



## Legislation Text

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**File #:** OR-2021-0014, **Version:** 2

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### ZONING ORDINANCE TEXT FOR ACCESSORY DWELLING UNITS IN RM-1, RM-2, RS-1, AND RS-2 ZONES AND REDUCING MINIMUM LOT SIZE TO 4000 SF.

WHEREAS: in accordance with the provisions of 1925 Special Act No. 490, Section 5, Article XIII, Sections 2A-2F and Article VII of the Charter of the City of New Haven (the “Charter”) and Section 64 (d)(1) of the New Haven Zoning Ordinance, the City Plan Department of the City of New Haven, which serves as staff to the New Haven City Plan Commission (“City Plan”), filed with the New Haven City Clerk for transmission to the Board of Alders of the City of New Haven (the “Board of Alders”) a Petition (the “Petition”) requesting that the Board of Alders adopt text amendments to the Zoning Ordinance with regards to allowing Accessory Dwelling Units (ADUs) as of right in RM-1, RM-2, RS-1 and RS-2 zones and to reduce the minimum lot size in RM-1, RM-2, RS-1 and RS-2 to 4000 SF in accordance with the text amendments are more particularly described in Schedule A attached (the “Text Amendments”); and

WHEREAS: all citizens of the City of New Haven should have access to a variety of safe, quality, affordable housing choices in all neighborhoods; and

WHEREAS: the City of New Haven recognizes the need for a variety of strategies and zoning updates to address the complex issue of affordable housing; and

WHEREAS: the City should be a regional, statewide, and national model advocate for developing innovative strategies and approaches to addressing affordable housing needs; and

WHEREAS: the adoption on an ADU ordinance was a recommendation of the Affordable Housing Task Force; and

WHEREAS: City Plan submitted sufficient plans, information, and related supporting materials; and

WHEREAS: pursuant to Article XIII, Section 2E of the Charter, the Board of Alders referred the Petition to the New Haven City Plan Commission for a public hearing; and

WHEREAS: on July 28, 2021, the City Plan Commission held a public hearing on the Petition after providing due notice of such hearing in accordance with the provisions of law; and

WHEREAS: on August 2, 2021, the City Plan Commission rendered an advisory report to the Board of Alders after considering the factors set forth in Article VII of the Charter and Sections 64(d)(2) of the Zoning Ordinance recommending approval of the Petition, CPC Report No. 1584-04; and

WHEREAS: on , 2021, the Affordable Housing Commission held a public hearing on the Petition after providing due notice of such hearing in accordance with the provisions of law; and

WHEREAS: the Board of Alders finds that the Text Amendments and their provisions are in

accordance with the Comprehensive Plan of Development of the City and are consistent with the land uses and the zoning classifications of neighboring parcels and with the standards set forth in Article XIII, Sections 2B through 2E of the Charter; and furthers the goals of increasing affordable housing choices through-out the city; and

WHEREAS, the Board of Alders further finds that after public notice, hearing, and due comment from the public, interested parties, and the various agencies of the City of New Haven, including, without limitation, the Department of Transportation, Traffic and Parking, the Engineering Department, and the Office of Building, Inspection and Enforcement that the Text Amendments meet the objectives set forth in Zoning Ordinance, Article VII, Section 64(d) in that the Text Amendments are responsive to changes that have taken place in the City and in patterns of construction and land use, the supply of land and its peculiar suitability for various purposes, the purposes of zoning and the comprehensive plan of the City of New Haven.

NOW, THEREFORE BE IT ORDAINED by the Board of Alders of the City of New Haven that the Text Amendments are hereby adopted with the modifications of the existing zoning requirements requested by City Plan as described in Schedule A and B attached hereto and made a part of this Ordinance, Schedule A and B.

## SCHEDULE A

### ARTICLE I. DEFINITIONS

Amendment to Section 1 - Definitions (to be inserted in existing Section 1 of the Zoning Ordinance in alphabetical order).

