Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: February 21, 2024

TO: Councilor R. Lisle Baker, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Zachery LeMel, Chief of Long-Range Planning
Nora Masler, Planning Associate

RE: **#369-24 Requesting discussion and amendments to Accessory Dwelling Unit (ADU) Ordinance**
HER HONOR THE MAYOR requesting discussion and amendments to Newton's Accessory Dwelling Unit (ADU) Ordinance, so it complies with the State's Zoning Act (Ch. 40A).

Meeting: February 26, 2024

CC: City Council
Planning Board
Jonathan Yeo, Chief Operating Officer

Overview

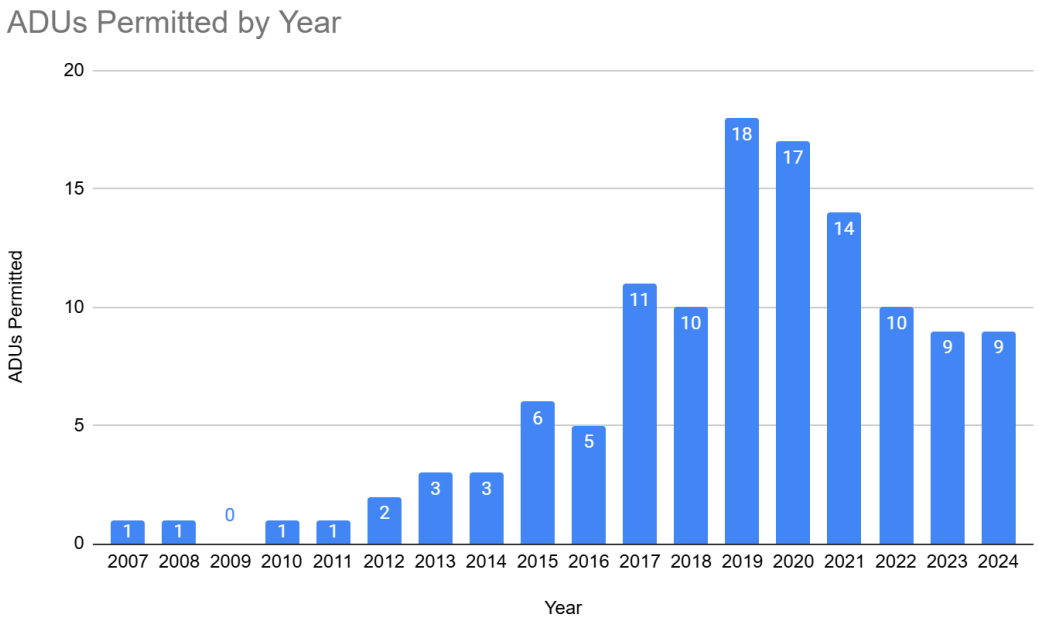
In August 2024, Governor Maura Healey signed into law the Affordable Homes Act. This legislation includes updates to the State's Zoning Act (Ch. 40A) regulating Accessory Dwelling Units (ADUs), which went into effect on February 2, 2025. The final regulations issued by the Executive Office of Housing and Livable Communities (EOHLC) can be found here. The legislation will allow small ADUs by-right in all zoning districts where a single-family home is allowed (by-right or by special permit) and ensures ADUs are not regulated more restrictively than a single family home.

Newton already allows for both internal and detached ADUs (up to 1,000 sq. ft. and 900 sq. ft., respectively) by-right, however a number of other provisions such as design standards, setbacks, and owner occupancy requirements must be amended to be consistent with state law. In addition to making the required updates, the Zoning and Planning (ZAP) Committee also discussed additional amendments to further incentivize the creation of ADUs.

ADU Background

Accessory dwelling units were first permitted in Newton in 1987, and they were limited to Single Residence districts and required a special permit. In 1990 the ordinance was amended to expand opportunities by allowing ADUs in Multi Residence districts, establishing an administrative review process and reducing the required lot area. Additional minor amendments were done in the 1990s and 2000s and the next major amendment was in 2017. The 2017 amendment allowed internal ADUs under a certain size by-right, removed the lot size requirements, and removed minimum parking requirements. In 2022, the City Council made additional amendments to allow small detached ADUs by-right and to reduce the setbacks in some circumstances.

Newton has 121 permitted ADUs (see yearly data here and below). Approximately three-quarters of ADUs are internal and one-quarter are detached, most of which are located in historic carriage houses. Since the amendment in 2022 to allow detached ADUs by-right (outside of historic carriage houses, which were already by-right) only two by-right detached ADUs have been created. Since 2014, on average, 10 ADUs have been permitted per year and just 0.6% of single- and two-family homes (excluding two-unit condos) in Newton have an ADU.



State Required Amendments

The proposed amendments described below are focused on those necessary to achieve compliance with state law. The change to state law is in effect as of February 2, 2025, but it is important that Newton update the zoning ordinance to limit confusion. The amendments discussed below can be found in the redline draft ordinance in **Attachment A** and a clean version of the ordinance is provided in **Attachment B**.

Allowable zoning districts

The regulations require that an ADU must be allowed by-right wherever a single-family dwelling is allowed by-right or by special permit. For Newton this includes the Single Residence, Multi Residence, and Business 1-4 districts. ADUs must be accessory to a residential use and Newton already allows ADUs accessory to any single- or two-family dwelling, therefore this addition will likely result in minimal changes.

Calculating maximum ADU size

Newton's current ADU ordinance limits the size of an internal ADU to 33% of the total habitable space of the principal dwelling, or a maximum of 1,000 sq. ft, whichever is less. Detached ADUs are limited to 50% of the total habitable space of the principal dwelling, or 900 sq. ft., whichever is less. The state law requires that ADUs be allowed by-right up to at least 50% of the total gross floor area of the principal dwelling, or 900 sq. ft., whichever is less.

