

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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February 6, 2023

Kelly J. Cote, Town Clerk
Town of Uxbridge
21 South Main Street
Uxbridge, MA 01569

RECEIVED TOWN CLERK
2023 FEB 1 PM 4:02

Re: Uxbridge Fall Annual Town Meeting of October 25, 2022 --- Case # 10766
Warrant Articles # 12 and 13 (Zoning)
Warrant Article # 11 (General)

Dear Ms. Cote:

Articles 11, 12 and 13 - We approve Articles 11, 12 and 13 from the October 25, 2022 Uxbridge Fall Annual Town Meeting. Our comments on Article 13 are provided below.

Article 13 - Under Article 13 the Town voted to amend its zoning by-laws to add a new Section 400-16, "Accessory Dwelling Units," (ADUs) that allows ADUs (as the term is defined in the by-law) by special permit in the Town's Residential and Agricultural districts.

In this decision, we briefly describe Article 13; discuss the Attorney General's limited standard of review of town by-laws under G.L. c. 40, § 32; and explain why, based on that standard, we approve Article 13. We also offer comments for the Town's consideration on the text voted under Article 13 that imposes a one-bedroom limitation on ADUs.

I. Summary of Article 13

Under Article 13 the Town amended its zoning by-laws to add a new Section 400-16, "Accessory Dwelling Units," that allows ADUs by special permit in the Town's Residential and Agricultural districts. The purpose of the new Section 400-16 is to allow additional housing for relatives or caregivers of the primary resident. Section 400-16 (A) "Purpose." Section 400-16 (A) lists the benefits of ADUs, including providing elderly and disabled persons with a means of living independently; allowing housing units that support households at various stages of their life cycle; allowing families to share resources; and increasing the number of affordable housing units in the Town. Section 400-16 (B) defines ADUs as follows:

Accessory Dwelling Unit – An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling, or within a detached structure that is subordinate to a single-family dwelling on the same lot. The ADU gross floor space

includes all living, kitchen, bathroom, laundry, and entry space associated specifically for the use of the ADU.

Section 400-16 (C) imposes use, dimensional, parking, and design requirements on ADUs, including limiting ADUs to one bedroom as follows:

C. Applicability

1. Residence A, Residence B, Residence C and Agricultural zoning districts, are subject to the following:
 - a. The Board of Appeals may issue a Special Permit, for a period not to exceed three (3) years, authorizing the installation and use of an attached accessory dwelling unit within an existing or new single-family dwelling when the following conditions are met:
 - i. The unit will be a complete, separate housekeeping unit containing both a kitchen, bath and no more than one bedroom.

II. Attorney General's Standard of Review of Zoning Bylaws

Our review of Article 13 is governed by G.L. c. 40, § 32. Pursuant to G.L. c. 40, § 32 the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." Amherst, 398 Mass. at 795-96. The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.") Rather, to disapprove a by-law (or any portion thereof), the Attorney General must cite an inconsistency between the by-law and the state Constitution or laws. Id. at 796. "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." Bloom v. Worcester, 363 Mass. 136, 154 (1973).

Article 13, as an amendment to the Town's zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) ("With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders."). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General's standard of review is equivalent to that of a court. "[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare." Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). "If the reasonableness of a zoning bylaw is even 'fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.'" Id. at 51 (quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). However, a municipality has no power to adopt a zoning by-law that is "inconsistent with the constitution or laws enacted by the [Legislature]." Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Section 400-16 (C) (1) (a) (i)'s One Bedroom Limitation Must Be Applied Consistent with the Fair Housing Act and G.L. c. 151B

We have considered whether the by-law's limitation of ADU's to "no more than one bedroom" violates G.L. c. 151B or the federal Fair Housing Act ("FHA"). Although we cannot conclude, based on the Attorney General's limited standard of review, that the bedroom limitation violates the FHA or G.L. c. 151B, the Town should consult with Town Counsel to ensure the Town adheres to the requirements of these statutes.

Both Federal and State law broadly prohibit discrimination in housing based on certain characteristics including race, color, national origin, ancestry or family status (i.e., the presence of children in the household.) See 44 U.S.C. § 3604 and G.L. c. 151B, § 4, ¶¶ 4A and 6. The FHA and the Massachusetts Anti-Discrimination Law, G.L. c. 151B, prohibit towns from using their zoning powers in a discriminatory manner, meaning in a manner that has the purpose or effect of limiting or interfering with housing opportunities available to members of a protected class. The FHA prohibits discrimination based on race, color, or national origin and provides in pertinent part that it shall be unlawful:

- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

42 U.S.C. § 3604 (a).

"The phrase 'otherwise make unavailable or deny' encompasses a wide array of housing practices...and specifically targets the discriminatory use of zoning laws and restrictive covenants." Casa Marie, Inc. v. Superior Court of Puerto Rico for Dist. of Arecibo, 988 F.2d 252, 257 n. 6 (1st Cir. 1993). Similarly, G.L. c. 151B, § 4, forbids discrimination in housing based on race, color, national origin, ancestry, familial status and prohibits any action that interferes with the right to equal enjoyment of housing opportunity secured by the statute. G.L. c. 151B, § 4, ¶¶ 4A, 6.

