

City of Salem, Massachusetts



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and  
City Ordinance Sections 2-2028 through 2-2033."**

The City Council Committee on Ordinances, Licenses and Legal Affairs Co-Posted COW  
met in the Council Chamber on Tuesday May 26, 2020 at 6:00 P.M.  
for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on  
May 21, 2020 at 2:06 P.M.

(This meeting is being recorded)

**ATTENDANCE**

**ABSENT WERE: None**

Also present: Not being member of the Committee Councillors Hapworth, Riccardi, and Dominguez

Mayor Kim Driscoll, Staff planner Amanda Chiancola, Community Development Director Tom Daniel, Assistant City Solicitor Vickie Caldwell

**SUBJECT(S)**

#76 Home Rule Petition relative to property tax exemption for rental properties as affordable housing

#74 Communication from the Planning Board regarding ordinance amendments relative to Accessory Dwelling Units  
Sec 3.1 table of principal and accessory use regulations

#75 Ordinance amendments relative to Accessory Dwelling Units Sec 10, 3.2.4, Sec 3.2.8

Before the Committee takes up matters on the agenda, C. Madore reminded everyone in attendance to be respectful of each other's opinions and conduct discussions in a respectful manner. All remarks, including public testimony should be addressed to C. Madore as chair. C. Madore asks Councillors to limit the number of times speaking on a question. As such, she will prioritize recognizing councillors who have not yet spoken over one that has spoken. Public testimony is limited to 3 minutes each. When the hearing exceeds 2 hours C. Madore will ask for motions that facilitate ending the hearing

C. Madore was made aware of a letter that was sent to the by Harborlight Community Partners in support of the ADU Ordinance that could lead one to believe that there is an appearance of conflict of interest, given that she serves on the Board of Directors of HCP. As such, she has filed a disclosure form with the City Clerk as required by MGL 268A, § 23(b)(3) to disclose the facts about this relationship or affiliation and to dispel the appearance of a conflict of interest

**# 76 Home Rule Petition relative to property tax exemption for rental properties as affordable housing**

**Mayor Driscoll** provides an overview of the Home Rule Petition for tax exemption and the intent of its filing to address affordability concerns. This was modeling after the Town of Lexington that also adopted the same exemption. The other program was the loan program to offer another incentive to homeowners in exchange for below market rents for ADUs or income restrictions.

Pleased to learn last week that North Shore CDC's projects at St. James and St. Mary's were approved but they have a long road to get the necessary subsidies to build 100% affordable units that is needed in Salem. These units will likely be built in about 2 years – not the fastest way to build affordable housing given current crisis that is further

exacerbated by Covid-19. Newest unemployment rate in Salem is more than 18%, higher than the State's rate of 15%. Pre-Covid the rate was 3%. Majority of unemployed are food and accommodations industry workers.

While we want to continue to support reuse of buildings and inclusionary zoning, believes that ADUs is the fastest way to create naturally affordable housing. Thanks C. Dominguez to continue to bring up affordability concerns around ADUs. In looking at other ways to bring affordability to the ordinance, learned about Town of Wellfleet's efforts to cap rents at a certain level for their ADUs. Proposes to Councillors to consider including in the ordinance capping rents for ADUs at 25% reduction of Fair Market Rent which is set by Department of Housing and Urban Development annually.

The proposal would mean that rents cannot exceed \$1,286 for studio apartment, \$1,425 for 1 bedroom unit, \$1,733 for 2 bedroom unit. State law on rent control stipulates that if rent is capped then a benefit must be offered to the homeowner. In this case the tax exemption would be that offer. As such, any homeowner who builds a new ADU would be eligible for tax exemption. The proposal would not require tenant income restrictions.

**Amanda Chiancola** shares the slide that shows current HUD Fair Market Rent levels and what rents would look like with a 25% reduction.

**Mayor** adds that the rents are maximum levels and homeowners can charge less.

**C. Hapworth** asks how this would be enforced and be tracked by the City.

**Mayor:** When the homeowner receives the certificate of occupancy on the unit, they will be required to sign an attestation under penalty of perjury that they will maintain rents at a certain level. The City will check periodically and rely on tenants to report on this. This approach creates less burden for the City because we do not have to check on tenant incomes and verification, etc. Every year when the property owner applies for tax exemption they would have to recertify rent levels.

**C. Dibble:** This contradicts what I've heard from lawyers, real estate professionals, etc. that we cannot dictate what homeowners can charge.

**Mayor:** We also thought the same but after further research we believe this could be done appropriately with the tax exemption. We were unaware of the example set by Wellfleet and felt it made sense to introduce in Salem given the push by C. Dominguez. Feels that it improves the ordinance and makes it stronger.

**C. Morsillo:** To be clear, if adopted all ADUs would be required to maintain rents at these levels and all homeowners would be eligible for tax exemption and must be applied for every year?

