



Bulletin

August 26, 2019

RE: Annual Town Meeting of May 7, 2019,
Article 25 and 37

Approved by the Attorney General

From the Office of the Town Clerk

Kathleen M. Spofford

A True Copy. Attest
Kathleen M. Spofford
Town Clerk
Townsend, MA

TOWNSEND ANNUAL TOWN MEETING

MAY 7, 2019

(Final)

§ 145-5 Word usage and definitions.

In this Bylaw the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future.

ACCESSORY USE OR BUILDING

A use or building which is subordinate and customarily incidental to and located on the same lot with the principal use or building to which it is accessory.

A. ACCESSORY APARTMENT

A distinct portion of a single-family dwelling or a unit in an accessory structure on a single-family lot, having its own kitchen, sleeping, and bathroom facilities, and subordinate in size to the principal part of the dwelling or structure.

B. AFFORDABLE ACCESSORY APARTMENT

An Accessory Apartment that is affordable to low- and moderate-income households as defined by the Massachusetts Department of Housing and Community Development (DHCD) and that meets DHCD requirements for accessory apartments under the Local Initiative Program (LIP) and for inclusion in Townsend's Subsidized Housing Inventory (SHI).

C. FLOOR AREA

The sum of the finished area of above grade floors or portions of floors in a single family residence, excluding finished areas with ceiling heights less than seven (7) feet and unfinished areas of attached or detached garages with access (doors, driveways) for motor vehicles. As used in these bylaws, the term "finished area" shall mean the heated enclosed area within a single family residence that is suitable for year-round use, embodying walls, floors, and ceilings that are similar to the rest of the area within the single family residence.

D. PRE-EXISTING OUTBUILDING

A building detached from a single family residence, e.g. garage, barn, that has been in existence for at least ten years [at the time of permit application] as evidenced by a deed from the MA Registry of Deeds or a building permit issued by the Town of Townsend showing that the building was completed ten years prior.

APARTMENT

[Amended 3-16-1987 STM by Art. 2]

A. APARTMENT UNIT

A room or enclosed floor space within a dwelling or apartment/multifamily building used or intended for use by one family for living, sleeping, cooking and eating.

B. APARTMENT/MULTIFAMILY BUILDING

A building designed and constructed so as to contain three or more suites of one or more rooms, each suite provided with individual cooking and other facilities for independent housekeeping, used or intended to be used for the non-transient housing of three or more families.

BED AND BREAKFAST

A single-family home in which rooms, with or without meals, are available to guests for compensation. "Bed and breakfasts" shall:

[Amended 3-16-1987 STM by Art. 16; 4-27-1991 STM by Art. 1]

A. Require a special permit from the Board of Appeals;

B. Not contain more than four bedrooms for compensation excluding the rooms occupied by the owner of the premises.

BUILDING

A structure having a roof or cover and forming a shelter for persons, animals or property.

BUILDING HEIGHT

The vertical distance from the mean level of ground at the actual building line of the proposed building to the highest point of the roof or parapet for flat or shed roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Height limitations shall not apply to television antennas, chimneys, spires or extensions of the structure strictly ornamental in nature.

[Amended 3-16-1987 STM by Art. 4]

BUILDING LOT

A building lot is a lot (as defined in these Bylaws) on which a structure is already located or is to be constructed.

[Amended 3-17-1987 STM by Art. 45]

CAMPER-TRAILER or TRUCK MOUNTED CAMPER

Shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public roads and highways and duly licensed as such, and constructed in such a way as will permit temporary occupancy thereof as a sleeping place for one or more persons.

DUMP

Any accepted method of waste disposal as allowed by local, state and federal regulations.

[Amended 3-16-1987 STM by Art. 5]

DWELLING

A building or part thereof designed, erected and used for continuous and permanent habitation for one or more families or individuals.

DWELLING UNIT

One or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one or more persons living together as a single housekeeping unit, but not more than five persons unrelated by blood or marriage.

EXTERIOR LINE

The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

FAMILY

Any number of persons living together as a single economic unit and ordinarily using a single cooking facility.^[1]

GUEST HOUSE, PRIVATE

An accessory use on a lot which contains a dwelling. The guest house is to be occupied on a temporary basis only by nonpaying guests of the principal dwelling, and may contain sleeping and sanitary facilities, but may not contain cooking facilities.