Violations of the FHA and G.L. c. 151B occur when a Town uses its zoning power to intentionally discriminate against a member of a protected class or when such zoning power has a discriminatory impact on members of a protected class. See, e.g., Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc., 135 S.Ct. 2507, 2521-22 (2015) Id. (recognizing disparate impact discrimination under the FHA); Burbank Apartments Tenant Ass'n v. Kargman, 474 Mass. 107 (2016) (recognizing disparate impact discrimination under G.L. c. 151B). Discriminatory impact can occur when a zoning rule, neutral on its face, "disproportionately disadvantages members of a protected class." Burbank Apartments, 474 Mass. at 121 (discussing disparate impact in housing). In discriminatory impact cases, once it has been shown that a neutral action has a discriminatory impact, the burden shifts to the defendant to show that its actions furthered a legitimate bona fide government interest and that no alternative would serve that interest with less discriminatory effect. Huntington Branch, NAACP v. Town of Huntington, 844 F.2d 926, 939 (2d Cir.) (1988); see also Burbank Apartments, 474 Mass. at 121 ("There is no single test to demonstrate disparate impact.") (internal quotations and citations omitted).

Although we cannot conclude that the by-law's bedroom limitation violates the FHA or G.L. c. 151B the Town cannot apply the bedroom limitation in a manner that discriminates against family status, including discriminating against families with children. We suggest that the Town discuss this by-law text with Town Counsel, including whether this text should be amended at a future Town Meeting and whether it should be enforced in light of the FHA and G.L. c. 151B.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

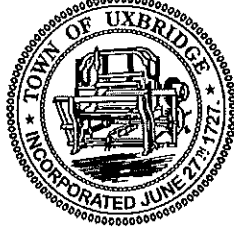
Very truly yours,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

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cc: Town Counsel Jeffrey T. Blake



**FALL ANNUAL TOWN MEETING MINUTES
TUESDAY, OCTOBER 25, 2022 – 7:00 P.M.
VALLEY CHAPEL – 14 HUNTER ROAD
UXBRIDGE, MASSACHUSETTS**

ARTICLE 11: NON-CRIMINAL DISPOSITION

To see if the Town will vote to amend its General Bylaws by adding the following bylaw to establish non-criminal disposition in the town:

CHAPTER 232 NON-CRIMINAL DISPOSITION

§ 1-109. Violations and penalty - municipal infractions.

A. The following bylaws/occurrences may be enforced in the method provided in M.G.L. c. 40, § 21D.

1. Violations of orders and regulations imposed during winter conditions, including failure to clear fire hydrants and violations of Winter parking bans
2. Violations of Uxbridge General Bylaws c. 205 Fire Protection § 205-9 False Alarm Fees
3. Violations of Uxbridge General Bylaws c. 146 Animal Control, § 146-7 Violations and Penalties

The enforcing person(s) for such violations shall be designated officers of the Uxbridge Police Department and/or Uxbridge Fire Department

- B. The noncriminal fine for each such violation, if not otherwise specified elsewhere in the Town's General or Zoning Bylaws, shall be \$100. The fine imposed hereunder shall be in lieu of any fine imposed under any of the bylaws referenced in the preceding Section. The imposition of a fine hereunder shall not be deemed to be in lieu of any equitable remedies that may be employed.
- C. Each person designated herein an "enforcing person" may appoint a deputy enforcing person to serve in their absence or disability. The names of each enforcing person and of each deputy enforcing person shall be kept on file in the office of the Town Manager. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto. Police Officers shall in all cases be considered enforcing persons for the purpose of this provision.
- D. The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to so deliver said copy of said notice, said copy shall be mailed or delivered by the enforcing person, or by the Select Board or its designee, to the offender's last known address within 15 days after said violation. A certificate shall be made by the person so mailing such notice that it has been mailed in accordance with this article and M.G.L. c. 40, § 21D.

E. Unless otherwise provided, each day a violation continues shall constitute a separate and repeat violation.

, or take any other action relating thereto.

