

Eric D. Batista  
City Manager



CITY OF WORCESTER

cm2023sep06035405  
September 12, 2023

Attachment for Item # 11.4 A

TO THE WORCESTER CITY COUNCIL

COUNCILORS:

I respectfully submit the enclosed Zoning Ordinance Amendment proposal from the Executive Office of Economic Development (EOED) regarding Accessory Dwelling Units (ADUs), as received from Peter Dunn, Chief Development Officer, for the consideration of your Honorable Body.

As we communicated in our May transmittal to the City Council outlining our Housing Strategy, one of the key pillars in addressing the housing crisis are public policy solutions. Amending the City's zoning ordinance to encourage and allow for (ADUs) is one more tool to increase housing production and diversity of housing choices. Not surprisingly, this initiative is also one of the short-term priority recommendations coming forward in the Worcester Now | Next Citywide Long-Range Plan.

We look forward to the public hearings on this proposed Zoning Ordinance Amendment and the opportunities that will be created from this initiative.

Respectfully Submitted,

Eric D. Batista  
City Manager





TO: Eric D. Batista, City Manager

FROM: Peter Dunn, Chief Development Officer

DATE: September 12, 2023

RE: Recommend Approval of a Zoning Ordinance Amendment Relative to Accessory Dwelling Units

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The Executive Office of Economic Development (EOED) respectfully recommends approval of the attached Zoning Ordinance Amendment relative to Accessory Dwelling Units. The amendment proposes to add a new subsection to the existing Article IV, Section 8 regarding Accessory Uses.

### **Background and Approach to the Zoning Amendment Details:**

States, counties, and municipalities across the country, particularly those grappling with the housing crisis, have increasingly been adjusting zoning laws and ordinances to encourage and allow for more ADU opportunities to expand housing choices to meet the diverse needs of their residents. The parameters and restrictions within local zoning regulations have resulted in varied outcomes and effectiveness. In some cases, communities have adopted such stringent regulations that they have essentially rendered their ADU zoning useless.

One of the short-term recommendations from the work-in-progress draft of the **Worcester Now | Next Citywide Long-Range Plan** calls for a more flexible zoning environment to facilitate the creation of diverse housing types - including the explicit provision of ADUs. ADUs are an important tool to help address both housing production needs for our growing city and affordability concerns – both of which were a top theme from community input received as part of the planning process. ADUs can also create opportunities for intergenerational living and help allow community members to age in place. Without flexible provisions for ADUs we don't expect to see ADU production meaningfully help address housing needs in Worcester.

With that approach in mind, we are recommending certain parameters and restrictions that we believe are in the best interest of the community and our city's characteristics today.

It is important to note that as proposed, ADUs are considered an accessory use, and would not impact a lot's existing use classification from a zoning standpoint (i.e., single-, two-, or three-family dwelling). However, ADUs would be subject to the applicable building and sanitary code requirements for the type of construction proposed (including related life-safety requirements) and the City Assessor will assess the ADU and any real property improvements in accordance with Department of Revenue standards. As the ADU topic has been discussed at previous City Council meetings, there was a request for an opinion from the City Assessor as to the respective implications – a memo from the City Assessor is enclosed.

### **Summary of Zoning Amendment Highlights:**

#### By-Right versus Special Permit

The trend in policy recommendations in the urban planning discipline has been to permit ADUs By-Right (albeit with other potential restrictions such as those listed below). Permitting ADUs



through administrative approvals (By-Right) rather than discretionary approvals (Special Permit) significantly decreases the time, cost, and risk of the development review process and encourages property owners to use their own resources to increase housing diversity and production.

We feel strongly that ADUs should be permitted By-Right and we have proposed that no more than one (1) ADU be permitted per lot where 1-3 dwelling units exist and are located in a Residence, Business, or Institutional zoning district (i.e., where residential uses are permitted today).

