



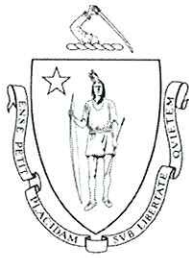
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TOWN OF WESTMINSTER

# ***Town of Westminster***

## **GENERAL AND ZONING BYLAWS APPROVED AT ANNUAL TOWN MEETING MAY 6, 2017**

**Changes approved by Attorney General on August 28, 2017**

**Ellen M. Sheehan  
Westminster Town Clerk**



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

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

MAURA HEALEY  
ATTORNEY GENERAL

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[www.mass.gov/ago](http://www.mass.gov/ago)

August 28, 2017

Ellen M. Sheehan, Town Clerk  
Town of Westminster  
11 South Street  
Westminster, MA 01473

**RE: Westminster Annual Town Meeting of May 6, 2017 - Case # 8457**  
**Warrant Articles # 31, 32, 33, 34, 35, 36, 38 and 39 (Zoning)**  
**Warrant Articles # 4, 27, 28 and 29 (General)**

Dear Ms. Sheehan:

Articles 4, 28, 31, 32, 33, 34, 35, 36, 38 and 39 - We approve Articles 4, 28, 31, 32, 33, 34, 35, 36, 38 and 39 from the May 6, 2017 Westminster Annual Town Meeting. Our comments regarding Articles 4, 31 and 32 are provided below.

Articles 27 and 29 - We take no action on Articles 27 and 29 because votes to accept statutes are not by-law amendments and are not subject to review and approval of this Office. *See* G.L. c. 40, § 32. However, votes to accept statutes must be filed with the Secretary of State pursuant to G.L. c. 4, § 5. We suggest that the Town discuss with Town Counsel the filing of Articles 27 and 29 with the Secretary of State.

Article 4 - Article 4 amends the Town's general by-laws by adding a new Section 28-9, "Revolving Funds." General Laws Chapter 44, Section 53E ½, requires revolving funds to be established by by-law. Section 53E ½ authorizes municipalities to establish revolving funds for "any fees, charges or other receipts from the departmental programs or activities supported by the revolving fund," to be accounted for separately from other monies in the town, and authorizes expenditures from such fund without further appropriation, subject to the provisions of Section 53E ½. According to the Department of Revenue/Division of Local Services (DOR/DLS), the purpose of a departmental revolving fund is to enable the department to separately account for money received from a specific program or activity and to make expenditures from that separate account for that specific program or activity.

However, according to DOR/DLS, not all receipts may lawfully be deposited in a revolving fund. For example, property taxes, motor vehicle taxes, or revenues from general municipal activities, rather than those of a particular department, are not properly categorized as "fees, charges or other receipts from the departmental programs or activities supported by the

revolving fund.” See G.L. c 44, §§ 53 and 53E ½. In addition, receipts reserved by law (for example, betterment payments under G.L. c. 44, § 53J), or receipts authorized by law for expenditure for a particular purpose (for example, local acceptance of G.L. c. 44B, Community Preservation Act), are expressly prohibited from being included in a revolving fund under the statute.

The DOR/DLS has published several informational guidelines to provide information regarding municipal revenues and special funds. In particular, DOR/DLS has published Bulletin 2017-01B, “Authorization of Departmental Revolving Funds and Model By-law/Ordinance:”

<http://www.mass.gov/dor/docs/dls/publ/bull/2017/2017-01b.pdf>

and an “Overview of Statutory Treatment of Municipal Revenues:”

<http://www.mass.gov/dor/docs/dls/training/overview.pdf>

We approve the by-law adopted under Article 4. However, the Town should consult closely with Town Counsel to ensure that receipts designated for each revolving fund are not already reserved under other funds or statutes, and are properly included in the designated revolving fund. In addition, the Town should consult closely with Town Counsel to ensure that any deposits into a revolving fund are properly from “fees, charges or other receipts” associated with a specific departmental program or activity and that the funds are expended in connection with that specific program or activity, not for the general use of the department.

