§ 17. — Accessory Dwelling Units

§ **17.— Purpose.**

Accessory Dwelling Units are allowed within any Single Family Zoning District as defined in 760 CMR 71.02 in order to:

a. Increase the number of small dwelling units available for rent in town,

b. Increase the range of housing choices,

c. Encourage greater diversity of population with particular attention to young adults and senior citizens, and

d. Encourage a more economic and energy efficient use of the town's housing supply while maintaining the appearance and character of the town's single family neighborhoods.

e. Provide a broader range of accessible and more affordable housing.

(INSERT: Date of Adoption and Council Order #)

§ 17.— Definitions:

"Accessory Dwelling Unit" or "ADU" means a self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same Lot as a Principal Dwelling, subject to other applicable dimensional and parking requirements that (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in gross floor area (GFA) than ½ the gross floor area of the Principal Dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions set forth in this these ordinances.

"Bus Station" means a location serving as a point of embarkation for any bus operated by a Transit Authority.

"Commuter Rail Station" means any commuter rail station operated by a Transit Authority with year-round service with trains departing at regular time intervals, rather than intermittent, seasonal, or event-based service.

"Design Standards" means clear, measurable and objective provisions of a zoning or general ordinances or by-laws which are made applicable to the exterior design of, and use of materials for an ADU.

"Dwelling Unit" means a single housing unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

"EOHLC" means the Massachusetts Executive Office of Housing and Livable Communities.

"Ferry Terminal" means the location where passengers embark and disembark from a ferry service with year-round service with ferries departing at regular time intervals, rather than intermittent, seasonal, or event-based service.

"Gross Floor Area (GFA)" shall mean the sum of the areas of all stories of the building of compliant ceiling height pursuant to the Massachusetts Building Code, including casements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches, and similar spaces.

"Principal Dwelling" means a structure, regardless of whether it or the Lot on which it is situated, conforms to zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

"Prohibited Regulation" means any zoning or general ordinances or municipal regulaitons that are prohibited under 760 CMR 71.03(2).

"Protected Use ADU" means an attached or detached ADU that is located, or is proposed to be located, on a Lot in and Single Family Residential Zoning District and is protected by G.L. c. 40A, § 3, provided that only one ADU on a lot may qualify as a Protected Use ADU. An ADU that is nonconforming to zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

"Short Term Rental" is as defined in G. L. c. 64, § 1 and in the Winthrop Town Ordinances.

"Single-Family Residential Dwelling" is a structure on a Lot containing not more than one Dwelling Unit.

"Single-Family Residential Zoning District" is any zoning district where single-family residential dwellings are a permitted or an allowable use, including any zoning district where single family residential dwelling units are allowed as-of-right or by Special Permit.

"Site Plan Review" is a process established by these ordinances in § 17.44 by which the town my review and impose terms and conditions on the appearance and layout of a proposed use of land or structures prior to the issuance of a building permit.

"Subway Station" is any of the stops along the MBTA Red Line, Green Line, Orange Line, Silver Line, or Blue Line, including any extension thereof.

"Transit Station" is a subway station, commuter rail station, ferry terminal, or bus station.

§ 17.– <u>Requirements for all Accessory Dwelling Units</u>.

A. All accessory dwelling units within Principle Dwelling must meet the following requirements:

(1) There shall be no more than one legally occupied unit in a Principal Dwelling where an Accessory Dwelling Unit is proposed to be created.

(2) No structure that is not connected to the public water and sanitary sewer systems shall have an Accessory Dwelling Unit.

(3) No Accessory Dwelling Unit shall be permitted below the FEMA one hundred-year base flood elevation established on the FEMA one hundred-year flood hazard map for the Town of Winthrop.

(4) The Accessory Dwelling Unit shall be located within the Principal Dwelling or outside the Principal Dwelling on the same lot.

(5) The maximum gross floor area of an accessory dwelling unit shall not be larger in gross floor area (GFA) than ½ the gross floor area of the Principal Dwelling or 900 square feet, whichever is smaller.

(6) There shall be no enlargements or extensions of the Principal Dwellling in connection with the creation of an Accessory Dwelling Unit except for minimal additions necessary to comply with building, fire safety, or health codes, or enclosure of an entryway, or for enclosure of a stairway to a second story as determined by the Inspector of Buildings. Any enlargements or extensions for these purposes must conform to the dimensional regulations of this title.