In addition to the change in percentage used for internal ADUs, the state law requires we use gross floor area instead of habitable space when measuring the principal building. The definition for gross floor area provided in the regulations from EOHLC has been added ADU ordinance.

The percentage change from 33% to 50% could help small homes get closer to the 900 or 1,000 sq. ft. maximum ADU size. Since the language limits the size of the ADU to the lesser of a percentage of the principal building size or 900/1,000 sq. ft., the change from 33% to 50% of the principal building for internal ADUs, is limited in impact. The change from 33% to 50% of the principal building area when calculating the maximum internal ADU size will only impact buildings with less than 3,000 sq. ft. of gross floor area.

Dimensional Controls

Newton's existing zoning ordinance subjects detached ADUs to the dimensional requirements for accessory buildings. This includes a maximum height of 1.5 stories, or 22 feet, and a maximum footprint of 700 sf. There is no option for a special permit to waive the maximum height or footprint. Garages and other accessory buildings are only subject to 5-foot side and rear setbacks, however detached ADUs must currently provide at least half the side and rear setbacks as required for the principal building or 7.5 feet, whichever is greater.

The regulations issued by EOHLC state that the dimensional controls applied to the ADU cannot be more restrictive than those for single family dwellings, the principal building, or accessory buildings,

whichever is more permissive. For this reason, the proposed draft ordinance removes the footprint limitation, allows detached ADUs to be built to 2.5 stories (when meeting the principal setbacks), and allows ADUs to provide the accessory building setbacks of 5 feet when not exceeding the accessory building max height of 1.5 stories.

In the proposed draft, the full 2.5 story height is limited to ADUs which also meet the principal building setbacks for a single family, detached building. This is the minimum change required to comply with the regulations. The principal setbacks for a single family, detached building range from 15 – to 25-feet for rear setbacks and from 7.5- to 20-feet for side setbacks depending upon the zoning district and when the lot was created. The 5-foot side and rear setbacks would only be available to ADUs that do not exceed 1.5 stories, or 22 feet. All detached ADUs will continue to have to meet the principal building front setback requirement.

The footprint limitation has been an issue for detached ADUs as it prevents the utilization of the full 900 sq. ft. in a single story, which may be less impactful to neighbors and is also desirable for accessibility reasons. Staff do not believe this footprint limitation was intended to apply to ADUs as this limitation also prevents the realization of the full 1,500 sq. ft. permitted by special permit due to the 1.5 story restriction and the lack of an option to waive the footprint maximum. Removal of this restriction is necessary to comply with state law, however it is also good policy. Impact will be minimal as it can only result in an additional 200 sq. ft. footprint by-right and special permit applications will be subject to additional discretionary review.

<u>Owner occupancy requirement</u>

Newton's current ordinance requires the property owner to reside in either the principal or accessory dwelling and to provide annual certifications that they live on-site to the Commissioner of Inspectional Services. The state law prohibits any sort of owner occupancy requirement on by-right ADUs. The principal and accessory dwellings still must remain under common ownership, so they cannot be sold as condos, however there cannot be a requirement that the owner live on-site. Planning recommends removing this requirement for both by-right ADUs and those that request a special permit to increase the size (up to a maximum of 1,200 sq. ft. for internal and 1,500 sq. ft. for detached).

Despite regular amendments to increase ADU opportunities over the past almost 40 years, Newton still has a relatively small number of existing ADUs. This is partially due to significant costs to build an ADU due to code requirements, including providing additional means of egress, along with the costs to build a kitchen and bathroom. ADUs are still quite limited in size, making them more likely to be utilized for family members than a viable income source. While Newton sees many new two-unit developments in MR districts, they are built as condos so they can be sold separately and both units are significantly larger than what is permitted for an ADU, even by special permit. Developers could build two family homes that are under common ownership today, similar to what is permitted under the ADU ordinance, and choose not to, which shows there is not a strong market for new two-unit rentals even when those units can be larger.

ADUs that seek a special permit are still quite small compared to most homes in Newton and the City Council has the discretion to add conditions, at which point an owner occupancy requirement could

be considered. At the request of the chair, Planning has provided a redlined version that retains the owner occupancy requirement for ADUs that require a special permit as an option for the Committee to consider.

Front entry restriction

Newton's current ordinance prohibits the creation of an additional street-facing entrance for an ADU, except by special permit. This requirement does not apply to homes without ADUs, which may have multiple street-facing entrances. The state law defines ADUs in part as maintaining "a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling". The removal of this requirement should have minimal impact as there is currently nothing preventing a home from adding an additional entrance prior to creating an ADU.

Design standards

Newton's ordinance requires that the ADU match the materials, style, and architecture of the principal dwelling and fit in with the character of the neighborhood, left to the discretion of Commissioner of Inspectional Services. The final regulations prohibit any design requirements which are not applied to single family dwellings. These requirements have been removed from the proposed ordinance and at the request of ZAP, Planning staff have added criteria for the City Council to consider in granting special permits for larger ADUs which consider the size, scale, location, and design compatibility of the ADU.

Occupancy limitations

The regulations restrict limitations on the number of occupants. Newton's current ordinance combines the individuals living in the principal dwelling as well as the ADU when determining if a special permit for an association of persons (five or more unrelated residents) is required. By removing this provision, the association of persons special permit requirement would apply separately to the principal dwelling and the ADU.

Additional Amendments

At the January 27, 2025 ZAP meeting, committee members discussed additional ADU amendments put forth by Councilor Albright that would further support the creation of ADUs. The proposed amendments discussed below can be found in the redlined draft ordinance in **Attachment C** and a clean version of the ordinance is provided in **Attachment D**.