SPONSOR: Board of Selectmen

COMMENTARY: M.G.L. c. 40, § 21D allows cities and towns to enforce their bylaws through non-criminal disposition, which allows a Town, through a designated enforcing person, to issue a violation notice or “ticket” which provides for a specific sum of money to be paid as a penalty for the violation of a local bylaw. The Town is looking to allow for this type of enforcement in only limited areas with only Police and Fire as the enforcing authority.

MOTION: Move that the Town vote to amend its General Bylaws by adding the proposed language bylaw to establish non-criminal disposition in the Town.

Vote required for passage: 2/3rds majority

FINANCE COMMITTEE RECOMMENDATION: Favorable Action 7-0-0

The Finance Committee finds enforcement of the bylaws is a critical tool. The current enforcement is via the court system which is costly both in time and town funds. These three bylaws are a good starting point and a good process to bring before Town Meeting.

BOARD OF SELECTMEN RECOMMENDATION:

1. Favorable Action 5-0-0
2. Favorable Action 5-0-0
3. Favorable Action 5-0-0

The motion was seconded

This article will be divided into three votes

Vote 1: Moderator declares a 2/3rds majority vote, motion carries, Yes-61, No-19

Vote 2: Moderator declares a 2/3rds majority vote, motion carries, Yes-65, No-17

Vote 3: Moderator declares a 2/3rds majority vote, motion carries, Yes-68, No-14

ARTICLE 12: AMENDMENT TO ZONING BYLAW: SECTION 400-15 SIGNS

To see if the Town will vote to amend the Uxbridge Zoning Bylaw to add a new Section 400-15 Signs, or take any other action relating thereto.

SPONSOR: Uxbridge Zoning Board of Appeals

COMMENTARY: The purpose of this proposed article is to add a section to the Zoning Bylaws specific to Signs. The proposed section would look to provide greater clarity currently not found in the existing bylaws related to signage. The current bylaws do not allow for "billboards" or signs greater than 40 sq-ft. As this is a specifically Prohibited Use, the ZBA has no authority to provide any variance to this. Throughout Town, there are many examples of existing signs that appear to exceed 40 sq-ft but otherwise do not derogate from the character of the Town. There is a potential that with a change in building inspectors, or a legal challenge of a newly proposed business, it is possible that such lack of clarity could limit the ability for businesses to erect signs that otherwise would seem reasonable and appropriate. In summary, the proposed addition of a section for Signage within the Zoning Bylaws provides for greater clarity and flexibility for businesses and the Zoning Enforcement Officer, while also ensuring a level of oversight is provided for signage that perhaps warrants review on a case-by-case basis by the Issuing Authority to ensure there is a limited impact to the Town's residents and the character of the Town.

MOTION: Move that the Town accept the article as written. (below)

ARTICLE V GENERAL REGULATIONS

§ 400-15 Signs

A. Purpose

The purpose of this section is to provide standards for the installation of signs affixed to buildings or structures or placed on building grounds so as to preserve the aesthetic and historic appearance of the Town, promote economic development, protect property values and reduce traffic safety hazards and undue nuisance to neighboring properties.

B. Definitions

Billboard - A sign of more than forty (40) square feet in Sign Area, that identifies, advertises or attracts attention to a business, product, service, event or activity sold or offered at a different location than where the sign exists.

Sign - Any words, lettering, parts of letters, emblems, devices, designs, figures, phrases, sentences, trade names or trade marks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public street or right-of-way and used to attract attention.

Sign Area - The area that includes all lettering, wording and accompanying symbols or designs as well as the background on which they are displayed, whether open or enclosed, any frame around such background and any cutouts or extensions. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, wall or building shall be considered to be that of the smallest rectangle comprised of horizontals and verticals that encompasses all of the letters and symbols. Only one side of a two-sided sign shall be counted in computing the area of a sign.

Temporary Sign - A sign that, by its design or use is temporary in nature and not permanently affixed. Temporary signs are not used more than once per calendar year for a period not to exceed forty-five (45) days. This does not include political signs for a specific election period.

Wayfinding Sign - A sign that specifically provides guidance, direction, location, regulation such as speed limit and other information to a person unfamiliar with an area.

C. Applicability

1. Residence A, Residence B, Residence C and Agricultural zoning districts, are subject to the following:
 - a. unless otherwise permitted by these Bylaws, no display or advertising is permitted except (a) a sign of not more than two (2) square feet in Sign Area or (b) on the same lot as a church, parish house, school, public library, public park, public museum, public playground, public recreational building or similar, a sign of not more than twelve (12) square feet;
 - b. There may be one freestanding sign at the entrance to a development, not to exceed sixteen (16) square feet in Sign Area and ten (10) feet in height which shall not be located closer than six (6) feet to the edge of a street.
 - c. Businesses allowed for the Zoning District as identified within Appendix A, Table of Use Regulations, may have one sign attached to the street facing side of a building that may not exceed twelve (12) square feet. The sign must be secured to the wall of the building and may

not extend beyond the eaves of the building or more than one (1) foot from the wall or encroach within the public way.