Further, G.L. c. 44, § 53E ½, requires the establishment of any revolving fund to be “made not later than the beginning of the fiscal year in which the fund shall begin.” The Town established these revolving funds by by-law at a vote of Town Meeting on May 6, 2017, apparently with the intention that these funds be used during Fiscal Year 2018 (beginning July 1, 2017). According to DOR/DLS, all receipts collected during Fiscal Year 2018 can be credited to the revolving funds created under Article 4. The Town should consult with Town Counsel and/or DOR/DLS with any questions on this issue.

**Article 31** - Article 31 amends the Town’s zoning by-laws, Section 205.4, “Terms Defined,” to add a new definition for “townhouse apartment” as follows:

Townhouse Apartment - An attached dwelling occupied by not more than one family in each unit between sidewalls, provided that no row of such units shall consist of less than three (3) and no more than eight (8) such units. Townhouse apartments are subject to the dimensional requirements set forth in Section 205-37 (Apartments and Attached Dwellings) (emphasis added).

The Town’s existing zoning by-law, Section 205.4 defines “family” as follows:

Any number of individuals, including domestic employees, living together in a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of five or more persons who are not within the second degree of kinship to each



other, as defined by civil law, shall not be deemed to constitute a "family." (emphasis added)

Under these definitions, five or more people not in the second degree of kinship would be prohibited from occupying a townhouse apartment. As explained below, the Town must ensure that the definition of "second degree of kinship" is applied such that it does not prohibit extended family members from residing together. Such a prohibition would infringe upon rights regarding family relations guaranteed under both the United States and Massachusetts Constitutions.

The Supreme Court "has long recognized that freedom of personal choice in matters of marriage and family life is one of the liberties protected by the Due Process Clause of the Fourteenth Amendment." *Moore v. City of East Cleveland*, 431 U.S. 494, 499 (1977), *quoting Cleveland Board of Education v. LaFleur*, 414 U.S. 632, 639-640 (1974). *See also A.Z. v. B.Z.*, 431 Mass. 150, 162 (2000) (acknowledging that the constitution protects freedom of choice in matters of "family life"). In *Moore*, the Court held that the housing code of the City of East Cleveland impermissibly infringed this liberty interest because the East Cleveland code limited occupancy of a dwelling unit to a single family and defined "family" to include "only a few categories of related individuals." *Moore*, 431 U.S. at 496. In particular, the code prohibited a grandmother from living with her son and two grandsons who were cousins, but not brothers. *Moore*, 431 U.S. at 496-497. The Court noted the potentially harsh consequences of this approach:

East Cleveland . . . has chosen to regulate the occupancy of its housing by slicing deeply into the family itself. This is no mere incidental result of the ordinance. On its face it selects certain categories of relatives who may live together and declares that others may not. In particular, it makes a crime of a grandmother's choice to live with her grandson in circumstances like those presented here. *Id.* at 499.

The Town should consult with Town Counsel to ensure that these definitions are not applied in a restrictive or narrow manner so as to intrude on one's "choices concerning family living arrangements." *Id.* In addition, regarding a group of unrelated individuals, the Town must ensure that these definitions are applied consistent with the Fair Housing Act, the Americans with Disabilities Act, the Rehabilitation Act, and the Massachusetts Zoning Act, G.L. c. 40A, § 3. The Town should consult closely with Town Counsel when applying these definitions.

**Article 32** - Article 32 adds to the zoning by-laws a new Section 205-37.4, "Conversion of Single Family Structures to Multi-Family Structures." The new Section 205-37.4 establishes certain allowances based on existing dwellings, and provides in relevant part: "[c]onversion of a dwelling existing at the time of adoption of this chapter..." (emphasis added). However, G.L. c. 40A, § 6, the State's Zoning Act, addresses protections of existing uses and structures, that were lawfully in existence prior to the first publication of notice of the public hearing for zoning by-law changes, and provides in pertinent part as follows:

Except as hereinafter provided, a zoning . . . by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such...by-law required

by section five, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure. (emphasis added)

General Laws Chapter 40A, Section 6, provides that a zoning by-law “shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing” for the by-law change. In the information provided to us by the Town, it appears that the Town’s first publication of notice of the public hearing on this by-law amendment was March 13, 2017. In light of the protections in Section 6 for existing uses and structures, the Town should consult closely with Town Counsel regarding the application of Section 205-37.4 to an existing (or lawfully begun) conversion of a single family structure to a multi-family structure that received a building permit or special permit prior to March 13, 2017.

