

CITY OF SALEM
APRIL 8, 2021
CITY COUNCIL REGULAR MEETING

A Regular Meeting of the City Council is being held remotely on Thursday, April 8, 2021 at 7:00 P.M. for the purpose of transacting any and all business. Notice of this meeting was posted on April 6, 2021 at 9:37 A.M. This meeting is being taped and is live on S.A.T.V.

All Councillors were present.

Council President Madore presided.

Councillor Sargent moved to dispense with the reading of the record of the previous meeting. It was so voted.

President Madore requested that everyone please rise to recite the Pledge of Allegiance.

PUBLIC TESTIMONY

1. Jeff Cohen, 12 Hancock Street, Salem – ADU Zoning Ordinances

#169 – REAPPOINTMENT OF STEVEN SMALLEY TO THE ZONING BOARD OF APPEALS

The Mayors re-appointment of Steven Smalley to the Zoning Board of Appeals with term to expire April 11, 2023 was confirmed by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

#170 – APPOINTMENT OF ALLIE SHVONSKI TO THE CULTURAL COUNCIL

The Mayors appointment of Allie Shvonski to the Cultural Council with term to expire April 8, 2024. Received and Filed was received and filed. Cultural Council Appointments are for informational purposes only.

#171 – RESOLUTION RECOGNIZING THE SERVICE OF SALEM’S BOARD MEMBERS

The following resolution submitted by the Mayor was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

RESOLUTION: Recognizing the Service of Salem Board & Commission Members

WHEREAS: Salem’s many boards, commissions, task forces, and committees are well-served by the more than 200 residents, mostly volunteers, who serve and dedicate their time to the important work of these municipal bodies; and,

WHEREAS: Every board and commission in the City has been established pursuant to a relevant statute, ordinance, or the City Charter and is by that imbued with its own authority and area of responsibility, reflective of Salem’s well-functioning 185-year-old municipal government; and,

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WHEREAS: Salem's board and commission members bring a wide variety of skill sets, backgrounds, expertise, and professional credentials to their work; and,

WHEREAS: These Salem residents demonstrated enormous flexibility and commitment to the continuity of their deliberations and work during the COVID-19 pandemic; and,

WHEREAS: Nearly every Salem board and commission member who requires City Council confirmation of the Mayor's appointment to their role has received it unanimously; and,

WHEREAS: The work of Salem's boards and commissions continues to be of critical importance as the City grows and moves forward, including regarding transportation, land use, planning, zoning, housing, accessibility, climate change resilience, public health, education, small business growth, race equity, consumer protection, conservation, historic preservation, and so much more.

NOW THEREFORE BE IT RESOLVED: That the Mayor of the City of Salem and the Salem City Council express our sincere appreciation and gratitude to every member of Salem's municipal boards, commissions, task forces, and committees.

AND BE IT FURTHER RESOLVED: That this Resolution be made a matter of record of these proceedings, and that the City Clerk prepare and send a suitable copy of this Resolution with a copy of the City Seal on behalf of the Mayor, the City Council, and the residents of Salem to the member of every Salem board, commission, task force, and committee.

#172 – FRIENDS OF THE COMMON TO DISCUSS FUNDRAISING FOR COMMON INTERIOR

The following Order introduced by Councillor Prosniewski was adopted as amended.

Original Version:

ORDERED: That the Committee on Public Health, Safety and Environment co-posted with the Committee of the Whole meet with the Friends of the Salem Common to discuss plans and fundraising efforts for the maintenance and repair of the Salem Common interior.

Amended Version:

ORDERED: That the Committee on Public Health, Safety and Environment co-posted with the Committee of the Whole meet with the Friends of the Salem Common to discuss plans and fundraising efforts for the maintenance and repair of the Salem Common interior. And be it further ordered that the following be invited: Planning Board Chair or designee, Jenna Ide, City Planner or Lev McCarthy and Park, Recreation and Community Service Director.

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#173 – (#140) - \$50,000.00 APPROPRIATION FOR THE BIKE SHARE PROGRAM

COUNCILLOR Turiel offered the following report for the Committee on Administration and Finance co-posted with the Committee of the Whole. The report was accepted, and the recommendation adopted.

The Committee on Administration and Finance co-posted with the Committee of the Whole to whom was referred the matter of \$50,000.00 appropriation for the Bike Share Program has considered said matter and would recommend that the matter remain in committee.

#174 – (#146) – AMENDING REVOLVING FUND ACCOUNT FOR SOLAR RENEWABLE ENERGY

COUNCILLOR Turiel offered the following report for the Committee on Administration and Finance co-posted with the Committee of the Whole. The report was accepted, and the recommendation adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The Committee on Administration and Finance co-posted with the Committee of the Whole to whom was referred the matter of amending Revolving Fund Account for Solar Renewable Energy has considered said matter and would recommend adoption as amended – that the word “municipal” be added to sentence 2 of section 2, before the word “programs”.

Original Version:

ORDERED: That Council Order #436 of 2016, to create a revolving fund account for solar renewable energy certificates, be hereby amended as follows:

1. **Fund Name** is deleted and replaced by “Utility Energy Credit Fund.”
2. **Programs & Purpose** is deleted and replaced by “To be used for City projects or programs that reduce utility costs, use, and/or emissions. This may include personnel costs associated with participation in the programs that generate the credits.
3. **Type of Receipts Collected** is deleted and replaced by “Credits or payments received for City projects or programs that specifically result in reduction in utility costs, use, or emissions.”

