

Proposed Draft Deerfield Accessory Apartment Bylaw

Updated 1/9/23

This section replaces, in its entirety, Section 2244, which shall be deleted with the adoption of this new section.

3900. ACCESSORY APARTMENTS

3910. Purpose. The purpose of the Accessory Apartment bylaw is to:

1. Provide homeowners with a means of obtaining, through tenants in Accessory Apartments, rental income, companionship, security, and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
2. Make rental housing units available to households who might otherwise have difficulty finding homes within the town, and to meet the needs of smaller households, both young and old.
3. Protect stability, property values, and the residential character of a neighborhood by ensuring that Accessory Apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw.

3920. Definitions. The words and phrases below shall be defined, for purposes of this bylaw, Section 3900, as follows:

Accessory Dwelling Unit or Accessory Apartment: a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in floor area than 900 square feet, excluding unfinished attic and basement, garage and porch; and (iii) is subject to such additional restrictions as may be imposed herein. In no case will the ADU be larger than the principal dwelling.

Building, Attached: A building having any portion of one or more walls in common with an adjacent building.

Building, Detached: A free standing structure on a permanent foundation with no walls in common with the principal dwelling.

Floor Area: The finished area of above grade floors in a residential structure, excluding unfinished areas with ceiling heights less than seven (7) feet and attics, unfinished areas of unheated space and attached or detached garages. As used in these by-laws, the term "finished area" shall mean the heated enclosed area within a Dwelling Unit that is suitable for year-round use, embodying walls, floors, and ceilings that are similar to the rest of the area within the Dwelling Unit.

Principal dwelling: A building providing the principal use for the lot on which it is located. For residentially zoned lots, such a building would be a dwelling.

3930. Accessory Apartment Standards

3931. *Owner Occupied dwellings with Accessory Apartments Allowed By Right.* Accessory Apartments that are contained within the existing structure of the primary single-family dwelling unit shall be allowed by-right.

3932. *Accessory Apartments Allowed by Special Permit.* The Planning Board may authorize a Special Permit for the following:

- a. Accessory Apartments that are attached to the existing primary single-family dwelling unit, but that require structural modifications larger than the existing footprint of the primary single-family dwelling unit, in all districts.
- b. Accessory Apartments in a detached structure on a permanent foundation on the same lot as a primary single-family dwelling unit.

3933. All Accessory Apartments allowed by Special Permit must meet the standards in Sections 3934-3940.

3934. *Standards for All Accessory Apartments.* Any Accessory Apartment in an owner-occupied, single-family dwelling, whether allowed by-right or by Special Permit, shall meet the following standards and criteria:

1. The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit.
2. Only one apartment will be created on a single-family lot.
3. When expansion of the principal dwelling is required to accommodate the Accessory Apartment, the principal dwelling and addition must comply with set back and maximum lot coverage requirements for its district. Accessory Apartments in detached structures (new or existing) must comply with set back and maximum lot coverage requirements for its district.
4. In a residence with an Accessory Apartment, only one unit can be rented.
5. The Accessory Apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible. The Accessory Apartment shall maintain a separate entrance, which shall be located on the side or rear of the building, or shall be combined into single front entryway, leading to an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. Any exterior changes made must conform with the single-family character of the neighborhood.
6. An Accessory Apartment addition to the original building is permitted provided that the addition does not increase the floor area or volume of the original building by more than 900 square feet, (excluding unfinished attic and basement, garage, and porch). The Accessory Apartment, whether within a single-family dwelling or in a detached structure, shall be clearly a subordinate part of the principal-family dwelling.
7. The Accessory Apartment shall have no more than 2 bedrooms.
8. At least three off-street parking spaces are required, for use by the owner-occupant(s) and renters. Parking spaces shall be located to the side or the rear of the structure, to the extent

feasible. No parking within side or rear setbacks.

9. For dwellings to be served by on-site septic system, the owner must obtain written approval from the Board of Health before a building permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed Accessory Apartment.
10. The construction of any Accessory Apartment must be in conformity with the State Building Code requirements.).
 11. The Accessory Apartment is not to be used for short term rentals (rentals for less than thirty (30) days).
 12. The Building Commission shall administer and enforce the provisions of this section.

3940. Special Permit Application Procedure

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Special Permit Procedures. The procedure for the submission and approval of a Special Permit for an Accessory Apartment shall be the same as prescribed in the Section 5300. Special Permits, except it shall include a notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A non-refundable fee shall be included with the application for an Accessory Apartment to cover the cost of processing the application and code inspections. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, Sec. 11 must be notified.

3942. Accessible Units. To provide for the development of accessible housing units, the Planning Board will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility, for example, in the creation of a separate entrance.

3950. Transfer of Ownership of a Principal Dwelling with an Accessory Apartment Approved by Special Permit

When a property with an Accessory Apartment is sold, the new owner(s), if they wish to continue operations of the Accessory Apartment, they must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they wish to continue to exercise the permit in compliance with this bylaw. This statement shall be listed as a condition on any Permits which are issued under this Section. Notarized letters must be recorded in the Franklin County Registry of Deeds, with documentation of the recording provided to the Building Commissioner, prior to occupancy of the Accessory Apartment.

3960. Termination of Accessory Apartment Use.

1. The Accessory Apartment unit use shall terminate immediately upon any violation of any term or condition of this bylaw that the owner fails to cure, upon thirty (30) days written notice from the date the notice is mailed to the applicant/owner and to the occupants at the dwelling address by certified mail, return receipt requested.
2. Duty of Owner Upon Termination:
 - i. The owner shall discontinue the use of the Accessory Apartment as a separate dwelling unit.
 - ii. The kitchen facilities of the Accessory Apartment shall be removed unless determined by the Building Commissioner to be incidental and subordinate as an accessory use of the principal dwelling.

iii. Any additional exterior entrance constructed to provide access to the Accessory Apartment shall be permanently closed unless the Building Commission provides a waiver. The owner shall permit an inspection by the Building Commission without a warrant.

OTHER AMENDMENTS

*The following changes shall be made to the existing **Section 2230. Use Regulation Schedule**. The additions and deletions shown below are the only changes to the Use Regulation Schedule proposed, and the remainder of the schedule will remain as it currently is:*

2230. Use Regulation Schedule.

Principal Use	RA	CVRD	C-I	C-II	I	PI	EPD
A. RESIDENTIAL							
Accessory Apartments that are contained within the existing structure of the owner-occupied single-family dwelling unit.	Y	Y	Y	Y	N	N	N
Accessory Apartments that are attached to the existing owner-occupied single-family dwelling unit, but that require structural modifications larger than the existing footprint of the primary single-family dwelling unit, in all districts.	SP	SP	N	N	N	N	N
Accessory Apartments in a detached structure on a permanent foundation on the same lot as an owner-occupied single-family dwelling unit.	SP	SP	N	N	N	N	N

*The following changes shall be made to the existing **Section 3100. Town wide Parking and Loading Requirements, Dwellings**. The additions and deletions shown below are the only changes to the Use Regulation Schedule proposed, and the remainder of the schedule will remain as it currently is:*

<u>Principal Use</u>	<u>Minimum Number of Parking Spaces</u>
<i>Dwellings</i>	<i>2 spaces per dwelling unit for single family</i>
	<i>2 spaces per dwelling unit for multi-family plus 0.5 spaces per unit for visitors</i>
	<i>3 spaces for single family with Accessory Apartment</i>