



Ruthanne Fuller
Mayor

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

#369-24

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089

www.newtonma.gov

Barney Heath
Director

WORKING SESSION MEMORANDUM

DATE: March 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: March 24, 2024

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

Background

At the March 10, 2025 City Council Zoning and Planning (ZAP) Committee meeting, Planning staff presented both the state-mandated updates to Newton's Accessory Dwelling Unit (ADU) ordinance as well as the additional amendments the Committee has been considering. The Planning memo and presentation is available [here](#) and the report from the meeting is available [here](#). The Committee took straw votes on the options and the attached draft ordinance reflects the preferences of the Committee.

Proposed Amendments

The proposed amendments discussed below reflect those that go beyond the state-mandated amendments as supported by the Committee.

1,200 sf By-Right Internal ADU in Existing Buildings

The proposed draft reflects the support of the committee to allow larger by-right internal ADUs in existing buildings. An existing home that has a Certificate of Occupancy that was issued at least four years prior to the ADU application would be eligible for a by-right internal ADU of up to 1,200 square feet. Otherwise, a newer home could have a 1,000 square foot internal ADU or seek a special permit for up to 1,200 square feet.

1,200 sf By-Right Detached ADU in Existing Buildings

The Committee supported allowing a 1,000 square foot detached ADU by-right in a newly constructed building or up to 1,200 square feet if an existing accessory building, such as a garage, is converted to an ADU. Similar to the requirements above, the accessory building would need to be at least four years old, based on the final sign-off on the building permit for the accessory building. An existing accessory building seeking to convert would still need to meet all of the dimensional requirements for the ADU and the zoning district, such as setbacks, height, floor area ratio (FAR), etc.

Subsequent to the March 10th meeting, Councilor Albright suggested an alternative approach to allowing for a 1,200 square foot detached ADU by-right with screening, in lieu of having to locate in an existing building. The attached draft includes a comment with proposed alternate language that would require screening consisting of either a strip of densely planted shrubs or trees (at least 3.5 feet tall and forming a year-round screen) or a wall, barrier, or fence (at least 6 feet tall and not more than 50 percent open). This option could allow for a new construction 1,200 square foot by-right detached ADU while addressing one of the most frequent concerns of neighbors. This also allows flexibility for modular ADUs, which are typically a less expensive option for new construction.

Special Permit Criteria

The state-mandated updates require the removal of design standards for by-right ADUs. In lieu of continuing to apply design standards to ADUs seeking a special permit the Committee preferred to incorporate design into the special permit criteria. The criteria presented at the March 10th meeting would require the City Council to make findings that the size and location of the ADU is appropriate for the lot and that the exterior alterations are compatible with the size, scale, and architecture of the principal dwelling. The Committee expressed concerns that this language would require the ADU to match the style and materials of the principal dwelling and wanted staff to consider alternatives to referencing architecture. Planning staff recommend revising this criterion to consider that exterior alterations made for the ADU complement the principal dwelling.

Additionally, the Committee voted to not include owner occupancy requirements for all ADUs seeking a special permit and instead have language in the ordinance that these may be considered by the City Council as part of the special permit process. This has been added to the sections stating the City Council may grant a special permit for a larger internal or detached ADU. The chair also requested that language be added to this section stating that the Council may also consider parking needs for these larger ADUs seeking special permits.

Conversion of Historic Carriage Houses

The ADU ordinance already allows for the conversion of historic carriage houses outside of local historic districts. Carriage houses must first be found historically significant by the Newton Historical Commission and then may convert to an ADU even if they do not meet the dimensional requirements

otherwise required for a detached ADU. The amendments supported by the Committee would expand this provision to local historic districts and would remove a requirement that the existing historic carriage house be at least 15 feet from any residential dwelling on an abutting lot.

The City does not maintain an inventory of historically significant carriage houses within or outside of the historic districts. Therefore, the conversion of any historic carriage house in a local historic district would first require the Newton Historical Commission to determine if the building was historically significant, as they do now for carriage houses outside of districts and for all demolition delay applications. Any exterior alterations to the carriage house would have to be approved by the local historic district commission. The Massachusetts Cultural Resource Information System (MACRIS) contains a database of buildings that have been inventoried as historic resources. A list of inventoried outbuildings in Newton on MACRIS includes 80 accessory buildings, 28 of which are located in local historic districts. The buildings identified would not all be considered carriage houses at this time, however. Some are now principal dwellings, some seem to have been demolished or connected to the principal dwelling, and some have addresses that do not align with Newton's Assessor's database.