Amended Version:

ORDERED: That Council Order #436 of 2016, to create a revolving fund account for solar renewable energy certificates, be hereby amended as follows:

1. **Fund Name** is deleted and replaced by “Utility Energy Credit Fund.”

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2. **Programs & Purpose** is deleted and replaced by “To be used for City projects or programs that reduce utility costs, use, and/or emissions. This may include personnel costs associated with participation in the municipal programs that generate the credits.
3. **Type of Receipts Collected** is deleted and replaced by “Credits or payments received for City projects or programs that specifically result in reduction in utility costs, use, or emissions.”

#175 – (#166) – GRANTING LICENSES

Councillor Morsillo offered the following report for the Committee on Ordinances, Licenses and Legal Affairs. The report was accepted, and the recommendation adopted

The Committee on Ordinances, Licenses and Legal Affairs to whom was referred the matter of Granting of certain licenses has considered said matter and would recommend that the following license be granted.

SEAWORMS: Joe Mendonca 22 Spring St., Peabody

#176 – (#93) – ORDINANCE AMENDING TAXI CABS AND LIVERIES

Councillor Morsillo offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole. The report was accepted, and the recommendation adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole to whom was referred the matter of Ordinance amending Taxi Cabs and Liveries has considered said matter and would recommend adoption for First Passage by roll call vote.

#177 – (#75) – NAMING OF CITY STREETS

Councillor Morsillo offered the following report for the Committee on Ordinances, Licenses and Legal Affairs co posted with the Committee of the Whole. The report was accepted, and the recommendation adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent. It was discussed that the street names should reflect the city’s rich history and diversified cultures in Salem.

The Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole to whom was referred the matter of naming of street has considered said matter and would recommend that the City Solicitor and the City Clerk work together to implement a process.

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#178 – (#123) – REMOVING CEDAR ROAD FROM THE LIST OF STREET ACCEPTANCE

Councillor Morsillo offered the following report for the Committee on Ordinances, Licenses and Legal Affairs. The report was accepted, and the recommendation adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

The Committee on Ordinances, Licenses and Legal Affairs to whom was referred the matter of holding a public hearing removing Cedar Road from Street Acceptance has considered said matter and would recommend that this be granted and that the order below be adopted.

#178A (#178 & #123) – ORDER TO REMOVE CEDAR ROAD FROM LIST OF STREET ACCEPTANCE

Ordered: The Salem City Council has determined, upon the advice of the City Solicitor and following notice to abutters and a public hearing on the matter, that Cedar Road is a private way. A City Council Order adopted June 27, 1996 accepting Cedar Road as a public street was not adopted in accordance with City Ordinance and Massachusetts General Laws. The City Clerk is hereby directed to correct the Salem Street Directory to identify Cedar Road as a street not accepted by the City.

#179 – (#394 OF 2020) – MEETING WITH GOVERNOR BAKER’S OFFICE REGARDING HOUSING AND JOBS

Councillor Hapworth offered the following report for the Committee on Government Services co-posted with the Committee of the Whole. The report was accepted, and the recommendation adopted.

The Committee on Government Services co-posted with the Committee of the Whole to whom was referred the matter of meeting with Governor Baker’s office regarding Jobs and Housing in the City of Salem has considered said matter and would recommend that the matter be received and placed on file.

#180 – (#117) – SIFI NETWORK PROJECT UPDATE

Councillor Hapworth offered the following report for the Committee on Government Services co-posted with the Committee of the Whole. The report was accepted, and the recommendation adopted.

The Committee on Government Services co-posted with the Committee of the Whole to whom was referred the matter of meeting SiFi Network for a status update on the fiber internet construction project has considered said matter and would recommend that the presentation from SiFi be received and placed on file.

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#181 - (#643 of 2019 & #119 of 2021) – PORTRAIT OF NAUMKEAG LEADER BE PLACED IN THE COUNCIL CHAMBERS.

Councillor Hapworth offered the following report for the Committee on Government Services co-posted with the Committee of the Whole. The report was accepted, and the recommendation adopted.

The Committee on Government Services co-posted with the Committee of the Whole to whom was referred the matter of update on the portrait of Naumkeag People has considered said matter and would recommend that the matter remain in committee.

#182 – (#125) – PRESENTATION FROM THE FOUNDATION TRUST REGARDING AVAILABLE GRANTS FOR THE CITY

Councillor Dominguez offered the following report for the Committee on Community Economic Development co-posted with the Committee of the Whole. The report was accepted, and the recommendation adopted.

The Committee on Community Economic Development co-posted with the Committee of the Whole to whom was referred the matter of presentation from Lauren Liecau of Foundation Trust regarding available grants has considered said matter and would recommend that the presentation be received and placed on file.

#183 – AUTHORIZING THE MAYOR TO SELL PARCEL 1 OF 413 ESSEX STREET

The following Order submitted by the City Solicitor regarding the sale of Parcel 1 located at 413 Essex Street was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

Ordered: The Mayor is hereby authorized to sell Parcel 1, a portion of 413 Essex Street, shown on the attached plan entitled "Plan of Land in Salem" prepared by Hancock Associates and consisting of 1,003 square feet to Miroslaw Kantorosinski for the sum of Ten Thousand and One Dollar (\$10,001.00). This parcel was declared surplus property by the City Council and publicly offered for sale by the City's procurement officer.

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#184 – (#68 & 97) – PLANNING BOARD RECOMMENDATIONS FOR THE TWO (2) ZONING ORDINANCES RELATIVE TO ACCESSORY DWELLING UNITS WITH AND WITHOUT DETACHED STRUCTURE

The Communication from the Planning Board regarding two (2) separate zoning ordinance amendments relative to Accessory Dwelling Units (ADUs) was received and placed on file.