HOME OCCUPATION

An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit requiring only customary home equipment. Home occupations do not include barber shops or beauty shop nor do they involve the sale of articles produced outside the dwelling unit nor any activity involving odor, vibration, smoke, dust, heat, or other objectionable effects.

HOTEL/MOTEL

A building or portion thereof, or a group of buildings on a single lot intended to be used for the temporary lodging of persons who are lodged, with or without meals, and in which major provisions for cooking may be made in a central kitchen but may not be in the individual rooms or suites.

[Amended 10-22-1985 STM by Art. 10; 11-29-2005 STM by Art. 29]

LOT

The term "lot" shall mean a single area of land, wholly in one ownership, defined by metes and bounds as set forth in or shown on a deed or plan recorded with the Middlesex South District Registry of Deeds or a deed or plan registered with the South Registry District of Middlesex County; or a metes and bounds description of the land area conforming to that contained in a recorded or registered deed, together with a copy of the deed; or a plan prepared by a registered land surveyor, conforming to generally accepted professional standards and defining the land area by metes and bounds; or both a deed and a plan, if both are available, which description and deed, or plan, or all, have been filed as a part of an application for a building permit, variance, site plan or subdivision approval, or special

permit; provided that the building permit, variance, site plan or subdivision approval, or special permit has been duly granted by the Town official or Board having jurisdiction to do so, and the building permit, variance, site plan or subdivision approval, or special permit is in effect in accordance with its original terms and with the requirements and limitations of applicable law. The term "corner lot" shall mean any lot abutting on two or more streets at their intersection.

[Amended 3-17-1987 STM by Art. 43]

LOT AREA

The horizontal area of a lot exclusive of any area in public or private way open to public use and any body of water.

LOT COVERAGE

The amount of area on a lot covered by the horizontal cross section of structures.

LOT FRONTAGE

The lot frontage shall be measured along a straight line connecting points of intersection of the side lot lines with the front lot line.

LOT LINE, FRONT

A line dividing a lot from a street right-of-way. On any lot bounded on more than one side by a street, the street boundary that is to be lot "front" shall be so designated in any application for a permit to build on such lot.

[Amended 3-16-1987 STM by Art. 10]

LOT LINE, REAR

Except for a triangular lot, the lot line opposite the "front" lot line.

LOT LINE, SIDE

Any lot line not a front or rear.

LOT WIDTH

The rectilinear dimension of a lot regardless of the orientation of such dimensional figure to street frontage. No part of the lot may be less wide than 35 feet in any dimension except at the corners, provided however, that the requirements of the **Land Space Requirements Table** are complied with.^[2]

[Amended 3-16-1987 STM by Art. 11]

MOBILE HOME

A structure designed as a dwelling unit containing sleeping accommodations, a toilet and kitchen facilities, with plumbing and electrical connection provided for attachment to outside systems, built on a chassis and designed to be transported after fabrication on its own wheels.^[3]

[Amended 3-16-1987 STM by Art. 12]

MOTOR VEHICLE SERVICE STATION

[Amended 5-18-1987 STM by Art. 12]

A. MOTOR VEHICLE SERVICE STATION

Premises devoted primarily to retail sales and on-premises dispensing of fuels, oils and lubricants, with any repair services, other sales, leasing and/or rentals, or services of secondary importance.

B. MOTOR VEHICLE SALES FACILITY

Premises devoted primarily to retail sales, leasing, and/or rental of new and/or used motor vehicles, with any repair services, other sales, or services, of secondary importance.

C. MOTOR VEHICLE REPAIR SHOP

Premises devoted primarily to motor vehicle repair services and/or body work, with any other sales or services of secondary importance.

D. SALES FACILITY FOR BOATS, CAMPER-TRAILERS, FARM EQUIPMENT, OR CONSTRUCTION EQUIPMENT

Premises devoted primarily to retail sales, leasing, and/or rental of new and/or used boats, camper-trailers, farm equipment, or construction equipment, with any repair services, other sales, or service, of secondary importance.

[Amended 5-7-2002 STM by Art. 18]

NONCONFORMING USE, BUILDING OR STRUCTURE

An existing use of land, or a building or structure or use thereof which does not conform to the regulations for the district in which it exists.

