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Barney Heath
Director

MEMORANDUM

DATE: December 9, 2016

TO: Councilor Ted Hess-Mahan, Chairman
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
James Freas, Deputy Director

RE: #343-16 – HIS HONOR THE MAYOR, COUNCILOR HESS-MAHAN, ALBRIGHT, CICCONI, CROSSLEY, AND NORTON proposing to amend Chapter 30 Section 6.7.1 Accessory Apartments and Section 5.1.4 Number of Parking Stalls in order to create a new accessory apartment ordinance that expands the availability of accessory apartments.

MEETING DATE: December 12, 2016

CC: Mayor Warren
City Council
Planning and Development Board
Donnalyn Kahn, City Solicitor

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The proposed accessory apartment ordinance is a critical piece of the City's recent Housing Strategy to diversify housing options and create real choices for Newton residents that will allow people to age in place, accommodate family members in need, and provide lower cost options for people who may work in Newton to be able to live here. While these benefits are clear, at the public hearing on November 14, 2016 a number of committee members asked for an analysis of what the potential impacts of an expanded opportunity for accessory apartments might be on the City. This memorandum analyzes the costs and benefits of more widespread availability of accessory apartments, looking at national and regional experiences, and assessing how those trends might be experienced here in Newton. The memorandum concludes that allowing owner-occupied homes citywide the opportunity to create accessory apartments provides a wide range of benefits towards the housing and lifestyle needs of the community with minimal potential impact.

Newton's timing in exploring these changes to its existing accessory apartment ordinance is particularly good; communities nationwide are demonstrating widespread interest in accessory

apartments, so there is experience and data to draw on from other places. Over the last ten years reports have been issued by agencies or organizations including the Center for Community Innovation at UC Berkley, the US Department of Housing and Urban Development (HUD), the Metropolitan Area Planning Council (MAPC), and even the White House, which have identified allowing accessory apartments by-right as an important tool for addressing affordable housing supply in high housing cost regions. The following report looks at data from these sources as well as from a set of case study communities.

What is an Accessory Apartment and Who Lives There?

An accessory apartment is a small, secondary dwelling unit on the same property as a single or two-family home that can be internal to the existing home, in an attached addition, or in a detached accessory structure. A property with an accessory unit is clearly distinguishable from a two or three family property by virtue of the fact that the accessory apartment is a subservient unit without all of the rights inherent to a typical dwelling unit. Most significantly, the total occupancy of the principle unit and accessory unit is limited to the occupancy of the principal unit alone, whereas in a typical two-family building, each unit is entitled to its own independent occupancy limit. So where a house with an accessory apartment is limited to a family and up to three unrelated individuals, a two-family dwelling can have a total of two-families and up to six unrelated individuals across both units. Other restrictions on accessory apartments that do not exist for a typical two-family home include:

- The property owner must live on-site;
- The accessory apartment cannot be in separate ownership, i.e. no condos;
- The accessory apartment is a maximum of 1,000 sq. feet (1,200 if in a detached structure) or 33% of the house size, whichever is smaller;
- The accessory apartment must visually blend into the existing house, including not having an entrance on the front of the building; and
- An accessory apartment is subject to on-going monitoring by the City and annual recertification of consistency with accessory apartment rules.

A two or three-family home is not subject to any of the above rules.

While the above text describes the nature of an accessory apartment, it is also important to understand what type of household chooses to create an accessory apartment and who decides to live in one. The following profiles are based on conversations with Newton residents as well as information provided by other reports.

Ageing-in-Place: One of the most common scenarios described in Newton is that of older couples or singles who decide to create an accessory apartment as a means to create revenue to allow them to stay in their home and age in place. For these households, being able to stay in their neighborhood and retain their existing sense of community and social networks is very important but their post-retirement income is not sufficient to cover their expenses. For single-person elderly households in particular, there is great value in having someone else on the property who can help to prevent social isolation and be around for emergencies or other situations where help might be required.

Family in Need: One of the most common reasons families in Newton seek to create an accessory apartment is to provide a home for a relative; typically a parent or child that for health, income, or other reasons, needs assistance in finding a place to live. As these residents would always be allowed by-right, the ability to create an accessory apartment is more about allowing these family members to have a measure of privacy and independence. The ability to be able to have parents living close by, but independently, is particularly beneficial for a young family where supporting aging parents and having on-site childcare can alleviate two of the greatest worries a family can face.