Report of the Planning Board to City Council
Re: Proposed Accessory Dwelling Unit Ordinance Amendments

April 5, 2021

Dear Ms. Simons:

At its meeting on April 1, 2021 the Planning Board discussed two proposed (2) Zoning Ordinance amendments for accessory dwelling units that were referred from the March 30, 2021 joint public hearing with the City Council. The first proposed ordinance does not allow new detached units with a special permit and the second proposed ordinance does allow new detached units with a special permit.

The Planning Board voted eight (8) in favor (Bill Griset, Tom Furey, Carole Hamilton, Noah Koretz, Kirt Rieder, Helen Sides, Sarah Tarbet, Todd Waller) and none (0) opposed to recommend that the City Council adopt, with modifications, the proposed ADU ordinances, and to include language allowing new detached units with a special permit. These proposed modifications are included in the attached (and below) draft ordinance.

The Planning Board would like to affirm its unanimous support for this ordinance and is hopeful for its passage by the City Council. The Board is grateful for the continued engagement of community members in drafting this and previous versions of an Accessory Dwelling Unit ordinance.

If you have questions regarding this matter, please contact Tom Daniel, AICP, Director of Planning & Community Development, at 978-619-5685.

Sincerely,
Mason Wells, Staff Planner

City of Salem

In the year Two Thousand and Twenty One

An Ordinance to amend an ordinance relative to accessory dwelling units.
Be it ordained by the City Council of the City of Salem, as follows:

Section 1. The City of Salem Zoning Ordinance Section 3. Table of Principal and Accessory Use Regulations is hereby amended by deleting the use entitled Accessory Living Area and adding the following new uses within Section E Accessory Uses:

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E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Affordable Accessory Dwelling Unit attached to a Principal Dwelling (as defined in Sec 3.2.8) or within a Principal Dwelling.	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within an Existing Detached Accessory Building, as defined in Sec 3.2.8	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within a new Detached Accessory Building, as defined in Sec 3.2.8	SP	SP	SP	SP	N	N	N	N	N	N	SP

Section 2. Section 10 Definitions is hereby amended by deleting the definition “Accessory Living Area” in its entirety and inserting the definition “Affordable Accessory Dwelling Unit” as follows:

“Affordable Accessory Dwelling Unit: A housekeeping unit with a maximum rent at least 30 percent below the United States Department of Housing and Urban Development (HUD) fair market rent limit for Salem, with its own sleeping, cooking and sanitary facilities, located either in a detached accessory building, or within or attached to a principal dwelling and subordinate in size to the principal unit(s), separated from it in a manner which maintains the appearance of the principal unit(s), and allowed pursuant to Section 3.2.8 of this ordinance.”

Section 3. Section 3.2.4 Accessory Buildings and Structures is hereby amended by deleting paragraph 4 in its entirety and replacing it with the following new paragraphs 4, 5 and 6 as follows:

“4. Accessory structures, garages and detached affordable accessory dwelling units shall not exceed one and [MW1]one-half (1.5) stories or eighteen (18) feet in height.

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5. Detached affordable accessory dwelling units shall comply with all regulations set forth in Section 3.2.4 (Accessory Buildings and Structures) of this Ordinance with the exception of setbacks, which shall comply with Section 3.2.4(6).

6. Detached affordable accessory dwelling units shall comply with all setbacks of the principal structure, as set forth in Section 4.1 of this ordinance (Dimensional Requirements), irrespective of whether the principal structure on the property in question complies with such setbacks or not, unless otherwise permitted by a Special Permit pursuant to subsection 3 of Section 3.2.8.”

Section 4. Section 3.2.8 Accessory Dwelling Areas is hereby amended by deleting Section 3.2.8 in its entirety and replacing it with the following:

“3.2.8 Affordable Accessory Dwelling Units. Affordable Accessory Dwelling Units shall be allowed as provided set forth in this section.

1. Purpose.

- A. To add affordable rental units to the housing stock to meet the needs of smaller households and make housing units available to households who might otherwise have difficulty finding housing.
- B. To encourage the efficient use of the city's housing supply while preserving the character of the city's neighborhoods.
- C. To maximize privacy, dignity, and independent living among family members preserving domestic family bonds as well as to protect the stability, property values, and the residential character of the neighborhood.
- D. To permit the owner of an existing, or a proposed, principal dwelling to construct one additional affordable dwelling unit per lot. Such a use is incidental and subordinate to the principal dwelling.
- E. To increase the supply of housing and the diversity of housing options, in response to demographic changes such as smaller households and older households.

2. Procedure.

- A. The Building Inspector shall administer and enforce the provisions of this section.

3. Special Permit. Pursuant to Section 9.4, in the interests of design flexibility and overall project quality, the Zoning Board of Appeals may grant a Special Permit for the following:

- A. An existing detached accessory building as defined in subsection 8 of Section 3.2.8 that is not in compliance with the setbacks of the principal dwelling unit.
- B. An expanded detached accessory building as defined in subsection 8 of Section 3.2.8.
- C. A new detached accessory building as defined in subsection 8 of Section 3.2.8.

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4. Application.

A. The Application for the Building Permit, shall:

1. Be signed by one hundred (100) percent of the record title ownership interest of the principal dwelling and shall include a copy of the deed and in the case of a property held by a condominium trust, all owners of all units within the condominium.
2. Include a floor plan of the affordable accessory dwelling unit, the principal dwelling where it is to be located and all elevations. All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the affordable accessory dwelling unit.
3. Be accompanied by a [MW2] letter of intent signed by the homeowner(s) and [MW3] shall be submitted to the Department of Planning and Community Development that certifies the rent of the accessory dwelling unit will be at least 30 percent below the established fair market rent limit determined by the United States Department of Housing and Urban Development.

