



Town of Beacon Falls

Land Use office

To: Don Molleur, Town of Beacon Falls Planning and Zoning Chairman
From: Keith Rosenfeld, Town of Beacon Falls Town Planner
Date: June 15, 2022
Re: Review of New Accessory Dwelling Unit Regulations, Opt-Out Procedures, and a Copy of BF Existing Accessory/In-Law Apartment Zoning Regulations

▪ **A new set of statutory requirements were adopted mandating authorization of certain accessory apartments using the following definitions:**

1. "Accessory apartment" means a separate dwelling unit that (A) is located on the same lot as a principal dwelling unit of greater square footage, (B) has cooking facilities, and (C) complies with or is otherwise exempt from any applicable building code, fire code and health and safety regulations."
2. "As of right" means able to be approved in accordance with the terms of a zoning regulation or regulations and without requiring that a public hearing be held, a variance, special permit or special exception be granted or some other discretionary zoning action be taken, other than a determination that a site plan is in conformance with applicable zoning regulations."

▪ **Effective January 1, 2022, all zoning regulations shall:**

1. Designate locations or zoning districts within the municipality in which accessory apartments are allowed, provided at least one accessory apartment shall be allowed as of right on each lot that contains a single-family dwelling, and no such accessory apartment shall be required to be an affordable accessory apartment.
2. Allow accessory apartments to be attached to or located within the proposed or existing principal dwelling or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling.
3. Set a maximum net floor area for an accessory apartment of not less than thirty percent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less, except that such regulations may allow a larger net floor area for such apartments.
4. Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling and require lot coverage greater than or equal to that which is required for the principal dwelling.
5. Provide for height, landscaping and architectural design standards that do not exceed any such standards as they are applied to single-family dwellings in the municipality.
6. Be prohibited from requiring (A) a passageway between any such accessory apartment and any such principal dwelling, (B) an exterior door for any such accessory apartment, except as required by the applicable building or fire code, (C) more than one parking space for any such accessory apartment, or fees in lieu of parking otherwise allowed by section 8-2c of the general statutes, (D) a familial, marital or employment relationship between occupants of the principal dwelling and accessory apartment, (E) a minimum age for occupants of the accessory apartment, (F) separate billing of utilities otherwise

connected to, or used by, the principal dwelling unit, or (G) periodic renewals for permits for such accessory apartments.

7. The accessory dwelling regulations do not override: (A) applicable building code requirements, (B) the ability of a municipality to prohibit or limit the use of accessory apartments for short-term rentals or vacation stays, or (C) other requirements where a well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld.
8. A decision on an as of right accessory apartment application must be made within sixty-five days after receipt of such application by the applicable zoning commission unless the applicant consents to one or more extensions of not more than an additional sixty-five days.

▪ **Municipal regulations cannot:**

1. Condition the approval of an accessory apartment on the correction of a nonconforming use, structure, or lot.
2. Require the installation of fire sprinklers in an accessory apartment if such sprinklers are not required for the principal dwelling located on the same lot or otherwise required by the fire code.

▪ **A municipality cannot:**

- Consider an accessory apartment to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless such accessory apartment was constructed with a new single-family dwelling on the same lot.
- Require the installation of a new or separate utility connection directly to an accessory apartment or impose a related connection fee or capacity charge.
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▪ **Municipal opt-out process for accessory apartment requirements:**

A municipality can opt-out of the statutory accessory apartment regulation requirements under the following procedures taken before January 1, 2023:

1. The PZC, by 2/3 vote, votes to initiate the opt-out process.
2. Public hearing is held.
3. The commission decides to opt out within the ordinary statutory deadlines for considering an application (65 days after close of hearing) stating on the record the reasons for the decision (although the 2/3 vote is required to “initiate” the procedure, we believe a 2/3 vote is required to approve).
4. Publishes notice of decision.
5. The opt out is ratified by a 2/3 vote of the town’s legislative body or its board of selectman if the town meeting is the legislative body.
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▪ **Failure to adopt or opt out of compliant accessory apartment regulations:**

If a municipality fails to adopt new regulations or amend existing regulations or opt out by January 1, 2023, any noncompliant existing regulation that would apply to accessory apartments becomes null and void and such municipality shall approve or deny applications for accessory apartments in accordance with the requirements for regulations set forth in the provisions of subsections (a) to (d) of the new accessory dwelling statute.

(EXISTING) Section 8.19 Accessory/In-Law Apartments

Accessory/In-Law Dwelling Units in Single-Family Residences: A single-family dwelling unit in any residential district may be permitted to allow the incorporation of (1) one additional dwelling unit per lot, subject to the receipt of a Certificate of Zoning Compliance based upon the following conditions:

a. Maximum Size: the floor area of the accessory dwelling unit may not exceed one-third of the gross floor area of the building. No more than (2) two bedrooms shall be permitted in the accessory dwelling unit;

b. Dwelling Unit: building or part of a building designed for occupancy by one (1) family unit, maintaining a common household, with a separate kitchen for the exclusive use of that unit's occupants (s), a complete separate bathroom/toilet facility, and two (2) separate means of egress and ingress (one (1) to the exterior and one (1) to the other dwelling unit);

c. Occupancy: one (1) of the dwelling units shall be owner-occupied at all times; the other must be occupied by the father/mother or grandparents or son-law, daughter-in-law or child or grandchild of one of the owners. (Amended September 21, 1999)

d. Location of Units: at least one (1) side of each dwelling unit shall be located at or above grade. Each unit shall have separate exterior entrances; additionally, direct access shall be provided from the living area of the principal dwelling unit to the living area of the accessory dwelling unit. There shall be only one (1) street number address for the dwelling structure and only (1) one mailbox provided;

e. Utilities/Adequacy: there shall be only one utility service per lot (i.e. electrical, water, sewer, natural gas, bottled gas) provided for both units. Certification shall be required from the Town Sanitarian/Health Department that the sewage disposal system is adequate to serve both dwelling units;

f. Outdoor Stairway/Door: no outdoor stairways serving the accessory dwelling unit on any floor other than the ground floor shall be visible from the public street on which the unit faces. Two (2) separate entrance doors shall not be permitted on the front facade of the building;

g. Driveway: only one (1) driveway shall be constructed and utilized for the purpose of serving the primary and accessory unit; sufficient off-street parking shall be provided for a minimum of three (3) vehicles for the structure;

h. Minimum Lot Size and Yard Requirements: accessory/in-law units shall be located only in structures which are in conformity with minimum area and dimensional requirements of the zoning district within which they are located. The structure which contains the principal and accessory unit shall meet all applicable setbacks and bulk requirements and shall not detract from the single family character of the neighborhood within which they are located; any addition to an existing structure for the purpose of such accessory/in-law unit shall be architecturally compatible with the existing structure.

i. Certification of Ownership/Relationship: the owner of the property shall certify, in the form of an affidavit, to the Zoning enforcement Officer, [who shall file such affidavit on the Land Records,] that the owner is in residence in one (1) of the dwelling units on the property and that, if inhabited, the occupant of the in-law apartment must be an individual listed in Section 8.19c herein [that the appropriate relative is in residence in the other unit.] Such certification shall be made at the time of the initial application for the Certificate of Zoning compliance and subsequently on an annual basis by September 1st of each year. The failure to file the annual certification shall void the Zoning Permit. Upon acceptance and approval of the permit, the Zoning Enforcement Officer shall file the initial affidavit upon the land records and retain a file of all subsequently filed affidavits of the applicant. (Amended September 21, 1999)

j. Accessory/In-Law Apartments: which were built prior to the adoption of this Regulation, but for which permits were issued may be certified upon inspection by the Zoning Enforcement Officer and the Building Inspector provided they are deemed safe and in compliance with the basic conditions of these Regulations. Compliance with Section "i" is required in all cases. Failure to comply after 30 Days after adoption of these amendments on September 21, 1999 may result in a fine. (Amended September 21, 1999)