

Working Draft

Article XX- Protective (Zoning) Bylaw Article ACCESSORY DWELLING UNIT (ADU)

1. Purpose and Intent of the Accessory Dwelling Unit is to:
 - a. Broaden the range of housing opportunities for households of all incomes, ages and sizes in order to support a strong, stable and diverse year-round community, a viable healthy local workforce and to prevent the displacement of Chatham residents. Other common names for ADUs are accessory apartments, in-law apartments, family apartments and secondary units.
 - b. Promote a more economic and energy efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single family neighborhoods.
 - c. Encourage greater diversity of population with particular attention to young adult citizens and to allow for "aging in place" for our senior citizens.

2. Definitions:

Accessory Dwelling Unit (ADU): An Accessory Dwelling Unit is a Dwelling Unit incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot as a lawful principal single-family dwelling use, which ADU shall be clearly subordinate in design to that principal single-family dwelling use to which it is accessory.

Dwelling Unit: One (1) or more rooms designed to be used as separate living quarters, with cooking, sleeping and sanitary facilities for one (1) family.

3. Requirements:

- a. An ADU constructed within a single family dwelling on a conforming lot shall be permitted as a "By Right" use and shall meet all requirements of the Town of Chatham Protective Bylaw.

- b. A Special Permit from the Planning Board/Zoning Board of Appeals is required in the following instances and no more than (10) Special Permits shall be granted by the Special Permit Granting Authority for the construction of an ADU within a twelve (12) month period.
- i. An ADU is constructed within a detached accessory structure- not attached to a single family dwelling.
 - ii. The subject property is preexisting non-conforming.
 - iii. The construction of an ADU will not comply with the requirements of the Town of Chatham Protective Bylaw Schedule of Dimensional Requirements. The Special Permit Granting Authority shall have the authority to waive the dimensional requirements of the Protective Bylaw except Building/Structure Setbacks and Building Height requirements.
- c. When a Special Permit from the Special Permit Granting Authority is required the Special Permit Granting Authority shall address at a minimum the following:
1. Adequacy of the site in term of size for the proposed use;
 2. Suitability of the site for the proposed use;
 3. Impact on traffic flow and safety;
 4. Impact on neighborhood visual character, including views and vistas;
 5. Adequacy of method of sewage disposal, source of water and drainage;
 6. Adequacy of utilities and other public services;
 7. Sound and litter;
 8. Compatibility of the proposed use with surrounding land uses; and
 9. Impact on the natural environment including slopes, vegetation, wetlands, groundwater and water bodies.
 10. Impact on neighborhood and Town visual character.
- d. The Building Commissioner/Chief Zoning Officer shall administer and enforce the provisions of this section unless a Special Permit is required then the Planning Board/Zoning Board of Appeals? will be the Special Permit Granting Authority.
- e. ADUs shall not be eligible for zoning use variances, or for zoning dimensional variance relief proposing to increase the allowable number of ADUs on a lot.
- f. The construction of an accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and lawful under all other provisions of applicable town health, building, zoning and other local laws and regulations.

- g. Prior to the issuance of a building permit or Special Permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new building and improvements on a lot associated with a proposed ADU.

4. Use and Dimensional Requirements:

The Building Commissioner may issue a Building Permit or the Special Permit Granting Authority may issue a Special Permit authorizing the installation and use of an Accessory Dwelling Unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

- a. Only one ADU is permitted for each principal dwelling unit and is not allowed if there is an existing guest house on site.
- b. The ADU shall be a complete, separate housingkeeping unit containing both a kitchen and a bath.
- c. If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.
- d. An ADU shall be clearly subordinate in use, size and design to the principal single family dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained, considering the following: building architectural details, roof design, building spacing and orientation, building screening, door and window location, and building materials.
- e. The ADU shall contain no more than two bedrooms. If an ADU is located inside a single family dwelling the ADU shall have no greater than a maximum habitable floor area of 40% of the habitable floor area of the principal single family dwelling. If an ADU is detached the ADU shall have no greater than a maximum habitable floor area of 40% but in no event greater than 800 square feet. Once an ADU has been added to a single family dwelling or lot, the accessory dwelling unit shall not be enlarged.