5. Requirements.

- A. The maximum rent of the affordable accessory dwelling unit, including utilities and parking, shall be at least thirty percent below the established Fair Market Rent limit for the City of Salem as determined annually by the United States Department of Housing and Urban Development. [MW4]
- ~~B. The affordable accessory dwelling unit on a lot that is a half of a mile or less from the MBTA train station or MTBA bus stop shall not require an off street parking space.~~
- ~~C. The affordable accessory dwelling unit on a lot that is more than a half of a mile from the MBTA train station or MTBA bus stop shall have one (1) dedicated off-street parking space. The minimum parking required for the principal dwelling pursuant to Section 5.1 of this ordinance shall not count as off street parking for the affordable accessory dwelling unit. [MW5]~~
- D. The affordable accessory dwelling unit shall not result in a net loss of the total measured caliper inches of private trees on the lot in which the affordable accessory dwelling unit will be located unless a payment in the amount of \$100 per caliper inch of the tree diameter at breast height (DBH) at the prevailing rate set by the Tree Warden [MW6] is made to the tree replacement fund.
- E. The affordable accessory dwelling unit shall not contain less than 350 square feet of habitable space.
- F. The affordable accessory dwelling unit shall not contain in excess of 900 square feet of habitable space.
- G. The affordable accessory dwelling unit shall not exceed 50% of the gross floor area of the principal dwelling. [MW7]
- ~~H. No more than one (1) affordable accessory dwelling unit shall be located upon a single lot. [MW8]~~

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- I. An affordable accessory dwelling unit shall not be permitted in a building with five (5) or more units.
- J. At least one (1) owner of the residence in which the affordable accessory dwelling unit is created shall reside in one (1) of the dwelling units as a principal place of residence. For the purpose of this section, the “owner” shall be one or more individuals who hold title to the property and for whom the dwelling is the primary residence as evidenced by voter registration, tax return or other documentation demonstrating primary residence.
- K. Electricity, water and gas shall be provided by a single service to both the affordable accessory dwelling unit and the principal dwelling, and included in the rent. [MW9]
- L. The affordable accessory dwelling unit may not be sold or transferred separate and apart from the principal dwelling to which it is an accessory use. The principal dwelling and the accessory dwelling unit shall remain in common or single ownership and shall not be severed in ownership.
- ~~M. Entry shall be located through existing entry or on the back or side of the main dwelling.~~
- ~~N. Egress access shall be located on the side or rear of the building so that visibility from public ways is minimized. [MW10]~~
- O. The affordable accessory dwelling unit shall not contain more than two (2) bedrooms.
- P. The affordable accessory dwelling unit shall be clearly subordinate in use, size and design to the principal dwelling.
- Q. The affordable accessory dwelling unit must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the principal dwelling.
- R. There shall be no occupancy of the affordable accessory dwelling unit until the Building Inspector has issued a certificate of occupancy that the principal dwelling and affordable accessory dwelling unit are in compliance with all applicable health and building codes.
- S. The Building Permit shall be revoked upon determination by the Building Inspector that any condition imposed by Section 3.2.8 has not been fulfilled.
- T. By filing the Application for a Building Permit for an affordable accessory dwelling unit, all owners consent to an inspection without a warrant upon reasonable notice by the Building Inspector to ensure compliance with all terms of this section.
- U. Short term rentals, as defined in Salem Code of Ordinances Chapter 15, are prohibited in the accessory dwelling unit.
- V. The affordable accessory dwelling unit shall obtain a certificate of fitness subject to the provisions of Section 2-705 of the City of Salem Code of Ordinances.

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6. Termination.

A. The affordable accessory dwelling unit use shall terminate immediately upon any violation of any term or condition of this ordinance that the owner fails to cure, upon thirty (30) days [MW11]two (2) weeks written notice mailed to the applicant and to the occupants at the dwelling address by certified mail, return receipt requested.

B. Duty of Owner Upon Termination include:

- a. The owner shall discontinue the use of the affordable accessory dwelling unit as a separate dwelling unit.
- b. The kitchen facilities of the affordable accessory dwelling unit shall be removed unless determined by the Building Inspector to be incidental and subordinate as an accessory use of the principal dwelling.
- c. Any additional exterior entrance constructed to provide access to the accessory dwelling unit shall be permanently closed, unless the Building Inspector provides a waiver. The owner shall permit an inspection by the Building Inspector without a warrant.

7. Severability. All the clauses of this ordinance are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw.”

8. Definitions.

Attached affordable accessory dwelling unit: An affordable accessory dwelling unit created by adding gross floor area to the principal dwelling after the adoption of this ordinance.

Existing detached accessory building: A detached accessory building that is existing as of the effective date of this ordinance, that has a foundation, and is a minimum of 350 square feet.

Expanded detached accessory building: An existing detached accessory building that is expanded after the effective date of this ordinance.

New detached accessory building: A detached accessory building that is not existing as of the effective date of this ordinance.

Section 5. This Ordinance shall take effect as provided by City Charter.

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(#68) - ZONING ORDINANCE AMENDMENT RELATIVE TO ADUS (WITHOUT DETACHED DWELLING)

The following zoning ordinance was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole and that the Zoning Enforcement Officer be invited.

ORDINANCE to amend a zoning ordinance relative to accessory dwelling units.

