

ARTICLE 24: Amend Zoning Bylaw - Accessory Dwelling Units

To see if the Town will vote to amend the Town of Marblehead Zoning Bylaws Accessory dwelling units, as follows (**underline and bold is new language** and ~~cross-out is removed language~~) and change all the rubrics accordingly.

Part A:

§ 200 Article IX, § 200-42. Accessory dwelling units.

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

- (1) Increase the number of small dwelling rental units available in the Town;
- (2) Increase the number of affordable rental units available in Town;
- (3) Increase the range of choice of housing accommodations to meet the needs of households;
- (4) To increase the supply of housing and the diversity of housing options, in response to demographic changes such as smaller households and older households;
- (5) To encourage the efficient use of the Town's housing supply while preserving the character of the town's neighborhoods;
- (6) To 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.

B. General requirements.

(1). Accessory dwellings units shall only be permitted in a zoning district that permits single-family residential dwellings.

(2). No more than one accessory dwelling unit shall be permitted for each principal dwelling unit.

(3). Accessory dwellings units are only allowed in or as an accessory to single-family dwellings.

(4). Accessory dwelling units are allowed within or attached to an existing single-family structure or detached accessory building with a permanent foundation and that is accessory to existing single-family structure.

~~(5). At least one owner of the residence in which the accessory dwelling unit is created shall reside in one of the dwelling units, either the principal or accessory unit created therein, as a principal place of residence. For the purpose of this section, the "owner" shall be one or more individuals who hold title to the property, or a purchase and sales agreement and for whom the dwelling shall be the primary residence as evidenced by voter registration, tax return or other documentation demonstrating primary residence. Owner occupancy is required for an accessory dwelling unit to be permitted.~~

~~(6). The accessory dwelling unit may not be sold or 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 or single ownership and shall not be severed in ownership.~~

(5). Short-term rentals, as defined, are prohibited in both the accessory and principal dwelling units.

C. Exterior appearance and size. The accessory dwelling unit shall be designed to maintain the appearance and essential character of a one-family dwelling with accessory structures, subject further to the following conditions and requirements:

- (1). 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 appear to be secondary.
- (2). All stairways to the accessory dwelling unit above the first floor shall be located on the rear or side of the dwelling.
- (3). The accessory dwelling unit shall not contain in excess of **1,000-900** square feet of ~~habitable space~~ **gross floor area** or exceed 50% of the gross floor area of the principal dwelling, whichever is less.

- (4). The accessory dwelling unit shall not contain more than two bedrooms.
- (5). The accessory dwelling unit shall meet all regulations of the Board of Health.
- (6). The accessory dwelling unit shall be clearly subordinate in use, size and design to the principal dwelling.

D. Procedure. **For all detached accessory dwelling units or accessory dwelling units which require a change in footprint or height and which are attached to the principal dwelling, shall require Site Plan Review by the Planning Board in accordance with section 200-38 hereof and which the Planning Board shall approve or approve with conditions but shall not deny.** ~~shall be the special permit granting authority (SPGA) for accessory dwelling units. The SPGA shall determine whether to grant, grant with conditions or deny special permits in accordance with the standards in Subsection D(2) below, if an accessory dwelling unit is proposed which is:~~ **Section 200-30.B(1) of the Bylaw shall not apply to any accessory dwelling unit as to use but shall apply in the event of a non-conforming dimensional standard.**

- ~~• Within an existing single family structure or detached accessory building; or~~
- ~~• An addition to an existing single family structure or detached accessory building or a new accessory structure.~~

(1) Submission requirements:

- ~~(a) A completed application for an accessory dwelling unit must be submitted to the Planning Board.~~
- ~~(b) A certified plot plan of the proposed accessory dwelling unit, the principal dwelling where it is to be located and all floor plans and elevations.~~
- ~~(c) All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the accessory dwelling unit.~~
- ~~(d) A description of the units, including number of bedrooms, size and layout.~~
- ~~(e) A notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence.~~

(2) Standards for special permit for ADUs.

- ~~(a) Architectural features and design are compatible with the existing neighborhood.~~
- ~~(b) Vehicular and pedestrian movement is safe and convenient (parking is provided or adequate in neighborhood, curb cuts do not exceed allowed).~~
- ~~(c) Adverse effects on abutters are minimized (limited or no impact from the street; and privacy).~~
- ~~(d) 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.~~
- ~~(e) The Planning Board may impose any conditions deemed necessary to achieve the purposes of this bylaw, including dimensional relief.~~

E. Additional conditions and requirements for all accessory dwelling units.

- (1) The accessory dwelling unit must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the principal dwelling.
- (2) There shall be no occupancy of the accessory dwelling unit until the Building Department has issued a certificate of occupancy certifying that the principal dwelling and accessory dwelling unit are in compliance with all applicable health and building and fire codes.
- (3) The building permit/certificate of occupancy shall be revoked upon determination by the Building Inspector that any condition imposed by the Town has not been fulfilled.
- (4) By filing the application for a building permit for an accessory dwelling unit, all owners consent to an inspection upon reasonable notice by the Building Inspector to ensure compliance with all terms of this section.