**Mayor:** Yes, all tax exemptions have to be applied for every year.

**C. Morsillo:** Would homeowners that receive this tax exemption be disqualified from other tax exemption programs?

**Mayor:** no, they would not. By state law any tax exemption requires an annual application. There is also a cap on the amount of taxes one can be exempt from. This exemption is likely small, estimated at around \$300 per year given the small size of the units.

**C. Riccardi:** If a homeowner does not apply for the tax exemption does that mean they do not have to maintain rents 25% below FMR?

**Mayor:** No, if adopted, the homeowner must maintain rents regardless of whether they apply for the tax exemption or not. FMR levels can change annually because it's calculated based on market rent.

## **Public testimony**

**Jeff Cohen, 12 Hancock St.** Has a 3 family and would like to create an ADU but not possible under current ordinance. Charges below market rent for all units and believes the benefit of the tax exemption can enable him to lower rents even further closer to 50% of the FMR. There is no single solution for gentrification, but nothing slows gentrification better than allowing people to stay in their homes. This is a good way for property owners to bring in more revenue but also keep the rents low. Looking forward to all 11 Councilors to vote in support.

**Lori Stewart, 7 Barnes Rd:** Salem really needs this ADU ordinance and excited about the new proposal to cap rents. Can't really understand why anyone who oppose this with this new addition. Used to live in public housing and understand the need for more affordable housing. This would do good for Salem even if only a few units are produced. Having a roof over your head gives peace of mind.

**Lucy Corchado, 1 Chase St:** Appreciate Councilor Dominguez continuing to lobby for more affordability and feels this is a great way to ensure affordable rents. Knows a neighbor who is waiting on the final decision from the Council to be able to create an ADU on her property. The new addition on rent cap makes a good ordinance even better and appreciates all the work everyone has done.

**Fawaz Abushark:** Like the affordability is added but still think it's still not enough. \$1,300 for studio and \$1,700 for 2 bedroom is still too high. The ordinance still does not address the threat to R1 neighborhoods and make them not safe. The parking issues are not addressed and would ask Councillors to vote it down. Do not appreciate people pushing on Councilor Dominguez.

**Judith Reilly, 20 west Ave:** In favor of the Home Rule Petition and excited to hear about this new development regarding rent cap and appreciate Councilor Dominguez continuing to push for it. Would like to know if the homeowner can still take the tax exemption if they live in the smaller unit? Is there a limit to number of cars allowed per unit?

**C. Madore:** Relative to the question on tax exemption, will ask staff to do additional research and respond at the next hearing. Relative to cars the City does not limit the number of vehicles a resident can own. The ADU application must meet parking space requirements regardless of the number of cars owned by the property owner.

**Nicole Lashomb, 12 Hancock St:** Would like to voice support ADUs. We need preserve the vibrancy of the City and stop gentrification. Feels the new proposal with the capped rent would be a great way to add affordability. Homeowners have a win with the tax exemption and renters win because of the reduced rent. Anxiously awaiting for this to pass because many cannot afford rent. Would like to remind folks who oppose this ordinance that we need to start somewhere. No ordinance is perfect but we need to have the sense of urgency and adopt something we can improve.

**Graysen Ocasio, 12 Hancock St:** In favor of the ordinance. The amendment that was brought forth makes it even better and even easier solution for immigrant community and those who are marginalized. For some people this may not be a big step towards affordability for other who are elderly or just graduated college this is very important. For \$1,300 most people cannot even afford an apartment. Covid-19 has made things worse. Keeping renters in Salem would preserve our diversity. We have all the ingredients necessary. Thank you Councilor Dominguez for co-sponsoring.

**Filipe Zamborlini, 62 Perkins St:** My wife and I currently own a condo with 6 units which is not eligible for ADUs. Was fortunate enough to find an affordable unit in Salem through the help of first time homeowner program. Our in-laws are getting older and would like to have in-laws live with them but currently there are no affordable options. Would love to stay in Salem and be able to live in a multigenerational household and would love to be able to do that. The tax exemption is great and would very much like to see this move forward.

**C. Morsillo:** with the new proposal on rent cap and homeowners becoming eligible for tax exemption, does the previous requirement that homeowners cannot benefit from both tax exemption and loan program still apply?

**Amanda:** In order to cap rents there needs to be a monetary offering to avoid rent control, will provide specific language to address how these two benefits interact with each other and submit to the Council on Thursday for review.

**C. Dibble** moves to keep the matter in Committee, seconded by **C. Sargent**, 5-0 the motion carries.

#### **#74 Communication from the Planning Board regarding ordinance amendments relative to Accessory Dwelling Units Sec 3.1 table of principal and accessory use regulations**

**C. Dibble** ask for clarification on whether ADUs would be allowed in North River Canal Corridor Zoning District (NRCC).

**Tom Daniel** explains that the NRCC is not included in the principal table of uses because it has its own separate section in the zoning ordinance. Given the typology of NRCC which is primarily multifamily, the ADU ordinance would not apply. proposes to add a foot note to the table to clarify how ADU dealt with in NRCC.