- f. At least one (1) off street parking space in addition to that required for the principal single family dwelling is required for each ADU.
 - g. The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactory provided for in accordance with the provisions of Title 5 and local Board of Health regulations, including provisions for an appropriate reserve are on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot.
 - h. An ADU may not be conveyed separate and apart from principal dwelling on the lot, nor shall the principal dwelling and the ADU be converted to condominium form of ownership.
 - i. An ADU and principal dwelling to which it is accessory shall be occupied on a year round basis, and are prohibited from any use as rental units on a monthly, weekly or daily basis. The owner shall maintain occupancy in one of the units and only one of the principle dwelling or accessory dwelling unit may be rented at any given time. An ADU shall not be used for boarding and lodging, or other commercial use.
 - j. An ADU does not require a minimum acreage of buildable upland.
 - k. An ADU and principal dwelling shall share common septic/ wastewater and water service facilities.
5. Monitoring and Enforcement:
- a. Prior to the issuance of a building permit or a Special Permit, a certificate in the form of a notarized affidavit to verify that the owner is or shall be in residence in one of the units shall be submitted in the case of an as right unit to the Building Commissioner or in the case of a Special Permit to the Special Permit Granting Authority.
 - b. The property owner shall be required to file a lease with the Building Commissioner, annually on January 31st, stating that either the dwelling or the accessory dwelling will be used as the principal residence of the owner and that the remaining dwelling will be leased on a year round basis.
 - c. A determination that the owner failed to comply with the provisions of this Bylaw or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred under the building permit or Special Permit were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse and the elements that make the accessory dwelling unit

a separate dwelling unit shall be removed from the property within 90 days of said final determination, with the owner to comply with all requirements of the State Building Code and the Protective Zoning Bylaw in removing all elements determined to be unpermitted. In addition, failure of the owner to comply with the provisions of this Bylaw shall be punishable by fine as established by Section VIII E Penalty the Chatham Protective Bylaw which states that any person, firm or corporation violating any section or provision of this Bylaw shall be fined not more than one hundred (100) dollars for each offense. Each day that such offense continues shall constitute a separate offense.

6. Amnesty:

In an effort to meet local housing needs, real property containing an accessory dwelling unit, as described in this Section, for which a validly issued Variance, Special Permit, Building Permit, or Occupancy Permit does not exist, may apply to the Building Department or the Special Permit Granting Authority for a Special Permit to legally continue the use as an accessory dwelling unit.

To qualify for amnesty under this Section, the unlawful accessory dwelling unit must be a single accessory dwelling unit that is accessory to a single-family dwelling or detached accessory structure and must have been in existence prior to the date of adoption of this bylaw. It shall be the burden of the applicant to prove to the Building Department in the case of By Right and to Special Permit Granting Authority in the case of a Special Permit that the unlawful apartment was in existence before that date.

The amnesty provisions of this bylaw shall expire on and shall no longer be available after five years from the passage of this bylaw.

(_____ ATM)

Accessory Dwelling Unit

R60	*R40 R40A	R30	R20	R20A	SB	GB	I	M/C*	M
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u> ⁷	<u>X</u>	<u>X</u>	<u>X</u>

⁷ Allowed for legally pre-existing nonconforming and special permitted single family dwellings in the GB zones. (_____ ATM)

Section II Definitions:

“DWELLING UNIT, ACCESSORY (ADU)” incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot as a lawful principal single-family dwelling use, which ADU shall be clearly subordinate in design to that principal single-family dwelling use to which it is accessory.

Section III C. District Regulations:

1. R60, R40, R40A (5/16/01 ATM), R30, R20 – Residential Districts

- a. Standard Permitted Uses
- 2. Accessory Dwelling Unit

2. R20A Residential (Apartment) District

- a. Standard Permitted Uses
- 1. Accessory Dwelling Unit

3. SB Small Business District

- a. Standard Permitted Uses
- 2. Accessory Dwelling Unit

4. GB General Business Districts GB1, GB2, GB3

- a. Standard Permitted Uses
- 1. Accessory Dwelling Unit