Allow larger internal ADUs in existing homes

The proposed amendment would allow 1,200 square-foot internal ADUs by-right when the principal dwelling is more than four years old. The existing ordinance allows up to a 1,000 square-foot internal ADU by-right and up to 1,200 square feet by special permit. The proposal would retain the ability to increase the size to 1,200 square feet by special permit when the principal dwelling is less than four years old. Adding a larger ADU within an existing home would not increase the mass of the home and the increase in size would not be apparent from the outside but would provide a more attractive

option for someone looking to retain the existing home and create a separate unit for family or rental income.

Allow larger detached ADUs

The proposed amendment would increase the by-right size of detached ADUs from 900 square feet to 1,200 square feet and would retain the special permit limit of 1,500 square feet. A 900 square-foot unit is considered small for Newton and numerous homeowners and architects have expressed that the costs associated with building a detached ADU are too great for the size allowed. A 1,200 square foot unit is still small for new construction but may provide an attractive option for young families or downsizing seniors.

Incentivize conversion of historic carriage houses

The existing ordinance allows historic carriage houses that are located outside of local historic districts to convert to ADUs, as long as they are located more than 15 feet from any existing dwelling on an abutting property and any changes made to allow for the ADU preserve the historic character and integrity of the building. To qualify a carriage house or other accessory building must first apply to the Newton Historical Commission for a determination of historic significance and any alterations are subject to review by the historical commission.

The proposed amendments would first remove the 15-foot separation rule. This rule restricts the ability for an existing structure to convert and makes it so if a carriage house is converted on one property a nearby carriage house on the adjacent property would no longer be eligible.

The additional amendment would expand the historic carriage house provisions to the local historic districts. Currently if a carriage house is located in a local historic district and exceeds the allowable height, size, and/or setbacks allowed for a detached ADU there is no way to convert the structure to an ADU. Expanding this provision to the local historic districts provides additional incentive for preservation. As proposed, the carriage house would still need to have a determination of historic significance, so a recently constructed garage would not qualify, and any changes to the structure would be subject to review and approval by the historic district commission.

Attachment A	Draft redline ordinance incorporating state regulations
Attachment B	Draft clean ordinance incorporating state regulations
Attachment C	Draft redline ordinance with additional ADU proposals
Attachment D	Draft clean ordinance with additional ADU proposals

6.7 Accessory Uses

6.7.1 Accessory ~~Apartments~~Dwelling Units (ADUs)

A. Intent. Accessory ~~apartments~~D~~d~~welling U~~u~~nits are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section.

Accessory ~~apartments~~D~~d~~welling ~~u~~Units are intended to advance the following:

1. Diversify housing choices in the City while respecting the residential character and scale of existing neighborhoods;
2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
3. Create more housing units with minimal adverse effects on Newton's neighborhoods;
4. Provide flexibility for families as their needs change over time and, in particular, provide options for seniors to be able to stay in their homes and for households with disabled persons; and
5. Preserve historic buildings, particularly historic carriage houses and barns.

B. Accessory ~~Apartment~~Dwelling Unit (ADU) Defined. A separate dwelling unit located on a lot in a Single~~-Family, Detached or a Two-Family, Detached building~~ Residence, Multi Residence, or Business 1-4 district or ~~in~~on a ~~detached building located on the same lot as~~lot with a Single-Family, Detached or a Two-Family, Detached building, ~~as~~which separate dwelling unit is an accessory ~~and~~or subordinate use to the primary residential use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 6.7.1.

1. Internal. An A~~a~~ccessory ~~apartment~~d~~D~~welling ~~u~~Unit located within ~~a single- or two-family~~the principal dwelling unit.
2. Detached. An A~~a~~ccessory ~~apartment~~ D~~d~~welling U~~u~~nit not located within ~~a~~ the principal dwelling unit but is located in a separate detached accessory building.

C. Rules for All Accessory ~~Apartments~~Dwelling Units

1. No A~~a~~ccessory ~~apartment~~ D~~d~~welling U~~u~~nit shall be held in separate ownership from the principal structure/~~-~~dwelling unit; ~~To permit redevelopment of existing office buildings into new office buildings.~~
2. No more than 1 A~~a~~ccessory ~~apartment~~D~~d~~welling U~~u~~nit shall be allowed per lot;
3. ~~The property owner or an indirect property owner must occupy either the principal dwelling unit or the accessory apartment. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property;~~
4. ~~The total combined number of individuals residing in the principal and accessory dwelling units may not exceed the number allowed in the principal dwelling unit alone, under Sec. 3.4.2 and other applicable sections;~~
3. Notwithstanding anything to the contrary in the City of Newton Zoning Ordinance, Gross floor area, as used in this Sec. 6.7.1., is 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 a lot, the gross floor area of the largest Principal Dwelling shall be used for determining the maximum size of the ADU.

~~5.~~4. Where the Aa~~a~~ccessory ~~apartment~~Dd~~d~~welling Uu~~n~~it or the principal dwelling is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days;

~~6.~~5. No additional parking is required for the Aa~~a~~ccessory ~~apartment.~~Dd~~d~~welling Uu~~n~~it. If parking for the ~~a~~Accessory ~~apartment~~Dd~~d~~welling Uu~~n~~it is added, however, screening is required sufficient to minimize the visual impact on abutters, such as evergreen or dense deciduous plantings, walls, fences, or a combination;

~~7.~~6. Before a Certificate of Occupancy is issued the property owner of any accessory ~~apartment~~dwelling unit shall record with the Registry of Deeds for the Southern District of Middlesex County, or with the land court, a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the Aa~~a~~ccessory ~~apartment~~Dd~~d~~welling Uu~~n~~it and certified copies shall be filed with the Department of Inspectional Services, where a master list of Aa~~a~~ccessory ~~apartments~~Dd~~d~~welling Uu~~n~~its shall be kept, and with the Assessing Department;

~~8. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 6.7.1 and with 780 CMR; and~~

~~9. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.~~

D. Rules for Internal Accessory ~~Apartments~~Dwelling Units

1. An internal Aa~~a~~ccessory ~~apartment~~Dd~~d~~welling Uu~~n~~it is allowed by right as a use accessory to a Single-Family, Detached building ~~and~~, a Two-Family, Detached building~~.~~ or a residential building on a lot in Single Residence, Multi Residence, or Business 1-4 district.