- d. At the discretion of the Building Inspector, businesses within the Agricultural District may have one freestanding sign, not to exceed thirty-two (32) square feet in Sign Area and ten (10) feet in height which shall not be located closer than ten (10) feet to the edge of a street.
 - e. Signs displayed on property that is for sale, lease or rental of the premises, are not to exceed six (6) square feet in Sign Area.
 - f. Illuminated signs are not permitted unless their use has been allowed by Special Permit from the Special Permit Granting Authority.
2. Business A and Business B zoning districts, are subject to the following:
- a. One freestanding sign, not to exceed the maximum height restriction for the Zoning District as identified within Appendix B, Table of Dimensional Requirements, may be erected. Such sign shall not be within any right of way and shall set back at least ten (10) feet from the edge of the street. The total Sign Area, for the full structure, may not exceed forty (40) square feet. There shall be one freestanding sign per parcel regardless of how many businesses or buildings reside on the parcel. Lots that have greater than one hundred (100) feet of frontage on more than one public way may have two freestanding signs on the lot, each along a different public way.
 - b. The total Sign Area of all signs attached to the sides of a building may not exceed one (1) square foot for each linear foot of building frontage facing a public way. The sign must be secured to the wall of the building and may not extend beyond the eaves of the building or more than one (1) foot from the wall or encroach within the public way.
 - c. A roof sign must be secured to the roof of the building and may not extend higher than the ridgeline of the roof.
 - d. Signs displayed on property that is for sale, lease or rental of the premises, are not to exceed thirty-two (32) square feet in Sign Area.
3. Industrial A and Industrial B zoning districts, are subject to the following:
- a. A non-illuminated sign displayed on property that is for sale, lease or rental, and having a Sign Area of not more than forty (40) square feet, shall be permitted.
 - b. Permanent signs shall conform to all applicable side and rear yard requirements for the Zoning District as identified within Appendix B, Table of Dimensional Requirements. Signs may be located no nearer than six (6) feet to the edge of a street.
 - c. There may be one freestanding sign at each separate entrance, to each individual parcel of land, not to exceed the maximum height restriction for the Zoning District as identified within Appendix B, Table of Dimensional Requirements. Such sign shall not be within any right of way and shall set back at least six (6) feet from the edge of a street. The total Sign Area may not exceed eighty (80) square feet.

- d. The total Sign Area of all signs attached to the sides of a building may not exceed one half (0.5) square foot for each linear foot of building frontage facing a public street. The sign must be secured to the wall of the building and may not extend beyond the eaves of the building or more than one (1) foot from the wall or encroach within the public way.
 - e. A roof sign must be secured to the roof of the building and may not extend higher than the ridgeline of the roof.
- 4. Overlay Districts are subject to the underlying base zoning district limitations unless additional criteria or allowance is set forth within the applicable section of the Zoning Bylaw for the Overlay District.
 - 5. Temporary Signs may be used in all districts and shall not exceed eight (8) square feet in Sign Area. Banners or advertising flags may be displayed and shall not exceed twenty-four (24) square feet in Sign Area and shall not be displayed for more than forty-five (45) consecutive days.
 - 6. The use of Wayfinding signs are permitted in all districts and shall not exceed six (6) square feet in Sign Area.
 - 7. Signs existing prior to the adoption of these provisions are allowed to remain and are not subject to the requirements of this Section unless said sign is removed and replaced with a different sign or expanded in size. Existing signs may be removed for maintenance, re-lettering or name change, without requiring approval under this section.
 - 8. Billboards are only permitted by Special Permit from the Planning Board or Board of Appeals, as set forth in the Zoning Use table.
 - 9. Illuminated Signs shall conform to the following:
 - a. Exterior illumination shall be by a stationary, shielded, white light directed downward or horizontally and solely at the sign.
 - b. Internally illuminated signs shall use white light and shall have opaque surfaces so that the light source is not directly visible.
 - c. Signs may be illuminated until 10:00 P.M. or end of daily operating hours, whichever occurs later.
 - d. The light from any sign shall be at a sufficiently low level of intensity that it shall not, in the judgment of the Zoning Enforcement Officer: adversely affect neighboring premises, reflect or shine on lots used for residential purposes, or impair the safe vision of operators of vehicles moving on public roadways.
 - 10. Signs not otherwise permitted shall be allowed by Special Permit from the Special Permit Granting Authority.