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. The City of Salem Zoning Ordinance Section 3. Table of Principal and Accessory Use Regulations is hereby amended by deleting the use entitled Accessory Living Area and adding the following new uses within Section E Accessory Uses:

E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Affordable Accessory Dwelling Unit attached to a Principal Dwelling (as defined in Sec 3.2.8) or within a Principal Dwelling.	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within an Existing Detached Accessory Building, as defined in Sec 3.2.8	Y	Y	Y	Y	N	N	N	N	N	N	Y

Section 2. Section 10 Definitions is hereby amended by deleting the definition “Accessory Living Area” in its entirety and inserting the definition “Affordable Accessory Dwelling Unit” as follows:

“Affordable Accessory Dwelling Unit: A housekeeping unit with a maximum rent at least 30 percent below the United States Department of Housing and Urban Development (HUD) fair market rent limit for Salem, with its own sleeping, cooking and sanitary facilities, located either in a detached accessory building existing as of the effective date of the affordable accessory dwelling unit ordinance’s passage, or within or attached to a principal dwelling and subordinate in size to the principal unit(s), separated from it in a manner which maintains the appearance of the principal unit(s), and allowed pursuant to Section 3.2.8 of this ordinance.”

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Section 3. Section 3.2.4 Accessory Buildings and Structures is hereby amended by deleting paragraph 4 in its entirety and replacing it with the following new paragraphs 4, 5 and 6 as follows:

“4. Accessory structures, garages and detached affordable accessory dwelling units shall not exceed one-half (1.5) stories or eighteen (18) feet in height.

5. Detached affordable accessory dwelling units shall comply with all regulations set forth in Section 3.2.4 (Accessory Buildings and Structures) of this Ordinance with the exception of setbacks, which shall comply with Section 3.2.4(6).

6. Detached affordable accessory dwelling units shall comply with all setbacks of the principal structure, as set forth in Section 4.1 of this ordinance (Dimensional Requirements), irrespective of whether the principal structure on the property in question complies with such setbacks or not, unless otherwise permitted by a Special Permit pursuant to subsection 3 of Section 3.2.8.”

Section 4. Section 3.2.8 Accessory Dwelling Areas is hereby amended by deleting Section 3.2.8 in its entirety and replacing it with the following:

“3.2.8 Affordable Accessory Dwelling Units. Affordable Accessory Dwelling Units shall be allowed as provided set forth in this section.

1. Purpose.

- A. To add affordable rental units to the housing stock to meet the needs of smaller households and make housing units available to households who might otherwise have difficulty finding housing.
- B. To encourage the efficient use of the city's housing supply while preserving the character of the city's neighborhoods.
- C. To maximize privacy, dignity, and independent living among family members preserving domestic family bonds as well as to protect the stability, property values, and the residential character of the neighborhood.
- D. To permit the owner of an existing, or a proposed, principal dwelling to construct one additional affordable dwelling unit per lot. Such a use is incidental and subordinate to the principal dwelling.
- E. To increase the supply of housing and the diversity of housing options, in response to demographic changes such as smaller households and older households.

2. Procedure.

- A. The Building Inspector shall administer and enforce the provisions of this section.

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3. Special Permit. Pursuant to Section 9.4, in the interests of design flexibility and overall project quality, the Zoning Board of Appeals may grant a Special Permit for the following:

- A. An existing detached accessory building as defined in subsection 8 of Section 3.2.8 that is not in compliance with the setbacks of the principal dwelling unit.
- B. An expanded detached accessory building as defined in subsection 8 of Section 3.2.8.

4. Application.

A. The Application for the Building Permit, shall:

- 1. Be signed by one hundred (100) percent of the record title ownership interest of the principal dwelling and shall include a copy of the deed and in the case of a property held by a condominium trust, all owners of all units within the condominium.
- 2. Include a floor plan of the affordable accessory dwelling unit, the principal dwelling where it is to be located and all elevations. All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the affordable accessory dwelling unit.
- 3. A letter of intent signed by the homeowner(s) shall be submitted to the Department of Planning and Community Development that certifies the rent of the accessory dwelling unit will be at least 30 percent below the established fair market rent limit determined by the United States Department of Housing and Urban Development.

5. Requirements.

- A. The maximum rent of the affordable accessory dwelling unit, including utilities and parking, shall be at least thirty percent below the established Fair Market Rent limit for the City of Salem as determined annually by the United States Department of Housing and Urban Development.
- B. The affordable accessory dwelling unit shall not be constructed within a new detached accessory building, as defined in subsection 8 of Section 3.2.8.
- C. The affordable accessory dwelling unit on a lot that is a half of a mile or less from the MBTA train station or MTBA bus stop shall not require an off-street parking space.
- D. The affordable accessory dwelling unit on a lot that is more than a half of a mile from the MBTA train station or MTBA bus stop shall have one (1) dedicated off-street parking space. The minimum parking required for the principal dwelling pursuant to Section 5.1 of this ordinance shall not count as off-street parking for the affordable accessory dwelling unit.

