

ARTICLE XX: AMEND PROTECTIVE BYLAW CHAPTER 125-18.2, AFFORDABLE ACCESSORY APARTMENT

To see if the Town will vote to amend the Protective Bylaw 125-18.2 by deleting this section in its entirety:

[Key to revisions: ~~strikethrough~~ = deletions]

Intent. ~~The intent of this section of the Bylaw is to encourage and enable accessory dwellings that allow residents to rent accessory apartments that are affordable to low or moderate income households, and that qualify for inclusion in the Town's Subsidized Housing Inventory as low or moderate income housing units, thus developing a portion of the Town's Subsidized Housing Inventory in a way that is (i) a direct benefit to the Town, to residents of the Town, and to low or moderate income households; and (ii) in keeping with the built character of the Town.~~

A. **Requirements.** ~~In the case of an application for an affordable accessory apartment, the Zoning Board of Appeals (ZBA) shall notify the Board of Health, the Select Board, the Planning Board, the Town of Harvard Municipal Affordable Housing Trust Fund, and any other pertinent Boards, of the application for a special permit hereunder and allow them 35 days to review and comment upon said application. The ZBA may grant a special permit under this section upon finding that the request is consistent with the purpose of this section and meets the minimum requirements hereunder. After notice and public hearing as required by the Zoning Act, the ZBA may grant such a special permit for the creation of an affordable accessory apartment, provided that the ZBA finds that in addition to the proposed affordable accessory apartment meeting all zoning and architectural requirements required of accessory apartments as set forth in § 125-18.1 of this Bylaw in effect on the date of application for permit, which affordable accessory apartments are to be considered a special case, the apartment meets all of the following regulatory and zoning requirements:-~~

- ~~(1) If an affordable accessory apartment is placed in a detached structure, the structure must be appropriate to the character of the neighborhood and comply with other applicable provisions of the Bylaws;-~~
- ~~(2) The owner of an affordable accessory apartment must occupy the principal residence, and not the apartment;-~~
- ~~(3) The affordable accessory apartment shall comply with low or moderate income housing regulations and guidelines of the Local Initiative Program (LIP), 760 CMR 45.00 et seq., in effect on the date of the application for a special permit;-~~
- ~~(4) A regulatory agreement and declaration of restrictive covenants for affordable accessory apartments in the Town of Harvard, meeting the approval requirements of the Local Initiative Program for Affordable Accessory Apartments, shall be signed and recorded with the Worcester County Registry of Deeds by the owner of the apartment unit. The regulatory agreement and declaration of restrictive covenants, as portion of its provisions, shall include the following:~~
 - ~~(a) A minimum term of 15 years;-~~
 - ~~(b) The agreement shall terminate upon sale of the property, which, for purposes of this subsection, shall~~

not include:

- ~~{1}—A mortgage deed to secure the repayment of a loan; or~~
- ~~{2}—An inter-spousal transfer for nominal consideration where the transferor retains at least a fifty-percent ownership interest in the property; or~~
- ~~{3}—A transfer to a trust for nominal consideration where the owner holds at least a fifty-percent beneficial interest in the property;—~~
- ~~(c)—The agreement is subject to state regulatory requirements for affordable accessory apartments relative to pricing, affirmative fair housing marketing plan, maintenance and annual oversight by the Town or its designee;—~~
- ~~(d)—An owner may terminate the regulatory agreement prior to its expiration, in accordance with the restrictions in such agreement, but such action will effectuate the termination of the special permit for the affordable accessory apartment without action by the ZBA. Thereupon, the Massachusetts Department of Housing and Community Development shall be notified, and the apartment will be removed from the Town's Subsidized Housing Inventory and use of the apartment as a rental, whether affordable or not shall cease;—~~
- ~~(e)—In accordance with the regulatory agreement, an owner must rent the affordable accessory apartment to income-qualified tenants selected through an open process and lottery to be established in accordance with the Local Initiative Program guidelines specific to Affordable Accessory Apartments (760 CMR 45.03 et seq., in effect on the date of application for a permit);—~~
- ~~(f)—The monthly rent shall not exceed the maximum affordable rent for a household of the appropriate size for the affordable accessory apartment as prescribed in the Local Initiative Program guidelines and other applicable state regulations. —~~
- ~~B. **Enforcement.** The provision of this section shall be enforced by the designated Local Program Administrator (LPA). The Building Commissioner shall be the LPA if no LPA other than the Building Commissioner has been designated. —~~