D. Issuing Authority

The Issuing Authority identified within the Table of Use Regulations may grant a Special Permit for

signs, not otherwise allowed, upon determining that the proposed sign meets the purposes of this Section and otherwise shall not cause substantial detriment to the community.

If a proposed sign is included in an application for a related Special Permit, authority to grant a Special Permit will be with the Issuing Authority having jurisdiction over the related Special Permit.

E. Application

An application for a Special permit for a sign shall be submitted in accordance with the provisions contained in Section 400-50.

F. Submission Requirements

An application shall be submitted by the applicant showing all permanent signs in detail and as they are proposed to be installed on the building or structure. Plans shall include color, materials, lettering, lighting and proposed mounting details.

G. Recommended Standards

1. Signs should not extend above the roof line or facade, whichever is higher; roof signs should not be permitted.
2. Signs should not be flashing, shimmering or consist of rotating lights.
3. Sign should not be placed in a location which prevents the driver of a vehicle from having a clear and unobstructed view of approaching or merging traffic.
4. No floodlight or other light illuminating a sign, shall be placed so as to shine directly onto adjoining property or be a source of nuisance to the neighborhood in which it is located.

END OF NEW ARTICLE

BEGINNING OF CHANGES TO EXISTING BYLAW

ARTICLE III USE REGULATIONS

§ 400-10 Principal Uses

D. Prohibited Uses

Except where lawfully in existence at the time of these Bylaws, the following uses are expressly prohibited in all districts:

1. Racetracks, which include any tract of land which is used for the purpose of auto racing, horse racing or dog racing.
2. Commercial jetports, commercial airports, commercial heliports, commercial runways or commercial landing fields. Commercial is intended to mean business activities which rely on said jetports, airports, heliports, runways or landing fields to generate income, gross receipts and sales but is not intended to prohibit the use of private aircraft or landing facilities of any business enterprise obtaining approval for same.
3. ~~Billboards, which include any sign which is over forty (40) square feet in area.~~
4. The manufacture, storage, transportation or disposal of hazardous material as a principal activity, but not including substances intended for use by a Gasoline Selling Station as defined Article X of these Bylaws.

**ADDITION TO TABLE OF USE
TABLE A
TABLE OF USE REGULATIONS**

USE	ZONING DISTRICTS							
	R-A	R-B	R-C	A	B	IA	IB	MTMC
Section G. Accessory Uses								
Signs Requiring Special Permits	<u>ZBA</u>	<u>ZBA</u>	<u>ZBA</u>	<u>ZBA</u>	PB	<u>PB</u>	<u>PB</u>	<u>PB</u>

Vote required for passage: 2/3rds majority per M.G.L. c. 40A, § 5

FINANCE COMMITTEE RECOMMENDATION: Favorable Action 6-1-0

The Finance Committee finds that this article establishes increased regulation which is currently minimal as well as establishes a special permitting process. The unfavorable recommendation was due to broad discretion given the Planning Board and ZBA to make exceptions to the bylaw.

BOARD OF SELECTMEN RECOMMENDATION: Favorable Action 5-0-0

PLANNING BOARD RECOMMENDATION: Favorable Action 5-0-0

The motion was seconded

Motion to amend the main motion to: Move that "or" be moved to end and add "impair the mating and hunting behaviors of fireflies and other nocturnal species affected by light pollution"

Amended motion was seconded

Moderator declares the amended motion fails, Yes-35, No-44

Moderator declares 2/3rds majority vote, Main motion carries, Yes-60, No-17

ARTICLE 13: AMENDMENT TO ZONING BYLAW: SECTION 400-16 ACCESSORY DWELLING UNITS

To see if the Town will vote to amend the Uxbridge Zoning Bylaw to add a new Section 400-16 Accessory Dwelling Units, or take any other action relating thereto.

SPONSOR: Uxbridge Zoning Board of Appeals

COMMENTARY: The purpose of this proposed article is to add a section to the Zoning Bylaws specific to Accessory Dwelling Units (ADU), also sometimes known as "in-law apartments" or other terms. The current Town Zoning Bylaws do not allow for more than a Single-Family Dwelling on a property located within the Residence C or Agricultural districts. In an effort to aid the Town's residents in accommodating individual family's needs at various stages of their lifecycle, this proposed article would allow families located in all residential or Agricultural districts the ability to add an apartment containing both a kitchen, bath and no more than one bedroom that could be used by family members or a caregiver. The family member or caregiver that this apartment would make available would provide the elderly or disabled the means of living more independently within homes and neighborhoods they might otherwise be forced to leave. It would allow families the ability to provide affordable housing and share resources

that support young families transitioning to their own homes, parents to potentially live with their children, and provide child care, or support many other family needs. All ADUs would be approved by the ZBA as a Special Permit that would expire in three years if not renewed. This would provide a level of oversight to mitigate these ADUs from being used in a manner not consistent with the intent of the bylaw. In summary, the proposed addition of a section to the Zoning Bylaws specific to Accessory Dwelling Units would provide additional affordable housing, specific to families, in a manner that preserves the residential character of neighborhoods, decreases unpermitted units, promotes code compliance, increases tax base and provides a desired and helpful option to families within the community.

