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November 7, 2022

The Honorable City Council
Beverly City Hall
191 Cabot Street
Beverly, MA 01915

Dear Honorable City Council:

As we heard from community leaders in our recent Special Meeting, the pressure for affordable housing and a manageable pace of development in our city is acute, and the need for policy responses is urgent. While there are many tools we can and should be considering to increase the diversity of housing supply, one in particular stands out to me as meeting our city's current and future needs remarkably well: updating our Zoning ordinances to allow for Accessory Dwelling Units (ADUs) as affordable rental options in our neighborhoods.

The City's Planning Department has been doing the important work over more than a year to engage with community members and an expert team from the Metropolitan Area Planning Council to design a set of policies for ADUs that meet our needs. The team prepared a draft ordinance that I believe does an excellent job of drawing on best practices from other communities and applying them to the specific concerns we are all seeing in Beverly: the desire to create the kinds of housing that renters can afford, in the household sizes that most are in need of new housing options, at a level of density that our infrastructure and public services can handle, and that give homeowners an option to maintain ownership of their homes while generating revenue and welcoming new neighbors at a manageable pace.

I am pleased to introduce draft language based almost entirely on their work, with minor modifications. I propose that we vote as a City Council to submit this document as an amendment to our Zoning Ordinance, sections 300-5, 300-27, and 300-55 in order to follow the state-mandated procedures for updating Zoning, which includes submission to the Planning Board, a joint or separate Public Hearings, careful consideration and public consultation, undoubtedly some improvements to the text, and ultimately a final vote by this body.

Thank you for your consideration and action to allow for ADUs as a key element of our response to the city's current and future housing needs.

Sincerely,

Hannah Bowen
Councilor at Large

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Attached: Draft Zoning Ordinance Amendments

Draft Zoning Ordinance Amendments

Note: Current language to be replaced, where any exists, is written in strikethrough alongside the language proposed to be added. Sections where no change is proposed are omitted from this draft.

§ 300-5. Terms Defined

ACCESSORY APARTMENT:

~~A dwelling unit located within an owner-occupied single-family dwelling with one or more rooms, including kitchen and bathroom facilities that are separate from those of the principal dwelling. The unit shall be constructed so as to maintain the appearance and essential character of a single-family dwelling. Only relatives, i.e., brothers, sisters, parents, grandparents, in-laws, children and/or grandchildren, of the residing owners of the principal dwelling unit may occupy the unit.~~

A self-contained apartment with its own sleeping, cooking, and sanitary facilities in an owner-occupied single-family home/ lot that is either attached to the principal dwelling or in a separate structure on the same property.

ACCESSORY APARTMENT (ATTACHED):

An accessory apartment located within an owner-occupied, single-family dwelling, regardless of if the outside principal dwelling is modified to accommodate the unit.

ACCESSORY APARTMENT (DETACHED):

An accessory apartment located in a structure on a residential lot that is separate from the principal dwelling and is smaller than the principal dwelling.

ACCESSORY DWELLING UNIT:

See Accessory Dwelling Apartment

SHORT-TERM RENTAL:

The rental of any residential dwelling for fewer than thirty days.

§ 300-27 Accessory Buildings in Residential Districts

~~C. The maximum number of accessory buildings permitted on a lot is two. The Zoning Board of Appeals may authorize additional accessory buildings, by special permit. The maximum number of accessory buildings permitted on a lot is three, if one is an accessory apartment. The maximum number of accessory buildings permitted is two if no accessory apartment is on the lot. The Zoning Board of Appeals may authorize additional accessory buildings, by special permit.~~

~~F. The Zoning Board of Appeals shall have the authority under MGL c. 40A, § 6, to permit relief from the maximum height and size requirements of this section. Special provisions for accessory apartments.~~

(1) Provisions and regulations for accessory apartments are defined in § 300-55. Accessory Apartments

G. The Zoning Board of Appeals shall have the authority under MGL c. 40A, § 6, to permit relief from the maximum height and size requirements specified in sections § 300-27 and § 300-55(C)(6)(c); the setback requirements specified in sections § 300-27(E)(1) and § 300-27(E)(2); as well as parking requirements specified in section § 300-55(C)(7)(a). When considering relief for creation or modification of an accessory apartment, the Zoning Board of Appeals shall consider the extent to which relief is aligned with the intent and objectives outlined in section § 300-55(A).

§ 300-55. Accessory Apartments

A. Intent and objectives. The accessory apartment requirements and procedures outlined in this section are not intended to encourage the public to acquire variances to allow for the construction of larger dwellings for the use of accessory apartments. Instead, they are intended to:

- ~~(1) Enable homeowners of single-family dwellings larger than required for their present needs to share space and burdens of home ownership with a relative(s).~~
- ~~(2) Create feasible housing alternatives for elderly people or other relatives looking to stay in their homes, yet receive the help they need for or from other relatives.~~
- ~~(3) Encourage a diverse population with a particular focus on senior citizens and young adults through the creation of an accessory apartment in the familial home.~~
- (1) Create feasible alternatives for elderly persons looking to stay in Beverly.
- (2) Encourage a diverse population of residents in Beverly by providing additional affordable housing options across many neighborhoods.
- (3) Enable homeowners of single-family dwellings larger than required for their present needs to generate rental income on their properties while still occupying the property.
- (4) Increase the stock of affordable rental units suitable for small households.

