

Section 9

Accessory Uses

9.3 Extended Family Living Areas (EFLA)

1. Intent & Purpose

1. Provide for flexibility within the existing zoning bylaw to afford an opportunity to accommodate additional living arrangements
2. A plan for changing demographics and economic climate
3. Increase supply of affordable housing for family members
4. Provide housing options for extended family
5. Ensure compliance of new and existing EFLA's with building, safety, fire code standards and zoning provisions

2. Definitions

1. Extended Family Living Area (EFLA): an area contained within an owner occupied single-family dwelling unit that maintains internal access and circulation to the dwelling unit, restricted to extended family members, consisting of provisions for bathing, cooking and sleeping. The inclusion of an EFLA within, attached or detached to a single family dwelling unit does not constitute a two-family. Furthermore, internal walls and doors, for purposes of privacy, and additional means of access / egress are not precluded. The EFLA shall be ancillary / subordinate in size, location and function to the dwelling unit.
2. Extended Family Member: related by blood, marriage, or adoption to the owner of the property, or to the owner's spouse, or persons providing nursing or domiciliary care, legal guardians and further identified as related to the owner or owner's spouse according to MUPC MGL C.190B "Probate Laws of Massachusetts, Table of Consanguinity" as follows: children, grandchildren, great grandchildren, parents, brothers and sisters, nephews and nieces, grandparents, uncles and aunts, and great grandparents.

3. Applicability / Eligibility

1. The Building Inspector may issue a permit (by-right) for an EFLA based upon the following criteria:
 - a. The EFLA is located on an owner occupied single-family property located within any zoning district.
 - b. The EFLA is located within the dwelling unit, inclusive of non-conforming structures and non-conforming lots (existing and new).
 - c. The EFLA is located within an addition, attachment and / or expansion to the dwelling unit in which the structure and lot is conforming.

2. The Zoning Board of Appeals may issue a special permit for an addition, attachment and / or expansion of a dwelling unit or an addition, attachment and / or expansion of an existing detached structure to be used for purposes of an EFLA, inclusive of non-conforming structures and non-conforming lots.
3. The Zoning board of Appeals may issue a special permit for a deviation from any of the Design Standards in Section 9.3.4.
4. The Zoning Board of Appeals may issue a special permit for the renewal of an EFLA that has been discontinued and where a permit has automatically lapsed and become null and void.
5. EFLA's shall not be rented to non-extended family members. Boarding, rooming, lodging or tourist house uses shall not be permitted in any dwelling unit containing an EFLA.
6. An annual cap of 25 EFLA's, per calendar year, shall be permitted on a first come - first serve basis, based upon the date of filing with the Building Inspector for a by-right or special permit application. Pre-existing EFLA's shall not count towards the annual cap.
7. For purposes of this bylaw, detached EFLA's shall be exempt from Section 1.2.2 of this Zoning Bylaw.

4. Design Standards

1. General
 - a. Only one EFLA may be created per lot.
 - b. All new entrances shall be located on the side or rear of the structure, if proposed
 - c. The EFLA shall not have more than two (2) occupants.
 - d. The EFLA shall not have separate or independent utilities, such as water, sewer and electricity, from the dwelling unit.
 - e. An EFLA, whether located within the dwelling unit or within a detached structure, shall not exceed 750 sq. ft.
 - f. The Zoning Board shall have the discretion to review and require additional on-site parking.

5. Use Restriction

To ensure continued compliance with owner-occupancy and other bylaw requirements by current as well as by any subsequent owners, EFLA's permitted under this bylaw shall be subject to a Use Restriction, to be recorded in the Essex County Registry of Deeds. The Use Restriction, to be provided by the Building Inspector, shall be the only form acceptable and shall include the following:

- a. Notice that the existence of the EFLA is predicated upon occupancy by the owner, to whom the permit has been issued

- b. Notification to a buyer of the EFLA bylaw
- c. Upon sale of the property, the new owner shall be required to file a new application, with the Building Inspector, for purposes of maintaining the EFLA
- d. Within 30 days of receipt of a letter from the Building Inspector determining a violation, a special permit shall be sought for the continuation of the EFLA. Failure to apply for the Special Permit within 30 days shall result in the EFLA being discontinued and the permit shall automatically lapse and be null and void.
- e. Require that current and future property owners notify the Building Inspector in the event the EFLA has been or will voluntarily be discontinued.
- f. The dwelling unit remains a single family and the EFLA can not be rented to non-extended family members.