(7) No Accessory Dwelling Units shall be allowed within a duplex or townhouse dwelling or condominium building.

(8) Accessory dwelling units may not be held in separate ownership from the Principal Dwelling.

(9) Commercial use is prohibited within an Accessory Dwelling Unit.

(10) The Accessory Dwelling Unit must comply with all building, fire safety, and health codes and shall be designed so that the appearance of the principal structure maintains that of the Principal Dwelling.

(11) No Accessory Dwelling Unit may be utilized as Short-Term Rental.

(12) More than one Accessory Dwelling Units on a single lot is prohibited unless authorized by Special Permit by the Board of Appeals and subject to administrative site plan review.

§ 17.– Design Standards:

All Accessory Dwelling Units shall be subject to the following standards:

a. A detached Accessory Dwelling Units shall not be located between a roadway and the front facing side of the Principal Dwelling.

b. Where an Accessory Dwelling Unit has a separate exterior entrance from the Principal Dwelling or is a separate Building, the Accessory Dwelling Unit shall be accessible from a defined path or walkway.

c. All stairways to the primary entrance to an Accessory Dwelling Units located on a second or third story of the Primary Dwelling shall be enclosed within the exterior walls, unless otherwise required by applicable provisions of the State Building Code.

§17.--Permitting Regulations and Permit Review Authority

a. The Inspector of Buildings shall be the permit granting authority for As-of-Right Accessory Dwelling Units.

b. A plan and compliance review shall be conducted by the Inspector of Buildings concurrently as part of a Building Permit application.

c. Special Permit requests pursuant to this chapter shall be filed with the Winthrop Board of Appeals as the special permit granting authority.

§17.– Site Plan Review Requirement

Administrative Site Plan Review as set out and defined in Section 17.44 shall be required:

(a) Where the existing footprint of the Primary Dwelling is requested to be altered in order to accommodate the construction of an Accessory Dwelling Unit;

(b) Where the proposed Accessory Dwelling Unit is to be located in a structure detached from the Principal Dwelling;

(c) Where the Inspector of Buildings determines that a more exhaustive examination and analysis of the plans by the fire department, health department, police department, and/or Department of Public Works is necessary in making a determination on the application.

§ 17.– Off-street parking requirements.

A. There shall be no parking required for an accessory dwelling unit where the accessory dwelling unit is within a Principal Dwelling that is located within a .5 mile radius of an MBTA transit station as defined in 760 CMR 71.02 and the existing Principal Structure complies with the required parking off-street parking spaces as set out in Section 17.20 of this chapter.

B. For Principal Dwellings that are located further than a .5 mile radius of an MBTA transit station, there shall be one additional parking space required for the accessory dwelling unit in addition to the off-street parking spaces required for the Principal Dwelling. An accessory dwelling unit parking space may not be created within the front yard of the Principal Dwelling nor the Accessory Dwelling Unit but may be created within the side yard to allow up to two vehicle tandem parking.

§ 17.– Detached Accessory Dwelling Units.

A. Accessory structures, garages, and detached accessory dwelling units shall not exceed one and one-half (1.5) stories or eighteen (18) feet in height.

B. Detached accessory dwelling units shall comply with all regulations set forth in Section 17.36.070(Accessory Buildings and Structures) of this Ordinance.

§ 17.– Inspections.

The Owner of the property containing the Accessory Dwelling Unit shall provide permission to the city municipal inspection department, health department, and fire department to inspect the property annually and shall agree to provide full and voluntary access to the residences on forty-eight hours' notice from the city.

§ 17.– Enforcement and penalties.

A. Any person who (i) offers an accessory unit within the Principal Dwelling as an accessory dwelling unit for lease or rent where such unit is not an eligible accessory dwelling unit or (ii) fails to comply with other provisions of this chapter shall be fined three hundred dollars per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. In addition to fines described in this section, the city may seek an injunction from a court of competent jurisdiction to enjoin the offering, advertising, or using of the unit as an accessory dwelling unit.

B. The provisions of this chapter shall be enforced by all allowable means set out in these ordinances or by seeking to restrain a violation by a court-ordered injunction.

C. The Table of Dimensional Regulations set out in Section 17.16.130 of these Zoning Ordinances shall govern and regulate the construction and use of Accessory Dwelling Units.