#### Owner-Occupied Host

The vast majority of communities require that either the existing single-family home or ADU be owner-occupied. While this does limit the number of eligible properties, according to feedback from communities with ADU zoning, it has been an important restriction in response to neighborly concerns. Occupancy restrictions could also help prevent investor speculation and competition with first-time homebuyers for the acquisition of the limited supply of single-family homes. We are proposing that the owner must occupy at least one of the dwelling units on the property as their primary residence. In order to be effective, this restriction requires a system to document and monitor for compliance, including after transfers of property to new owners, which is resource intensive for staff, complaint driven, and was noted as a challenge in other communities. For the City of Worcester, owners of any rental units (which would include any ADUs) will be subject to the proposed Rental Registry, which is one partial solution to compliance monitoring. We are also recommending the provision to allow bona-fide temporary absences of the owner for up to one (1) year with advance notice to the city.

#### Tenant Relationship to Owner

Many communities are moving away from regulations which require the tenant of the ADU be a relative of the owner, but this historically has been a popular restriction. This type of restriction can be challenging to monitor and enforce, while also significantly limiting potential ADU production and utilization. As a result, this type of restriction can undermine the intent of ADU zoning to address the shortage of rental housing and is not a recommended practice. We have **not recommended** any restriction for there to be a familial relationship between the owner and tenant(s).

#### Dimensional Controls

It's common for communities to stipulate parameters for development of ADUs to ensure they fit into the overall scale and fabric of the neighborhoods in which they're located. Some of these controls also help ensure the ADU is reflective of a use that is accessory to the existing structure and does not dominate the lot. Below are the controls we have recommended:

##### *Size*

The gross floor area of an ADU shall not be greater than fifty percent (50%) the gross floor area of the largest existing dwelling unit on the lot or nine hundred (900) square feet, whichever is smaller.

##### *Bedroom Count*

An ADU may not have more than two (2) bedrooms.

##### *Setbacks*

ADUs in new or expanded accessory buildings shall be setback a minimum of ten (10) feet from other buildings on the lot and a minimum of five (5) feet from each the rear-, side-, and exterior-side lot lines. Existing detached buildings that lawfully exist and are not proposed to be expanded shall be exempt from such setback requirements. Expansions or additions to existing principal buildings shall be setback in accordance with the requirements that are otherwise applicable to a principal building for the existing use in the zoning district.



*Orientation:*

Building expansions or new detached buildings constructed for the purpose of creating an ADU shall be located to the rear or side of the principal building. When added to the side of an existing principal building, the building shall not be within five (5) feet of the principal building's front elevation. ADUs shall not be located within the front-yard.

*Height*

ADUs shall have a maximum height limitation of twenty (20) feet. This height limitation shall not apply if the ADU is proposed within an existing accessory structure (e.g., carriage house, garage, etc.) which lawfully exists and to which no increase in height is proposed via the conversion to an ADU. Expansions or additions to existing principal buildings for an ADU are subject to the maximum height otherwise specified for the existing use in the zoning district.

*Parking*

Accessory Dwelling Units shall not require additional off-street parking spaces. However, an ADU shall not remove existing parking spaces that are otherwise required by the zoning ordinance from a lot (e.g., if an ADU is constructed in an existing parking space required for zoning compliance).

*Modifications:*

Where the standards listed above are not met, the Planning Board, as the Special Permit Granting Authority (SPGA) may approve modifications through a Special Permit in accordance with the applicable procedures.

**Next Steps / Process:**

We respectfully request this proposed zoning ordinance amendment be referred by the City Council to the Planning Board for a public hearing. The Planning Board's recommendation would be sent back to City Council, to be referred to the Economic Development Committee for a second public hearing, then return to City Council for final consideration and action.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter Dunn", is written over a light blue horizontal line.

Peter Dunn  
Chief Development Officer

Enclosures





The City of  
**WORCESTER**

Assessing Division  
**Samuel E. Konieczny, MAA, City Assessor**  
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P | 508-799-1098 F | 508-799-1021  
assessing@worcesterma.gov

8/24/2023

**To: Peter Dunn, Chief Economic Development Officer**  
**From: Samuel E. Konieczny, MAA, City Assessor**  
**Re: Accessory Dwelling Units**

Hello Peter,

With regards to Accessory Dwelling Units and how they are assessed, it is important to have certain criteria established. The first one being that if the ADU is built within an existing structure, does not have its own means of egress, and shares common areas of the structure- i.e., hallways, garage space, or access to unit is through part of the living space of the existing structure, this use would not garner a change in class from an existing single family to two family. The bedroom, bathroom, kitchen, and overall room counts would be changed to reflect what was modified. However, if the ADU did in fact have its own separate means of egress, and was a distinct separate unit within the existing structure, or an addition was added and was again a distinct separate unit, or a detached structure was converted to an ADU, this WOULD change the class code from single family to two family (Land Use Code 101 to 104), two family to three family (Land Use Code 104 to 105), or three family to multi-family with 4 units or more (Land Use Code 105 to 111). If the class code ends up being a 111, the Income and Expense Form 38D will be sent out to the property owner annually. Given that the ADU does not have to be occupied by a relative of the property owner, it would be considered a rentable unit.