Home Restoration: For many people who live in Newton, there is a great deal of pride in the investments they have made to restore a historic home. For some of these, creating an accessory apartment, whether as a part of the primary home or in a historic carriage house, becomes a mechanism to finance this restoration work.

Environmentally-Friendly Living: In recent years communities across the country have increasingly expressed interest in ways to reduce households' carbon footprints. Accessory apartments are relatively small units, limited by size dimensions in most cases to 1,000 sf in attached units and 1,200 sf in detached units. Especially for attached accessory apartments, these units offer an option for energy-efficient living that draws less on heating, cooling systems. Because these units are on existing lots, they have little to no impact on Newton's vibrant open spaces.

In short, accessory apartments are a "grassroots" type housing option that allows families to respond to changing needs, be they personal or financial, over time while also diversifying housing options in Newton and providing much needed workforce housing. Thus, these units are occupied by family members, employees of local businesses or institutions, and even students. What separates accessory apartments from other approaches to providing much needed housing is that they blend into existing neighborhoods with virtually no impact, because of their small size, owner occupancy, and the other rules described above. Because the need is so great, these units exist and are created in the City despite the rules, and draw very few complaints because they blend in and duplicate the level of density most people anticipate for a single or two-family area.

Accessory Apartment Impacts

In our review of the literature and discussions with other municipalities there is no evidence for any significant impact arising from greater availability of the option to create accessory apartments. For the purposes of this analysis, impacts are classified as visual, density, and number/rate of production. On these measures, the findings described above are not surprising given the continued demonstration that these projects are designed to blend into the neighborhood and be within the allowed density of the existing zoning. In addition these units can be transitory, and, as there is a certain cost in producing them, most property owners given the option of creating an accessory apartment will not do so. Overall, this ordinance provides a low-impact mechanism to create an option for some people to address financial or family needs while providing a small number of more affordable units for Newton's housing market.

Overall, each of the communities our staff team contacted described a situation where the anticipated problems with accessory apartments were not realized and there had been no issues

since implementation. The only challenge described was in how to encourage or facilitate more homeowners in creating these units. While Newton’s proposed ordinance has controls to limit potential visual impacts, none of the communities interviewed had any issues relative to the visual impact of accessory apartments.

Portland, Oregon is often identified as the model for accessory apartments. That city’s accessory apartment ordinance is very liberal, allowing accessory apartments internal and detached across the city without requiring owner occupancy or parking and has been in place since 1998. In that time, approximately 800 units have been created, representing around .5% of lots where they are allowed. Durango, Colorado is recognized for its progressive accessory apartment ordinance allowing all accessory apartments by-right starting in 2013; since then they have seen 15 accessory apartments created. Closer to Newton, Lexington offers many similarities to Newton and has seen only a few accessory apartments since adoption of their new ordinance this past spring. Aaron Henry, Lexington’s Planning Director was quoted in the Boston Globe¹ in reference to the number of applications the Town has seen, “A few properties that were previously unable to create one, due to one or more of the criteria we removed, have come forward, but there has not been a surge in permitting,” he said. “I think accessory units are not as attractive as folks think they’ll be. Many places will talk a lot about opening the floodgates, but the reality is that accessory units are rare, even in hot markets.”

Independent research on accessory apartments across the country has drawn similar conclusions to Lexington’s. Accessory apartments represent a valuable option for some people, with a range of benefits, but the overall number of them tends to be relatively small for two reasons. First, most people do not choose to become a landlord and second, because there is some significant cost associated with building an accessory apartment. Again, Portland, OR has the best data where, in that market, the median cost of an internal accessory apartment was \$45,000 and a detached \$90,000. In Newton, with the age of the housing stock and generally higher construction costs, these costs would likely be higher.

The data for Newton may indicate overall demand is consistent with the findings from these other communities. First, over the last 20 years, only 73 accessory apartments have been created in Newton. Development Review (DRT) inquiries about creating accessory apartments also represent a potential indicator of demand; the following table indicates DRT inquiries per year. Even under the proposed ordinance, it is likely that not all of these units would be able to move forward as each proposal has its own unique circumstances and obstacles.

