

City of Salem

FIRST PASSAGE

In the year Two Thousand and Seventeen

An Ordinance to amend the Ordinance relative to Zoning

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

Section 1. Section 3.2 of the City of Salem Zoning ordinance is hereby amended by adding the following new section:

“3.2.8 ACCESSORY LIVING AREAS. Accessory Living Areas shall be allowed by Special Permit as provided set forth in this section.

1. Purpose

- 1.1 To provide older homeowners or other family members with a means of obtaining companionship, security, and services, thereby enabling them to remain in their homes and neighborhoods they might otherwise be forced to leave;
- 1.2 To encourage the economic and energy efficient use of the city's housing supply while preserving the character of the city's single-family neighborhoods.
- 1.3 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 single-family residential character of the neighborhood.
- 1.4 To permit the owner of an existing, or a proposed, single family detached dwelling to construct one additional dwelling unit for occupancy by family members who have some dependency for special housing needs due to age, mental or physical health, personal care requirements or economic factors, or by paid or unpaid individuals, including but not limited to nurses, nurse's aids, homemakers, nannies or au pairs, who occupy the accessory living area to facilitate providing direct care to a family member of the owner that resides in the dwelling. Such a use is incidental and subordinate to the primary use of the dwelling as a single-family dwelling.
- 1.5 A primary purpose of generating income from the additional dwelling unit is not permissible in the single-family zoning district; however, nothing shall prevent payments from the occupant to the owner.

2. Procedure

The Zoning Board of Appeal, as the Special Permit granting authority of the City of Salem, shall grant a Special Permit upon a finding by said Board that the purpose, procedure and requirements section 3.1 through and including 3.10 of this section have been fulfilled.

The Application for Special Permit shall:

- 2.1 Be signed by 100% of the record title ownership interest of a single family detached dwelling and shall include a copy of the deed to the applicant.
- 2.2 State the name and date of birth of all occupants of the main dwelling and separately identify the names and date of birth of the proposed occupants of the accessory living area and the family relationship between each owner and each proposed occupant.
- 2.3 State the factual basis upon which the aforesaid purpose has been fulfilled.
- 2.4 Include a floor plan of the accessory living area, the main 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 accessory living area.

3. Requirements

After a special permit has been approved, the building inspector shall issue a building permit to create an accessory living area in any detached single-family dwelling if each of the following conditions and requirements is met:

- 3.1 The single family detached dwelling is located in the R1 District or is a non-conforming single-family residence use within any district.
- 3.2 At least one owner of the residence in which the accessory dwelling unit is created shall reside in one of the dwelling units as a principal place of residence.
- 3.4 One occupant of the accessory living area shall be a family member with one owner of the main dwelling unless the occupant shall provide personal care to a family member of at least one owner of the main dwelling or to an occupant of the family accessory living area. A family member shall include mother, father, stepmother, stepfather, mother-in-law, father-in-law, child, stepchild, son-in-law, daughter-in-law, brother, sister, stepbrother, stepsister, grandmother, grandfather, step-grandmother, step-grandfather, grandchild, step-grandchild, aunt, uncle, niece or nephew.
- 3.5 Not more than one (1) accessory living area shall be located upon a single lot.
- 3.6 Modifications of the exterior of the dwelling shall be completed in a manner that maintains the appearance of the dwelling as a single-family dwelling.
- 3.7 No separate entry to the accessory living area shall be permitted unless from existing entries, from within the main dwelling, from the back or from the side of the main dwelling.
- 3.8 The accessory living area shall not contain more than two bedrooms, and shall not contain in excess of eight hundred square feet, which may be exceeded by 5% due to peculiarities of the layout of the main dwelling.
- 3.9 The accessory living area must be capable of being discontinued as a separate dwelling unit without demolition of any structural component of the main dwelling.

- 3.10 There shall be interior access between the accessory living area and the main dwelling unit, which may be locked from either side.
- 3.11 Electricity, water and gas shall be provided by a single service to both the accessory living area and the main dwelling.
- 3.12 There shall be one mailing address of the property.
- 3.13 Compliance with any Zoning Board of Appeal conditions of the Special Permit including, but not limited to, on-site parking requirement.
- 3.14 The owner shall record the Special Permit at the registry of deeds and provide to the Zoning Board of Appeal the recorded title reference.
- 3.15 The owner shall promptly notify the Zoning Board of Appeal of any change in the use of the accessory living area.
- 3.16 No Building Permit shall be issued until the Special Permit shall be duly recorded.
- 3.17 There shall be no modification of the dwelling until a Building Permit has been issued.
- 3.18 The Building Permit shall be revoked upon determination by the Building Inspector that any condition imposed by the has not been fulfilled.
- 3.19 There shall be no occupancy of the accessory living area until the Building Inspector has issued a certificate of occupancy that the main dwelling and accessory living area shall be in compliance with all applicable health and building codes.
- 3.20 By filing the Application for Special Permit for an accessory 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 and conditions imposed upon the grant of the Special Permit.