With respect to the method of valuation, any residential property with fewer than 6 units will be valued on the market-adjusted cost approach. Since the class codes would change by adding the ADU in most cases, we would have substantial sales data from which the cost approach would be modeled and adjusted. Conversely, if the ADU was added to an existing 5-unit property, the income approach would be utilized, just as it is on all residential properties with 6 units or more.

Regards,

Samuel E. Konieczny, MAA



**AN ORDINANCE AMENDING THE WORCESTER ZONING ORDINANCE ADOPTED  
APRIL 2, 1991, RELATIVE TO  
ACCESSORY DWELLING UNITS**

Be it ordained by the City Council of the City of Worcester as follows:

**Section 1:** The City of Worcester Zoning Ordinance, adopted April 2, 1991, be and is hereby amended by adding a new Subsection G “Accessory Dwelling Units” to Article IV, Section 8 – Use Regulations as follows:

G. Accessory Dwelling Units

1. Notwithstanding anything to the contrary in Article IV, Section 8 or Article XVI, Section 4 of this Zoning Ordinance, Accessory Dwelling Units shall be permitted by right, as an accessory use, in all Zoning Districts excepting the Manufacturing Districts and the Airport District as determined by Table 4.1, in accordance with the requirements set forth in Section 8A of this Article.

**Section 2:** The City of Worcester Zoning Ordinance, adopted April 2, 1991, be and is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Residential Uses, the following new line 19. Accessory Dwelling Unit (ADU):

19. Accessory Dwelling Unit (ADU)

RS- 10	RS- 7	RL- 7	RG- 5	BO- 1.0	BL- 1.0	BG- 2.0	BG- 3.0	BG- 4.0	BG- 6.0	ML- 0.5	ML- 1.0	ML- 2.0	MG- 0.5	MG- 1.0	MG- 2.0	IP- .33	IN- S	IN- H	A
Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	Y	Y	N

**Section 3:** The City of Worcester Zoning Ordinance, adopted April 2, 1991, be and is hereby amended by adding the new accessory use as Section 8A “Accessory Dwelling Units”, to Article IV- Use Regulations as follows:

**Section 8A – Accessory Dwelling Units**

A. Purpose and Intent

The purpose of this Section is to advance the public good by enabling the creation and expansion of new, diverse housing opportunities intended to increase the supply of healthy, accessible, affordable, and sustainable living spaces that address varied housing needs. Accessory Dwelling Units provide flexibility for diverse housing types and enable more opportunities for intergenerational living environments and provide rental income for homeowners while encouraging the efficient use of the existing housing stock and infrastructure and preserving the character of the neighborhoods.



B. Definitions

**ACCESSORY DWELLING UNIT (ADU):** An Accessory Dwelling Unit is a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities, located on the same lot as an existing dwelling unit(s), that is clearly subordinate in use, size, and design to the largest existing dwelling unit(s) or principal building, and maintains separate entrances, 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.

