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**MEMORANDUM**

To: William J. Nash, Jr., Chairman  
Planning Board Members

From: Ron Wolanski, Town Planner

Date: July 22, 2024

Re: Review and recommendation to the Town Council on a proposed amendment to Article 4, Section 400 of the Middletown Zoning Ordinance, Town Code Chapter 152, regarding definition for “accessory dwelling unit”, and amendments to Article 16 and Section 602 regarding regulation of accessory dwelling units to address recent state legislation.

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Due to the changes in state law adopted by the General Assembly during the 2024 session, the zoning ordinance must be amended to address the way it regulates accessory dwelling units (ADUs). The adopted legislation is one of several bills passed as part of the House Speaker’s continued efforts to address the affordable housing crisis in the state. The law now requires that ADUs be allowed by right in certain situations. The draft ordinance containing the proposed amendments is attached. In summary, proposed amendments to the zoning ordinance needed to bring it into conformance with state law include:

- Amend Section 400 to include the state definition for ADU.
- Amend Article 16 to allow one ADU per lot by right in residential districts in the following situations (By administrative issuance of a building permit. Planning Board or Zoning Board review cannot be required.):
  - (1) On an owner-occupied property as a reasonable accommodation for family members with disabilities; or
  - (2) On a lot with a total lot area of twenty thousand square feet (20,000 sq. ft.) or more for which the primary use is residential; or
  - (3) Where the proposed ADU is located within the existing footprint of the primary residential structure or existing accessory attached or detached structure and does not expand the footprint of the structure.
- The following limitations allowed or required by the state law are included in the draft ordinance for consideration:
  - No more than two bedrooms per ADU.
  - A studio or one bedroom ADU shall not be greater than nine hundred square feet (900 sq. ft) floor area, or sixty percent (60%) of the floor area of the resulting principal dwelling unit on the subject lot, whichever is less; and a two (2) bedroom ADU shall not be greater than twelve hundred square feet (1,200 sq. ft.) floor area, or sixty percent (60%) of the floor area of the resulting principal dwelling unit on the subject lot, whichever is less.

- The dimensional requirements for a standalone ADU shall be those applied to an accessory structure within the subject zoning district. (required)
- A standalone ADU contained within a newly constructed structure shall not be located in the front yard, which is the portion of the lot between the principal dwelling structure and a street.
- Zoning dimensional relief shall not be required for an ADU proposed within the existing footprint of the primary or accessory structure which is a legal nonconforming structure. (required)
- One off-street parking space shall be required for each ADU bedroom in addition to the number of spaces required by this chapter for the other uses on the lot.
- ADUs shall not count toward the density of a proposed development for purposes of limiting the number of dwelling units in the development. (required)
- ADUs shall not be offered or rented for short-term, tourist or transient use or through a hosting platform, as such terms are defined in § 42-63.1-2 RIGL. (required)

The attached draft amendments are provided for Planning Board review and consideration. They have also been provided to the Town Solicitor and Building/Zoning Official for comment. I will provide any comments as they become available.

Once the Board has considered and made any further revisions to the draft ordinance amendments, and is satisfied with the final draft, it should be forwarded to the Town Council for consideration. The Town Council will then hold the required public hearing and two readings before the amendments are finally adopted. In support of its recommendation to the Town Council on a zoning ordinance amendment the Planning Board must make the following findings in accordance with the requirements of Section 45-24-52 of the Rhode Island General Laws:

- (1) The proposed amendment is generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and
- (2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL (attached).

Please contact me with any questions.

cc. Town Solicitor  
Building/Zoning Official

**§ 45-24-30. General purposes of zoning ordinances.**

(a) Zoning regulations shall be developed and maintained in accordance with a comprehensive plan prepared, adopted, and as may be amended, in accordance with chapter 22.2 of this title and shall be designed to address the following purposes. The general assembly recognizes these purposes, each with equal priority and numbered for reference purposes only.