[Amended 3-16-1987 STM by Art. 14]

PARKING SPACE

An area containing not less than 200 square feet suitable for parking of one motor vehicle.

[Amended 3-16-1987 STM by Art. 15]

PREFAB HOME

Structure designed for over the road transportation to be permanently fixed to a proper foundation (as opposed to a mobile home).

RIGHT-OF-WAY

The side line of a street or way, as determined by deeds and plans recorded at the Registry of Deeds, or a building line laid out under MGL c. 82, § 37; where no line is thus legally established, then a line parallel with, and 20 feet distant from, the center line of a traveled way.

[Added 12-3-2014 STM by Art. 17]

SIGN

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

STONE WALLS

Includes assemblages of stone involving at least one cubic foot of wall material per linear foot totaling not less than 10 feet in length.

[Added 12-3-2014 STM by Art. 17]

STORY

The portion of a building between the upper surface of any floor and the upper surface of the floor next above, having more than 1/2 of its height above the average elevation of the finished grade adjoining the building. Any part of a building between the topmost floor and the roof shall be deemed a half-story.

STREET

An accepted Town way, a way established by or maintained under county, state or federal authority, a way established by a subdivision plan approved in accordance with the Subdivision Control Law, and, in addition, these ways must in the opinion of the Planning Board have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

[Amended 3-16-1987 STM by Art. 17]

STRUCTURE

Anything constructed or erected, the use of which requires fixed location on the ground or attachment to something located on the ground, including swimming pools if more than 23 inches deep or 250 square feet in area or gas or liquid storage tanks if principally above ground, but not including walls or fences.

[Amended 3-16-1987 STM by Art. 18]

TREES

Includes a living tree whose trunk has a diameter of four inches, measured 4 1/2 feet from the ground.

[Added 12-3-2014 STM by Art. 17]

TREES, CUTTING AND REMOVAL

The removal of one or more trees, trimming of major branches or cutting of roots sufficient, in the Tree Warden's written opinion, to cause eventual destruction of the tree.

[Added 12-3-2014 STM by Art. 17]

YARDS

A. FRONT

An open space extending the entire width of a lot from lot side line to lot side line between the front lot line or lines and the nearest point of a building or structure.
[Amended 5-1-2001 ATM by Art. 35]

B. REAR

An open space extending the entire width of a lot from side line to side line between the rear lot line or the corner of a triangular lot farthest from the front lot line and the nearest point of the building.

C. SIDE

An open space extending along a side line of a lot (between the front yard and the rear yard on such lot) and extending between the side line of such lot and the nearest point of the building or structure.
[Amended 5-1-2001 ATM by Art. 35]

[1]

Editor's Note: The definition of "garage, private," which immediately followed this definition, was deleted 3-16-1987 STM by Art. 7. The definition of "garage, public," was deleted 5-18-1987 STM by Art. 12.

[2]

*Editor's Note: The **Land Space Requirements Table** is included at the end of this chapter.*

[3]

Editor's Note: The definition of "mobile home parks," which immediately followed this definition, was deleted 3-16-1987 STM by Art. 13.

Privacy Policy Terms of Use

§ 145-36 Accessory apartments in residential district. [Added 1-17-1989 STM by Art. 38]

- A. Purpose. Recognizing the need to provide alternative affordable housing for family members and affordable housing for the town, the following regulations are established for accessory apartments in a residential district. It is expressly understood that this section does not provide for "two-family" or "duplex" type housing. **(Added 12- 4-1990 STM by Art. 9)**
- B. An owner or owners of a single-family dwelling or of a single-family dwelling with a pre-existing out-building on the same lot in an RA or RB District may apply to the Board of Appeals for a special permit for the construction and occupancy of an accessory dwelling unit, hereinafter "accessory apartment" in such single-family dwelling or pre-existing out building. In no case shall there be more than one accessory apartment established on a lot.

- C. In accordance with the provisions of Article XI of this bylaw, and after due consideration of the report and recommendation of the Board of Health (see Subsection D), the Board of Appeals may grant a special permit as follows: **[Amended 12-4-1990 STM by Arts. 10 and 11; 4-27-1991 STM by Art. 7]**

1. Procedures

(a) The applicant shall obtain and submit to the Board of Appeals a written report of the Board of Health, certifying that the conditions of 145-36.D have been met.