**PRIMARY RESIDENCE:** The location of an individual's dwelling for voting and tax purposes.

**OWNER(S):** One or more individuals who hold record title, or an established legal interest, to the lot.

C. Use and Dimensional Regulations

1. Notwithstanding the requirements set forth in Article IV, Section 8 or Article XVI, Section 4 of this Zoning Ordinance, Accessory Dwelling Units shall be allowed as an accessory use provided the following requirements are met:
  - a) An Accessory Dwelling Unit (ADU) shall be a complete dwelling unit, separate from the existing dwelling unit(s) located in (i) the same building as the existing dwelling unit(s); (ii) a new or existing accessory building; or (iii) a structure that is attached to the principal building or existing accessory building.
  - b) The owner(s) of the lot on which the ADU is created must occupy at least one of the dwelling units as their primary residence. The owner(s) must continue to occupy at least one of the dwelling units on the lot as their primary residence for as long as the ADU is being utilized, except for bona-fide temporary absences.
  - c) Temporary absences: An owner of a lot containing an ADU who is to be absent for a period of less than one (1) year may also rent the owner's unit during the temporary absence provided that written notice thereof shall be made to the Building Commissioner on a form prescribed by the Department of Inspectional Services.
  - d) The owner(s) of a lot shall submit a notarized letter or affidavit stating that the owner will occupy one of the dwelling units on the lot as the owner's primary residence, except for bona-fide temporary absences.
  - e) The principal building and the ADU shall remain in common ownership. An ADU may not be sold separately from the principal building to which it is an accessory use.
  - f) The occupants of an ADU and the occupants of the existing dwelling unit(s) need not have a familial relationship.
  - g) If rented, an ADU, or the existing dwelling unit in the case of the ADU being the owner's primary residence, shall be let for a period of not less than twenty-eight (28) days.



- h) An ADU allowed by right shall submit a to-scale architectural plan to the Building Commissioner, depicting the location and gross square footage of the existing dwelling unit(s), the location and square footage of the proposed ADU, and the location of all ingress and egress points from the ADU and the principal building.
- 2. Accessory Dwelling Units shall not be permitted on a lot with four (4) or more existing dwelling units.
- 3. There shall be no more than one (1) ADU permitted per lot, in accordance with the following dimensional requirements:
  - a) Size: The gross floor area of an ADU shall not be greater than fifty percent (50%) the gross floor area of the largest existing dwelling unit on the lot or nine hundred (900) square feet, whichever is smaller.
  - b) Setbacks: ADUs in new or expanded accessory buildings shall be setback a minimum of ten (10) feet from other buildings on the lot and a minimum of five (5) feet from each the rear-, side-, and exterior-side lot lines. Existing detached buildings that lawfully exist and are not proposed to be expanded shall be exempt from such setback requirements. Expansions or additions to existing principal buildings shall be setback in accordance with the requirements that are otherwise applicable to a principal building for the existing use in the zoning district. A to-scale site plan prepared and stamped by a MA registered professional land surveyor shall be submitted depicting the required setbacks as part of a building permit application.
  - c) Orientation: Building expansions or new detached buildings constructed for the purpose of creating an ADU shall be located to the rear or side of the principal building. When added to the side of an existing principal building, the building shall not be within five (5) feet of the principal building's front elevation. ADUs shall not be located within the front-yard.
  - d) Height: ADUs shall have a maximum height limitation of twenty (20) feet. This height limitation shall not apply if the ADU is proposed within an existing accessory structure (e.g., carriage house, garage, etc.) which lawfully exists and to which no increase in height is proposed via the conversion to an ADU. Expansions or additions to existing principal buildings for an ADU are subject to the maximum height otherwise specified for the existing use in the zoning district.
  - e) Bedroom Count: An ADU may not have more than two (2) bedrooms.
- 4. Accessory Dwelling Units shall not require additional off-street parking spaces. However, an ADU shall not remove existing parking spaces that are otherwise required by the zoning ordinance from a lot (e.g., if an ADU is constructed in an existing parking facility).
- 5. Where the standards listed above in this Section C(3)(a) through (e) and Section C(4) are not met, the Planning Board, as the Special Permit Granting Authority (SPGA) pursuant to



Article II, Section 7, may approve modifications through a Special Permit in accordance with the requirements set forth in Article II, Section 6 of this ordinance.

**Section 4:**

The City of Worcester Zoning Ordinance, adopted April 2, 1991, be and is hereby amended by deleting the existing Section 7A(1) of Article II and inserting the following new Section:

1. **Special Permits**

The Planning Board shall be the Special Permit Granting Authority (SPGA) for all special permits issued under Article IV, Section 8(A), Accessory Dwelling Units, Section 8(F), Private Driveways; Article IV, Section-13, Wind Energy Conversion Facilities; Article IV, Section 14, Adaptive Re-Use of Public or Non-Profit School Buildings; and Articles VII, VIII, IX, X, XII, and XV. The Planning Board shall also be the Special Permit Granting Authority (SPGA) for all special permits issued in any Priority Development Site designated by the City Council pursuant to M.G.L. c. 43D.