- (1) Promoting the public health, safety, and general welfare.
- (2) Providing for a range of uses and intensities of use appropriate to the character of the city or town and reflecting current and expected future needs.
- (3) Providing for orderly growth and development that recognizes:
  - (i) The goals and patterns of land use contained in the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title;
  - (ii) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
  - (iii) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;
  - (iv) The values of unique or valuable natural resources and features;
  - (v) The availability and capacity of existing and planned public and/or private services and facilities;
  - (vi) The need to shape and balance urban and rural development; and
  - (vii) The use of innovative development regulations and techniques.
- (4) Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
- (5) Providing for the protection of the natural, historic, cultural, and scenic character of the city or town or areas in the municipality.
- (6) Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources, and open space.

**(7)** Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.

**(8)** Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing.

**(9)** Providing opportunities for the establishment of low- and moderate-income housing.

**(10)** Promoting safety from fire, flood, and other natural or unnatural disasters.

**(11)** Promoting a high level of quality in design in the development of private and public facilities.

**(12)** Promoting implementation of the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title.

**(13)** Providing for coordination of land uses with contiguous municipalities, other municipalities, the state, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.

**(14)** Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.

**(15)** Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special-use permits, and, where adopted, procedures for modifications.

**(16)** Providing opportunities for reasonable accommodations in order to comply with the Rhode Island Fair Housing Practices Act, chapter 37 of title 34; the United States Fair Housing Amendments Act of 1988 (FHAA); the Rhode Island Civil Rights of Persons with Disabilities Act, chapter 87 of title 42; and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.

ORDINANCE OF THE  
TOWN OF MIDDLETOWN, RHODE ISLAND

AN ORDINANCE AMENDING THE TOWN CODE OF THE  
TOWN OF MIDDLETOWN

TITLE XV: LAND USAGE  
Chapter 152, Zoning Code

**NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:**

FIRST: That Town Code Title XV, Chapter 152, Entitled "Zoning Code" is amended as follows (language to be deleted is **struck** and within brackets; language to be added is **underlined**):

**§ 400 DEFINITIONS.**

~~[**ACCESSORY FAMILY DWELLING UNIT.** An accessory dwelling unit for the sole use of one or more members of the family of the occupant or occupants of the principal residence, but not needing to have a separate means of ingress and egress.]~~

**ACCESSORY DWELLING UNIT (ADU).** A residential living unit on the same lot where the principal use is a legally established single-family dwelling unit or multi-family dwelling unit. An ADU provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.

**ARTICLE 16 ACCESSORY [FAMILY] DWELLING UNIT**

**§ 1600 PURPOSE.**

The purpose of this subchapter is to allow **accessory dwelling units (ADU) as a permitted use throughout the town subject to the limitations specified in this article, and** ~~[parent(s), grandparent(s), children or grandchildren of owner-occupant of single-family dwellings to live in a separate dwelling unit within the principal dwelling,]~~ without converting ~~[the]~~ **a principal single-family** dwelling into a two-family dwelling.

**§ 1601 REQUIREMENTS.**

(A) ~~[ No part of any dwelling shall be used as an accessory family dwelling unit until the Zoning Board of Review has granted a special use permit under Article 9; all requirements of this subchapter are satisfied; and the Zoning Officer has issued a certificate of zoning compliance under § 311.]~~ **An ADU that meets the requirements of §§ 45-24-31 and 45-24-73(a) RIGL shall be a permitted use in all residential zoning districts subject to the limitations specified in this article. An ADU which meets the requirements of §§ 45-24-31 and 45-24-73(a) shall be permitted through an administrative building permit process only.**

(B) ~~[ The total floor space devoted to an accessory family dwelling unit shall not exceed 35% of the floor area of the entire dwelling exclusive of porches, decks or basements, and shall be a minimum of 400 square feet in gross floor area. Only one accessory family dwelling unit is permitted in a principal dwelling unit, and the accessory family dwelling unit shall have no more than one bedroom and shall not have a separate outside door on the front of the building. The~~

property containing an accessory family dwelling unit shall retain the appearance and character of a single family property.] **One ADU per lot in a residential zoning district shall be allowed by right under the following circumstances:**

**(1) On an owner-occupied property as a reasonable accommodation for family members with disabilities; or**

**(2) On a lot with a total lot area of twenty thousand square feet (20,000 sq. ft.) or more for which the primary use is residential; or**

**(3) Where the proposed ADU is located within the existing footprint of the primary residential structure or existing accessory attached or detached structure and does not expand the footprint of the structure.**