2016	17
2015	11
2014	21

¹ Phole, A. “Why sell that happy old house”, Boston Globe 02Dec2016.
<https://www.bostonglobe.com/metro/2016/12/02/why-sell-that-happy-old-house/9Iq8eUyipwPpSMAJPeJj4O/story.html>

2013	14
2012	8

Enforcement

There is a separate memo from the Inspectional Services Department describing existing and proposed enforcement measures related to accessory apartments in Newton. Overall, enforcement is an important issue, and the best way to address the issue of illegal accessory apartments is to greatly expand the availability of creating these units, as proposed in this ordinance. Based on review of various reports, and conversations with other communities, one of the common findings is that, where there is a strong housing demand and/or family need, people will create accessory apartments, whether or not they are permitted. As these units are effectively invisible from the street and have very little impact, the risk of being caught is limited. By making the barriers to creating a unit relatively low, more homeowners will choose to legally create their accessory apartment, allowing the City to track these units, maintain compliance with the ordinance requirements, and ensure building safety code rules are met.

Durango, CO was particularly successful with this approach as addressing illegal accessory units was one of their primary objectives. They created a registration process for existing units that represents a “pathway to compliance.” The initial step is registration of the existing units, entailing data collection on the size and occupancy of these units and an owner-signed affidavit that the unit is structurally sound in exchange for which the homeowner gets recognized as having a legally non-conforming accessory apartment.

Conclusion

As has been described above and in previous reports, accessory apartments offer many potential benefits to Newton residents. Overall, these benefits can be summed up in the idea of offering flexibility. At times a family may need some form of extra income, and an accessory unit is an option to provide it. At other times, when independent living space is needed for family, the unit is available for that too. As households progress through life’s stages, accessory units are an option for aging-in-place, by reducing social isolation and increasing security. The flexibility of accessory apartments offers stability for families and should be made widely available to people of all income levels in Newton. At the same time, much needed relatively affordable and environmentally friendly units are created that can help a range of different people find homes in Newton. Balancing these benefits are a very limited set of impacts, primarily because there will most likely be only a modest number of these units created over time, based on the available evidence.

Draft Ordinance Changes

The attached draft ordinance includes one change; based on comments at the public hearing the parking requirement in section 6.7.1.B.5 has been simplified to simply be no required parking for

accessory apartments. The table at section 5.1.4.A (Parking Table) would also be updated to reflect this change.

Sec. 6.7. Accessory Uses

6.7.1. Accessory Apartments

A. Intent. Accessory apartments are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section.

Accessory apartments are intended to advance the following:

1. Diversify housing choices in the City while respecting the look and scale of existing neighborhoods;
2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
3. Create more housing units with minimal adverse affects on Newton's neighborhoods;
4. Provide an option for an income stream, particularly for low-income seniors; and
5. Promote the preservation of historic buildings, particularly historic carriage houses.

AB. Accessory Apartment Defined. A separate dwelling unit located in a Single-Family Detached or a Two-Family Detached building single- or two-family dwelling or in a detached building located on the same lot as a Single-Family Detached or a Two-Family Detached building single- or two-family dwelling, as an accessory and subordinate use to the residential use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 6.7.

1. Internal Accessory Apartments. An accessory apartment located within a single- or two-family dwelling ~~and the owner of the dwelling occupies either the principal dwelling unit or the accessory apartment;~~
2. Detached Accessory Apartments. An accessory apartment not located within a dwelling unit but is located in a separate detached accessory building

~~structure, and the owner of the dwelling unit occupies either the principal dwelling unit or the Detached Accessory Apartment.~~