**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,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
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cc: Town Counsel Brian W. Riley





**TOWN OF WESTMINSTER  
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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 4. Voted to 1) establish Revolving Funds and amend the Code of the Town of Westminster by inserting a new Section 28-9 entitled "Revolving Funds".

**§28-9. Revolving Funds.**

- A. Pursuant to G.L. c. 44, §53E ½, as amended, there are hereby established the following Revolving Funds for the departments listed below which shall be credited with the receipts collected in connection with the stated programs and activities and which shall be expended by the authorized Town board, department or officer for the purposes of such programs and activities listed below:

	Revolving Fund	Authority to Spend	Revenue Source	Use of Fund
1	Hazardous Materials Recovery	Fire Chief	Charges paid by responsible parties for disposal of hazardous materials	Pay expenses incurred for recovery and disposal of hazardous materials
2	Agricultural Commission Programs	Agricultural Commission	Receipts received as payment for participation in programs and activities	Pay expenses reasonably related to programs and activities
3	Public Health Clinic and Emergency Response	Board of Health	Payments received for the purchase and administering of flu and other vaccines and medications	Pay expenses reasonably related to the administering of such programs

- B. Expenditures from each revolving fund set forth herein shall be subject to the limitation established annually by Town Meeting or any increase therein as may be authorized in accordance with G.L. c.44, §53E½.
-



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2). And further, voted to set the following spending limits for each authorized Revolving Fund for FY2018:

- A. Hazardous Materials Recovery - \$12,000
- B. Agricultural Commission Programs - \$10,000
- C. Public Health Clinic and Emergency Response - \$25,000

A True Copy, Attest:

Ellen M. Sheehan  
Westminister Town Clerk



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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

**ARTICLE 27.**

Voted to accept the provisions of MGL Chapter 40, §13E, to authorize the Ashburnham-Westminster Regional School District to establish a reserve fund for unanticipated or unbudgeted costs of special education, out-of-district tuition or transportation.

A True Copy, Attest:

Ellen M. Sheehan  
Westminster Town Clerk





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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

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ARTICLE 28. Voted to amend the Westminister General Bylaws at Chapter 131, "Licenses and Permits," by amending Article I, "Delinquent Taxpayers," Section 131-2, "List of delinquent taxpayers," as follows. (Newly proposed language signified in *italics and underlined*; text to be deleted signified by ~~strikethrough~~.)

§131-2. List of delinquent taxpayers.

The Town Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as "the Town Collector," shall annually, *and may periodically*, furnish to each department, board, commission or division, hereinafter referred to as "the licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as "the party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges ~~for not less than a twelve-month period~~ and that such party has not filed, in good faith, a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

A True Copy, Attest:

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ARTICLE 29. Voted to accept MGL Chapter 200A, §9A, "Disposition of unclaimed property," §9A, "Disposition of abandoned funds by city or town; notice of period during which funds may be claimed; city treasurer authorized to hear claims; appeal; disbursement."

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ARTICLE 31. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts) by amending Article II (Definitions) Section 205.4 – Terms Defined, as follows. (New language appears in *italics* and deleted language appears as ~~strikethrough~~.)

**ACCESSORY**

- A. *ACCESSORY DWELLING UNIT - An accessory dwelling unit shall mean a self-contained, separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities and a separate means of egress that is substantially contained within a single-family structure and is clearly subordinate to the primary single-family dwelling unit.*

**APARTMENT**

- A. UNIT – Any room or suite of rooms forming a habitable unit for one family with its own cooking and food storage equipment and its own bathing and toilet facilities and its own living, sleeping and eating areas wholly within such room or suite of rooms.
- B. APARTMENT BUILDING – A building containing four or more apartment units, with no portion of the building below the first story or above the second story used for dwelling purposes.
- C. TOWNHOUSE APARTMENT - *An attached dwelling occupied by not more than one family in each unit between sidewalls, provided that no row of such units shall consist of less than three (3) and no more than eight (8) such units. Townhouse apartments are subject to the dimensional requirements set forth in Section 205-37 (Apartments and Attached Dwellings).*

