**MODEL ACCESSORY APARTMENT BYLAW**

*Prepared by the Pioneer Valley Planning Commission*

**1.0 ACCESSORY APARTMENTS**

**1.1 Purpose**

The purpose of the accessory apartment bylaw is to:

a. Provide older homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security, and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;

b. Add inexpensive rental units to the housing stock to meet the needs of smaller households, both young and old;

c. Make housing units available to low and moderate-income households who might otherwise have difficulty finding homes within the town;

d. Protect stability, property values, and the residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw; and

e. Legalize conversions to encourage compliance with the State Building Code.

**1.2 Definitions**

Accessory Apartment: A self-contained housing unit incorporated within or accessory to a single family dwelling complete with its own sleeping, cooking, and sanitary facilities and a separate means of egress.

Building, Attached: A building having any portion of one or more walls in common or within five feet of an adjacent building.

Building, Detached: A building having a five feet or more of open space on all sides.

Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.

Primary Residence: A building in which is conducted the principal use of the lot on which it is located. For residentially zoned lots, such a building would be a dwelling.

**1.3 Accessory Apartment Standards**

Accessory Apartments shall be allowed Special Permits in all districts. The Special Permit Granting Authority (SPGA) may authorize a Special Permit for a use known as Accessory Apartment in owner-occupied, single-family dwelling, or in a detached accessory structure appurtenant to the single-family dwelling, provided that the following standards and criteria are met:

a. The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the original unit.

b. Only one apartment will be created on a single-family lot.

c. The lot in which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district.

d. The owner(s) of the residence in which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.

e. The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible. In general, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform with the single-family character of the neighborhood.

f. An addition to the original building is permitted provided that the addition does not increase the floor area or volume of the original building by more than one-third (33%) of the existing total residential space (excluding unfinished attic and basement, garage, porch, and patio). These same dimensional criteria shall apply to an Accessory Apartment constructed in a existing detached dwelling (such as a garage, barn, or carriage house), or to an Accessory Apartment constructed as part of a new detached dwelling.

g. The accessory apartment shall be clearly a subordinate part of the single-family dwelling. It shall be no greater than one-third (33%) of the existing total residential space or eight hundred (800) square feet, which ever is less.

h. At least two off-street parking spaces per dwelling unit are available for use by the owner-occupant(s) and tenant(s). Parking spaces shall be located to the side or the rear of the structure, to the extent feasible.

i. For dwellings to be served by on-site septic system, the owner must obtain a Disposal Works Construction Permit from the Board of Health before a special permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.

j. The construction of any accessory apartment must be in conformity with the State Building Code requirements.

**1.4 Application Procedure**

a. The procedure for the submission and approval of a Special Permit for an Accessory Apartment shall be the same as prescribed in the (Special Permit Section of the Zoning Bylaw) except it shall include a notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A non-refundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application and code inspections. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 4OA, Sec. 11 must be notified.

b. Upon receiving a special permit, the owner(s) must file on subject property a Declaration of Covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Zoning Board of Appeals.

c. In order to provide for the development of housing units for disabled and handicapped individuals, the Planning Board will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

**1.5 Transfer of Ownership of a Dwelling with an Accessory Apartment**

a. The temporary Special Permit for an Accessory Apartment shall terminate upon the sale of property or transfer of title of the dwelling, unless the Planning Board has approved a transfer of the Special Permit to the new owner.

b. The new owner(s) must apply for transfer of a Special Permit for an Accessory Apartment and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units on the premises and a written request to the Planning Board stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.

c. Upon receiving the transferred special permit, the new owner(s) must file on subject property a Declaration of Covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board.

**1.6 Accessory Apartments in Existence Before the Adoption of an Accessory Apartment Bylaw**

a. Statement of Intent

To ensure that accessory apartments or conversions in existence before the adoption of this Accessory Apartment Bylaw are in compliance with the State Building Code Regulations.

b. Application Procedure

The Planning Board may authorize, under a Special Permit and in junction with the Building Inspector, use known as an Accessory Apartment. The board will review each existing use on a case-by-case basis to determine if the dwelling conforms to State Building Code Regulations.

The applicant must follow the same procedure described in this Section including the submission of a notarized letter declaring owner occupancy and a Declaration of Covenants.

**1.7 Conflict with Other Laws**

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

**1.8 Severability**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town’s zoning bylaw.