“Accessory Dwelling Unit” (ADU)- A residential living unit that is on the same parcel as a single-family dwelling or a multifamily structure. The ADU provides complete independent living facilities for one or more persons, including space for living, sleeping, cooking, and eating and sanitation.

“Accessory Dwelling Unit - Interior” (ADU-Interior)- A residential living unit that located within the building envelope of an existing primary residential structure and located as a subdivision of existing living space including but not limited to basement and attic spaces.

“Accessory Dwelling Unit - Attached” (ADU-Attached)- A residential living that is located within an addition to an existing primary residential structure with a separate entrance.

“Accessory Dwelling Unit - Detached” (ADU-Attached)- A residential living that is located in an accessory structure that is detached from the primary residential structure.

“Building Envelope Dimensions” -The complete three-dimensional form of a structure including the structure’s area, footprint, bulk, height, and mean roofline.

### ARTICLE IV. - RESIDENCE DISTRICTS: GENERAL PROVISIONS

In addition to the requirements contained elsewhere in this ordinance, the following provisions shall apply to all areas of the city contained within any residence district.

Section 21. - Conversion to a greater number of dwelling units and/or rooming units.

No existing building shall be converted to a greater number of dwelling units and/or rooming units unless in compliance with the requirements contained in the District Regulations for lot area per dwelling unit, lot area per sleeping room, lot area per square foot of gross floor area, and usable open space, and unless in addition:

(a) One additional off-street parking space is provided for each dwelling unit in the building added by conversion (except that only one parking space shall be required for each two elderly housing units) and one off-street parking space is provided for each three beds in the building after conversion

in the case of a rooming, boarding or lodging house. Such off-street parking spaces shall be provided on the same lot as the building being converted or (except in RS Districts) within 300 feet walking distance of an outside entrance to the dwelling unit or rooming units to which such parking space is assigned.

(b) Stairways leading to the second or any higher floor are located within the walls of the building wherever practicable, and stairways and fire escapes are otherwise located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street.

## Section 22. - Reserved (Existing) Proposed: Accessory Dwelling Units

Accessory Dwelling Units are permitted within the RS-1, RS-2, RM-1, and RM-2 Zoning Districts and subject to the regulations of this Section and the bulk regulations of the subject zone if not expressly modified by this section.

### A. PURPOSE AND INTENT

- a. Create new housing units while respecting the look and scale of neighborhood patterns of development.
- b. Increase affordable housing choices especially for very low-income residents.
- c. Support more efficient use of existing housing stock and infrastructure.
- d. Offer environmentally friendly housing choices with less average space per person and smaller associated carbon footprints.
- e. Provide housing that responds to changing family needs, smaller households, and increasing housing costs; and
- f. Provide accessible housing for seniors and persons with disabilities.

### B. APPLICABILITY

Accessory dwelling units are allowed in the following zone districts: (RM-1, RM-2, RS-1, and RS-2, subject to the provisions of this section.

### C. UNDERLYING ZONING AND DENSITY

Unless specifically addressed in this section, accessory dwelling units (ADUs) are subject to the regulations for a principal building and accessory buildings of the underlying zone district with regard to lot and bulk standards (e.g., height, setback/yard requirements, building coverage).

1. Where permitted pursuant to this Section 22, one accessory dwelling unit may be permitted on a lot in addition to the principal single-family or multi-family dwelling. Other permitted accessory buildings or uses, as defined herein, may be allowed in addition to the principal single-family or multi-family dwelling. If, with the addition of an ADU, the total number of residential dwelling units exceeds four (4) a special exception is required.

2. Accessory dwelling units shall be subject to the same zone district height limitations and setbacks as applicable to the principal dwelling on the property. An existing accessory structure whose height or setback(s) does not meet the requirements for a dwelling in the zone district may be converted into an accessory dwelling unit, but the structure may not be altered in any manner that would increase the degree of non-compliance.

3. If an existing accessory structure is deemed inappropriate for conversion, a new accessory dwelling unit may be constructed within the Building Envelope Dimensions of the existing structure. The Delay of Demolition Ordinance applies for contributing historic structures.

4. Accessory dwelling units shall not be considered a unit of density and therefore are not included in the density calculation for a single-family residential property.

5. There shall be no minimum required off street parking for an ADU.

#### D. METHODS OF CREATION

1. An ADU may be created within an existing principal structure or in an accessory structure or within the Building Envelope Dimensions thereof. An ADU shall conform to Design Standard in Paragraph D below and all other requirements of Section 22.

#### E. DESIGN STANDARDS

1. Lot Standards: The minimum lot size for a lot that has both a primary dwelling unit and an accessory dwelling unit is 4,000 square feet.

2. Lot Coverage: Any Property with an ADU shall comply with all Building coverage standards applicable to the Zoning District in which the Property is located.

3. Floor Area: the ADU shall always be smaller or equal to than a primary dwelling unit located within the principal structure:
4. Living Area: an ADU shall have a minimum livable area of area of not less than 400 square feet. An ADU shall have a maximum gross floor area of not more than 1,200 square feet or size of principal dwelling, whichever is smaller.
5. Height Internal ADUs shall not exceed the existing height of the principal structure. If dormers or roof alteration are required for making an attic space comply with building code, the alterations shall comply with underlying zoning or seek a variance.
6. Detached ADUS will not exceed the height of an existing accessory structure or that structures Building Envelope Dimensions. If raising the roof height is necessary to make an accessory structure habitable, the alterations shall comply with underlying zone or seek a variance.
7. Setbacks All applicable setbacks of the Zoning District in which the property is located shall apply.
8. Compliance with requirements of a Local Historic District: For any Property located in a Local Historic District; a certificate of Appropriateness for any ADU visible from any public road or way, issued by the Historic District Commission is required.

#### F. ADMINISTRATION AND APPROVAL

1. Application Information. Prior to constructing an ADU, an owner shall file an application in a form approved by the City of New Haven Building Department. The information required on the applications for creating or legalizing an ADU shall be the same information that is required to construct a single-family dwelling unit. The application shall demonstrate that the proposed ADU:
  - a. Complies with all development and design standards of this section.
  - b. Complies with applicable Building and Fire Safety Codes.
  - c. Does not have current Housing Code violations.
  - d. Water supply and sewage disposal facilities are adequate for the projected number of residents.
2. Occupancy and Use. Occupancy and use standards for an ADU shall be the same as those applicable to a primary dwelling on the same site.

3. Approvals the Building Official, City Plan, and Engineering Departments shall evaluate the application for the proposed ADU for compliance with the standards of this subsection.

4. City Plan Site Plan review exemption. An ADU, in accordance with Section 22, shall not require Site Plan review.

#### G. PROPERTY OWNERSHIP AND OCCUPANCY

1. Accessory dwelling units shall only be permitted when the property owner lives on the property, within either the principal dwelling or accessory dwelling unit. Before issuance of an approved permit or certificate of occupancy, the owner shall submit a notarized letter stating that he/she will occupy one of the dwelling units on the premises as a primary residence except for:

2. A bona fide, temporary absence of three years or less for activities such as temporary job assignments, sabbaticals, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or

3. Admittance to a hospital, nursing home, assisted living facility or other similar facility.

#### H. DEED RESTRICTION

Before obtaining a building permit for an accessory dwelling unit, the property owner shall file with the New Haven City Clerk's office in a form acceptable to the New Haven City Clerk, a declaration of restrictions in reference to the deed under which the property was acquired by the present owner stating:

1. That either the principal or accessory dwelling unit on the property shall be occupied by the owner of the property.

2. The accessory dwelling unit shall not be sold separately from the principal dwelling unit, nor shall the lot be subdivided to provide a separate lot for the accessory dwelling unit.

3. The above restrictions shall run with the land and are binding upon any successor owner of the property.

4. The deed restrictions shall lapse upon removal of the accessory dwelling unit. Upon verification of such removal, the City Clerk shall record appropriate documentation releasing such encumbrance. Any fees associated with such release shall be borne by the property owner.