**(2/3 vote required)  
UNANIMOUS**

A True Copy, Attest:

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*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 32. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts), to amend Article IX (Special Provisions), to add a new section governing the conversion of single family structures to multi-family structures:

***§ 205-37.4 Conversion of Single Family Structures to Multi-Family Structures***

*Conversion of a dwelling existing at the time of adoption of this chapter to accommodate not more than 2 families is allowed by right in all zoning districts provided that there is no external structural evidence of occupancy by more than 1 family other than a second exit for fire purposes for each unit, and further provided that each dwelling unit resulting from such conversion shall have not less than 450 square feet of habitable floor space.*

*Conversion of a dwelling existing at the time of adoption of this chapter to accommodate more than 2 families is allowed by Special Permit from the Zoning Board.*

**(2/3 vote required)  
UNANIMOUS**

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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 33. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts), to amend Article IX (Special Provisions), to add a new section governing temporary residential structures:

**§ 205-37.5 Temporary Residential Structures**

*Residential use of a camper or trailer properly connected to an approved on-site water and sewerage system for a period of not more than 24 months is allowed by right in all zoning districts if the user is in the continuing process of building a home after the issuance of a temporary Building Permit from the Building Inspector. Nothing in this subsection shall be interpreted to allow the residential use of a lot where forbidden by other sections of this bylaw.*

*Mobile homes, camping trailers, utility trailers, horse trailers, trailers, boats or pickup campers not connected to permanent sewage and water installation may be occupied for occasional short-term use not to exceed 28 days in a calendar year, excluding designated camping grounds.*

**(2/3 vote required)  
UNANIMOUS**

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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 34. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts), to amend Article VII (Land Space Requirements), Section 205.25 – Distance Between Buildings, to add a new section governing dimensional standards for accessory structures:

***§ 205-25.1 Accessory Structures - Dimensional Requirements for Residential Lots***

*Small accessory structures (120 square feet in size or less) can be located no closer than five (5) feet from a side or rear lot line in all zoning districts that allow residential development. Accessory structures that are larger than 120 square feet but smaller than the principal structure (building used as a dwelling or domicile) can be located no closer than fifteen (15) feet from a side or rear lot line in all zoning districts that allow residential development.*

*In no cases shall an accessory structure of any size be located within the minimum required front yard setback.*

*Accessory structures that are used to house livestock shall not be located closer than 50 feet from any lot line.*

**(2/3 vote required)  
UNANIMOUS**

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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 35. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts) by amending Article IV (Application of Regulations, Modifications and Exceptions), Section 205.13 – Minimum building requirements; subdivision, as follows. (New language appears in *italics* and deleted language appears as ~~strikethrough~~.)

**§ 205-13. Minimum Building Requirements; ~~Subdivision.~~**

- A. No building shall be erected, except on a lot fronting on a street, and there shall be not more than one principal building on any lot, except as allowed under this chapter. [Amended ATM 5-3-2005 by Art. 40]
- B. *Flag Lots:* In addition, any parcel larger than five acres may be further divided without process through the Subdivision Control Law, provided that each created lot either conforms with the appropriate land space requirements for that zoning district or the following:
  - (1) Each parcel shall have a minimum of 54 feet of frontage for an access to a Town road, this width to be maintained to the circumference of the radius described in Subsection B(4) *C-1* below;
  - (2) Each parcel shall contain a minimum of two and one-half (2 1/2) times the land area it would normally require in each zoning district; *and*
  - (3) There shall be no more than two such accesses adjacent to each other.
- C. *Design Standards for Newly Created Lots: Whether created through the subdivision process or Approval Not Required (ANR) process, all lots created after March 13, 2017 shall be designed as follows:*
  - (1) There shall be a point on each lot from which a circle having a radius of ~~400~~ 50 feet can be drawn without touching any of the opposing lot lines.