4. Termination

The Special Permit shall terminate immediately upon any of the following events:

- 4.1 Two years from the date of the grant of the Special Permit if a substantial use thereof has not commenced, or in the case of a permit for construction, if construction has not commenced within one year from the date of the grant of the Special Permit.
- 4.2 Any transfer of title to the premises, except a mortgage, creation of a real estate trust or life estate in which the beneficiary is the same owner shown on the original Special Permit.
- 4.3 Violation of any term or condition of the Special Permit that the owner fails to cure, upon two weeks written notice mailed to the applicant and to the occupants at the dwelling address by certified mail, return receipt requested.

5. Extension

5.1. An amnesty period is offered to those existing accessory living area dwelling units of one (1) year from the adoption of the accessory living area ordinance to acquire a Special Permit.

5.2 In the event an accessory living area dwelling unit becomes vacant, the unit may be maintained unoccupied awaiting occupancy of an eligible occupant so long as the unit is maintained in accordance with this ordinance and annually inspected.

6. Duty of Owner Upon Termination

6.1 The owner shall discontinue the use of the accessory living area as a separate dwelling unit.

6.2 The kitchen facilities of the accessory living area shall be removed unless determined to be incidental and subordinate as an accessory use of a single-family dwelling.

6.3 Any additional exterior entrance constructed to provide access to the accessory living area shall be permanently closed, unless the Building Inspector provides a waiver.

6.4 The owner shall permit an inspection by the Building Inspector without a warrant.

6.5 The owner shall record a Notice of Termination at the registry of deeds and deliver a copy with the recorded title reference to the Zoning Board of Appeal.

7. Monitoring, Inspection & Enforcement

The following methods are available to ensure continued compliance with these regulations set forth:

7.1 There shall be an annual inspection by the Building Inspector to ensure compliance with this ordinance. There shall be a seventy-five-dollar (\$75.00) fee for each inspection.

7.2 Upon the sale of the property, the new owner shall be required to file a new application with the Building Inspector. Upon filing, the Building Inspector shall conduct an inspection of the accessory unit for the purposes of verifying compliance.

7.3 If a complaint is filed with the Building Inspector, the Building Inspector shall inspect the accessory unit for purposes of determining whether there is a violation. If a violation exists, the owner shall apply to the Zoning Board of Appeals within 30 days from the receipt of the letter from the Building Inspector for a Special Permit for the continuation of the accessory unit. Failure to apply for the Special permit within 30 days shall result in the In-law unit being discontinued and the permit shall automatically lapse and be null and void.

7.4 Discontinued accessory units, whether by choice of the property owner or as a result of a violation, may be inspected by the Building Inspector by providing reasonable notice to

the property owner.

7.5 Violation of any provision of this bylaw shall be subject to a fine of one hundred dollars (\$100) for each offense, each day of violation to be considered a separate offense.

8. Severability

8.1 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."

Section 2. Section 10.0-Definitions of the City of Salem Zoning Ordinance is hereby amended by adding the following new definition:

"Accessory Living Area: A housekeeping unit, with its own sleeping, cooking and sanitary facilities, located within a single family dwelling that is subordinate in size to the principal unit, separated from it in a manner which maintains the appearance of the building as a single family dwelling, and allowed by special permit pursuant to Section 3.2.8 of this Ordinance."

Section 3. The City of Salem Zoning Ordinance Table of Principal and Accessory Uses within Section 3.0-Use Regulations is hereby amended by inserting the following within Section E.- Accessory Uses:

E. ACCESSORY USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD
Accessory Living Area	N	BA	N	N	N	N	N	N	N	N

Section 4. This Ordinance shall take effect as provided by City Charter.

In City Council October 12, 2017

Referred to the Planning Board to schedule a joint public hearing with the City Council

Joint public hearing held on November 15, 2017

Referred to the Planning Board for their recommendation

Planning Board recommendation received December 7, 2017

In City Council December 7, 2017

Adopted for first passage

ATTEST:

ADVERTISE
SALEM NEWS 12-20-17

CHERYL A. LAPOINTE
CITY CLERK