**(4) An ADU shall contain no more than two (2) bedrooms.**

(C) [ ~~The right to use part of a single family dwelling as an accessory family dwelling unit shall automatically be terminated when the accessory unit is no longer occupied by parent(s), grandparent(s) children or grandchildren of the primary dwelling occupant. ] **A studio or one bedroom ADU shall not be greater than nine hundred square feet (900 sq. ft) floor area, or sixty percent (60%) of the floor area of the resulting principal dwelling unit on the subject lot, whichever is less; and a two (2) bedroom ADU shall not be greater than twelve hundred square feet (1,200 sq. ft.) floor area, or sixty percent (60%) of the floor area of the resulting principal dwelling unit on the subject lot, whichever is less.**~~

**(D) The dimensional requirements for a standalone ADU shall be those applied to an accessory structure within the subject zoning district.**

**(E) A standalone ADU contained within a newly constructed structure shall not be located in the front yard, which is the portion of the lot between the principal dwelling structure and a street.**

**(F) Zoning dimensional relief shall not be required for an ADU proposed within the existing footprint of the primary or accessory structure which is a legal nonconforming structure.**

**(G) One off-street parking space shall be required for each ADU bedroom in addition to the number of spaces required by this chapter for the other uses on the lot.**

#### **§ 1602-[PROCEDURE.] OTHER PROVISIONS**

[ In addition to satisfying the requirements of § ~~305~~, a certificate of zoning compliance for an accessory family dwelling unit shall not be issued until the following requirements are satisfied.

~~—(A) The owner occupant shall sign an affidavit stating that the accessory unit will be occupied only by one or both parent(s), grandparent(s), children or grandchildren of an occupant of the principal dwelling unit. The affidavit shall also identify such parent(s), grandparent(s), children or grandchildren by name and identify the principal occupant whose parent(s), grandparent(s), children or grandchildren will occupy the accessory unit. Such affidavits shall be filed in the Town Clerk's records and shall be available for public inspection; and~~

~~—(B) The foregoing affidavit shall be accompanied by a surety deposit of \$100 which shall be refunded if and when the owner occupant gives proper notice to the town pursuant to § ~~1603~~ that the use of part of the principal dwelling for an accessory family dwelling unit has~~

been abandoned. Such security deposit shall be forfeited if the owner-occupant fails to give proper notice to the town pursuant to § 1603 that no parent(s), grandparent(s), children or grandchildren identified in the affidavit continues to occupy the accessory unit. If such notice is not given and the accessory family dwelling unit is occupied by one or more persons who are not parent(s), grandparent(s), children or grandchildren, the owner-occupant, in addition to forfeiting the surety deposit, shall be subject to the enforcement provisions of § 316.]

**(A) An application for an ADU which is not allowed by right under this section, shall not, by itself, be reviewed as a minor land development or major land development project.**

**(B) ADUs are allowed as part of applications for new primary dwelling units or subdivisions. For proposed ADUs that are part of a larger development proposal, the ADU shall not count toward the density of the proposal for purposes of limiting the number of dwelling units allowed in such development proposal.**

**(C) ADUs shall not be offered or rented for short-term, tourist or transient use or through a hosting platform, as such terms are defined in § 42-63.1-2 RIGL.**

**[ § 1603 CHANGE OF OCCUPANCY. ]**

[ If an accessory family dwelling unit is no longer occupied by parent(s), grandparent(s) children or grandchildren of an adult occupant of the principal dwelling unit, an adult owner-occupant of the principal dwelling unit shall within 30 days sign an amended affidavit. The amended affidavit shall either identify the current occupants of the accessory unit, in accordance with § 1602, or state that the use of part of the principal dwelling for an accessory family dwelling unit has been abandoned. This division shall not prohibit a transfer of ownership and/or occupancy of the primary dwelling provided that at approximately the same time the accessory unit is occupied by one or both parent(s), grandparent(s), children or grandchildren of the new owner-occupants of the primary unit. ]

SECOND: The use table in §602 - is amended to make the changes identified in the attached document.

THIRD: This ordinance shall take effect upon adoption and its provisions shall supersede any inconsistent or contrary provision in any other ordinance.