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- (2) *At no point shall the width of a lot from side lot line to side lot line be less than fifty four (54) feet.*

**(2/3 vote required)  
UNANIMOUS**

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Westminster Town Clerk

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NOTES:

<sup>1</sup> ~~Not less than the lot frontage requirements shall be maintained throughout the front yard depth.~~ *Lots that are zoned for industry shall maintain a twenty-foot non-disturbed vegetated buffer along any lot line that abuts a property used for residential purposes.*

**(2/3 vote required)  
UNANIMOUS**

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Westminister Town Clerk



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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 38. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts), to amend Article IX (Special Provisions), to add a new section governing home occupations.

***§ 205-39.5 Home Occupations***

*A. Purpose and Intent:*

*Conducting limited business activity from home has become more feasible and more widespread with modern technology and telecommunications. Residents of Westminister should have the ability to conduct reasonable business activities from home that are ancillary to the residential use and that will not be visible to the neighborhood or result in a negative impact.*

*The purpose of this bylaw is to set forth reasonable performance standards for home occupations that will ensure that such uses are compatible with surrounding permitted uses, do not adversely affect property values, and do not create any significant adverse impact on the quiet enjoyment of a residential neighborhood by others residing in the vicinity.*

*B. Home Occupations - Types:*

*(1) Contractors - Home-Based: The use of a portion of a dwelling or accessory building thereto by a resident builder, carpenter, painter, plumber, mason, electrician or other artisan or by a resident tree surgeon or landscape gardener for incidental work and storage in connection with their off-premises occupation, provided that there is no external change which alters the residential appearance of the buildings, and further provided there is no exterior storage of goods or materials.*

*(2) Home Office: The use of a portion of a dwelling or accessory building as an office for a resident physician, dentist, attorney-at-law, architect, engineer or member of other recognized profession similar to the aforementioned, provided that there is no external change which alters the residential appearance of the buildings, and further provided there is no exterior storage.*



## TOWN OF WESTMINSTER OFFICE OF THE TOWN CLERK

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(3) *Home Sales: The use of a portion of a dwelling or accessory building thereto by the residents of the dwelling for an office or for the sale of antiques or like merchandise, provided that there is no exterior storage, that all work or sale of goods is carried on inside a building and further provided there is no external change which alters the residential appearance of the buildings.*

(4) *Home Personal Services: The use of a portion of a dwelling or accessory building thereto by a resident service provider for personal services such as barbershops, beauty shops and like services provided there are no external changes which alter the residential appearance of the buildings.*

### C. Performance Standards:

*All home occupations must register with the Building Commissioner who will verify that the occupation is in compliance with the following performance standards:*

(1) *The home occupation shall be conducted within a detached single-family dwelling or in an accessory building on the same property. If within the single-family dwelling, the total area devoted to the home occupation shall not exceed one third (33%) of the dwelling's gross floor areas.*

(2) *The home occupation must be operated by the resident occupant of the dwelling and may not employ more than three (3) full-time equivalent persons on site who are not residents therein.*

(3) *There shall be no evidence of the occupation through persistent or excessive sound, or through vibration, smell, or sight discernable at the boundaries of the premises.*

(4) *Not more than one (1) commercial vehicle shall be regularly parked outdoors on the premises. Such vehicles shall not weigh more than 15,000 pounds or have more than two (2) axles.*

(5) *Traffic and parking generated by the home occupation shall not be more disruptive to the neighborhood than traffic normally resulting from residential development considering volume, type, hours and other traffic characteristics.*





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OFFICE OF THE TOWN CLERK**

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(6) *The portion of any structure utilized for the home occupation shall conform to all applicable fire, building, electrical, plumbing and health codes.*

**(2/3 vote required)  
UNANIMOUS**

A True Copy, Attest:

Ellen M. Sheehan  
Westminster Town Clerk



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**VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 6, 2017**

*An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.*

ARTICLE 39. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts), to amend Article IX (Special Provisions), to revise Section 205.37.1 – Accessory dwelling unit, as follows. (New language appears in *italics* and deleted language appears as ~~strikethrough~~.)