(b) The Board of Appeals shall hold a public hearing on the application, in accordance with the procedures specified in MGL Chapter 40A and 145-65.

(c) The Board of Appeals shall give due consideration to the mandatory referral report of the Planning Board and where its decision differs from the recommendation of the Planning Board, shall state the reasons therefor in writing.

2. Requirements for an Accessory Apartment

(a) i) The accessory apartment in a single-family dwelling is accessory to the principal residence. The floor area of the apartment shall be the lesser of: (1) 800 square feet or (2) 35% of the floor area of the principal residence and the apartment combined. The residence shall retain the appearance of a single-family structure. It shall be further required that the owner of the property shall occupy either the apartment or the principal residence as his/her primary residence, except for bona fide temporary absences.

ii) The accessory apartment in a pre-existing outbuilding shall not exceed 800 square feet, shall not cause the external appearance of the structure in which the accessory apartment is located to be significantly altered from the appearance of the existing structure and shall not increase the footprint of the structure in which the accessory apartment is located. It shall be further required that the owner of the property shall occupy either the apartment or the principal residence as his/her primary residence, except for bona fide temporary absences.

(b) Adequate provision has been made for the disposal of sewage, waste and drainage of such accessory apartment in accordance with the requirements of the Board of Health.

(c) Adequate provision has been made for ingress and egress to the outside from such accessory apartment.

(d) The construction and occupancy of the accessory apartment will not be detrimental to the neighborhood in which the lot is located.

(e) The lot on which the accessory apartment and principal residence are located contains at least three quarters of an acre.

(f) Adequate provisions have been made for off-street parking of motor vehicles in such a fashion as is consistent with the character of a single-family residence.

(g) There is no other apartment on the lot on which the accessory apartment is to be located.

(h) Any accessory apartment intended for occupancy by a person with a disability shall be subject to the provisions of MGL C. 40A. § 3.

D. In order to ensure compliance with Subsection C.1(a) above, the applicant shall obtain and submit to the Board of Appeals prior to the hearing a written report of the Board of Health certifying that the conditions of Subsection C.2(b) have been met.

E. Affordable Accessory Apartment Program

The intent of this section of the bylaw is to document the availability of low to moderately priced housing that qualifies for inclusion on the Town's Subsidized Housing Inventory, thus allowing for access to a variety of housing to meet the needs of low- and moderate-income families, town employees, the young and the elderly.

The Affordable Accessory Apartment Program is a public/private partnership to maintain local control over housing development and to increase the town's supply of low- and moderate-income housing.

The Board of Appeals may approve a Special Permit for an Affordable Accessory Apartment, according to the same procedures as in Subsection C(1), above. An Affordable Accessory Apartment shall meet the requirements set forth in Subsection C(2) above, with the following conditions:

(a) The Affordable Accessory Apartment shall be approved by the Local Initiative Program (LIP) and comply with LIP requirements, including but not limited to those contained within the Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory, in effect on the date of application for a Special Permit and as may be amended from time to time thereafter;

(b) Before the Affordable Accessory Apartment may be occupied, the owner(s) of

the property shall execute a Regulatory Agreement and Declaration of Restrictive Covenants for Affordable Accessory Apartment Rental (“Regulatory Agreement”), enforceable by DHCD and the Town, or other form of affordable housing restriction as may then be in effect under the Local Initiative Program. The Regulatory Agreement shall be recorded with the Middlesex South Registry of Deeds;