MOTION: Move that the Town accept the article as written.

ARTICLE V GENERAL REGULATIONS

§ 400-16 Accessory Dwelling Units

A. Purpose

The purpose of this section is to provide standards for approval of Accessory Dwelling Units (also known as “accessory apartments”, “in-law apartments”, “family apartments”, “secondary units” or ADUs) that can be integrated into, or on the same property as, existing single family residences to provide additional housing to relatives or caregivers of the primary resident; that have little or no negative impact on the character of the neighborhood; and that protect property values and prevent undue nuisances to neighboring properties.

Benefits of Accessory Dwelling Units include:

11. Provides the elderly or disabled with a means of obtaining individual caregiver services, thereby enabling them to stay more independently in homes and neighborhoods they might otherwise be forced to leave.
12. Allows for appropriate housing units, in single-family neighborhoods, that support households at various stages of their life cycle.
13. Allows families to more readily share resources.
14. Increases the number of affordable housing units within the community.
15. Decreases unpermitted housing units, promotes code compliance, and increases overall tax base.
16. Preserves the residential character of neighborhoods and maintains property values.

B. Definitions

Accessory Dwelling Unit - An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling, or within a detached structure that is subordinate to a single-family dwelling on the same lot. The ADU gross floor space includes all living, kitchen, bathroom, laundry, and entry space associated specifically for the use of the ADU.

C. Applicability

1. Residence A, Residence B, Residence C and Agricultural zoning districts, are subject to the following:
 - a. The Board of Appeals may issue a Special Permit, for a period not to exceed three (3) years, authorizing the installation and use of an attached accessory dwelling unit within an existing or new single-family dwelling when the following conditions are met:
 - i. The unit will be a complete, separate housekeeping unit containing both a kitchen, bath and no more than one bedroom.
 - ii. Only one accessory dwelling unit may be created within a single-family dwelling or on a lot.
 - iii. No accessory dwelling unit may be created on a lot with multi-family dwellings.
 - iv. The owner of the property in which the accessory dwelling unit is created must continue to occupy the dwelling unit or the accessory dwelling as their primary residence, except for bona fide temporary absences not to exceed 6 months.
 - v. The gross floor area of an accessory dwelling unit shall not be greater than eight hundred (800) square feet, unless a larger gross floor area is approved by the Special Permit Granting Authority.
 - vi. The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws/ordinances and regulations.
 - vii. All parking is to be off street unless specifically approved by the Special Permit Granting Authority.
 - viii. A unit that is contained within the primary dwelling shall have its own separate entrance from the outside, located at the side or rear of the primary dwelling, and shall be designed so that the appearance of the building remains that of a single-family dwelling.
 - ix. Occupancy is restricted to relatives of the primary resident who are to be related by blood, marriage, or adoption; or to allow occupancy by caregivers of the primary resident.
 - b. The Special Permit may contain any other reasonable conditions in the discretion of the Board of Appeals and will expire after a period of three (3) years and will be renewable upon request providing the applicant continues to meet the requirements of the special permit. Such renewal shall not be unreasonably denied if compliance with the underlying Special permit is maintained. The special permit shall expire if the conditions of approval are not maintained, or a transfer of ownership of the underlying property takes place, or the ADU ceases to be occupied. Within six (6) months of the Special Permit's expiration, the ADU must be vacant, all separately metered utilities disconnected.
2. Business A and Business B zoning districts, are subject to the following:
 - a. ADUs are not permitted.

3. Industrial A and Industrial B zoning districts, are subject to the following:
 - a. ADUs are not permitted.
4. Overlay Districts are subject to the underlying base zoning district limitations unless additional criteria or allowance is set forth within the applicable section of the Zoning Bylaw for the Overlay District.

D. Application

An application for an ADU shall be submitted in accordance with this section as well as the provisions contained in Section 400-50 for Special Permits.

E. Submission Requirements

An application for an ADU shall include site plans and plans for the ADU and shall include such other material as necessary to describe in detail the general arrangement of the ADU, including:

5. Description of the proposed use and relationship of property owner with proposed occupants
6. Number and approximate size of rooms and structures
7. Location of parking
8. How utilities will be provided
9. Means and location of access and egress
10. Description of exterior appearance
11. Signed Affidavit confirming Primary Resident lives on the premises and that the ADU occupants meet the criteria of Section C, a, IX.