BC. Rules for All Accessory Apartments

1. No accessory apartment shall be held in separate ownership from the principal structure/dwelling unit;
2. No more than 1 accessory apartment shall be allowed per lot;
3. The property owner must occupy either the principal dwelling unit or the accessory apartment;
4. The total combined number of individuals residing in the principal and accessory dwelling units may not exceed the number allowed in the principal dwelling unit alone, under Sec. 3.4.2 and other applicable sections;
5. No additional parking is required for the accessory apartment;
- ~~2. The dwelling unit must have been constructed 10 or more years prior to the date of application for permit to construct an accessory apartment under this Sec. 6.7.1, as evidenced by a certificate of occupancy for the original construction of the dwelling, or, where no such certificate is available, provided that there is other evidence of lawful occupancy of the existing dwelling on or before a date at least 10 years prior to the date of application;~~
36. The property owner of any accessory apartment shall record with the Registry of Deeds for the Southern District of Middlesex County a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the accessory apartment and certified copies shall be filed with the Department of Inspectional Services, where a master list of accessory apartments shall be kept, and with the Assessing Department;

~~47.~~ When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with ~~the decision;~~ this Chapter and the 780 CMR; and ~~58.~~ The ~~owner of the subject~~ property owner shall file with the Commissioner of Inspectional Services an affidavit certification attesting to the continued residence of the owner on the subject property. Such affidavit certification shall be filed annually from the date of the issuance of the certificate of occupancy.

GD. Accessory Apartments Allowed By Right Rules for Internal Accessory Apartments

~~1. Standards.~~ An Internal Accessory Apartment is allowed by right as a use accessory to an ~~owner occupied~~ Single-Family Detached dwelling, building and a Two-Family Detached building; ~~subject to Sec. 6.7.1.F, provided that:~~

~~A2. The~~ An Internal Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,000 square feet or 33 percent of the total ~~building size gross floor area, as defined in Sec. 1.5.5, in the principal dwelling, whichever is less;*~~ The City Council may grant a special permit for a larger Internal Accessory Apartment

~~3. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure and the residential character of the neighborhood, including, but not limited to, the following considerations:~~

- ~~a. The exterior finish material must be the same or visually match in type, size, and placement, the exterior finish material of the remainder of the building;~~
- ~~b. The roof pitch must be consistent with the predominant roof pitch of the remainder of the building;~~

~~c. Trim must be consistent in type, size, and location as the trim used on the remainder of the building;~~

~~d. Windows must be consistent with those of the remainder of the building in proportion and orientation.~~

~~e. The Commissioner of Inspectional Services may seek advice and council from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of the above rules.~~

~~4. Only one entrance may be located on the façade of the building facing a street unless the building had additional street-facing entrances before the accessory apartment was created*, except by special permit.~~

~~5. Where a building is determined to be of historic significance and therefore subject to procedures required under Section 22-50(C)(4) of the City of Newton Ordinances, any decisions of the Newton Historical Commission or a local Historic District Commission shall be considered to be in compliance with this section 6.7.1.D.3.~~

~~B. There shall be no more than 2 exterior landings which may be covered which do not exceed 50 square feet in area, and are not within the setback area;*~~

~~c. Stairs shall not be located within the setback;*~~

~~d. Additions and exterior alterations to the structure made within 4 years prior to application may not be applied towards meeting the requirements of Sec. 6.7.1.F.*~~

~~e. No more than 1 accessory apartment shall be allowed per lot;~~

~~f. There shall be no lodgers in either the original dwelling unit or the accessory apartment;~~

~~g. Parking shall comply with Sec. 5.1; and~~

~~h. There shall be screening in the area between the parking space required for the accessory unit~~

~~and the nearest side lot line sufficient to minimize the visual impact on abutters, such as evergreen or dense deciduous plantings, walls, fences, or a combination.~~

~~* Requirements marked with an asterisk may be altered by special permit.~~

~~DE. Accessory Apartments Allowed by Special Permit Rules for Detached Accessory Apartments.~~

~~1. By Special Permit. The Board of Aldermen may grant a special permit for an A Detached Accessory Apartment is allowed by right as a use accessory to an ~~owner-occupied~~ Single-Family, Detached Building dwelling in a single residence district, ~~a nonconforming~~ or a Two-Family, Detached Building dwelling in a single residence district, or a single or two family dwelling in a Multi-Residence 1 or 2 district, or a detached structure, provided that the building and lot size provisions of Sec. 6.7.1.F are met, except as amended below.~~

~~A2. In a single residence district the A Detached Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,200 square feet, or 33 percent of the total building size of the dwelling, whichever is more; The City Council may grant a special permit for a larger Detached Accessory Apartment.~~

~~3. If the creation of a Detached Accessory Apartment involves exterior alterations to an existing building or construction of a new building, the following standards shall apply. The exterior finish material must be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site. The Commissioner of Inspectional Services may seek advice and council from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of this requirement.~~

4. The Detached Accessory Apartment must be at least 6 feet from the principal dwelling unit on the site.

5. A Detached Accessory Apartment is subject to the requirements of section 3.4.3. For the purposes of this section, the Commissioner of ISD may determine which lot line is the front on corner lots.

6. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory Apartment in a historic accessory building may be allowed by-right without requiring a special permit, and only subject to the rules in this section E.7, provided that exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission or a Local Historic District Commission:

a. The proposed Detached Accessory Apartment will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection E.7, the structure must either (a) have been designated as a Newton Local Landmark, or (b) be located within a local historic district, or (c) qualify as "historically significant" under Section 22-50 of the City of Newton Ordinances, the Demolition Review Ordinance;

b. The proposed Detached Accessory Apartment will be greater than 12.5 feet from an abutting residential dwelling, except by special permit; and

c. Any exterior alteration of the building to permit the creation of the Detached Accessory Apartment will preserve its historic character and integrity.

d. The Commissioner of Inspectional Services may seek advice and counsel from the Director of Planning and Development and/or the Newton Historical Commission or the Local Historic District Commission in the application of the above rules.

b. In a Multi-Residence 1 and 2 district the accessory apartment shall be a minimum of 250 square feet and a maximum of 1,200 square feet;
 c. Exterior alterations required to meet applicable Building, Fire or Health codes are permitted provided they are in keeping with the architectural integrity of the structure and the residential character of the neighborhood.

d. Prospective additions or exterior alterations for the purpose of satisfying the gross floor area requirements for the creation of a proposed accessory apartment in an owner-occupied single-family dwelling or a nonconforming two-family dwelling which is altered, reconstructed or redesigned for the purpose in whole or in part of satisfying the gross floor area requirements for the creation of a proposed accessory apartment may be allowed, but shall not exceed 250 square feet in area or 25 percent of the final gross floor area of the accessory apartment as provided in this Sec. 6.7.1, whichever is greater.

E. No additions or exterior alterations beyond those in the final grant of a application may be proposed to enlarge the accessory apartment within 2 years of receipt of a special permit hereunder this subsection from the Board of Aldermen.

E. Accessory Apartment Overlay Districts

1. An accessory apartment is allowed in an Overlay District according to the provisions of this 6.7.1 and Sec. 6.7.1.F.

2. District Boundaries. The following land, as noted on the Official Zoning Map, is placed in an Accessory Apartment Overlay District as specified:

a. Single Residence 1 zoned land in real estate section 63 is placed in Overlay District A.

b. Single Residence 2 zoned land in real estate section 32 is placed in Overlay District B.

c. Single Residence 3 zoned land in real estate section 71 is placed in Overlay District C.

d. Single Residence 1 zoned land in real estate section 61 is placed in Overlay District D.

Accessory Apartment	Lot Size (Min-sf)	Building Size (Min-sf)
SR1		
Special Permit	15,000*	3,100
SR2		
By Right	15,000	3,100
Special Permit	10,000*	2,600
SR3		
By Right	10,000	2,500
Special Permit	7,000*	1,800
Nonconforming two-family dwelling in SR1, SR2, SR3		
Special Permit	25,000*	2,600
MR1, MR2		
Special Permit	8,000	2,600
Overlay District A		
By Right	43,500	4,400
Special Permit	15,000*	3,200
Overlay District B		
By Right	16,000	3,600
Special Permit	10,000*	2,600
Overlay District C		
By Right	10,000	3,100
Special Permit	7,000*	1,800
Overlay District D		
By Right	30,000	4,000
Special Permit	15,000*	3,200

* If constructed on lot created prior to 12/7/1953

G. Building Size

In determining the building size with regard to accessory apartments, the building size shall be determined as follows:

1. Gross floor area on ground floor, upper floors, finished attic and living area in basement used for living, sleeping, eating or cooking purposes, including closets and hallways, as determined by the Assessing Department unless otherwise

indicated on floor plans prepared by a registered professional architect;