- (5) Parking for accessory dwelling units there shall be one additional parking space per accessory dwelling unit which is in addition to what is required for the principal use. Except if the ADU is located within ½ mile form a commuter rail station, subway station, ferry terminal or bus station no parking is required. A bus station is defined as a location serving as a point of embarkation for any bus operated by a Transit Authority. For routes that allow flag stop locations where passengers may signal for a bus to stop at any point along its designated route, the entire route shall be considered a Bus Station.**
- ~~(5) When 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 30 days of the sale, submit a notarized letter stating that they will occupy one of the dwelling units on the premises as their primary residence. This shall be part of municipal lien certificate.~~

F. Enforcement and termination. In addition to the authority of the Building Commission under any other provisions of this bylaw, statute or regulations, the following shall apply:

- (1) It shall be the duty of the Building Commissioner to administer and enforce the provisions of this bylaw.
- (2) No building shall be constructed or changed in use or configuration until the Building Commissioner has issued a permit.
- (3) Any new building or structure 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 Inspector where required.
- (4) 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 chapter.
- (5) The accessory dwelling unit use shall terminate immediately upon any violation of any term or condition of this bylaw that the owner fails to appeal or cure, upon 30 days' written notice mailed to the applicant and to the occupants at the dwelling address by certified mail, return receipt requested.
- (6) Duties of owner upon termination include:
 - (a) The owner shall discontinue the use of the accessory dwelling unit as a separate dwelling unit.
 - (b) The kitchen facilities of the accessory dwelling unit shall be removed.
 - (c) Any additional exterior entrance constructed to provide access to the accessory dwelling unit shall be permanently closed.

G. Severability. All the clauses of this bylaw are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw.

H. Definitions. **For the purpose of this Section 200-42 the following words shall have the following meanings:**

ACCESSORY DWELLING UNIT

~~An accessory apartment is a second dwelling unit subordinate in size to the principal dwelling unit on a lot, located in either the principal dwelling or an accessory structure.~~

(i) A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise 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; (ii) is not larger in gross floor area than ½ the gross floor area of the principal dwelling or 900 square feet, whichever is smaller ."

EXISTING DETACHED ACCESSORY BUILDING – ~~A detached accessory building that is existing as of the effective date of this bylaw and that has a permanent foundation.~~ **A detached accessory building that is lawfully existing as of the effective date of this bylaw and that has a permanent foundation.**

GROSS FLOOR AREA – The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding: crawl spaces, garage parking areas, attics, enclosed porches and similar spaces. Where there are multiple Principal Dwellings on the lot, the Gross Floor Area of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

PRINCIPAL DWELLING UNIT

A dwelling unit permitted as a principal residential use under § 200-11 Classification of uses, limitation of uses.

SHORT-TERM RENTAL UNIT

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, or accessory dwelling unit where: (i) at least one 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. For the purpose of this, the Accessory Dwelling Unit Bylaw, a short-term rental shall be anything leased for fewer than 90 days.

Part B:

To see if the Town will vote to amend the Town of Marblehead Zoning Bylaws Parking Requirements, as follows (**underline and bold is new language** and ~~cross-out is removed language~~) and change all the rubrics accordingly. (Part B.)

§ 200 Article VI, § 200-17. Parking Requirements.

~~E. Accessory dwelling units. For accessory dwelling units there shall be one additional parking space per accessory dwelling unit which is in addition to what is required for the principal use.~~ **Parking for accessory dwelling units; there shall be one additional parking space per accessory dwelling unit which is in addition to what is required for the principal use. Except if the ADU is located within ½ mile form a commuter rail station, subway station, ferry terminal or bus station, no parking is required. A bus station is defined as a location serving as a point of embarkation for any bus operated by a Transit Authority. For routes that allow flag stop locations where passengers may signal for a bus to stop at any point along its designated route, the entire route shall be considered a Bus Station,** or take any other action relative there. Sponsored by the Planning Board.

ARTICLE 25: Amend General Bylaw - Floodplain District

To see if the Town will vote to amend the Town of Marblehead Zoning Bylaws Floodplain District, as follows (**underline and bold is new language** and ~~cross-out is removed language~~) and change all the rubrics accordingly. (Part A and Part B)

Part A:

ARTICLE III ZONING DISTRICTS section § 200-8 Paragraph C