**TABLE A
TABLE OF USE REGULATIONS**

USE	ZONING DISTRICTS							
	R-A	R-B	R-C	A	B	IA	IB	MTMC
Section G. Accessory Uses								
Accessory Dwelling Unit	ZBA	ZBA	ZBA	ZBA	N	N	N	N

Vote required for passage: 2/3rds majority per M.G.L. c. 40A, § 5

FINANCE COMMITTEE RECOMMENDATION: Favorable Action 7-0-0

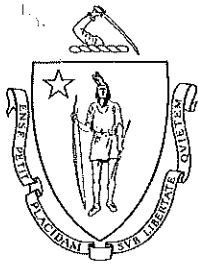
The Finance Committee feels this regulation provides needed alternative housing options for families and caregivers.

BOARD OF SELECTMEN RECOMMENDATION: Favorable Action 5-0-0

PLANNING BOARD RECOMMENDATION: Favorable Action 5-0-0

The motion was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-69, No-8



THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

December 5, 2022

Uxbridge Board of Selectmen
21 South Main Street
Uxbridge, MA 01569

**Re: Uxbridge Fall Annual Town Meeting of October 25, 2022 – Case # 10765
Warrant Articles # 14, 15, and 16 (Charter)**

Dear Board of Selectmen Members:

Articles 14, 15, and 16 - Pursuant to the provisions of G.L. c. 43B, § 10 we have reviewed the votes taken under Articles 14, 15, and 16 at the October 25, 2022 Uxbridge Fall Annual Town Meeting. General Laws Chapter 43B, Section 10 (c) requires the Attorney General to furnish “a written opinion setting forth any conflict between the proposed amendment and the constitution and laws of the commonwealth.” We do not find any conflict between the charter amendment votes adopted under Articles 14, 15, and 16 and the Constitution or laws of the Commonwealth (“state law”).

Our review is confined to the proposed charter amendments reflected in Articles 14, 15, and 16 and submitted to us for review and does not include a review of the existing text in the Town’s charter. However, we remind the Town to consult with Town Counsel to ensure compliance with the charter amendment procedures established under G.L. c. 43B, §§ 11 and 12, including the filing requirements for approved charter amendments in Section 12 which states in relevant part:

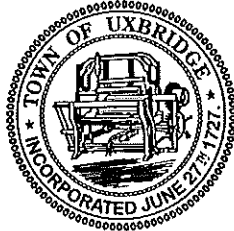
Section 12. Certificates in quadruplicate shall be prepared setting forth any charter that has been adopted or revised and any charter amendments approved and shall be signed by the city or town clerk. One such certificate shall be deposited in the office of the state secretary and shall be kept under the custody of the archivist of the commonwealth, one shall be deposited in the office of the director of housing and community development, one shall be deposited in the office of the attorney general and the other shall be recorded in the records of the city or town and deposited in its archives.

Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan, Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608C
508) 792-7600

cc: Town Counsel Jason R. Talerman
Town Clerk Kelly J. Cote



**FALL ANNUAL TOWN MEETING MINUTES
TUESDAY, OCTOBER 25, 2022 – 7:00 P.M.
VALLEY CHAPEL – 14 HUNTER ROAD
UXBRIDGE, MASSACHUSETTS**

ARTICLE 14: CITIZEN PETITION – AMEND THE HOME RULE CHARTER TO ALLOW PETITIONS FOR TOWN MEETING ARTICLES TO BE ACCEPTED DURING REGULARLY SCHEDULED OFFICE HOURS

To see if the Town will vote to amend the Uxbridge Town Charter Article 2, § 7(c), by clarifying the time period for submission of Town Meeting articles.

SPONSOR: Susan Franz, Citizens' Petitioners

COMMENTARY: This proposal allows articles for inclusion on the Town Meeting Warrant to be submitted up to sixty days prior to a Town Meeting, provided articles are submitted on a business day when town offices would normally be open.

MOTION: I move that the Town amend Article 2, § 7(c) of the Town's Home Rule Charter, as follows (~~struck-through~~ text to be removed and underlined text to be added), and further that non-substantive changes be permitted to comply with the numbering and format of the Charter:

Article 2, § 7(c) Inclusion on Warrant – The board of selectmen shall include on the warrant, for an annual town meeting, the subject matter of all petitions which have been received by it sixty or more days prior to the date fixed by by-law for town meeting to convene, except in emergencies. In instances in which town hall is closed on the sixtieth day preceding the annual town meeting, petitions must be submitted by the last business day during which town hall is open and which is at least sixty days preceding the annual town meeting. The board of selectmen shall not include in any such warrant the subject matter of any petition which has been received by it after said day nor shall any matter originating with the board be included after said date, unless the board, by a majority vote, determines the subject matter to be of an emergency nature. Whenever a special town meeting is to be called, the board of selectmen shall give notice by publication in a local newspaper and on the town website, or broadcast through media or medium that provides public notice throughout the town of such intention and shall notify all town agencies of its intention to do so. The board of selectmen shall include in the warrant, for such special town meeting, the subject matter of all petitions which are received at its office on or before the close of the fifth business day following such publication.