2. Existing unfinished space in basements and attics which would be finished for use as an accessory apartment shall be considered in the building size;

3. Existing space on porches shall not be included except as follows: If the accessory apartment is to be located in space previously used for a porch, the building size shall include that in the primary dwelling structure plus that space to be used for the accessory apartment on the porch;

4. Existing space in attached or detached garages shall not be included except as follows: if the accessory apartment is to be located in a detached structure, the building size shall include that in the primary dwelling structure plus that space to be used for the accessory apartment in the detached structure; and

5. Floor space in an attic, if used to meet minimum building size or apartment size, must meet 780 CMR requirements for floor to ceiling height as specified in Section R305.

H. Pre-Existing Units. A pre-existing accessory apartment in a single or two-family dwelling unit or detached accessory structure shall be considered a lawful use and shall not be required to meet the dimensional standards above provided the following criteria are fulfilled:

1. Proof of Existence. An owner-occupant seeking validation of an existing accessory apartment unit as described here shall have the burden of proof to demonstrate by a preponderance of evidence the existence of said dwelling unit as of December 31, 1999 and ongoing from that date forward by submission of probative documentary evidence to the Commissioner of Inspectional Services.

Records including, but not limited to the following, may be submitted:

a. A valid building alteration permit for the premises indicating the construction of the aforesaid second dwelling unit; or

b. Assessing Department records for the premises indicating the existence of the second dwelling unit; or

c. Records of Internal Revenue Service tax returns for the owners of the premises including Form 1040 and Form 1040 Schedule E indicating items such as reported rental income, deductions for improvements to real estate, reported losses on rental income, and casualty losses, all related to the aforesaid second dwelling unit; or

d. Permits from the Department of Inspectional Services, other than the actual building alteration permit which provided for construction of the dwelling unit, such as other building permits, plumbing, electrical and gas fitting permits, which explicitly indicate the existence of the second dwelling unit; or

e. Sworn affidavits by former or present tenants of the second dwelling unit, or a previous or present owner-occupant of the premises, providing a sworn, notarized attestation as to the existence of the said unit; or

f. Any other documentary evidence which is material and relevant and demonstrates the existence of the second dwelling unit as of December 31, 1999 and forward.

2. Standard of Proof.

a. Conflicting Evidence. If the documentary evidence available is conflicting, the Commissioner of Inspectional Services shall determine after weighing all the evidence if the existence of the dwelling unit as of December 31, 1999 and forward from that date is supported by a preponderance of evidence.

b. If no Department of Inspectional Services records or Assessing Department records are

~~available for a given premises, then sworn,
notarized affidavits as provided above shall be
presumed to be reliable, unless there is substantial
evidence to the contrary.~~

~~3. Requirements. The requirements of Sec. 6.7.1.
C.1.a., b., c., d., e., f., g., and h. must be satisfied.~~

§. **Invalidity Clause.** If it shall be determined by a
court of competent jurisdiction that any provision or
requirement of Sec. 6.7.1 is invalid as applied for
any reason, then Sec. 6.7.1 shall be declared null
and void in its entirety.

Sec. 6.7. Accessory Uses

6.7.1. Accessory Apartments

A. **Intent.** Accessory apartments are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section.

Accessory apartments are intended to advance the following:

1. Diversify housing choices in the City while respecting the look and scale of existing neighborhoods;
2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
3. Create more housing units with minimal adverse affects on Newton's neighborhoods;
4. Provide an option for an income stream, particularly for low-income seniors; and
5. Promote the preservation of historic buildings, particularly historic carriage houses.

B. **Accessory Apartment Defined.** A separate dwelling unit located in a Single-Family Detached or a Two-Family Detached building or in a detached building located on the same lot as a Single-Family Detached or a Two-Family Detached building, as an accessory and subordinate use to the residential use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 6.7.

1. **Internal Accessory Apartments.** An accessory apartment located within a single- or two-family dwelling.
2. **Detached Accessory Apartments.** An accessory apartment not located within a dwelling unit but is located in a separate detached accessory building.