Language to be deleted is ~~struck~~; language to be added is underlined

**Zoning Ordinance § 602 SCHEDULE OF DISTRICT REGULATIONS - USES AND DISTRICTS.**

(A) The following uses are permitted only in the zoning district marked with a "Y". Uses permitted in the zoning district as a special use under the provisions of uses requiring a variance or special use permit or Article 9 are marked with an "S". Where the letter "N" appears, the use is prohibited.

(B) Any use which is not specifically included in the use provisions herein is prohibited everywhere in the Town of Middletown, unless the Zoning Officer makes an interpretation that such use is included in any of the sub-classifications set forth herein. Uses not specified in this chapter may be permitted only if the Zoning Officer makes an interpretation that they are included in a use sub-classification permitted in the zoning district and if such use would be consistent with the purposes and intent of this chapter.

<b>ZONING DISTRICT PERMITTED USES</b>																
	<b>Y = Permitted S = Special Use N = Not Permitted</b>															
<b>PRINCIPAL USE</b>	<b>ZONING DISTRICT</b>															
	<b>R60</b>	<b>R40</b>	<b>R30</b>	<b>R20</b>	<b>R10</b>	<b>RM</b>	<b>GB</b>	<b>LB</b>	<b>OB</b>	<b>LI<sup>1</sup></b>	<b>LI<sup>2</sup></b>	<b>OP</b>	<b>OS</b>	<b>P</b>	<b>MT</b>	<b>ABD</b>
<b>NOTES:</b>																
<b>RESIDENTIAL - Conventional Development</b>																
Single-family dwellings	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	Y	Y
Two-family dwellings	N	N	N	S	S	Y	N	N	N	N	N	N	N	N	N	N
Multifamily dwelling structure (3 - 6 dwelling units per lot) See §§ <a href="#">1500</a> - <a href="#">1508</a>	N	N	N	N	N	S	N	S	N	N	N	N	N	N	N	N

	R60	R40	R30	R20	R10	RM	GB	LB	OB	LI 1	LI 2	OP	OS	P	MT	ABD
Multifamily dwelling project, including condominiums See §§ <a href="#">1500</a> - <a href="#">1508</a>	N	N	N	N	N	S	N	N	N	N	N	N	N	N	N	N
Mobile home parks See §§ <a href="#">2300</a> - <a href="#">2314</a>	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
Transient trailer parks	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
Motel or hotel	N	N	N	N	N	N	S	S	S	N	N	S	N	N	N	S
Rooming houses	Y	Y	Y	Y	Y	N	N	Y	N	N	N	N	N	N	N	N
Single mobile home or transient trailer on a lot	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
Institutional dormitory as a principal or accessory use	N	N	N	N	N	S	S	S	S	N	N	N	N	N	N	N
Cluster development	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N
Family day care home	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Community residence	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N	Y	Y	Y
Senior independent living facilities	S	S	S	S	S	N	N	N	N	N	N	N	N	N	N	N
Time share unit within a multifamily dwelling structure or project, except with a cluster development	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Time share unit within a motel or hotel	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	N	N	N
Mixed residential and commercial uses in a single building See § <a href="#">719</a>	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	N	N	Y

	R60	R40	R30	R20	R10	RM	GB	LB	OB	LI <u>1</u>	LI <u>2</u>	OP	OS	P	MT	ABD
Mixed Use Development Projects See §§ <a href="#">27A00</a> - <a href="#">27A07</a>	N	N	N	N	N	N	Y	Y	N	N	N	N	N	N	N	Y
Adaptive reuse See § 728	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Congregate housing	S	S	S	S	S	N	N	N	N	N	N	N	N	N	N	N
<b><u>Accessory Dwelling Unit (ADU)</u></b> <b><u>See Article 16</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>
<b>RESIDENTIAL - Conservation Development</b>																
Single-family	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N
Two-family	Y	Y	Y	Y	Y	Y	N	S	S	N	N	N	N	N	N	N
Multifamily project, including only townhouse style condominiums	N	N	Y	Y	Y	Y	N	S	S	N	N	N	N	N	N	N
<b><u>Accessory Dwelling Unit (ADU)</u></b> <b><u>See Article 16</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>Y</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>	<b><u>N</u></b>