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- E. The affordable accessory dwelling unit shall not result in a net loss of the total measured caliper of private trees on the lot in which the affordable accessory dwelling unit will be located unless a payment in the amount of \$100 per caliper of the tree diameter at breast height (DBH) is made to the tree replacement fund.
- F. The affordable accessory dwelling unit shall not contain less than 350 square feet of habitable space.
- G. The affordable accessory dwelling unit shall not contain in excess of 900 square feet of habitable space.
- H. No more than one (1) affordable accessory dwelling unit shall be located upon a single lot.
- I. An affordable accessory dwelling unit shall not be permitted in a building with five (5) or more units.
- J. At least one (1) owner of the residence in which the affordable accessory dwelling unit is created shall reside in one (1) of the dwelling units as a principal place of residence. For the purpose of this section, the "owner" shall be one or more individuals who hold title to the property and for whom the dwelling is the primary residence as evidenced by voter registration, tax return or other documentation demonstrating primary residence.
- K. Electricity, water and gas shall be provided by a single service to both the affordable accessory dwelling unit and the principal dwelling.
- L. The affordable accessory dwelling unit may not be sold or transferred separate and apart from the principal dwelling to which it is an accessory use. The principal dwelling and the accessory dwelling unit shall remain in common or single ownership and shall not be severed in ownership.
- M. Entry shall be located through existing entry or on the back or side of the main dwelling.
- N. Egress access shall be located on the side or rear of the building so that visibility from public ways is minimized.
- O. The affordable accessory dwelling unit shall not contain more than two (2) bedrooms.
- P. The affordable accessory dwelling unit shall be clearly subordinate in use, size and design to the principal dwelling.
- Q. The affordable accessory dwelling unit must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the principal dwelling.
- R. There shall be no occupancy of the affordable accessory dwelling unit until the Building Inspector has issued a certificate of occupancy that the principal dwelling and affordable accessory dwelling unit are in compliance with all applicable health and building codes.

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- S. The Building Permit shall be revoked upon determination by the Building Inspector that any condition imposed by Section 3.2.8 has not been fulfilled.
 - T. By filing the Application for a Building Permit for an affordable accessory dwelling unit, all owners consent to an inspection without a warrant upon reasonable notice by the Building Inspector to ensure compliance with all terms of this section.
 - U. Short term rentals, as defined in Salem Code of Ordinances Chapter 15, are prohibited in the accessory dwelling unit.
 - V. The affordable accessory dwelling unit shall obtain a certificate of fitness subject to the provisions of Section 2-705 of the City of Salem Code of Ordinances.
6. Termination.
- A. The affordable accessory dwelling unit use shall terminate immediately upon any violation of any term or condition of this ordinance that the owner fails to cure, upon two (2) weeks written notice mailed to the applicant and to the occupants at the dwelling address by certified mail, return receipt requested.
 - B. Duty of Owner Upon Termination include:
 - a. The owner shall discontinue the use of the affordable accessory dwelling unit as a separate dwelling unit.
 - b. The kitchen facilities of the affordable accessory dwelling unit shall be removed unless determined by the Building Inspector to be incidental and subordinate as an accessory use of the principal dwelling.
 - c. Any additional exterior entrance constructed to provide access to the accessory dwelling unit shall be permanently closed, unless the Building Inspector provides a waiver. The owner shall permit an inspection by the Building Inspector without a warrant.
7. Severability. All the clauses of this ordinance are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw."
8. Definitions.

Attached affordable accessory dwelling unit: An affordable accessory dwelling unit created by adding gross floor area to the principal dwelling after the adoption of this ordinance.

Existing detached accessory building: A detached accessory building that is existing as of the effective date of this ordinance, that has a foundation, and is a minimum of 350 square feet.

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Expanded detached accessory building: An existing detached accessory building that is expanded after the effective date of this ordinance.

New detached accessory building: A detached accessory building that is not existing as of the effective date of this ordinance.

Section 5. This Ordinance shall take effect as provided by City Charter.

(#97) - ZONING ORDINANCE AMENDMENT RELATIVE TO ADUS (WITH DETACHED DWELLING)

The following zoning ordinance was referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole and that the Zoning Enforcement Officer be invited.

In the year Two Thousand and Twenty One

An Ordinance to amend an ordinance relative to accessory dwelling units.

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. The City of Salem Zoning Ordinance Section 3. Table of Principal and Accessory Use Regulations is hereby amended by deleting the use entitled Accessory Living Area and adding the following new uses within Section E Accessory Uses:

E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Affordable Accessory Dwelling Unit attached to a Principal Dwelling (as defined in Sec 3.2.8) or within a Principal Dwelling.	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within an Existing Detached Accessory Building, as defined in Sec 3.2.8	Y	Y	Y	Y	N	N	N	N	N	N	Y
Affordable Accessory Dwelling Unit within a new Detached Accessory Building, as defined in Sec 3.2.8	SP	SP	SP	SP	N	N	N	N	N	N	SP

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Section 2. Section 10 Definitions is hereby amended by deleting the definition “Accessory Living Area” in its entirety and inserting the definition “Affordable Accessory Dwelling Unit” as follows:

“Affordable Accessory Dwelling Unit: A housekeeping unit with a maximum rent at least 30 percent below the United States Department of Housing and Urban Development (HUD) fair market rent limit for Salem, with its own sleeping, cooking and sanitary facilities, located either in a detached accessory building, or within or attached to a principal dwelling and subordinate in size to the principal unit(s), separated from it in a manner which maintains the appearance of the principal unit(s), and allowed pursuant to Section 3.2.8 of this ordinance.”

Section 3. Section 3.2.4 Accessory Buildings and Structures is hereby amended by deleting paragraph 4 in its entirety and replacing it with the following new paragraphs 4, 5 and 6 as follows:

“4. Accessory structures, garages and detached affordable accessory dwelling units shall not exceed one-half (1.5) stories or eighteen (18) feet in height.

5. Detached affordable accessory dwelling units shall comply with all regulations set forth in Section 3.2.4 (Accessory Buildings and Structures) of this Ordinance with the exception of setbacks, which shall comply with Section 3.2.4(6).