Vote required for passage: 2/3rds majority

FINANCE COMMITTEE RECOMMENDATION: Favorable Action 6-0-0

The committee finds this is an appropriate housekeeping update.

BOARD OF SELECTMEN RECOMMENDATION: Favorable Action 4-1-0 (Wise - No due to process)

The motion was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-66, No-13

ARTICLE 15: CITIZEN PETITION – AMEND THE HOME RULE CHARTER TO CLARIFY THE DEFINITION AND USAGE FOR NUMBER AND GENDER

To see if the Town will vote to amend the Uxbridge Town Charter Article 7 § 4, to clarify the definition and usage for number and gender.

SPONSOR: Susan Franz, Citizens' Petitioners

COMMENTARY: This proposal clarifies the wording for gender, as described in Article 7 § 4. The updated language is as follows:

MOTION: I move that the Town amend Article 7 § 4 of the Town's Home Rule Charter to clarify language for number, and gender, as follows (~~struck-through~~ text to be removed and underlined text to be added), and further that non-substantive changes be permitted to comply with the numbering and format of the Charter:

1. Amend Article 7, § 4 as follows:

Number and Gender – Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the ~~feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender; a specific gender shall include any gender.~~

Vote required for passage: 2/3rds majority

FINANCE COMMITTEE RECOMMENDATION: Favorable Action 6-0-0

The Committee finds this is an appropriate housekeeping update.

BOARD OF SELECTMEN RECOMMENDATION: Favorable Action 4-1-0 (Wise - No due to process)

The motion was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-63, No-17

ARTICLE 16: CITIZEN PETITION – AMEND THE HOME RULE CHARTER TO REQUIRE AT LEAST FIVE MEMBERS TO SERVE ON SPECIFIC MULTI-MEMBER BODIES HOLDING CERTAIN REGULATORY RESPONSIBILITIES

To see if the Town will vote to insert a definition for regulatory bodies in Article 1 § 5 and amend the Uxbridge Town Charter Article 3 § 8(a), and Article 7 § 8(b) in regard to membership on multi-member bodies with regulatory responsibilities.

SPONSOR: Susan Franz, Citizens' Petitioners

COMMENTARY: This proposed change to the Charter would require regulatory bodies with certain regulatory duties to consist of at least five members. It adjusts conflicting language so that as nearly an equal number of terms, as is possible, will expire each year. At the recommendation of our attorney, it adds language so that in the future multi-member bodies may be designated (or removed from designation) as regulatory bodies by a majority vote of Town Meeting.

MOTION: I move that the Town amend the Town's Home Rule Charter, as follows, and further that these changes be permitted to comply with the numbering and format of the Charter and the Uxbridge General Bylaws.

1. Insert the following definition in Article 1, § 5 of the Town's Home Rule Charter:

Regulatory Body – the words “regulatory body” shall mean certain multiple member bodies that have legal authority to promulgate rules and regulations, decide individual cases, or enact policy and includes the board of health, capital planning committee, conservation commission, historic district commission, planning board, stormwater committee, school committee, zoning board of appeals, and any other multimember bodies, if so designated as a regulatory body by a majority vote of the town meeting.

2. Amend Article 3, § 8(a) of the Town's Home Rule Charter, as follows (~~struck-through~~ text to be removed and underlined text to be added):

Composition, Term of Office – There shall be a board of health elected by the voters which shall consist of ~~three-five~~ (5) members serving for terms of ~~three~~ (3) years each so arranged that the term of office of as nearly an equal number of members as is possible ~~one member~~ shall expire each year.

3. Insert the following paragraph at the end of Article 7, §: 8

Unless a greater number is required by Massachusetts General Laws, any multiple member body functioning as a regulatory body shall contain a minimum of five (5) members.

Vote required for passage: 2/3rds majority

FINANCE COMMITTEE RECOMMENDATION: Favorable Action 6-0-0

The Committee believes that the additional members of regulatory boards is important. These boards will continue to function even if all seats are not filled as other boards do.

BOARD OF SELECTMEN RECOMMENDATION: Favorable Action 4-1-0

The motion was seconded

Moderator declares a 2/3rds majority vote, motion carries, Yes-61, No-19