C. Rules for All Accessory Apartments

1. No accessory apartment shall be held in separate ownership from the principal structure/dwelling unit;
2. No more than 1 accessory apartment shall be allowed per lot;
3. The property owner must occupy either the principal dwelling unit or the accessory apartment;
4. The total combined number of individuals residing in the principal and accessory dwelling units may not exceed the number allowed in the principal dwelling unit alone, under Sec. 3.4.2 and other applicable sections;
5. No additional parking is required for the accessory apartment;
6. The property owner of any accessory apartment shall record with the Registry of Deeds for the Southern District of Middlesex County a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the accessory apartment and certified copies shall be filed with the Department of Inspectional Services, where a master list of accessory apartments shall be kept, and with the Assessing Department;
7. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Chapter and the 780 CMR; and
8. The property owner shall file with the Commissioner of Inspectional Services a certification attesting to the continued residence of the owner on the subject property. Such certification shall be filed annually from the date of the issuance of the certificate of occupancy.

D. Rules for Internal Accessory Apartments

1. An Internal Accessory Apartment is allowed by right as a use accessory to a Single-Family

Detached-building and a Two-Family Detached building.

2. An Internal Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,000 square feet or 33 percent of the total gross floor area, as defined in Sec. 1.5.5, in the principal dwelling, whichever is less. The City Council may grant a special permit for a larger Internal Accessory Apartment.

3. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure and the residential character of the neighborhood, including, but not limited to, the following considerations:

a. The exterior finish material must be the same or visually match in type, size, and placement, the exterior finish material of the remainder of the building;

b. The roof pitch must be consistent with the predominant roof pitch of the remainder of the building;

c. Trim must be consistent in type, size, and location as the trim used on the remainder of the building;

d. Windows must be consistent with those of the remainder of the building in proportion and orientation.

e. The Commissioner of Inspectional Services may seek advice and council from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of the above rules.

4. Only one entrance may be located on the façade of the building facing a street unless the building had additional street-facing entrances before the accessory apartment was created, except by special permit.

5. Where a building is determined to be of historic significance and therefore subject to procedures

required under Section 22-50(C)(4) of the City of Newton Ordinances, any decisions of the Newton Historical Commission or a local Historic District Commission shall be considered to be in compliance with this section 6.7.1.D.3.

E. Rules for Detached Accessory Apartments.

1. A Detached Accessory Apartment is allowed by right as a use accessory to a Single-Family, Detached Building or a Two-Family, Detached Building.

2. A Detached Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,200 square feet. The City Council may grant a special permit for a larger Detached Accessory Apartment.

3. If the creation of a Detached Accessory Apartment involves exterior alterations to an existing building or construction of a new building, the following standards shall apply. The exterior finish material must be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site. The Commissioner of Inspectional Services may seek advice and council from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of this requirement.

4. The Detached Accessory Apartment must be at least 6 feet from the principal dwelling unit on the site.

5. A Detached Accessory Apartment is subject to the requirements of section 3.4.3. For the purposes of this section, the Commissioner of ISD may determine which lot line is the front on corner lots.

6. Historic Carriage Houses and Other Historic Accessory Buildings.

Under the following conditions, a Detached Accessory Apartment in a historic accessory building may be allowed by-right without requiring a special permit, and only subject

to the rules in this section E.7, provided that exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission or a Local Historic District Commission:

a. The proposed Detached Accessory Apartment will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection E.7, the structure must either (a) have been designated as a Newton Local Landmark, or (b) be located within a local historic district, or (c) qualify as “historically significant” under Section 22-50 of the City of Newton Ordinances, the Demolition Review Ordinance;

b. The proposed Detached Accessory Apartment will be greater than 12.5 feet from an abutting residential dwelling, except by special permit; and

c. Any exterior alteration of the building to permit the creation of the Detached Accessory Apartment will preserve its historic character and integrity.

d. The Commissioner of Inspectional Services may seek advice and counsel from the Director of Planning and Development and/or the Newton Historical Commission or the Local Historic District Commission in the application of the above rules.

G. Invalidity Clause. If it shall be determined by a court of competent jurisdiction that any provision or requirement of Sec. 6.7.1 is invalid as applied for any reason, then Sec. 6.7.1 shall be declared null and void in its entirety.