6. Detached affordable accessory dwelling units shall comply with all setbacks of the principal structure, as set forth in Section 4.1 of this ordinance (Dimensional Requirements), irrespective of whether the principal structure on the property in question complies with such setbacks or not, unless otherwise permitted by a Special Permit pursuant to subsection 3 of Section 3.2.8.”

Section 4. Section 3.2.8 Accessory Dwelling Areas is hereby amended by deleting Section 3.2.8 in its entirety and replacing it with the following:

“3.2.8 Affordable Accessory Dwelling Units. Affordable Accessory Dwelling Units shall be allowed as provided set forth in this section.

1. Purpose.

A. To add affordable rental units to the housing stock to meet the needs of smaller households and make housing units available to households who might otherwise have difficulty finding housing.

B. To encourage the efficient use of the city's housing supply while preserving the character of the city's neighborhoods.

C. To maximize privacy, dignity, and independent living among family members preserving domestic family bonds as well as to protect the stability, property values, and the residential character of the neighborhood.

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D. To permit the owner of an existing, or a proposed, principal dwelling to construct one additional affordable dwelling unit per lot. Such a use is incidental and subordinate to the principal dwelling.

E. To increase the supply of housing and the diversity of housing options, in response to demographic changes such as smaller households and older households.

2. Procedure.

A. The Building Inspector shall administer and enforce the provisions of this section.

3. Special Permit. Pursuant to Section 9.4, in the interests of design flexibility and overall project quality, the Zoning Board of Appeals may grant a Special Permit for the following:

A. An existing detached accessory building as defined in subsection 8 of Section 3.2.8 that is not in compliance with the setbacks of the principal dwelling unit.

B. An expanded detached accessory building as defined in subsection 8 of Section 3.2.8.

C. A new detached accessory building as defined in subsection 8 of Section 3.2.8.

4. Application.

A. The Application for the Building Permit, shall:

1. Be signed by one hundred (100) percent of the record title ownership interest of the principal dwelling and shall include a copy of the deed and in the case of a property held by a condominium trust, all owners of all units within the condominium.

2. Include a floor plan of the affordable accessory dwelling unit, the principal dwelling where it is to be located and all elevations. All plans shall be drawn to scale and identify the existing structure and proposed modifications to create the affordable accessory dwelling unit.

3. A letter of intent signed by the homeowner(s) shall be submitted to the Department of Planning and Community Development that certifies the rent of the accessory dwelling unit will be at least 30 percent below the established fair market rent limit determined by the United States Department of Housing and Urban Development.

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5. Requirements.

A. The maximum rent of the affordable accessory dwelling unit, including utilities and parking, shall be at least thirty percent below the established Fair Market Rent limit for the City of Salem as determined annually by the United States Department of Housing and Urban Development.

B. The affordable accessory dwelling unit on a lot that is a half of a mile or less from the MBTA train station or MTBA bus stop shall not require an off-street parking space.

C. The affordable accessory dwelling unit on a lot that is more than a half of a mile from the MBTA train station or MTBA bus stop shall have one (1) dedicated off-street parking space. The minimum parking required for the principal dwelling pursuant to Section 5.1 of this ordinance shall not count as off-street parking for the affordable accessory dwelling unit.

D. The affordable accessory dwelling unit shall not result in a net loss of the total measured caliper of private trees on the lot in which the affordable accessory dwelling unit will be located unless a payment in the amount of \$100 per caliper of the tree diameter at breast height (DBH) is made to the tree replacement fund.

E. The affordable accessory dwelling unit shall not contain less than 350 square feet of habitable space.

F. The affordable accessory dwelling unit shall not contain in excess of 900 square feet of habitable space.

G. No more than one (1) affordable accessory dwelling unit shall be located upon a single lot.

H. An affordable accessory dwelling unit shall not be permitted in a building with five (5) or more units.

I. At least one (1) owner of the residence in which the affordable accessory dwelling unit is created shall reside in one (1) of the dwelling units as a principal place of residence. For the purpose of this section, the "owner" shall be one or more individuals who hold title to the property and for whom the dwelling is the primary residence as evidenced by voter registration, tax return or other documentation demonstrating primary residence.

J. Electricity, water and gas shall be provided by a single service to both the affordable accessory dwelling unit and the principal dwelling.

K. The affordable accessory dwelling unit may not be sold or transferred separate and apart from the principal dwelling to which it is an accessory use.

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The principal dwelling and the accessory dwelling unit shall remain in common or single ownership and shall not be severed in ownership.

L. Entry shall be located through existing entry or on the back or side of the main dwelling.

M. Egress access shall be located on the side or rear of the building so that visibility from public ways is minimized.

N. The affordable accessory dwelling unit shall not contain more than two (2) bedrooms.

O. The affordable accessory dwelling unit shall be clearly subordinate in use, size and design to the principal dwelling.

P. The affordable accessory dwelling unit must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the principal dwelling.

Q. There shall be no occupancy of the affordable accessory dwelling unit until the Building Inspector has issued a certificate of occupancy that the principal dwelling and affordable accessory dwelling unit are in compliance with all applicable health and building codes.

R. The Building Permit shall be revoked upon determination by the Building Inspector that any condition imposed by Section 3.2.8 has not been fulfilled.

S. By filing the Application for a Building Permit for an affordable accessory dwelling unit, all owners consent to an inspection without a warrant upon reasonable notice by the Building Inspector to ensure compliance with all terms of this section.

T. Short term rentals, as defined in Salem Code of Ordinances Chapter 15, are prohibited in the accessory dwelling unit.

U. The affordable accessory dwelling unit shall obtain a certificate of fitness subject to the provisions of Section 2-705 of the City of Salem Code of Ordinances.