2. An Internal Accessory ~~Apartment~~Dwelling Unit shall be ~~a minimum of 250 square feet and~~ a maximum of 1,000 square feet or ~~33~~50 percent of the total ~~Habitable Space~~gross floor area in the principal dwelling, ~~as defined in Sec. 8.3,~~ whichever is less. ~~The City Council may grant a special permit for a larger Internal Accessory Apartment up to 1,200 square feet or 40% of the~~

    a. The total ~~Habitable Space~~ gross floor area is the sum of the ~~Habitable Space~~gross floor area of the accessory unit and the principal unit with which it is associated.

    b. The City Council may grant a special permit for a larger Internal Accessory Dwelling Unit up to 1,200 square feet.

3. The City Council may grant a special permit for a larger Internal Accessory Dwelling Unit up to 1,200 square feet, provided that:

    a. The property owner or an indirect property owner must occupy either the principal dwelling unit or the accessory dwelling unit. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the

membership units of a limited liability company holding record title to the property;

b. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 6.7.1 and with 780 CMR; and

c. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.

~~2. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure, and the look, character and scale of the surrounding neighborhood as viewed from the street, including, but not limited to, the following considerations:~~

~~a. The exterior finish material should be the same or visually consistent in type, size, and placement, as the exterior finish material of the remainder of the building;~~

~~b. The roof pitch should be consistent with the predominant roof pitch of the remainder of the building;~~

~~c. Trim should be consistent in type, size, and location as the trim used on the remainder of the building;~~

~~d. Windows should be consistent with those of the remainder of the building in proportion and orientation;~~

~~e. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building;~~

~~f. The Commissioner of Inspectional Services, or the City Council in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of the above criteria. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C)(4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.~~

~~3. Only one entrance may be located on the facade of the building facing a street unless the building had additional street-facing entrances before the accessory apartment was created, except by special permit.~~

E. Rules for Detached Accessory ~~Apartments.~~Dwelling Units.

1. A Detached Accessory ~~Apartment~~Dwelling ~~u~~Unit is allowed by right as a use accessory to a Single-Family, Detached building ~~and~~, a Two-Family, Detached building, or a residential building on a lot in a Single Residence, Multi Residence, or Business 1-4 district.

2. A Detached Accessory ~~Apartment~~Dwelling Unit shall be a ~~minimum of 250 square feet and a~~ maximum of 900 square feet or 50% of the total ~~Habitable Space~~gross floor area of the principal dwelling, whichever is less. ~~The City Council may grant a special permit for a larger Detached Accessory Apartment up to 1,500 square feet.~~

    a. The total ~~Habitable Space~~gross floor area is the sum of the ~~Habitable Space~~gross floor area of the accessory unit and the principal unit with which it is associated.

    ~~The City Council may grant a special permit for a larger Detached Accessory Dwelling unit up to 1,500 square feet.~~

3. The City Council may grant a special permit for a larger Detached Accessory Dwelling ~~u~~Unit up to 1,500 square feet, provided that:

    a. The property owner or an indirect property owner must occupy either the principal dwelling unit or the ~~a~~Accessory ~~d~~Dwelling ~~u~~Unit. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property;

    b. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 6.7.1 and with 780 CMR; and

    c. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.

4. Except as provided for in this Section 6.7.1, a Detached Accessory Dwelling Unit is subject to the dimensional requirements for a Single Family, Detached building or the Principal Dwelling in the zoning district of the subject lot.

5. A Detached Accessory Dwelling Unit shall be included in the floor area ratio calculation for the lot.

6. A Detached Accessory Dwelling U~~u~~nit that does not exceed 1.5 stories, or 22 feet in height, ~~may provide reduced setbacks as follows: side and rear setbacks shall be no less than half the distance prescribed for the principal building, or 7.5 feet, whichever is greater~~ is subject to the setbacks for accessory buildings in Sec. 3.4.3. Notwithstanding the forgoing sentence, the setbacks for a Detached Accessory Dwelling Unit not exceeding 1.5 stories may be reduced by special permit.

7. ~~The~~A Detached Accessory Dwelling Unit must meet the separation requirements from the principal dwelling unit on the subject lot in compliance with Sec. 3.4.3.A.2.b.

~~4. Exterior alterations to an existing accessory structure or the creation of a new accessory structure are permitted provided they are in keeping with the architectural integrity of the existing structure and/or the principal dwelling on the lot and the residential character of the neighborhood. The exterior finish material should be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site. The Commissioner of Inspectional Services, or the City Council in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of this~~

~~requirement. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C) (4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.~~

~~5. The Detached Accessory Apartment must meet the separation requirements from the principal dwelling unit on the subject lot in compliance with Sec. 3.4.3.A.2.b.~~

~~6. A Detached Accessory Apartment shall be no nearer to any side or rear lot line than 7.5 feet or half of the distance prescribed for the principal building, whichever is greater, and no nearer to any front lot line than the distance prescribed for the principal building. Notwithstanding the forgoing sentence, the setbacks for a Detached Accessory Apartment may be reduced by special permit.~~

~~7. A Detached Accessory Apartment shall be included in the floor area ratio calculation for the lot.~~

~~8. Except as required above, a Detached Accessory Apartment is subject to the dimensional requirements of Section 3.4.3, Accessory Buildings. For the purposes of this section, the Commissioner of ISD may determine which lot line is the front on corner lots.~~

~~9.~~8. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory ~~Apartment~~Dwelling Unit in an historic accessory building located outside of an historic district, may be allowed by right without requiring a special permit, and only subject to the rules in this subsection E.8~~7~~.

a. The proposed Detached Accessory ~~Apartment~~Dwelling Unit will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection E.~~7~~8, the structure must qualify and be deemed as "historically significant" under Section 22-50 of the City of Newton Ordinances, The Demolition Review Ordinance, as determined by the Director of Planning and Development and the Chair of the Newton Historical Commission;

b. The proposed Detached Accessory ~~Apartment~~Dwelling Unit will be greater than 15 feet from an existing residential dwelling on an abutting property, except by special permit; and

c. Any exterior alteration of the building to permit the creation of the Detached Accessory ~~Apartment~~Dwelling Unit will preserve the historic character and integrity of the building. Exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission.