Clarifications

At the March 10th ZAP meeting there were some questions regarding the state's definition of "gross floor area". In determining the maximum allowable size for an ADU the state requires that it be calculated as no less than 50% of the principal dwelling's gross floor area or 900 square feet, whichever is less. The definition provided in the ADU regulations issued by the Executive Office of Housing and Livable Communities (EOHLC) defines gross floor area as not including crawl spaces, garage parking areas, attics, enclosed porches and similar spaces. The definition also states that it is the sum of all areas of the building of compliant ceiling height pursuant to the Building Code. The Committee members questioned how attic is defined for the purposes of determining which spaces in the ADU would count towards to maximum size. The Building Code defines "attic" as unfinished space between the ceiling joists of the top story and the roof rafters, so any habitable, finished space in the half story of an ADU would not be considered an attic and would be counted towards the maximum ADU size. Additionally, the principal dwelling and ADU will need to comply with the maximum floor area ratio (FAR) for the site.

Attachment A	Draft redline ordinance
Attachment B	Draft clean ordinance

Redline Zoning Text – ADU Ordinance Rev. 1/10/2025 2/7/2025 2/21/2025 3/7/2025-3/21/2025
 Docket # 369-24: Request for review and amendments to Section 6.7.1

6.7 Accessory Uses

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

- A. Intent. Accessory ~~apartments~~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 ~~apartments~~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 ~~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 a 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 ~~apartments~~Dwelling Unit located within ~~a single- or two-family~~ the principal dwelling unit.
2. Detached. An Accessory ~~apartment~~ Dwelling Unit 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 Accessory ~~apartment~~ Dwelling Unit 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

Redline Zoning Text – ADU Ordinance Rev. 1/10/2025 2/7/2025 2/21/2025 3/7/2025 3/21/2025

Docket # 369-24: Request for review and amendments to Section 6.7.1

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 ~~A~~accessory ~~apartment~~Dwelling 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 ~~A~~accessory ~~apartment~~Dwelling Uunit. If parking for the ~~a~~Accessory ~~apartment~~Dwelling Uunit 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~~ Accessory apartment~~d~~Dwelling 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 ~~A~~accessory ~~apartment~~Dwelling Uunit and certified copies shall be filed with the Department of Inspectional Services, where a master list of ~~A~~accessory ~~apartments~~Dwelling 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 ~~Apartment~~Dwelling Units

1. An internal ~~A~~accessory ~~apartment~~Dwelling 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 ~~3350~~ 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. When granting a Special Permit for a larger ADU, the City Council may consider parking needs and owner occupancy requirements.
 - c. Notwithstanding the foregoing, an Internal ADU greater than 1,000 square feet and up to 1,200 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

Redline Zoning Text – ADU Ordinance Rev. 1/10/2025 2/7/2025 2/21/2025 3/7/2025 3/21/2025

Docket # 369-24: Request for review and amendments to Section 6.7.1

of Inspection Services, at least 4 years prior to the date of such 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 Apartment Dwelling Unit.

- 1. A Detached Accessory Apartment Dwelling 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 900-1,000 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. When granting a

Docket # 369-24: Request for review and amendments to Section 6.7.1

Special Permit for a larger ADU, the City Council may consider parking needs and owner occupancy requirements.

c. Notwithstanding the foregoing, a Detached ADU greater than 1,000 square feet and up to 1,200 square feet shall be permitted by-right if the ADU is located in an accessory structure which was granted a final building permit sign-off at least 4 years prior to the date of the application for the Detached ADU, or if there is other evidence of lawful existence, as determined by the Commissioner of Inspection Services, at least 4 years prior to the date of such application.

