

PROPOSAL

- Strikeout term “Accessory Apartments” and replace with “Accessory Dwelling Units (ADU)” in Section 5.4.
- Remove Section 8.5 Accessory Apartments and replace with an entirely new section.
- Remove “Accessory Apartments within existing single family homes, per §8.5” in Section 9.1.2(e).

Draft language is as follows:

SECTION 5. DISTRICT REGULATION

5.4 Accessory Uses

Any use which is, in Franklin County, customarily accessory and incidental to a permitted Principal Use shall be permitted on the same lot with said Principal Use, or on a lot adjacent thereto in the same ownership, subject to the general limitation that it shall not be detrimental to the neighborhood or the property in the vicinity, and subject further to the following provision: wherever a Principal Use is allowed by Special Permit then Accessory Uses to the Principal Use shall be subject to a Special Permit, unless otherwise provided in the bylaws. The following accessory uses have specific requirements in Section 8 SPECIAL REGULATIONS:

- *Trailers, Mobile Homes, and Campers, §8.1*
- *Home Occupations, §8.3*
- *Boarding of Animals, §8.4*
- *~~Accessory Apartments~~ Accessory Dwelling Units (ADU), §8.5*
- *Solar Energy Installations, §8.9*

~~SECTION 8.5 ACCESSORY DWELLING UNIT:~~

~~8.5.1 Purpose: The purpose of permitting accessory apartments is to:~~

~~(a) Develop housing units in owner occupied single-family homes that are appropriate for households at a variety of stages in their life-cycle;~~

~~(b) Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise leave;~~

~~(c) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to low and moderate income households who might otherwise have difficulty finding housing;~~

~~(d) Provide housing units for persons with disabilities;~~

~~(e) Protect stability, property values, and the residential character of a neighborhood, and~~

~~(f) Encourage increased housing density.~~

8.5.2 Definitions:

~~ACCESSORY APARTMENT, WITHIN: an Accessory Apartment that is within a single-family dwelling is a self-contained housing unit incorporated within the single family dwelling that is clearly a subordinate part of the single-family dwelling and complies with each of the criteria stated in this bylaw.~~

~~ACCESSORY APARTMENT, ATTACHED: an attached Accessory Apartment is a self-contained housing unit added as an addition to a single family dwelling that is clearly a subordinate part of the single family dwelling and complies with each of the criteria stated in this Bylaw. This definition does not include a trailer or mobile home, however mounted.~~

~~ACCESSORY APARTMENT, DETACHED: a detached Accessory Apartment is a self-contained housing unit that is located on the same lot as the structure of a single family dwelling and may be incorporated within a garage or carriage house or other accessory structure or as a stand-alone structure that is clearly subordinate to the primary use as a single family unit and complies with each of the criteria stated in this Bylaw. This definition does not include a trailer or mobile home, however mounted.~~

8.5.3 Applicability:

~~(a) Accessory Apartment, Within. The Inspector of Buildings may issue a Building Permit authorizing the installation and use of an Accessory Apartment within an existing or new owner-occupied, single family dwelling unit.~~

~~(b) Accessory Apartment, Attached. An attached Accessory Apartment shall require a Special Permit granted by the Zoning Board of Appeals.~~

~~(c) Accessory Apartment, Detached. A detached Accessory Apartment shall require a Special Permit granted by the Zoning Board of Appeals.~~

8.5.4 Standards

~~(a) Only one Accessory Apartment may be created within a single-family dwelling or on a house lot.~~

~~(b) Utilities and water supply shall be integrated with the single-family dwelling.~~

~~(c) The owner(s) of the residence in which the Accessory Apartment is created must continue to occupy at least one of the dwelling units as their primary residence. A covenant, in a form satisfactory to Town Counsel, stating the conditions of any permit issued under this Section must be recorded in the Franklin County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Inspector of Buildings, prior to the occupancy of the Accessory Apartment.~~

~~(d) The Accessory Apartment shall be designed so that the appearance of the building remains that of a single-family residence as much as feasibly possible. Any new entrances shall be located on the side or rear of the building. A detached accessory apartment shall be compatible in design with the primary residence. Any stairways, access, or egress alterations serving the Accessory Apartment shall be enclosed, screened, or located so that visibility from public ways is minimized.~~

~~(e) The maximum gross floor area of Accessory Apartment shall be no greater than nine hundred (900) square feet.~~

~~(f) A minimum of two (2) but no more than four (4) off-street parking spaces must be available for use by the owner-occupants and tenants.~~

~~(g) When a property with an Accessory Apartment is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Inspector of Buildings stating that they will occupy one of the dwelling units on the premises as their primary residence. This statement shall be listed as a condition on any Permits which are issued under this Section.~~

~~(h) Prior to issuance of a Building or Special Permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.~~

~~(i) For dwellings to be served by on-site septic system, the owner must obtain a letter from the Board of Health stating that the existing sewage disposal system is adequate for the proposed Accessory Apartment before a Building or Special Permit can be obtained.~~

~~(j) Accessory Apartments in the AF-1, RS-2 and RB districts will not require additional minimum lot size requirements in § 5.5.1, provided that the standard in § 8.5.4 (i) is satisfied.~~

~~(k) In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Inspector of Buildings or the Zoning Board of Appeals may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.~~

(Entirely new section) SECTION 8.5 ACCESSORY DWELLING UNITS (ADUs)

8.5.1 Purpose

Accessory Dwelling Units (ADUs) allow the Town of Montague to expand and diversify its housing supply by making efficient use of resources without requiring the creation of new lots. ADUs are intended to meet the changing housing needs of the community by providing smaller units in existing residential neighborhoods.