6. Procedural Requirements

1. By-Right

The Building Inspector shall issue a building permit for an EFLA allowed by right.

2. Special Permit

The Zoning Board of Appeals shall hold a public hearing, in accordance with M.G.L Chapter 40A, Section 9, for EFLA's allowed by Special Permit.

3. Prior to the issuance of an building permit, the property owner shall file a copy of the executed use restriction and submit evidence, to the Building Inspector, that it has been recorded in the Essex County Registry of Deeds.

7. Application Requirements

The application for an EFLA shall include the following:

1. A completed application and filing fee as required.
2. Adequate information to determine compliance with the provisions set forth herein. This may include, but not be limited to, a site plan, interior floor plans and building elevations.
3. An executed Use Restriction in accordance with Section 9.3.5.

8. Criteria for Approval

The Zoning Board of Appeals may grant a special permit for an EFLA based upon the criteria as set forth in Section 30.3, Conditions for Special Permits, of this Zoning bylaw.

In order to provide adequate dwelling units for disabled and handicapped individuals, the Zoning Board of Appeals will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons in addition to any requirements in accordance with the Mass. State Building Code and as exempt pursuant M.G.L. Chapter 40A Section 3.

9. Pre-Existing EFLA's

Continuation of all pre-existing EFLA's are based upon the following two (2) options:

1. A pre-existing EFLA may continue in existence without being subject to any enforcement action during a grace period:
 - a. Regardless if said EFLA does not comply with Section 9.3.4, Design Standards
 - b. Said EFLA was in existence prior to July 30, 2006
 - c. And provided that an application to the Building Inspector is submitted within 90 days from the date of approval of these regulations by the Attorney General, or
2. Upon the expiration of 90 days after approval of these regulations by the Attorney General, the following procedures shall be applicable:
 - a. The property owner submits for verification from the Building Inspector as to the existence of an EFLA prior to July 30, 2006. The owners shall have the burden of proof to demonstrate by furnishing evidence the existence of said EFLA.
 - b. Upon determination from the Building Inspector as to the pre-existence of said EFLA, the owner shall apply to the Zoning Board of Appeals for a special permit for the continuation of a pre-existing EFLA.
 - c. The Zoning Board of Appeals shall ordinarily grant a special permit for pre-existing EFLA unless specific evidence is submitted supporting any claim that the unit has caused a detriment to the neighborhood or has caused any other substantial negative impact.
 - d. In granting the special permit, the Zoning Board of Appeals may impose such additional conditions, as it may deem necessary to protect the single-family appearance of the dwelling, and to bring the dwelling as close to conformity with the provisions of this bylaw as it is feasible.
 - e. If a special permit is granted and corrective changes are required, they must be completed within 90 days of the date of granting the permit, or upon extension from the Zoning Board of Appeals. Upon completion of the required changes, the Building Inspector shall issue a certificate of occupancy.
 - f. If a special permit is denied, the unit shall be vacated and its use discontinued within 90 days from the date of said denial.

10. Monitoring, Inspections & Enforcement

The following methods are available to ensure continued compliance with these regulations as set forth:

1. In accordance with Section 9.3.5.c, upon the sale of the property, the new owner shall be required to file a new application with the Building Inspector. Upon filing,

the Building Inspector shall conduct an inspection of the EFLA for purposes of verifying compliance.

2. If a complaint is filed with the Building Inspector, the Building Inspector shall inspect the EFLA for purposes of determining whether there is a violation. If a violation exists, the owner shall apply to the Zoning Board of Appeals, within 30 days from the receipt of letter from the Building Inspector for a special permit for the continuation of the EFLA. Failure to apply for the Special permit with 30 days shall result in the EFLA being discontinued and the permit shall automatically lapse and be null and void. Renewal of said EFLA that has been discontinued in which the permit has automatically lapsed and become null and void may be sought in accordance with Section 9.3.4.
3. Discontinued EFLA's, whether by choice of the property owner or as a result of a violation, may be inspected by the Building Inspector by providing reasonable notice to the property owner.
4. In accordance with Section 2.5, Violations, of this Zoning Bylaw, violations to any provision of this bylaw shall be subject to a fine of one hundred dollars (\$100) for each offense, each day of violation to be considered a separate offense.