- 3. Except as provided 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.
- 4. A Detached Accessory Dwelling Unit shall be included in the floor area ratio calculation for the lot.
- 5. A Detached Accessory Dwelling Unit that does not exceed 1.5 stories, and 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.
- 6. 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 Inspection 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~~

Commented [JC1]: Alt text: Notwithstanding the forgoing, a Detached ADU greater than 1,000 square feet and up to 1,200 square feet shall be permitted by-right if the ADU provides screening. Screening shall consist of one or a combination of the following:

- i. A strip of densely planted shrubs or trees which are at least 31/2 feet high at the time of planting and are of a type that may be expected to form a year-round screen;
- ii. A wall, barrier, or fence of uniform appearance. Such wall, barrier, or fence may be opaque or perforated provided that not more than 50 percent of the face is open. The wall, barrier, or fence shall be at least 6 feet in height and in compliance with the Revised Ordinances Chapter 5, Article III, Fences. The required screening shall be located so as not to conflict with any corner visibility requirements or any other City ordinances. Such screening may be interrupted by entrances or exits.

Redline Zoning Text – ADU Ordinance Rev. 1/10/2025 2/7/2025 2/21/2025 3/7/2025-3/21/2025

Docket # 369-24: Request for review and amendments to Section 6.7.1

~~of this section, the Commissioner of ISD may determine which lot line is the front on corner lots.~~

9.7. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory ~~located outside of an historic district,~~ 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.87.~~

- 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.78,~~ 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
- ~~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.b.~~ 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 or local historic district commission.

F. Special Permit Criteria. In granting a special permit for a larger ADU or reduced setbacks the City Council shall find:

- a. That the size and location of the Aaccessory Dwelling Uunit is appropriate for the lot; and
- b. That the exterior alterations complement 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 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.

Redline Zoning Text – ADU Ordinance Rev. ~~2/7/2025-2/21/2025~~ ~~3/7/2025-3/21/2025~~

Docket # 369-24: Request for review and amendments to Section 6.7.1

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

Docket # 369-24: Request for review and amendments to Section 6.7.1

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. When granting a Special Permit for a larger ADU, the City Council may consider parking needs and owner occupancy requirements.
 - c. Notwithstanding the foregoing, an Internal ADU greater than 1,000 square feet and up to 1,200 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.
- 2. A Detached Accessory Dwelling Unit shall be a maximum of 1,000 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. When granting a Special Permit for a larger ADU, the City Council may consider parking needs and owner occupancy requirements.
 - c. Notwithstanding the foregoing, a Detached ADU greater than 1,000 square feet and up to 1,200 square feet shall be permitted by-right if the ADU is located in an accessory structure which was granted a final building permit sign-off at least 4 years prior to the date of the application for the Detached ADU, or if there is other evidence of lawful existence, as determined by the Commissioner of Inspection Services, at least 4 years prior to the date of such application.

Commented [JC1]: Alt text: Notwithstanding the forgoing, a Detached ADU greater than 1,000 square feet and up to 1,200 square feet shall be permitted by-right if the ADU provides screening. Screening shall consist of one or a combination of the following:

- i. A strip of densely planted shrubs or trees which are at least 31/2 feet high at the time of planting and are of a type that may be expected to form a year-round screen;
- ii. A wall, barrier, or fence of uniform appearance. Such wall, barrier, or fence may be opaque or perforated provided that not more than 50 percent of the face is open. The wall, barrier, or fence shall be at least 6 feet in height and in compliance with the Revised Ordinances Chapter 5, Article III, Fences. The required screening shall be located so as not to conflict with any corner visibility requirements or any other City ordinances. Such screening may be interrupted by entrances or exits.

Redline Zoning Text – ADU Ordinance Rev. ~~2/7/2025~~~~2/21/2025~~ ~~3/7/2025~~3/21/2025

Docket # 369-24: Request for review and amendments to Section 6.7.1

3. 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.
 4. A Detached Accessory Dwelling Unit shall be included in the floor area ratio calculation for the lot.
 5. A Detached Accessory Dwelling Unit that does not exceed 1.5 stories, and 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.
 6. 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.
 7. 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.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; and
 - b. 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. **Special Permit Criteria.** In granting a special permit for a larger ADU or reduced setbacks 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 complement 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.