8.5.2 Applicability

The Town of Montague permits two types of Accessory Dwelling Units: a Protected Use ADU in accordance with MGL c. 40A §3 and 760 CMR 71.00, and a Local ADU. Both types of ADUs shall be permitted in any single-family residential zoning district that allows a detached single-family dwelling as-of-right or by Special Permit, including: AF, AF-2, AF-4, RS-1, RS-2, RB, NB, GB, HI, and SGODs Zoning Districts.

- (a) A Protected Use ADU shall meet the State definition per MGL c. 40A §1A, as well as State regulations under 760 CMR 71.00. The use of land or structures for a Protected Use ADU shall be as-of-right, meeting all requirements associated with the issuance of a building permit and meeting certain requirements listed in this section of the Zoning Bylaw.
- (b) A Local ADU shall meet the definition and specific requirements in this section of the Zoning Bylaw. The permitting of a Local ADU shall follow these steps:
 - a. When a lot has no ADU, the Local ADU shall be permitted by a Special Permit from the Zoning Board of Appeals; or
 - b. When a lot has a Protected Use ADU, the Local ADU shall be permitted by a Special Permit from the Zoning Board of Appeals.
- (c) Either ADU type may be completely contained within the Principal Dwelling, attached to a Principal Dwelling, detached as a separate building or within a detached structure (e.g. above an existing detached garage). Any ADU may be within an existing building or new construction.

8.5.2 Definitions

For the purposes of this section of the Zoning Bylaw, the following definitions shall apply:

- (a) **Local ADU Accessory Dwelling Unit (Local ADU):** An Local ADU that is not a Protected Use ADU and shall be a self-contained residential dwelling unit, inclusive of sleeping, cooking, and sanitary facilities on the same lot as a Principal Dwelling 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 than a Gross Floor Area of 1,200 square feet; and (iii) is subject to such additional requirements found in this section of the Zoning Bylaw.
- (b) **Protected Use Accessory Dwelling Unit (Protected Use ADU):** Pursuant to MGL c. 40A §1A, and its associated state regulations under 76 CMR 71.00, a Protected Use ADU is a self-contained residential dwelling 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 Building and Fire Code for safe egress; (ii) is not larger than a gross floor area of 900 square feet, provided that only one ADU on a Lot may qualify as a Protected Use ADU; and (iii) is subject to such additional requirements found in this section of the Zoning Bylaw.
- (c) **Gross Floor Area (GFA).** The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches and similar spaces. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.
- (d) **Principal Dwelling.** A structure, regardless of whether it, or the Lot it is situated on, conforms to Zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

8.5.3 General Requirements for Protected Use Accessory Dwelling Units and Local Accessory Dwelling Units

- (a) All ADUs shall be located on the same lot as the Principal Dwelling.
- (b) There shall be no more than one Local ADU and one Protected Use ADU permitted on the same lot as the Principal Dwelling.

- (c) All ADUs are exempt from the additional lot area/dwelling requirements of Section 5.5.1 “Dimensional Requirements Schedule, Principal Use Buildings”.
- (d) All ADUs shall meet the dimensional requirements for accessory structures under Section 5.5.2 “Dimensional Requirements, Accessory Structures”.
- (e) No additional or separate driveway curb cut to serve any ADU shall be permitted unless approved by the Department of Public Works.
- (f) All exterior lighting shall be designed and installed so as to be shielded, downcast, and dark sky compliant to avoid light trespass onto adjacent properties.
- (g) On-site storage and management of waste and recycling shall be located on the interior of the dwelling, within an attached garage or other accessory outbuilding, or screened appropriately from public view.
- (h) A minimum of one (1) on-site parking space shall be provided for any ADU.
- (i) To the extent feasible, a newly constructed detached ADU shall be located behind the front building line of the Principal Dwelling closest to the street.

8.5.4 Specific Requirements for Protected Use Accessory Dwelling Units

- (a) There is no minimum lot size required for a Protected Use ADU.
- (b) The more permissive (i.e. least restrictive) dimensional regulations found in Section 5 of the Zoning Bylaw for a detached single-family dwelling, the Principal Dwelling or an accessory structure, shall apply to the Protected Use ADU.
- (c) In accordance with 760 CMR, no parking space shall be required for a Protected Use ADU located within ½ mile of a commuter rail station or bus stop.

8.5.5 Specific Requirements for Local Accessory Dwelling Units

- (a) A Local ADU shall be designed so that the appearance and scale of the structure is compatible with the Principal Dwelling.

- (b) The Gross Floor Area for a Local ADU does not include the area of unfinished basement space used for storage or utilities.

SECTION 9. SITE PLAN REVIEW AND SPECIAL PERMITS

9.1. Site Plan Review

9.1.1 Purpose

The purpose of the Site Plan Review process is to provide detailed review of certain uses and structures which have a potential for significant impact on the character, infrastructure, and natural resources of the Town of Montague.

9.1.2 Applicability

The following activities and uses are subject to site plan review:

(a) All uses that involve the construction or expansion or change of use of over 3,000 square feet of floor area.

(b) All uses that involve the development of over 130,680 square feet (3 acres) of land.

(c) Any new structure, group of new structures, changes of use, or additions which result in an increase of 500 or more vehicle trips per day, as proposed in an applicant's business plan acceptable to the reviewing authority or estimated by a professional engineer.

(d) All uses that involve the construction or expansion of a parking area that creates ten (10) or more new parking spaces, per §7.2.6

(e) Specific Uses identified elsewhere in this bylaw:

- ~~● Accessory Apartments within existing single family homes, per §8.5~~
- Self-storage facilities, per §8.9
- Solar energy and battery energy storage facilities, per §8.9
- Medical Marijuana Treatment Center or Marijuana retailer, cultivation, production, research or testing, per §8.10
- Open Space Residential Development, per §8.11
- Planned Unit Development, per §8.12