6. Termination.

A. The affordable accessory dwelling unit use shall terminate immediately upon any violation of any term or condition of this ordinance that the owner fails to cure, upon two (2) weeks written notice mailed to the applicant and to the occupants at the dwelling address by certified mail, return receipt requested.

B. Duty of Owner Upon Termination include:

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- a. The owner shall discontinue the use of the affordable accessory dwelling unit as a separate dwelling unit.
- b. The kitchen facilities of the affordable accessory dwelling unit shall be removed unless determined by the Building Inspector to be incidental and subordinate as an accessory use of the principal dwelling.
- c. Any additional exterior entrance constructed to provide access to the accessory dwelling unit shall be permanently closed, unless the Building Inspector provides a waiver. The owner shall permit an inspection by the Building Inspector without a warrant.

7. Severability. All the clauses of this ordinance are distinct and severable, and if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality, or enforceability of any other clause or portion of this bylaw.”

8. Definitions.

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Existing detached accessory building: A detached accessory building that is existing as of the effective date of this ordinance, that has a foundation, and is a minimum of 350 square feet.

Expanded detached accessory building: An existing detached accessory building that is expanded after the effective date of this ordinance.

New detached accessory building: A detached accessory building that is not existing as of the effective date of this ordinance.

Section 5. This Ordinance shall take effect as provided by City Charter.

#185 – PUBLIC GUIDES

The Following License Applications were granted.

PUBLIC GUIDES: PJ Maguire 130 N. Washington St., North Attleboro
 Brian McCarron 14 Lyman St., Beverly
 Tyler Carlton 22 Hancock St., Salem
 Allison Cockett 306 Summer St., Boston
 Robert Gautreau Jr. 21 Sturgis St., Woburn

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#186 – DRAINLAYER / CONTRACT OPERATOR LICENSES

The Following Drainlayer / Contract Operator License Applications were granted.

Early Contractors, Inc., 50 South Main St., Bradford
 Linskey Excavating, 38 Mitchell Rd., Ipswich
 Palladino Excavating 134 Centre St., Danvers
 Atlantic Paving 119 R Foster St., Peabody
 Waveguide 10 N Southwood Dr., Nashua, NH

#187 - #188 – CLAIMS

The Following Claims were referred to the Committee on Ordinances, Licenses and Legal Affairs.

Justin Graham 11 Harbor St., Salem
 Stephen Capano 22 High St., Salem

#189 - #190 – BONDS

The Following Bonds were referred to the Committee on Ordinances, Licenses and Legal Affairs and returned approved.

DRAINLAYERS: Early Contractors, Inc., 50 South Main St., Bradford
 Palladino Excavating Corp., 134 Centre St., Danvers

(#153) – SECOND PASSAGE – TRAFFIC ORDINANCE – HANDICAP PARKING – HATHORNE STREET

The second passage of the following traffic ordinance was taken up and adopted for second passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty One

An Ordinance to amend an Ordinance relative to Traffic Ch. 42, Sec. 50B, “Handicapped Zones, Limited Time”

Be it ordained by the City Council of the City of Salem, as follows:

Section I. Amending Chapter 42, Section 50B – “Handicapped Zones, Limited Time” is hereby amended by renewing the following:

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Hathorne Street – One Handicapped Parking Space to be renewed in front of #74 Hathorne Street, for the distance of twenty (20) feet.

Section II. This Ordinance shall take effect as provided by City Charter.

**(#154) – SECOND PASSAGE – TRAFFIC ORDINANCE – HANDICAP PARKING –
REPEAL - HATHORNE STREET**

The second passage of the following traffic ordinance was taken up and adopted for second passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty One

An Ordinance to amend an Ordinance relative to Traffic Ch. 42, Sec. 50B, “Handicapped Zones, Limited Time”

Be it ordained by the City Council of the City of Salem, as follows:

Section I. Amending Chapter 42, Section 50B – “Handicapped Zones, Limited Time” is hereby amended by repealing the following:

Hathorne Street – **Repeal** - One Handicapped Parking Space in front of #75 Hathorne Street, for the distance of twenty (20) feet.

Section II. This Ordinance shall take effect as provided by City Charter.

**(#155) – SECOND PASSAGE – TRAFFIC ORDINANCE – HANDICAP PARKING –
REPEAL - HATHORNE STREET**

The second passage of the following traffic ordinance was taken up and adopted for second passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty One

An Ordinance to amend an Ordinance relative to Traffic Ch. 42, Sec. 50B, “Handicapped Zones, Limited Time”

Be it ordained by the City Council of the City of Salem, as follows:

Section I. Amending Chapter 42, Section 50B – “Handicapped Zones, Limited Time” is hereby amended by repealing the following:

Hathorne Street – **Repeal** - One Handicapped Parking Space in front of #80-82 Hathorne Street, for the distance of twenty (20) feet.

Section II. This Ordinance shall take effect as provided by City Charter.

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(#156) – SECOND PASSAGE – TRAFFIC ORDINANCE – STOP SIGN – DODGE AND LAFAYETTE STREET

The second passage of the following traffic ordinance was taken up and adopted for second passage by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent.

In the year Two Thousand and Twenty One

An Ordinance Relative to Traffic Chapter 42, Section 49

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 42, Section 49 of Article IV shall be amended by adding the following:

Dodge Street – Obedience to Isolated Stop Signs – easterly bound traffic on Dodge Street at Lafayette Street.

Section 2. This ordinance shall take effect as provided by City Charter.

On the motion of Councillor Sargent meeting adjourned at 8:02 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK