

**DWELLING, SINGLE-FAMILY WITH ACCESSORY APARTMENT**

A single-family dwelling containing a principal dwelling unit and a separate accessory apartment, either attached or detached. The apartment shall contain a kitchen and bathroom which are separate from and not used in common with the principal dwelling unit. [Amended 5-4-2010 STM by Art. 8; 5-7-2013 STM by Art. 12]

§ 325-14 Supplemental regulations.

Q. A residential accessory building that contains bedrooms is subject to special permit review pursuant to § **325-51**. Residential accessory buildings without bedrooms are not subject to special permit review. [Added 5-7-2013 STM by Art. 12]

**§ 325-51 Special permits.**

**H.**

(Reserved)[2]

[2] *Editor's Note: Former Subsection H, Single-family dwelling with accessory apartment, was renumbered as § 325-14T 12-13-2004 STM by Art. 2.*

**I.** (Reserved)[3]

[3] *Editor's Note: Former Subsection I, regarding the intent of permitting accessory apartments, was repealed 5-7-2013 STM by Art. 12. See now § 325-14T(1).*

**I.1.**

Granting of a special permit for a dwelling with an accessory apartment shall be conditioned upon the owner maintaining occupancy of one of the units. Prior to the issuance of the 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 to the special permit granting authority and, thereafter, every two years such notarized affidavit shall be submitted to the Building Inspector by January 31. Failure to comply with these provisions or termination of occupancy by the owner shall result in the special permit becoming null and void and within 12 months thereafter one kitchen unit shall be removed and the property returned to a single-family dwelling.

## § 325-14 Supplemental regulations.

T.

Single-family dwelling with accessory apartment.

[Amended 5-7-2013 ATM by Art. 12; 5-6-2019 ATM by Art. 23]

**(1) Purpose.** The intent of permitting accessory apartments is to:

**(a)** Increase the number of small dwelling units available for rent in Town;

**(b)** Increase the range of choice of housing accommodations;

**(c)** Encourage greater diversity of population with particular attention to young adults and senior citizens; and

**(d)** Encourage 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.

**(2) Definitions.**

**OWNER** One or more individuals holding title to the property.

**(3) Criteria.** An accessory apartment is allowable within a single-family dwelling, either attached or detached, provided that the following criteria have been satisfied:

**(a) Only one accessory apartment** is permitted for each principal dwelling unit.

**(b) The accessory apartment may not be held in separate ownership** from the principal use.

**(c) Only one of the principal dwelling or accessory apartment may be rented** at any given time and, if rented, shall be rented for a term of no less than six consecutive months.

**(d) The accessory apartment shall have a net floor area not exceeding 1/2** of the net floor area of the principal dwelling unit and **not more than 900 square feet.**

**(e) The accessory apartment shall have not more than two bedrooms.**

**(f) At least one off-street parking space** shall be provided for the accessory apartment.

**(g) The minimum lot area** required for a parcel to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in an RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in an RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District. For parcels existing within an approved open space residential development or cluster subdivision, the lots size shall be consistent with the endorsed plan.

**(h) The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains** that of a single-family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.

(i) The principal dwelling unit and accessory apartment shall **meet all wastewater treatment requirements** for the combined number of bedrooms.

(j) The proposed use **shall not exceed the building or site coverage for the zoning district.**

(k) If an addition is to be built for the proposed use, the addition **shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.**

The **Building Commissioner shall determine compliance** with said criteria following receipt of the application for a building permit for a change of use and/or for construction of the said accessory apartment.

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### **DWELLING, TWO-FAMILY**

A building containing two dwelling units, whether side by side, over each other or in any other combination, provided that there is a common roof or a series of roofs connecting the dwelling units.

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Two-family dwelling. Special permits for two-family dwellings may be granted upon a determination by the Planning Board that the following additional criteria have been met:

**(1) The lot area shall contain a minimum of 40,000 square feet** of contiguous upland in all applicable zoning districts; however, in the Drinking Water Resource Protection District (WR) the minimum lot area shall be 60,000 square feet of contiguous upland.

**(2) The floor area for each dwelling unit shall be a minimum of 800 square feet.**

**(3) A common roof or a series of roofs** shall connect the dwelling units.

**(4) There shall be two off-street parking spaces per each unit.**

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### **DWELLING, MULTIFAMILY**

A detached building containing three or more dwelling units, including an apartment house, garden apartment house, townhouse or row house.

### **§ 325-51 Special permits.**

Q. Multifamily special permit.

[Added 9-26-2020 ATM by Art. 22]

- (1) The **Planning Board** shall serve as the special permit granting authority for multifamily developments, including conversion of existing structures/uses to multifamily and/or new construction.
- (2) A **site plan review special permit** pursuant to § 325-55 is also required.
- (3) All multifamily dwellings must be **connected to a municipal water system**.
- (4) A **habitable room** in a multifamily dwelling unit shall have a minimum floor area of **not less than 120 square feet** and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.
- (5) The **number of multifamily dwelling units shall be determined by the ability to place an adequately size septic system for the number of bedrooms**; and required **parking per number of units** and landscaping on the site pursuant to Article IX, Off-Street Parking and Loading Requirements.
- (6) All **outside entrances to multifamily dwellings shall provide protection** to the immediate area in front of said entrance from the weather.
- (7) Whenever the land upon which a multifamily dwelling is to be erected is located partially within a **Drinking Water Resource Protection District**, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of stormwater runoff and sewage.
- (8) Recreation areas. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an **informal field for group recreation or community gardens** for the residents of the multifamily development.

#### **§ 325-55 Site plan approval.**

**A. Purpose.** The purpose of this section is to protect the safety, public health, convenience and general welfare of the inhabitants of the Town of Harwich by providing detailed review of the design and layout of certain developments which have a substantial impact upon the character of the Town and upon traffic, utilities and services therein.

**B. Powers.** The Planning Board is hereby designated the special permit granting authority for site plan approval regarding activities which are set forth in Subsection C. **Applicability.** In addition to any special permit or variance required under the Table of Use Regulations, the following development activities shall require a site plan special permit from the Planning Board:[Amended 5-4-2010 STM by Art. 9]

**(1)** Any floor area expansion of any structure or expansion of exterior space, other than parking, serving any of the following: a commercial, industrial, multifamily, educational or municipal use, or personal wireless service facility; or the creation of a drive-up or drive-through window.

**(2)** Expansion or reconfiguration of an existing parking lot and/or driveway(s) in connection with a commercial, industrial, multifamily, educational or municipal use, or personal wireless service facility.

**(3)** Establishment of any new commercial, industrial, multifamily, educational, municipal, fast-food/takeout restaurant or personal wireless service facility.

**(4)** Establishment of any new retail use(s) in the Industrial (IL) Zone.

**D.** Required submission. The submission of an application and plans for site plan approval shall conform to the Planning Board Rules and Regulations Governing Subdivision of Land and Site Plan Review, as amended. **[1]** The Planning Board shall consider all applications at a public hearing according to the procedure set forth in MGL c. 40A. **[1]** *Editor's Note: See Ch. 400, Subdivision of Land and Site Plan Special Permits.*

**E.** Conditions of approval.

**(1)** If the site plan meets the requirements of this bylaw and the Planning Board Rules and Regulations Governing Subdivision of Land and Site Plan Review, as amended, the Planning Board shall approve it. Notwithstanding the foregoing, such approval may include reasonable conditions to ensure that:

**(a)** Reasonable measures are implemented to provide for screening of parking areas or other parts of the premises, for adjoining premises or from the street, by walls, fences, plantings or other devices.

**(b)** The convenience and safety of vehicular and pedestrian traffic are enhanced.

**(c)** Surface water from parking areas and driveways will be efficiently and safely disposed of by means of a proper drainage system as specified in the Board's approval.

**(2)** However, the Board cannot deny approval of a site plan for a use which is allowed by right (not by special permit) in the district but may impose reasonable conditions on the proposed use. The Board may not impose conditions on the grant of a special

permit the implementation of which would be contrary to any requirement of this bylaw or require a variance from it or any other applicable provision of law.

**F. Waivers.** When in the opinion of the Planning Board the requirements of Subsection **C, Applicability**, do not substantially change the relationship of the structure to the site and to abutting properties and structures, the Planning Board may determine, without a public hearing, that submission of a site plan for special permit approval is not required. Upon application consistent with the Planning Board Rules and Regulations Governing Site Plan Review, such a determination may be made by an affirmative vote of a majority of the Planning Board present, and in no event fewer than four members, in a manner consistent with the Planning Board Rules and Regulations Governing Site Plan Review.