**§ 205-37.1. Accessory Dwelling Unit.**

Accessory dwelling units *are allowed by right* ~~in the Residential III Zoning District may be allowed by special permit~~ in accordance with this section.

- A. Purpose: The purposes of the accessory dwelling unit section are to:
- (1) Provide an opportunity for older homeowners who can no longer physically or financially maintain their single-family home to remain in the homes they might otherwise be forced to leave;
  - (2) Make housing units available to moderate income households who might otherwise have difficulty finding homes within the Town;
  - (3) Provide a variety of types of housing to meet the needs of its residents; and
  - (4) Protect stability, property values, and the single-family character of a neighborhood.
- B. *Performance Standards: The Building Commissioner shall issue a Building Permit and Certificate of Occupancy for an accessory dwelling unit upon verification* ~~Special permit procedures and conditions. The Zoning Board of Appeals shall be the special permit granting authority for the issuance of accessory dwelling unit permits. The Zoning Board of Appeals may authorize an accessory dwelling unit by special permit in any residential district, provided that the following standards and criteria are met:~~
- (1) The accessory dwelling unit will be a complete, separate housekeeping unit that functions as a separate unit from the principal single-family unit.
  - (2) *The owners of the principal structure shall occupy, as their primary residence, either the principal dwelling unit or the accessory dwelling unit.*





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- (3) Only one accessory dwelling unit shall be created within a single-family structure.
- (4) The lot in which the single-family unit is created must have a determination from the Board of Health that there is adequate septic capacity or that the system may be expanded to provide adequate capacity. *No such verification is required if the lot is served by municipal sewer.*
- (5) The accessory dwelling unit shall be designed so that the appearance of the building remains that of a one-family residence as much as feasibly possible. ~~In general, any new entrances should be located on the side or rear of the building.~~
- (6) The accessory dwelling unit shall be clearly a subordinate part of the single-family dwelling. It shall be no greater than 700 square feet nor have more than two bedrooms.
- (7) At least three off-street parking spaces are *must be* available for use by the owner occupants and tenants.
- (8) The construction of the accessory dwelling unit shall be in conformity with the State Building Code.

### ~~C. Application Procedures~~

- ~~(1) An application for an accessory dwelling unit special permit shall be filed with the Zoning Board of Appeals accompanied by three copies of the plan accompanied by a notarized letter from the owner(s) stating that he/they will occupy one of the dwelling units on the premises.~~
- ~~(2) Upon receiving a special permit, the owner must file a declaration of covenants on the subject property at the Worcester County Registry of Deeds. The declaration shall state that the right to rent a temporary accessory dwelling unit ceases upon transfer of title. A time-stamped copy of the recorded declaration shall be provided to the Zoning Board of Appeals and the Inspector of Buildings.~~

### ~~D. Transfer of ownership of a dwelling with an accessory dwelling unit.~~

- ~~(1) The special permit for an accessory dwelling unit in a single-family dwelling shall terminate upon the sale or transfer of title of the dwelling.~~
- ~~(2) The new owner must apply for reapproval of a special permit for an accessory dwelling unit and shall submit a written request to the Zoning Board of Appeals, stating that conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing by the Zoning Board of Appeals. The Zoning Board of Appeals, in its sole discretion, at the reapplication of the new~~





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- ~~owner, may require compliance with all the procedures set forth herein.~~
- (3) ~~Upon receiving a special permit, the new owner must file a declaration of covenants on the subject property at the Worcester County Registry of Deeds. The declaration shall state that the right to rent a temporary accessory dwelling unit ceases upon transfer of title. A time stamped copy of the recorded declaration shall be provided to the Zoning Board of Appeals and the Inspector of Buildings.~~
- (4) ~~A filing fee as determined by the most recent Zoning Board of Appeals Fee Schedule shall be included with the application. The applicant shall also be responsible for the cost of legal notices and mailings.~~

**(2/3 vote required)  
UNANIMOUS**

A True Copy, Attest:

Ellen M. Sheehan  
Westminister Town Clerk