F. Special Permit Criteria. In granting a special permit the City Council shall find:

a. That the size and location of the A~~a~~ccessory D~~d~~welling U~~u~~nit is appropriate for the lot; and

b. That the exterior alterations are compatible with the size, scale, and architecture of the principal dwelling.

~~F.~~G. Invalidity Clause. If it shall be determined by a court of competent jurisdiction that any provision or requirement of Sec. 6.7.1 is invalid as applied for any reason, the remaining provisions of~~n~~ Sec. 6.7.1 shall ~~be declared null and void in its entirety~~continue to be valid and enforceable to the fullest extent permitted by law.

6.7 Accessory Uses

6.7.1 Accessory Dwelling Units (ADUs)

A. Intent. Accessory Dwelling Units are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section.

Accessory Dwelling Units are intended to advance the following:

1. Diversify housing choices in the City while respecting the residential character and scale of existing neighborhoods;
2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
3. Create more housing units with minimal adverse effects on Newton's neighborhoods;
4. Provide flexibility for families as their needs change over time and, in particular, provide options for seniors to be able to stay in their homes and for households with disabled persons; and
5. Preserve historic buildings, particularly historic carriage houses and barns.

B. Accessory Dwelling Unit (ADU) Defined. A separate dwelling unit located on a lot in a Single Residence, Multi Residence, or Business 1-4 district or on a lot with a Single-Family, Detached or a Two-Family, Detached building, which separate dwelling unit is an accessory or subordinate use to the primary residential use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 6.7.1.

1. Internal. An Accessory Dwelling Unit located within the principal dwelling unit.
2. Detached. An Accessory Dwelling Unit not located within the principal dwelling unit but is located in a separate detached accessory building.

C. Rules for All Accessory Dwelling Units

1. No Accessory Dwelling Unit shall be held in separate ownership from the principal structure/dwelling unit;
2. No more than 1 Accessory Dwelling Unit shall be allowed per lot;
3. Notwithstanding anything to the contrary in the City of Newton Zoning Ordinance, Gross floor area, as used in this Sec. 6.7.1., is 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 a lot, the gross floor area of the largest Principal Dwelling shall be used for determining the maximum size of the ADU.
4. Where the Accessory Dwelling Unit or the principal dwelling is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days;
5. No additional parking is required for the Accessory Dwelling Unit. If parking for the Accessory Dwelling Unit is added, however, screening is required sufficient to

minimize the visual impact on abutters, such as evergreen or dense deciduous plantings, walls, fences, or a combination;

6. Before a Certificate of Occupancy is issued the property owner of any accessory dwelling unit shall record with the Registry of Deeds for the Southern District of Middlesex County, or with the land court, a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the Accessory Dwelling Unit and certified copies shall be filed with the Department of Inspectional Services, where a master list of Accessory Dwelling Units shall be kept, and with the Assessing Department;

D. Rules for Internal Accessory Dwelling Units

1. An internal Accessory Dwelling Unit is allowed by right as a use accessory to a Single-Family, Detached building, a Two-Family, Detached building or a residential building on a lot in Single Residence, Multi Residence, or Business 1-4 district.
2. An Internal Accessory Dwelling Unit shall be a maximum of 1,000 square feet or 50 percent of the total gross floor area in the principal dwelling, whichever is less.
    a. The total gross floor area is the sum of the gross floor area of the accessory unit and the principal unit with which it is associated.
    b. The City Council may grant a special permit for a larger Internal Accessory Dwelling Unit up to 1,200 square feet.
3. The City Council may grant a special permit for a larger Internal Accessory Dwelling Unit up to 1,200 square feet, provided that:

    a. The property owner or an indirect property owner must occupy either the principal dwelling unit or the accessory dwelling unit. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property;

    b. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 6.7.1 and with 780 CMR; and

    c. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.

E. Rules for Detached Accessory Dwelling Units.

1. A Detached Accessory Dwelling Unit is allowed by right as a use accessory to a Single-Family, Detached building, a Two-Family, Detached building, or a residential building on a lot in a Single Residence, Multi Residence, or Business 1-4 district.
2. A Detached Accessory Dwelling Unit shall be a maximum of 900 square feet or 50% of the total gross floor area of the principal dwelling, whichever is less.
    a. The total gross floor area is the sum of the gross floor area of the accessory unit and the principal unit with which it is associated.
3. The City Council may grant a special permit for a larger Detached Accessory Dwelling Unit up to 1,500 square feet, provided that:

a. The property owner or an indirect property owner must occupy either the principal dwelling unit or the Accessory Dwelling Unit. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property;

b. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 6.7.1 and with 780 CMR; and

c. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.

4. Except as provided for in this Section 6.7.1, a Detached Accessory Dwelling Unit is subject to the dimensional requirements for a Single Family, Detached building or the Principal Dwelling in the zoning district of the subject lot.

