

Sec. 6.7. Accessory Uses

6.7.1. Accessory Apartments

A. **Intent.** Accessory apartments are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section.

Accessory apartments are intended to advance the following:

1. Diversify housing choices in the City while respecting the residential character and scale of existing neighborhoods;
2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
3. Create more housing units with minimal adverse affects on Newton's neighborhoods;
4. Provide an option for an income stream, particularly for low-income seniors; and
5. Preserve historic buildings, particularly historic carriage houses and barns.

B. **Accessory Apartment Defined.** A separate dwelling unit located in a Single-Family Detached or a Two-Family Detached building or in a detached building located on the same lot as a Single-Family Detached or a Two-Family Detached building, as an accessory and subordinate use to the primary residential use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 6.7.1.

1. **Internal Accessory Apartments.** An accessory apartment located within a single- or two-family dwelling.
2. **Detached Accessory Apartments.** An accessory apartment not located within a dwelling unit but is located in a separate detached accessory building.

C. Rules for All Accessory Apartments

1. No accessory apartment shall be held in separate ownership from the principal structure/dwelling unit;
2. No more than 1 accessory apartment shall be allowed per lot;
3. The property owner must occupy either the principal dwelling unit or the accessory apartment;
4. The total combined number of individuals residing in the principal and accessory dwelling units may not exceed the number allowed in the principal dwelling unit alone, under Sec. 3.4.2 and other applicable sections;

5. Where the accessory apartment is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days;

6. No additional parking is required for the accessory apartment;
7. Before a Certificate of Occupancy is issued, the property owner of any accessory apartment shall record with the Registry of Deeds for the Southern District of Middlesex County, or with the land court, a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the accessory apartment and certified copies shall be filed with the Department of Inspectional Services, where a master list of accessory apartments shall be kept, and with the Assessing Department;
8. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Chapter and the 780 CMR; and
9. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually and the property may be subject to inspection.

D. Rules for Internal Accessory Apartments

1. An Internal Accessory Apartment is allowed by right as a use accessory to a Single-Family Detached-building and a Two-Family Detached building.
2. An Internal Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,000 square feet, or 33 percent of the total Habitable Space, as defined in Sec. 8.3, in the principal dwelling, whichever is less. The City Council may grant a special permit for a larger Internal Accessory Apartment up to 1,200 square feet or 40% of the total Habitable Space, whichever is less.
3. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure and the residential character of the neighborhood, including, but not limited to, the following considerations:
 - a. The exterior finish material should be the same or architecturally consistent in type, size, and

- placement, as the exterior finish material of the remainder of the building;
- b. The roof pitch should be architecturally consistent with the predominant roof pitch of the remainder of the building;
 - c. Trim should be consistent in type, size, and location, as the trim used on the remainder of the building;
 - d. Windows should be consistent with those of the remainder of the building in proportion and orientation;
 - e. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building;
 - f. The Commissioner of Inspectional Services shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of the above rules.
- 4. Only one entrance may be located on the façade of the building facing a street unless the building had additional street-facing entrances before the accessory apartment was created, except by special permit.
 - 5. Where a building is determined to be of historic significance and therefore subject to procedures required under Section 22-50(C)(4) of the City of Newton Ordinances, any decisions of the Newton Historical Commission, or a local Historic District Commission, shall take precedence.
- E. Rules for Detached Accessory Apartments.**
- 1. A Detached Accessory Apartment is allowed by right as a use accessory to a Single-Family, Detached Building or a Two-Family, Detached Building.
 - 2. A Detached Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,200 square feet or 40% of the total Habitable Space of the principal dwelling, whichever is less. The City Council may grant a special permit for a larger Detached Accessory Apartment up to 1,500 square feet.
 - 3. Exterior alterations to an existing accessory structure or the creation of a new accessory structure are permitted provided they are in keeping with the architectural integrity of the existing structure and/or the primary dwelling on the lot and the residential character of the neighborhood. The exterior finish material should be the same or visually compatible in type, size,

- and placement, as the exterior finish material of the principal dwelling unit on the site. The Commissioner of Inspectional Services shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of this requirement.
- 4. The Detached Accessory Apartment must be at least 6 feet from the principal dwelling unit on the site.
 - 5. The Detached Accessory Apartment must meet the setback requirements of the primary dwelling unit, except by special permit.
 - 6. Except as required above, a Detached Accessory Apartment is subject to the dimensional requirements of Section 3.4.3, Accessory Buildings. For the purposes of this section, the Commissioner of ISD may determine which lot line is the front on corner lots.
 - 7. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory Apartment in an historic accessory building may be allowed by-right without requiring a special permit, and only subject to the rules in this subsection E.7.
 - a. The proposed Detached Accessory Apartment will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection E.7, the structure must qualify as "historically significant" under Section 22-50 of the City of Newton Ordinances, the Demolition Review Ordinance, as determined by the Director of Planning and Development and the Chair of the Newton Historical Commission or Chair of the Local Historic District Commission, whichever has jurisdiction;
 - b. The proposed Detached Accessory Apartment will be greater than 15 feet from a residential dwelling on an abutting property, except by special permit; and
 - c. Any exterior alteration of the building to permit the creation of the Detached Accessory Apartment will preserve the historic character and integrity of the building. Exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission or a Local Historic District Commission.
- F. Invalidity Clause.** If it shall be determined by a court of competent jurisdiction that any provision or

requirement of Sec. 6.7.1 is invalid as applied for any reason, then Sec. 6.7.1 shall be declared null and void in its entirety.