- (c) The Regulatory Agreement shall have a minimum term of 15 years;
 - (1) The Agreement shall terminate upon sale of the property, which, for purposes of this subsection, shall not include:
 - (i) A mortgage deed to secure repayment of a loan; or
 - (ii) An inter-spousal transfer for nominal consideration where the transferor retains at least a fifty-percent ownership interest in the property; or
 - (iii) A transfer to a trust for minimal consideration where the owner holds at least a fifty-percent beneficial interest in the property.
 - (2) An owner may voluntarily terminate the Regulatory Agreement prior to its expiration with 60 days’ notice, in accordance with the restrictions in such agreement. The owner shall notify the Town and DHCD and record a notice of cancellation of the Special Permit at the Registry of Deeds. The termination of the Regulatory Agreement shall not take effect until the expiration of the current lease between the owner and the tenant occupying the Affordable Accessory Apartment.
- (d) Upon termination of the Agreement, additional restrictions shall apply regarding repayment to the Town of any funds received from the Town pursuant to a grant or loan agreement.
- (e) An Affordable Accessory Apartment may not be rented to an owner’s family member (currently defined in DHCD regulations and guidelines as a parent, grandparent, son, daughter, uncle, aunt, niece, nephew, or sibling);
- (f) The Affordable Accessory Apartment shall be subject to DHCD regulatory requirements, including requirements relative to pricing, tenant income eligibility, affirmative fair housing marketing and tenant selection plan, and maintenance. In particular, the Affordable Accessory Apartment shall be rented to income-qualified tenants selected through an open process established in accordance with the affirmative fair housing marketing plan, and the monthly rent shall not exceed the maximum affordable rent for a household of the appropriate size, as prescribed in the LIP affordable accessory apartment program guidelines and other applicable state regulations and requirements.

- F. Any owner or owners of a single-family dwelling or a single-family dwelling with a pre-existing out-building in RA and RB Districts seeking a new or a renewal of an accessory apartment permit shall agree to abide by the terms of the Affordable Accessory Apartment Program defined in Subsection E above to ensure moderate income occupancy of the apartment thus created for a period of fifteen years. The local housing agency or partnership shall permit deferral of the program if the homeowner wishes to accommodate initially a family member or members. For the purpose of this section, family member shall be defined as one of the blood, step or adopted relatives of the homeowner or spouse as follows: mother, father, sister, brother, son, daughter, uncle, aunt, grandmother, grandfather and/or their spouses. Should the family member "vacate" the accessory apartment, the agreement with the local housing agency or partnership shall be voided, providing the accessory apartment is discontinued and the dwelling reverts back to compliance with § 145-26A(1). Otherwise, an application shall be made under the Affordable Accessory Apartment Program defined in Subsection E above. Any apartment proposed hereunder shall comply with all applicable provisions of this § 145-36. Fines may be imposed by the town for violation of this clause. **[Amended 12-4-1990 STM by Art. 12]**

TOWNSEND ANNUAL TOWN MEETING
MAY 7, 2019

ARTICLE 37

I move that the Town vote to amend the Town Bylaws by adding a Bylaw for the reduction of plastic bags as follows:

Section I. Purpose and Intent

The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to solid waste collection-and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture. The purpose of this bylaw is to eliminate the usage of thin-film single-use plastic bags by all retail and grocery stores in the Town of Townsend, by August 1, 2019.

Section 2. Definitions

2.1 *Checkout bag*: A carryout bag provided by a store to a consumer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

2.2 *Grocery Store*: A retail establishment where more than fifty percent (50%) of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers home care and personal care products.

2.3 *Retail Store*: An establishment that offers the sale and display of merchandise within a building.

2.1 *Reusable checkout bag*: A bag, with handles, that is specifically designed for multiple use and is made of thick plastic, cloth, fabric or other durable materials.

2.2 *Thin-film single-use plastic bags*: Typically with plastic handles, these are bags with a thickness of 2.5 mils or less and are intended for single-use transport of purchased products.

Section 3. Use Regulations

3.1 Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail or grocery store within the Town of Townsend.

3.2 Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail or grocery stores are strongly encouraged to make reusable checkout bags available for sale to customers at a reasonable price.

3.3 Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

Section 4. Enforcement Process

Enforcement of this bylaw shall be the responsibility of the Town Administrator or his/her designee. The Town Administrator shall determine the inspection process to be followed, incorporating the process into other town duties as appropriate. Any retail or grocery store distributing plastic grocery bags in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in Appendix A of the Regulations for Enforcement of Town Bylaws under M.G.L.

Chapter 40, 21D and the Bylaw for Non-Criminal Disposition of Violations. Any such fines shall be paid to the Town of Townsend.

And to amend Appendix A of the Non-Criminal Disposition Bylaw by adding the following:

Bylaw	Fine Schedule	Fine Allowed	Enforcement Agency
Plastic Bag Reduction Bylaw	1 st Offense	Warning	Town Administrator or Designee
	2 nd Offense	\$25.00	
	3 rd Offense	\$50.00	

READ BY: Andrew Shepherd

VOTED: Passed by Majority