5. A Detached Accessory Dwelling Unit shall be included in the floor area ratio calculation for the lot.

6. A Detached Accessory Dwelling Unit that does not exceed 1.5 stories, or 22 feet in height, is subject to the setbacks for accessory buildings in Sec. 3.4.3. Notwithstanding the forgoing sentence, the setbacks for a Detached Accessory Dwelling Unit not exceeding 1.5 stories may be reduced by special permit.

7. A Detached Accessory Dwelling Unit must meet the separation requirements from the principal dwelling unit on the subject lot in compliance with Sec. 3.4.3.A.2.b.

8. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory Dwelling Unit in an historic accessory building located outside of an historic district, may be allowed by right without requiring a special permit, and only subject to the rules in this subsection E.8.

   a. The proposed Detached Accessory Dwelling Unit will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection E.8, the structure must qualify and be deemed as “historically significant” under Section 22-50 of the City of Newton Ordinances, The Demolition Review Ordinance, as determined by the Director of Planning and Development and the Chair of the Newton Historical Commission;

   b. The proposed Detached Accessory Dwelling Unit will be greater than 15 feet from an existing residential dwelling on an abutting property, except by special permit; and

   c. Any exterior alteration of the building to permit the creation of the Detached Accessory Dwelling Unit will preserve the historic character and integrity of the building. Exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission.

F. Special Permit Criteria. In granting a special permit the City Council shall find:

   a. That the size and location of the Accessory Dwelling Unit is appropriate for the lot; and

b. That the exterior alterations are compatible with the size, scale, and architecture of the principal dwelling.

G. Invalidity Clause. If it shall be determined by a court of competent jurisdiction that any provision or requirement of Sec. 6.7.1 is invalid as applied for any reason, the remaining provisions of Sec. 6.7.1 shall continue to be valid and enforceable to the fullest extent permitted by law.

6.7 Accessory Uses

6.7.1 Accessory ~~Apartments~~Dwelling Units (ADUs)

A. Intent. Accessory ~~apartments~~D~~d~~welling U~~u~~nits are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section.

Accessory ~~apartments~~D~~d~~welling U~~u~~nits are intended to advance the following:

1. Diversify housing choices in the City while respecting the residential character and scale of existing neighborhoods;
2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
3. Create more housing units with minimal adverse effects on Newton's neighborhoods;
4. Provide flexibility for families as their needs change over time and, in particular, provide options for seniors to be able to stay in their homes and for households with disabled persons; and
5. Preserve historic buildings, particularly historic carriage houses and barns.

B. Accessory ~~Apartment~~Dwelling Unit (ADU) Defined. A separate dwelling unit located on a lot in a Single~~-Family, Detached or a Two-Family, Detached building~~ Residence, Multi Residence, or Business 1-4 district or ~~in~~on a ~~detached building located on the same lot as~~lot with a Single-Family, Detached or a Two-Family, Detached building, ~~as~~which separate dwelling unit is an accessory ~~and~~or subordinate use to the primary residential use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 6.7.1.

1. Internal. An accessory ~~apartment~~D~~d~~welling U~~u~~nit located within ~~a single- or two-family~~the principal dwelling unit.
2. Detached. An accessory ~~apartment~~ D~~d~~welling U~~u~~nit not located within ~~a~~ the principal dwelling unit but is located in a separate detached accessory building.

C. Rules for All Accessory ~~Apartments~~Dwelling Units

1. No A~~a~~ccessory ~~apartment~~ D~~d~~welling U~~u~~nit shall be held in separate ownership from the principal structure/~~-~~dwelling unit; ~~To permit redevelopment of existing office buildings into new office buildings.~~
2. No more than 1 accessory ~~apartment~~dwelling unit shall be allowed per lot;
3. ~~The property owner or an indirect property owner must occupy either the principal dwelling unit or the accessory apartment. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property;~~
4. ~~The total combined number of individuals residing in the principal and accessory dwelling units may not exceed the number allowed in the principal dwelling unit alone, under Sec. 3.4.2 and other applicable sections;~~
3. Notwithstanding anything to the contrary in the City of Newton Zoning Ordinance, Gross floor area, as used in this Sec. 6.7.1., is 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 a lot, the gross floor area of the largest Principal Dwelling shall be used for determining the maximum size of the ADU.

5.4. Where the Aaccessory ~~apartment~~Ddwelling Uunit or the principal dwelling is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days;

6.5. No additional parking is required for the Aaccessory ~~apartment.~~Ddwelling Uunit. If parking for the accessory ~~apartment~~dwelling unit is added, however, screening is required sufficient to minimize the visual impact on abutters, such as evergreen or dense deciduous plantings, walls, fences, or a combination;

7.6. Before a Certificate of Occupancy is issued the property owner of any Aaccessory ~~apartment~~Ddwelling Uunit shall record with the Registry of Deeds for the Southern District of Middlesex County, or with the land court, a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the Aaccessory ~~apartment~~Ddwelling Uunit and certified copies shall be filed with the Department of Inspectional Services, where a master list of Aaccessory ~~apartments~~Ddwelling Uunits shall be kept, and with the Assessing Department;

~~8. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 6.7.1 and with 780 CMR; and~~

~~9. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.~~

D. Rules for Internal Accessory ~~Apartments~~Dwelling Units

1. An internal accessory ~~apartment~~Ddwelling Uunit is allowed by right as a use accessory to a Single-Family, Detached building ~~and~~, a Two-Family, Detached building~~.~~ or a residential building on a lot in Single Residence, Multi Residence, or Business 1-4 district.

