval for an ADU requires that the owner must occupy one of the dwelling units. The zoning approval and the notarized letters required in 5.2.6.4 (4) & (5) below must be recorded in the Middlesex South 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 Building Commissioner, prior to the occupancy of the accessory dwelling unit.~~

4) ~~Prior to issuance of a special permit, the owner(s) must furnish an affidavit, sworn under the pains and penalties of perjury, 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.~~

5) ~~When a structure, which has received a special permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Special Permit, must, within thirty (30) days of the purchase, 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 fide temporary absences.~~

6) Prior to the issuance of a ~~special permit~~ Building Permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.

## 5.2.6.5 Administration and Enforcement

1) It shall be the duty of the Building Commissioner as Zoning Enforcement Officer to administer and enforce the provisions of this Bylaw.

2) No building shall be changed in use or configuration until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health. Any building alteration shall conform to all adopted state and town laws, bylaws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.

3) The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any special permit or variance granted by the Zoning Board of Appeals or its agent.

4) The Building Commissioner shall have the authority to 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 chapter.

5) ~~Construction or use according to a building permit or special permit shall conform to any subsequent amendment of this chapter unless the construction or use is begun within a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner~~ **Construction or use according to the building permit shall conform to any subsequent amendments to these provisions, MGL Chapter 40A, and/or Massachusetts Building Code unless the construction or use is begun within a period of not more than six months after the issuance of the building permit before the effective date of the amendments. To qualify for the exemption, construction must be completed in a continuous and expeditious manner.**



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**THANK YOU!**