~~B. Conditions and requirements. Notwithstanding provisions in this chapter to the contrary, the Zoning Board of Appeals may consider the granting of a special permit for the alteration of an existing single-family residence to include an accessory apartment in any residential zone, subject to the following provisions:~~

- ~~(1) An accessory apartment may be permitted to accommodate a maximum of two people to live in proximity to, but with independence from, a relative.~~
- ~~(2) The application shall designate the individual(s) who is to occupy the accessory apartment.~~
- ~~(3) The alterations/additions necessary to create the accessory apartment shall be limited to the principal dwelling.~~
- ~~(4) There shall be no more than two dwelling units on said property, including an accessory apartment.~~
- ~~(5) The owner of record shall reside in one of the two dwelling units, which shall be said owner's principal residence.~~

(6) The size of the accessory apartment is not to exceed the lesser of 900 gross square feet or 30% of the gross floor area of the principal unit. The square footage of the accessory apartment must meet the minimum requirements of the state's sanitary code.

(7) The accessory apartment shall be a self-contained dwelling unit that shares a common vertical and/or horizontal wall with the primary dwelling unit. Within the common vertical and/or horizontal wall shall be a doorway so that the accessory unit may be accessed from the primary unit.

(8) The principal dwelling unit shall have only one front entrance; any new entrance shall be located on the side or in the rear of the building. Where two or more entrances already exist on the front facade of a dwelling, modifications made to any of the entrances shall result in one entrance appearing to be the principal entrance and other entrances appearing to be secondary. All stairways leading to second or third stories shall be enclosed within the exterior walls of the dwelling.

(9) The accessory apartment will have no more than two bedrooms.

(10) Special permit for accessory apartment.

(a) The special permit for an accessory apartment shall terminate:

- {1} Upon the death of the designated occupant; or
- {2} Upon the change of residence of the designated occupant; or
- {3} Upon the transfer of ownership of the premises.

(b) Following termination of said special permit, the owner shall remove the kitchen built as a result of the special permit within 90 days.

(c) The house will then revert to a single-family residence. The accessory apartment shall not be held in or transferred into separate ownership from the principal dwelling under a condominium form of ownership, or otherwise.

(11) An affidavit by the record owner, sworn under penalties of perjury, with proper documentation is required with the application to certify that the accessory apartment living area is for a relative(s). The special permit shall be issued to the owner of the property. The Building Inspector shall have the right, at a reasonable time, to inspect the premises to determine compliance with the requirements of this section and the special permit. Refusal of this inspection may result in the revocation of the special permit.

(12) In granting a special permit, the Board may impose such conditions, including requirements for off-street parking and limitations on other accessory uses of the premises, as it may deem appropriate to avoid detriment to the neighborhood or to nearby persons or property. The Board shall evaluate each special permit application that involves exterior changes in the appearance and character of the neighborhood and may require that there be no change or minimal change to any building facade oriented toward a public way or visible from a public way.

B. Usage and permitting. Accessory apartments are permitted only in zoning districts shown in table 300-55(b)(1):

ACCESSORY USES	R6	R10	R15	R22	R45	R90	RHD	RSD	RMD
Accessory Apartment (attached) as	Y	Y	Y	Y	Y	Y	SP	SP	Y

defined in § 300-5.									
Accessory Apartment (detached) as defined in § 300-5.	Y	Y	Y	Y	Y	Y	SP	SP	Y

C. Conditions and requirements. Notwithstanding provisions in this chapter to the contrary, an accessory apartment in any residential zone is subject to the following provisions:

(1) Affordability. All rents for accessory apartments shall have a maximum rent at least 30 percent below the United States Department of Housing and Urban Development (HUD) Fair Market Rent (FMR) limit for Beverly, Massachusetts.

(a) Rent rate shall be provided by the applicant at the time of the residential property inspection for verification.

(2) Utilities. The maximum rent for an accessory apartment must include all applicable utilities (including electricity, water, oil and gas) and parking.

(a) All dwelling units on a property must have all applicable utility service (including electricity, water, oil and gas) active if an accessory apartment is present.

(3) Owner-Occupancy. The owner of record shall reside in one of the dwelling units on the property, which shall be said owner's principal residence.

(4) Dwelling unit maximum. There shall be no more than two accessory apartments on a property.

(5) Sanitary and Building Codes. All accessory apartments must meet the minimum requirements for the state's sanitary and building codes, in addition to any other corresponding municipal codes.

(6) Dimensional Regulations for Accessory Apartments. All accessory apartments are subject to the following dimensional regulations.

(a) Square footage. Accessory apartments shall be no less than 500 and no greater than 1,500 square feet in total living space.

1. An Accessory Apartment (attached) must be no greater than 50% of the principal building's gross floor area.

(b) Special provisions for Accessory Apartments (attached)

1. Front entrance. The principal dwelling unit shall have only one front entrance; any new entrance shall be located on the side or in the rear of the building.

(c) Special provisions for Accessory Apartment (detached)

1. Height Regulations – the accessory apartment (detached) shall not be taller than the principal dwelling.

2. All accessory apartments (detached) shall clearly be secondary to the principal building.

3. All accessory apartments (detached) shall be complementary to the building form and architectural style of the principal building.

(7) Parking Regulations for accessory apartments

(a) A minimum of one off-street parking space shall be provided and reserved for the accessory apartment. This space shall be distinct from other off-street parking spaces on the property and reserved for accessory apartment use.

(8) Property and deed. The principal dwelling and the accessory apartment shall remain in common or single ownership and shall not be severed in ownership. The accessory apartment may not be sold separately from the principal building.

(9) Short term rentals. Short term rentals are prohibited in any accessory apartment.