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ARTICLE 12

Explanation: Standards for accessory apartments currently occur in three separate locations within the zoning by-law. These amendments combine all standards into one section under Special Permits. Specific changes include requirements for ownership and rental of units, septic systems, minimum lot size, entry location, and appearance of the property. A new provision is added to require a special permit for residential accessory buildings with bedrooms.

Revise ARTICLE II, Section 325-2, Definitions – DWELLING, ONE-FAMILY WITH ACCESSORY APARTMENT and 325 Attachment Tables 1 and 2. Delete ARTICLE IV, Section 325-7.B, and ARTICLE X, Sections 325-51.H and 325-51.I, Special Permits, in their entirety. Add new sections under ARTICLES V and X to read as follows:

ARTICLE II. Definitions. *[revised]*

DWELLING, SINGLE-FAMILY WITH ACCESSORY APARTMENT – A single-family dwelling containing a principal dwelling unit and a separate accessory apartment, either attached or detached. The apartment shall contain a kitchen and bathroom which are separate from and not used in common with the principal dwelling unit.

ARTICLE V. Use Regulations *[new]*

325-14. Supplemental regulations.

Q. A residential accessory building that contains bedrooms is subject to special permit review pursuant to Section 325-51. Residential accessory buildings without bedrooms are not subject to special permit review.

ARTICLE X. Administration and Enforcement. *[new]*

325-51. Special permits.

H. Single-family Dwelling with Accessory Apartment

(1) Purpose. The intent of permitting accessory apartments is to:

- (a) Increase the number of small dwelling units available for rent in town;
- (b) Increase the range of choice of housing accommodations;
- (c) Encourage greater diversity of population with particular attention to young adults and senior citizens; and
- (d) Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the town's single-family neighborhoods.

(2) Definitions.

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- (a) “Owner” shall be one (1) or more individuals holding title to the property.
- (3) Criteria for Special Permit Approval
- Special permits for single-family dwellings with an accessory apartment, either attached or detached, may be granted upon determination by the Planning Board that the following criteria have been met:
- (a) Only one accessory apartment is permitted for each principal dwelling unit.
- (b) The accessory apartment may not be held in separate ownership from the principal use.
- (c) The owner must reside in either the principal dwelling or accessory apartment for at least a portion of the year. Only one of the principal dwelling or accessory apartment may be rented at any given time.
- (d) The accessory apartment shall have a net floor area not exceeding ½ of the net floor area of the principal dwelling unit and not more than 900 square feet.
- (e) The accessory apartment shall have not more than two bedrooms.
- (f) At least one (1) off-street parking space shall be provided for the accessory dwelling unit.
- (g) The minimum lot area required for a parcel to be eligible for a special permit to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in an RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in an RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District.
- (h) The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
- (i) The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
- (j) The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.
- (k) The proposed use shall not exceed the building or site coverage for the zoning district.
- (l) If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.
- (4) The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the Special Permit decision ~~and commence the use allowed under the Special Permit decision within two years of the Special Permit decision taking final effect or the rights and benefits under the Special Permit decision~~

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~~shall lapse~~ and the special permit shall lapse if it is not so recorded and it is not
duly exercised within two years as provided for under G.L.c.40A,§9.

(5) Transfer of Ownership

The provisions of the Special Permit may be transferred with ownership of the property provided the provisions of this section and all other provisions of the Zoning code of the Town of Harwich and the State Building Code are met and the Planning Department has approved a transfer for the Special Permit. The new owner also may request a Planning Board Certification for the accessory apartment. To obtain such certification, the owner shall submit a written request with a statement that the conditions at the time of the original Special Permit approval remain unchanged and with a certification of ownership. The Planning Board Certification shall be recorded at the Registry of Deeds.

- (6) A final determination that the owner failed to comply with these provisions or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred under the Special Permit were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said final determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing the elements determined to be unpermitted.

Table 1, Use Regulations [revised]

Use	RR	RL	RM	RH -1	RH -2	RH -3	C V	CH -1	CH -2	IL	MRL	MRL -1	WR
Paragraph I – Residential Uses													
1a Accessory building, residential – without bedrooms	P	P	P	P	P	P	P	P	--	--	P	P	P
1b Accessory building, residential – with bedrooms	S	S	S	S	S	S	S	S	--	--	S	S	S
10 Single-family dwelling with accessory apartment (325-51H)	S	S	S	S	--	--	S	S	--	--	S	S	S

Table 2, Area Regulations [revised]

District	Use	Minimum Required				
		Lot Area (square feet)	Lot Frontage (contiguous feet)	Front (feet)	Side (feet)	Rear (feet)

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WR	Dwelling, single-family with accessory apartment	40,000	Same as underlying district
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