

B. Attached ADUs

(1) Applicability of Site Plan Review. An Attached ADU shall be defined as an Accessory Dwelling Unit that is attached to or within a single-family dwelling. An owner(s) of a single-family dwelling in an R, R-1, R-2, B, M, M-P or R-M District or their authorized agent may request Site Plan Review by the Planning Board to enable the use of a portion of a single-family dwelling as an Attached ADU.

(2) Standard of review. The Planning Board shall approve a Site Plan for an Attached ADU, subject to reasonable conditions the Board deems appropriate, as described in G.L. c. 40A, § 3, provided that the ADU complies with the Site Plan Review criteria of § 185-36 and meets all the standards outlined in Subsection D below. The application for an Attached ADU shall comply with and shall be reviewed pursuant to the Planning Board's Rules and Regulations.

C. Detached ADUs

(1) Applicability. A Detached ADU shall be defined as an Accessory Dwelling Unit that is located in a separate structure accessory to such single-family dwelling. An owner(s), or applicant with owner(s) consent, of a single-family dwelling in an R, R-1, R-2, B, M, M-P or R-M District may use a portion of the separate accessory structure as a Detached ADU

(2) Site Plan Review by the Planning Board. An application for Site Plan Review shall be submitted to the Planning Board.

D. Additional standards for ADUs

(1) Maximum floor area. All ADUs approved under this section shall be accessory to the principal residence; the floor area shall not exceed 50% of the floor area of the principal residence, exclusive of any garage, unfinished attic, basement or shed attached to said principal residence, or 900 square feet, whichever is less.

(3) Board of Health review. For any renovations or new construction related to an Attached ADU, the applicant shall obtain all required approvals from the Board of Health.

(6) Driveway. Attached and detached ADUs shall use the same driveway opening and curb cut as the principal residence.

(7) Parking. Adequate provision shall be made for off-street parking of motor vehicles associated with the ADU, as limited by c. 40A §. 3.

(8) Limit of One ADU per lot. The Board may grant a Special Permit to permit more than one ADU on the same lot or otherwise associated with a single-family dwelling.

(10) Short-Term rental prohibited. An ADU shall not be used as a Short-Term Rental as defined in Section 185-5 of this Zoning Bylaw.

III. Provisions at Risk of Preemption

Under the AHA, the language in certain provisions of Dover's ADU Bylaw—namely, § 185-43 C(1), C(2), C(3), and D(2), will be preempted when the provisions from the Bill go into effect in February 2025. The language in other provisions, specifically, D(4), D(5), D(7), D(9), that contain aesthetic and other functional requirements for ADUs, are possibly subject to preemption, depending on the guidance we

expect to be issued by EOHLC and courts' interpretation of the new statute's prohibition against "unreasonable restrictions" on ADUs.

IV. Conclusion

Dover likely will need to amend its ADU bylaw in response to the statutory changes authorized in the Affordable Housing Act, though it would be best to wait for the promised guidance from EOHLC before doing so to ensure that such changes only need to be made once.