**C. Dibble** would like to simply see a “Y” or a “N” for ADUs under NRCC in the use table.

**Amanda** explains that there is inconsistency in the principal table of uses under NRCC. The majority of uses are indicated with a “-“, however for municipal reuse special permit the use was “Y”. Would recommend adding a footnote but would like to come back to Councilors on exactly what the language should be.

**C. Dibble** moves to keep in the table of uses in committee until further clarification on the NRCC can be added, seconded by **C. Sargent**, 4-1 the motion carries.

RECONSIDER Public testimony Ray Igou

## **#75 Ordinance amendments relative to Accessory Dwelling Units Sec 10, 3.2.4, Sec 3.2.8**

**Amanda** reviews the Planning Board’s recommended changes. First, the Planning Board tightened up the language around tree caliper. Second, the Board recommends allowing by right an ADU in an attached structure and a special permit of a detached structure such as a garage. Third, the Board recommends prohibiting ADUs in new, detached structures.

**C. Morsillo** attended the Planning Board’s meeting when this was discussed and appreciated their thoughtfulness. Reasoning behind prohibiting new detached structures as ADUs is because it is very costly to build one and homeowner pay charge high rents as a result, making the ADU not affordable.

**C. Riccardi** asks about whether an effective date should be added to the ordinance to provide clarity on the word “existing” as one could build a structure before the ordinance’s passage.

**Amanda** recommends inserting under Section 1. Salem Zoning Ordinance Section 10 Definition the phrase “as of the effective date of the accessory dwelling unit ordinance” after “in an existing unattached accessory structure”.

**C. Morsillo** moves to insert the language, seconded by **C. Prosniewski**, 4-1, the motion carries.

**C. Dibble** moves accept the Planning Board’s recommendations relative to tree caliper, seconded by **C. Prosniewski**, 5-0, the motion carries.

**C. Morsillo** moves to accept the Planning Board’s recommendation relative to prohibiting new detached structures as ADUs, seconded by **C. Sargent**, 4 in favor, 1 present, 0 opposed, the motion carries.

**C. Madore** notes that C. Turiel asked for Planning Board to consider changing ADU in newly attached structures from by right to special permit. **Amanda** adds that C. Turiel’s suggestion was discussed by the Planning Board did not make the change nor insert additional language relative to newly attached structures.

**C. Dibble** moves to insert language that would require newly attached structures as ADUs allowed by special permit, seconded by C. Prosniewski.

**Amanda** asks what the attached structure would mean, since it would apply to external stairways, etc.

**C. Madore** suggest that this language be inserted after the matter is referred out to the full Council when C. Turiel has the opportunity to provide exact wording to reflect his recommendation. **C. Dibble** withdraws his motion.

**C. Madore** asks where would the specific language regarding fair market rent be inserted? In the ordinance itself or the Home Rule Petition?

**Amanda:** the language will go into both and will bring it to the full Council for consideration on Thursday 5/28 during the regular meeting.

**C. Madore** requests Amanda to provide more detail on the fair market rent cap proposal and how it would be inserted into the ordinance so Councilors can review the full ordinance with tracked changes. Asks Atty Caldwell if this requires Attorney General’s approval per Wellfleet’s example.

**Atty Caldwell** responds that the AG's approval was required because Wellfleet is a Town, not a City, and amendments to Town Bylaws require approval by the AG and this is not required for cities.

**Mayor Driscoll** reiterates that this language makes a strong ordinance even stronger and hope the Councilors will support it.

**C. Morsillo** moves to refer the matter relative to Accessory Dwelling Unit ordinance out of Committee for action by the full Council, as amended, seconded by **C. Prosniewski**, 4-1, the motion carries.

**C. Dibble** moves to adjourn, seconded by **C. Sargent**, 3-2, the motion does not carry.

**C. Morsillo** moves to reconsider order #74 relative to the use table, seconded by **C. Prosniewski**, 3-2, the motion carries.

**#74 Communication from the Planning Board regarding ordinance amendments relative to Accessory Dwelling Units Sec 3.1 table of principal and accessory use regulations**

**Tom** recommends that the committee inserts "Y" under NRCC to allow use of ADUs in NRCC.

**C. Dibble** is disappointed with this process as that was the recommendation that he asked for 1.5 hours ago.

**Public Testimony**

**Pedro Fabre:** As a homeowner this is going to turn single family neighborhoods into two-family neighborhoods. Salem residents want to live in peace

**Ray Igou:** The meeting has been very difficult to follow, and the video feed has been cutting in and out. The ordinance will turn single family neighborhoods into two-families.

**C. Morsillo** moves to insert "Y" under NRCC in the use table, seconded by **C. Prosniewski**, 3 in favor, 1 opposed, 1 present, the motion carries.

**C. Morsillo** moves to refer the matter out of Committee to the full Council, as amended, seconded by **C. Prosniewski**, 3-2, the matter carries.

On the motion of **C. Morsillo** the meeting adjourned at 9:10 P.M.



Chair