2. An Internal Accessory ~~Apartment~~Dwelling Unit shall be ~~a minimum of 250 square feet and~~ a maximum of 1,000 square feet or ~~33~~50 percent of the total ~~Habitable Space~~gross floor area in the principal dwelling, ~~as defined in Sec. 8.3,~~ whichever is less. ~~The City Council may grant a special permit for a larger Internal Accessory Apartment up to 1,200 square feet or 40% of the~~

    a. The total ~~Habitable Space~~ gross floor area is the sum of the ~~Habitable Space~~gross floor area of the accessory unit and the principal unit with which it is associated.

    b. The City Council may grant a special permit for a larger Internal Accessory Dwelling Unit up to 1,200 square feet~~, except.~~

    c. Notwithstanding the forgoing, ~~A~~an ~~1,200 square foot l~~internal ADU greater than 1,000 square feet and up to 12,000 square feet ~~may~~shall be permitted by-right if the Certificate of Occupancy for the principal dwelling ~~unit~~ was granted at least ~~constructed~~ 4 ~~or more~~ years prior to the date of application for ~~a~~the Internal ADU~~permit to construct an ADU as evidenced by a certificate of occupancy for the original construction of the dwelling~~, or if there is other evidence of lawful occupancy, as determined by the Commissioner of Inspection Services, at least 4 years prior to the date of

such application. or, where no certificate is available, the owner provides other evidence of lawful occupancy of the existing dwelling on or before a date at least 4 years prior to the date of application;

2. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure, and the look, character and scale of the surrounding neighborhood as viewed from the street, including, but not limited to, the following considerations:

    a. The exterior finish material should be the same or visually consistent in type, size, and placement, as the exterior finish material of the remainder of the building;

    b. The roof pitch should be consistent with the predominant roof pitch of the remainder of the building;

    c. Trim should be consistent in type, size, and location as the trim used on the remainder of the building;

    d. Windows should be consistent with those of the remainder of the building in proportion and orientation;

    e. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building;

    f. The Commissioner of Inspectional Services, or the City Council in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of the above criteria. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C)(4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.

3. Only one entrance may be located on the facade of the building facing a street unless the building had additional street-facing entrances before the accessory apartment was created, except by special permit.

E. Rules for Detached Accessory Apartments.Dwelling Units.

1. A Detached Accessory ApartmentDwelling Uunit is allowed by right as a use accessory to a Single-Family, Detached building and, a Two-Family, Detached building, or a residential building on a lot in a Single Residence, Multi Residence, or Business 1-4 district.

4.3. A Detached Accessory ApartmentDwelling Unit shall be a minimum of 250 square feet and a maximum of 91,200 square feet or 50% of the total Habitable Spacegross floor area of the principal dwelling, whichever is less. The City Council may grant a special permit for a larger Detached Accessory Apartment up to 1,500 square feet.

    a. The total Habitable Spacegross floor area is the sum of the Habitable Spacegross floor area of the accessory unit and the principal unit with which it is associated.

    b. The City Council may grant a special permit for a larger Detached Accessory Dwelling unit up to 1,500 square feet.

4. Except as provided for in this Section 6.7.1, a Detached Accessory Dwelling Unit is subject to the dimensional requirements for a Single Family, Detached building or the Principal Dwelling in the zoning district of the subject lot.

5. A Detached Accessory Dwelling Unit shall be included in the floor area ratio calculation for the lot.

6. A Detached Accessory Dwelling ~~u~~Unit that does not exceed 1.5 stories, or 22 feet in height, ~~may provide reduced setbacks as follows: side and rear setbacks shall be no less than half the distance prescribed for the principal building, or 7.5 feet, whichever is greater~~ is subject to the setbacks for accessory buildings in Sec. 3.4.3. Notwithstanding the forgoing sentence, the setbacks for a Detached Accessory Dwelling Unit not exceeding 1.5 stories may be reduced by special permit.

7. ~~The~~A Detached Accessory Dwelling Unit must meet the separation requirements from the principal dwelling unit on the subject lot in compliance with Sec. 3.4.3.A.2.b.

~~5. Exterior alterations to an existing accessory structure or the creation of a new accessory structure are permitted provided they are in keeping with the architectural integrity of the existing structure and/or the principal dwelling on the lot and the residential character of the neighborhood. The exterior finish material should be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site. The Commissioner of Inspectional Services, or the City Council in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of this requirement. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C) (4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.~~

~~6. The Detached Accessory Apartment must meet the separation requirements from the principal dwelling unit on the subject lot in compliance with Sec. 3.4.3.A.2.b.~~

~~7. A Detached Accessory Apartment shall be no nearer to any side or rear lot line than 7.5 feet or half of the distance prescribed for the principal building, whichever is greater, and no nearer to any front lot line than the distance prescribed for the principal building. Notwithstanding the forgoing sentence, the setbacks for a Detached Accessory Apartment may be reduced by special permit.~~

~~8. A Detached Accessory Apartment shall be included in the floor area ratio calculation for the lot.~~

~~9. Except as required above, a Detached Accessory Apartment is subject to the dimensional requirements of Section 3.4.3, Accessory Buildings. For the purposes of this section, the Commissioner of ISD may determine which lot line is the front on corner lots.~~

~~10.~~8. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory ~~Apartment~~Dwelling Unit in an historic accessory building ~~located outside of an historic district~~, may be allowed by right without requiring a special permit, and only subject to the rules in this subsection E.7.

~~b.~~c. The proposed Detached Accessory ~~Apartment~~Dwelling Unit will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify

under this subsection E.7, the structure must qualify and be deemed as "historically significant" under Section 22-50 of the City of Newton Ordinances, The Demolition Review Ordinance, as determined by the Director of Planning and Development and the Chair of the Newton Historical Commission; and

c. The proposed Detached Accessory ApartmentDwelling Unit will be greater than 15 feet from an existing residential dwelling on an abutting property, except by special permit; and

d. Any exterior alteration of the building to permit the creation of the Detached Accessory ApartmentDwelling Unit will preserve the historic character and integrity of the building. Exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission or local historic district commission.

