

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending “Code of the City of Lowell, Massachusetts”, with respect to Chapter 290, Thereof Entitled, “Zoning” by Amending Various Sections.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

“Code of the City of Lowell, Massachusetts”, hereinafter called the “Code”, adopted by the City Council on December 23, 2008, as amended, is hereby further amended with respect to Chapter 290, entitled “Zoning”, adopted December 7, 2004, as amended, as follows:

- A. By amending Article II Definitions, as more particularly described on Exhibit “A”, annexed hereto and made a part hereof.
- B. By adding Section 4.3.8 Accessory Dwelling Units, as more particularly described on Exhibit “A”, annexed hereto and made a part hereof.
- C. By amending Article XIII: Table Of Accessory Uses, as more particularly described on Exhibit “A”, annexed hereto and made a part hereof.

This Ordinance shall take effect upon its passage in accordance with Section 1.7 of the “Lowell Zoning Ordinance” and the provisions of Chapter 43 and 40A of the General Laws of Massachusetts.

APPROVED AS TO FORM:

Corey Williams
City Solicitor

Exhibit “A”
Accessory Dwelling Unit Draft Ordinance

AMEND ARTICLE II 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: (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; (ii) is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by a municipality, including but not limited to additional size restrictions, owner-occupancy requirements and restrictions or prohibitions on short-term rental of accessory dwelling units.

OWNER-OCCUPIED: A property shall be considered owner-occupied when the owner of the property permanently resides in the ADU or in the principal residential unit with which the ADU is associated on the same lot. In instances where a property is owned by a trust or estate, the property shall be considered owner-occupied when a beneficiary of the trust or estate resides in either the ADU or the principal residential unit. In instances where a property is owned by a Limited Liability Company (LLC), the property shall be considered owner-occupied when one of the members of the LLC resides in either the ADU or the principal residential unit.

SHORT-TERM RENTAL: A residential dwelling where rooms are rented for less than twenty-eight (28) days to transients, as defined in Article II of this ordinance, catering to their needs by the furnishing of sleeping accommodations, and may include the provision of meals.

TRANSIENT: A person or stay which is brief or temporary as a guest.

ADD SECTION 4.3.8 ACCESSORY DWELLING UNITS

1. Purpose.
 - a. To add diversity of housing options to meet the needs of smaller households, enable aging-in-place, and make housing units available to households who might otherwise have difficulty finding housing;
 - b. To provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services; and
 - c. To encourage the efficient use of the city’s housing supply while preserving the character of the city’s neighborhoods.

2. Process.

- a. No accessory dwelling unit shall be constructed without a building permit issued by the Division of Development Services. The permit application must include:
 - i. Proof of ownership of the property or authorization from the owner of the property; and
 - ii. A floor plan of the accessory dwelling unit, the principal dwelling where it will be located, and all elevations. All plans must be drawn to scale and identify the existing structure and the proposed modifications to create the accessory dwelling unit.
- b. At least one (1) owner of the property must reside in either the primary dwelling unit or the accessory dwelling unit. Proof of owner-occupancy must be provided with a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence. This shall be recorded at the Registry of Deeds and a copy shall be submitted to the Division of Development Services.
- c. No use as an accessory dwelling unit shall be permitted prior to the issuance of a Certificate of Occupancy by the Division of Development Services.
- d. The occupancy permit shall be revoked upon determination by the Building Commissioner or their designee that any conditions imposed by this section has not been fulfilled.
- e. By filing the application for Building Permit for an accessory dwelling unit, all owners consent to an inspection upon reasonable notice by the Building Commissioner or their designee to ensure compliance with all terms of this ordinance.
- f. Upon sale of the property, the new owner shall be required to file a new application with Development Services to maintain the accessory dwelling unit.

3. Requirements.

- a. The use of the subject property shall be a single-family residential use.
- b. No more than one (1) accessory dwelling unit shall be located on a single property.
- c. At least one (1) owner of the property must reside in either the primary dwelling unit or the accessory dwelling unit. Proof of owner-occupancy must be provided with a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence. This shall be recorded at the Registry of Deeds and a copy shall be submitted to the Division of Development Services.
- d. The accessory dwelling unit may not be sold separately from the principal dwelling.
- e. The accessory unit shall be clearly subordinate in use, size, and design to the principal dwelling.
- f. 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.

- g. Short-term rentals are prohibited in both the primary and accessory dwelling unit.
 - h. Utilities for the accessory unit, such as water, electric, and gas shall be extensions of the existing utilities serving the primary dwelling. No new utilities meters shall be installed for the use of the accessory dwelling unit. Upgrades to the primary dwelling to safely permit the accessory dwelling unit shall be permitted so long as no new utility connections or meters are created.
 - i. No more than five (5) accessory dwelling units shall be permitted in any City Councilor voting district per calendar year.
 - j. Upon adoption of a Home Rule Petition, the maximum rent of the affordable accessory dwelling unit, including utilities and parking, shall be at least thirty (30) percent below the established Fair Market Rent limit for the City of Lowell as determined annually by the United States Department of Housing and Urban Development.
4. Conditions.
- a. An accessory dwelling unit is a separate, subordinate living area constructed as part of an existing or newly constructed, owner-occupied single-family structure and built in a manner which maintains the appearance of a single-family structure.
 - i. The accessory dwelling unit may be in a detached accessory structure that exists as of the adoption of this ordinance or which has been in existence for at least ten (10) years, and complies with Section 4.3.5(4) and Section 4.4.
 - b. An accessory dwelling unit shall not contain more than two (2) bedrooms.
 - c. An accessory dwelling unit shall require one (1) off-street parking space per bedroom.
 - d. An additional entrance exclusively for the accessory dwelling unit must not be located facing the street, unless it is located below the main level of the house and is substantially concealed from view from the public way.
 - e. The accessory dwelling unit shall not be larger in floor area than 1/2 of the gross floor area of the principal dwelling or 900 square feet, whichever is smaller.
5. Special Permit Required.
- a. In the event that the proposal cannot meet the conditions set forth in Section 4.3.8(4), a Special Permit is required from the Zoning Board of Appeals.
 - b. All detached accessory dwelling units shall require a Special Permit from the Zoning Board of Appeals.
 - c. All accessory dwelling units (detached and attached) on lots smaller than 7,000 sq. ft shall require a Special Permit from the Zoning Board of Appeals.
6. Termination.
- a. The accessory dwelling unit shall terminate immediately upon any violation of any term or condition of this ordinance that the owner fails to cure, upon two weeks of written notice mailed to primary dwelling unit address by certified mail, return receipt requested.
 - b. Duties of the owner upon termination include:

