

## ACCESSORY FAMILY DWELLING UNIT BYLAW

### 3.4 Introduction

As allowed in Section 3.034 of this bylaw, accessory family dwelling units shall be permitted, by Special Permit. The Zoning Board of Appeals will apply the standards specified herein and may attach additional conditions it deems necessary.

#### 3.4.1 General Description

- a. An Accessory Family Dwelling Unit (AFDU) shall mean a second dwelling unit within a single-family structure.
- b. The legal owners of the single-family structure must be year-round residents of the premises.
- c. AFDU shall denote exclusively a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities. The AFDU shall be designed to maintain the single-family appearance of the dwelling in which it is located. An AFDU shall have separate entrance located on the side or rear of the building. An AFDU shall not have more than one bedroom.
- d. An AFDU shall have the same street address as the single family dwelling in which it is created. When "911" compliance requires a separate street number, it should embody the diminutive form, i.e. 109 Elm Street for the main dwelling and 109A Elm Street or 109 (rear) Elm Street for the AFDU.
- e. Occupancy of an AFDU shall be restricted to a maximum of two persons.

#### 3.4.2 Intent

- a. To provide a homeowner with a means of obtaining, through tenants in the AFDU, companionship, independence, security, and services and thereby to enable homeowners to remain comfortably in homes and neighborhoods they might otherwise be unable to maintain;
- b. To provide homeowners an alternative for the care of elder or infirm relatives while allowing such relatives independence;
- c. To create increased opportunity for affordable housing;
- d. To protect the stability, property values, and residential character neighborhoods by ensuring that that AFDU's are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this Bylaw; and
- e. To regulate compliance with the State Building Code in so-called in-law apartments.

### 3.4.3 Standards and Requirements

The Zoning Board of Appeals may grant to a homeowner a nontransferable Special Permit, to be renewed every three years pending ZBA review, to allow an AFDU in an existing or new single-family dwelling, provided the following standards and requirements are met:

- a. The AFDU must be a separate housekeeping unit from the original unit. The units may, however, share some utilities such as heat, water, sewer, sanitary disposal, electricity, etc.
- b. Only one AFDU will be allowed in a single-family house lot.
- c. The lot on which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district. The ZBA may allow an AFDU on a legally non-conforming lot with a finding that so doing would not increase the non-conformity.
- d. The AFDU shall be designed so that the appearance of the building remains that of a single-family residence as much as possible. A new entrance must be located on the side or rear of the building. Any exterior alterations should be consistent with the character of the existing single-family dwelling.
- e. An AFDU shall have a separate entrance, and may also have an interior doorway to the main dwelling.
- f. Any AFDU shall be limited to 750 square feet in the original dwelling in which it is to be contained. An addition to the original building comprising all or part of the 750 square feet may be permitted by the ZBA.
- g. The AFDU shall be clearly subordinate to the single-family dwelling. It shall have no more than one bedroom.
- h. The ZBA may allow deviation from these conditions to facilitate access and mobility for disabled persons.
- i. The construction of any AFDU must conform to all State Building and Health Code requirements, as well as the bylaws of the Town of Middlefield
- j. An additional off-street parking space shall be provided for an AFDU.

### 3.4.4 Application Procedure

The procedure for application for a Special Permit to the ZBA for an AFDU in a single family dwelling shall be the same as prescribed for other Special Permits, except the additional requirement of a notarized letter from the owner stating that he will occupy either the main dwelling or the AFDU on a year-round basis.

### 3.4.5 Recording of Special Permit

No Building Permit shall be issued for construction of an AFDU until a Special Permit has been granted and recorded in the Registry of Deeds by the applicant and evidence of such recording has been submitted to the Building Inspector.

### 3.4.6 Severance

If any part of this bylaw is found to be illegal, the balance shall remain in force.

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Art  
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**4.8 WIRELESS COMMUNICATIONS FACILITIES**

Construction of wireless communications facilities shall be in compliance with the provisions of this Section and Section 6.4 (Special Permits), and requires a Special Permit issued by the Zoning Board of Appeals as designated Special Permit Granting Authority (SPGA). An amendment to the Special Permit must be received from the SPGA prior to any modifications of such facilities --such as extension, addition of cells, antenna, satellite dishes, or replacement of towers or transmitters. The procedure for amendment shall be the same as for an original Special Permit. This section does not apply to satellite dishes and antennas for individual residential use.

**4.8.1 Use Restrictions**

**4.8.1.1 Tower type:** Only monopoles and associated antenna and/or panels are allowed. Lattice style towers and facilities requiring three or more legs and/or guy wires for support are prohibited.

**4.8.1.2 Height:** The total height of the facility, including attached accessories, shall not exceed 120 feet as measured from ground level at the base of the structure.

**4.8.1.3 Setback:** The facility shall be located a minimum of 500 feet from the nearest residential lot line or residential building. And it shall have a minimum setback equal to the maximum allowed height (120 feet distance) from any abutting lot line or Town Way.

**4.8.1.4 Visibility and impact:**

(a) All wireless communications facilities shall be sited in such a manner that the view of the facility from abutters, residences, and other areas of Town shall be as limited as possible. The structures and antennas or dishes shall be painted or otherwise colored so they will blend in with the landscape. A different coloring scheme shall be used above and below the tree line.

(b) Facilities shall be sited, designed, constructed, and accessed in a manner that preserves existing vegetation to the maximum extent practicable.

(c) Fencing provided to control access to the facility shall have a landscape buffer of evergreen shrubs or trees planted outside the fenced area with a mature height at least equivalent to the fence height. Fencing material shall not be of razor wire or spun barbed wire.

(d) Lighting shall be limited to that needed for emergencies and / or as required by the FAA.

(e) Signs shall be limited to no trespassing signs and / or an announcement sign, giving a phone number where the facility owner can be reached on a twenty-four hour basis.

(f) The facility's site, access drive, or parking area cannot be used for long-term storage of vehicles or other equipment.

(g) To the extent technologically feasible, all network interconnections from the facility shall be via land lines.

**4.8.1.5 Continued Use:**

(a) Annual certification demonstrating continuing compliance with the standards of the FCC, FAA, the National Council for Radiation Protection, and the American National Standards Institute, along with verification of continued use and maintenance, shall be filed by the Special Permit holder with the Zoning Enforcement Officer or designee.

(b) All unused parts of the facility or accessory structures which have not been used for one year shall be dismantled and removed at the owner's expense.

*Mary Ann K...  
Town Clerk*

#### 4.8.2 Application Procedures

Application for a Special Permit shall require all items in Section 6.4.3, plus the following:

4.8.2.1 The site plan shall also include:

- (a) A list of other feasible sites in town.
- (b) Topography of chosen site, including the percent slope of the tower location and 150 foot radius around it.
- (c) Areas to be cleared of vegetation or trees.
- (d) Location and type of fencing, landscaping, and lighting.
- (e) A photo or rendition of the proposed facility &/or additions, panels, antennas, dishes, etc.
- (f) All other items required by Department of Public Health, 105 CMR 122 Fixed Facilities Which Generate Electromagnetic Fields in the Frequency Range of 300kHz to 100 GHz and Microwave Ovens.

4.8.2.2 Reports prepared by professional engineers, which shall:

- (a) Describe the facility and the technical, economic and other reasons for the tower location, height, and design.
- (b) Describe the capacity of the tower, including the number and type of transmitters and receivers that it can accommodate and the basis for the calculation of capacity.
- (c) Detail the assessment of anticipated future use of wireless telecommunications facilities within Middlefield, and the minimum height and structure necessary to accommodate co-location of anticipated service providers on the proposed tower.
- (c) Demonstrate that the tower and its attachments and transmissions comply with all applicable standards of the Federal and State governments.
- (d) Demonstrate that the proposed sources of nonionizing electromagnetic radiation will comply with the standards of the National Council of Radiation Protection, and the Massachusetts Department of Health, whichever is stricter.
- (e) Describe the exposures from electromagnetic field (EMF) measured at the property line, and the design or technology choices which most contribute to, and would minimize, such exposures.

4.8.2.3 Provide written official statements of compliance with, or exemption from, the regulations of agencies governing wireless telecommunications facilities or uses, including but not limited to: the FAA, FCC, Massachusetts Aeronautics Commission, and Massachusetts Department of Public Health.

4.8.2.4 Provide a visual demonstration of impact on Town views by placing a balloon at the height of the proposed tower, from the time of Special Permit Application submittal through the date of the advertised public hearing. The balloon shall be of a size and color that can be seen for a distance of one mile.

4.8.2.4 The applicant shall pay the costs for the Town to have an independent expert review the application materials.

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*M. J. ...  
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