F. Invalidity Clause. If it shall be determined by a court of competent jurisdiction that any provision or requirement of Sec. 6.7.1 is invalid as applied for any reason, then remaining provisions of Sec. 6.7.1 shall continue to be valid and enforceable to the fullest extent permitted by lawbe declared null and void in its entirety.

6.7 Accessory Uses

6.7.1 Accessory Dwelling Units (ADUs)

A. Intent. Accessory Dwelling Units are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section.

Accessory Dwelling Units are intended to advance the following:

1. Diversify housing choices in the City while respecting the residential character and scale of existing neighborhoods;
2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
3. Create more housing units with minimal adverse effects on Newton's neighborhoods;
4. Provide flexibility for families as their needs change over time and, in particular, provide options for seniors to be able to stay in their homes and for households with disabled persons; and
5. Preserve historic buildings, particularly historic carriage houses and barns.

B. Accessory Dwelling Unit (ADU) Defined. A separate dwelling unit located on a lot in a Single Residence, Multi Residence, or Business 1-4 district or on a lot with a Single-Family, Detached or a Two-Family, Detached building, which separate dwelling unit is an accessory or subordinate use to the primary residential use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 6.7.1.

1. Internal. An accessory Dwelling Unit located within the principal dwelling unit.
2. Detached. An accessory Dwelling Unit not located within the principal dwelling unit but is located in a separate detached accessory building.

C. Rules for All Accessory Dwelling Units

1. No Accessory Dwelling Unit shall be held in separate ownership from the principal structure/dwelling unit;
2. No more than 1 accessory dwelling unit shall be allowed per lot;
3. Notwithstanding anything to the contrary in the City of Newton Zoning Ordinance, Gross floor area, as used in this Sec. 6.7.1., is 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 a lot, the gross floor area of the largest Principal Dwelling shall be used for determining the maximum size of the ADU.
4. Where the Accessory Dwelling Unit or the principal dwelling is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days;
5. No additional parking is required for the Accessory Dwelling Unit. If parking for the accessory dwelling unit is added, however, screening is required sufficient to

minimize the visual impact on abutters, such as evergreen or dense deciduous plantings, walls, fences, or a combination;

6. Before a Certificate of Occupancy is issued the property owner of any Accessory Dwelling Unit shall record with the Registry of Deeds for the Southern District of Middlesex County, or with the land court, a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the Accessory Dwelling Unit and certified copies shall be filed with the Department of Inspectional Services, where a master list of Accessory Dwelling Units shall be kept, and with the Assessing Department;

D. Rules for Internal Accessory Dwelling Units

1. An internal accessory Dwelling Unit is allowed by right as a use accessory to a Single-Family, Detached building, a Two-Family, Detached building or a residential building on a lot in Single Residence, Multi Residence, or Business 1-4 district.
2. An Internal Accessory Dwelling Unit shall be a maximum of 1,000 square feet or 50 percent of the total gross floor area in the principal dwelling, whichever is less.
    a. The total gross floor area is the sum of the gross floor area of the accessory unit and the principal unit with which it is associated.
    b. The City Council may grant a special permit for a larger Internal Accessory Dwelling Unit up to 1,200 square feet
    c. Notwithstanding the forgoing, an Internal ADU greater than 1,000 square feet and up to 12,000 square feet shall be permitted by-right if the Certificate of Occupancy for the principal dwelling was granted at least 4 years prior to the date of application for the Internal ADU, or if there is other evidence of lawful occupancy, as determined by the Commissioner of Inspection Services, at least 4 years prior to the date of such application.

E. Rules for Detached Accessory Dwelling Units.

1. A Detached Accessory Dwelling Unit is allowed by right as a use accessory to a Single-Family, Detached building, a Two-Family, Detached building, or a residential building on a lot in a Single Residence, Multi Residence, or Business 1-4 district.
3. A Detached Accessory Dwelling Unit shall be a maximum of 1,200 square feet or 50% of the total gross floor area of the principal dwelling, whichever is less.
    a. The total gross floor area is the sum of the gross floor area of the accessory unit and the principal unit with which it is associated.
    b. The City Council may grant a special permit for a larger Detached Accessory Dwelling unit up to 1,500 square feet.
4. Except as provided for in this Section 6.7.1, a Detached Accessory Dwelling Unit is subject to the dimensional requirements for a Single Family, Detached building or the Principal Dwelling in the zoning district of the subject lot.
5. A Detached Accessory Dwelling Unit shall be included in the floor area ratio calculation for the lot.
6. A Detached Accessory Dwelling Unit that does not exceed 1.5 stories, or 22 feet in height, is subject to the setbacks for accessory buildings in Sec. 3.4.3. Notwithstanding the forgoing sentence, the setbacks for a Detached Accessory Dwelling Unit not exceeding 1.5 stories may be reduced by special permit.
7. A Detached Accessory Dwelling Unit must meet the separation requirements from the principal dwelling unit on the subject lot in compliance with Sec. 3.4.3.A.2.b.

8. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory Dwelling Unit in an historic accessory building , may be allowed by right without requiring a special permit, and only subject to the rules in this subsection E.7.

    c. The proposed Detached Accessory Dwelling Unit will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection E.7, the structure must qualify and be deemed as "historically significant" under Section 22-50 of the City of Newton Ordinances, The Demolition Review Ordinance, as determined by the Director of Planning and Development and the Chair of the Newton Historical Commission; and

    d. Any exterior alteration of the building to permit the creation of the Detached Accessory Dwelling Unit will preserve the historic character and integrity of the building. Exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission or local historic district commission.

F. Invalidity Clause. If it shall be determined by a court of competent jurisdiction that any provision or requirement of Sec. 6.7.1 is invalid as applied for any reason, the remaining provisions of Sec. 6.7.1 shall continue to be valid and enforceable to the fullest extent permitted by law.