

Small Property Additional Unit Program (SPAUP) Policy - Housing Division Requirements

Effective October 4, 2021

3rd Unit Development- Neighborhood Residential (NR) & Urban Residential (UR) Districts

An owner of a two-family property in an NR or UR district may develop a third (3rd) unit on that same property so long as one of the units is affordable in perpetuity via an executed and recorded Affordable Housing Restriction. In the case of rental tenure, the Affordable Dwelling Unit (ADU) shall be restricted to households with an annual gross income at or below 110% of the Area Median Income (AMI). In the case of ownership tenure, the ADU will be restricted, upon initial sale and re-sale, to households with incomes not to exceed 140% AMI.

The unit can be added by right if it is being added to the existing property. In the case of a backyard cottage, zoning requirements do apply. Property owners will also need to apply for a building permit. Information on the process for securing a building permit is available at www.somervillezoning.com.

Application Requirements

Owners must complete an application to satisfy Housing Division requirements prior to requesting a Certificate of Zoning Compliance (CZC). An application is comprised of a fully executed Affordable Housing Acknowledgement (AHA) and a signed Certification of Required Materials (COR). To initiate the application process, Owners must:

1. Complete, sign and submit the AHA available on www.somervillezoning.com and complete the top portion of the COR;
2. Submit a property deed;
3. Submit floor plans of the proposed project; and
4. If the property is owned by a company, corporation, LP, LLP, LLC, etc., please submit a current copy of the results produced when the entity's name is entered into the corporate database of the Commonwealth of Massachusetts Secretary of State's website: <https://corp.sec.state.ma.us/corpweb/CorpSearch/CorpSearch.aspx>. If the property is owned in a Trust, please submit a copy of the Declaration of Trust and include documentation as to the current Trustee(s).

Upon review of the application and the above materials, the Housing Division Director shall complete execution of the AHA and sign the COR.

To pull a structural building permit the Owner must have an executed Affordable Housing Implementation Plan (AHIP) to be signed by the Housing Division Director. The AHIP will memorialize which unit has been designated as an ADU and outline other requirements. Owners should allow for a minimum of two (2) months to complete an AHIP.

Inspections

Prior to the execution of an AHIP, an inspection of the property shall be conducted by Inspectional Services and Housing Division personnel (a City building inspector and a Housing staff member). A walkthrough including Housing staff member(s) will also be required ahead of Certificate of Occupancy issuance.

Unit Selection

The newly constructed third (3rd) unit shall be designated as the ADU. However, the Housing Division reserves the right to designate an existing unit as the ADU. Consideration shall be given but is not limited to the following criteria below:

- How representative the newly constructed unit is of the existing units in terms of the number of bedrooms within the units, the net sq. ft. of the units, the sq. ft. of the bedrooms, and the unit location/access to amenities.
 - The proportion of ADUs with two (2) or more bedrooms may exceed the proportion for corresponding market rate units for each tenure type.
- The existing unit meets or will be renovated to meet Americans with Disabilities Act (ADA) compliance requirements and/or has accessibility features that meet an existing need. Desirable features may include but are not limited to: wheelchair accessibility, appropriately-heighted fixtures, and modified safety features.
- An existing unit mirrors amenities in the new unit.
- Any other reason that furthers the goal of stabilization or otherwise meets a need within the housing inventory.

In the event that an existing unit is designated as an ADU, the existing unit must meet the following standards:

- Housing Quality Standards
- 521 CMR MAAB TYPE-1 kitchens and bathrooms
- Energy Star standard appliances/utilities
- Stretch Energy Code requirements
- De-lead or abatement of lead hazards
- Minimum Housing Quality Standards for three-bedroom units per Section 12.7(c)(i)
- Address all issues that may have come up on an inspection/walkthrough by City staff
- Upgrades of unit finishes and appliances of similar quality of new unit

In the event an existing unit was updated within the past six (6) months and verification is provided in the form of a report on the condition of the existing unit and any common areas and is certified by a qualified design professional (e.g. engineer, inspector, individual with LEED or Passive Housing certification, etc.), such verification shall be considered in determining whether further updates are necessary.

Occupant Selection and Marketing

All owners, whether or not they are investor-owners or owner-occupants, are required to attend a Fair Housing Training prior to marketing an ADU through the Suffolk University Housing Discrimination Testing Program (HDTP) or other training program previously approved by the Housing Director. The name of the training seminar will be "Fair Housing training for the SPAUP." The HDTP will provide each owner a certificate detailing that they successfully completed a fair housing training through their organization. The certificate will be valid for five years.

Investors shall have two (2) options for selecting tenants/buyers.

Occupant Selection for Investor-owners

1. An existing tenant household may be considered for the ADU, provided the household is income-eligible and is an appropriate household size for the bedroom type of the ADU, and in the case of homeownership, is a first-time homebuyer household that has completed or will complete a first time homebuyer training class prior to the closing.
2. If the above option is not applicable, owners not residing on the property are required to select occupants for a third (3rd) unit ADU from the Consolidated Waitlist (CW).

- In the event the CW is exhausted or otherwise unavailable, the Owner is required to follow the Fair Housing Marketing Plan (FHMP) requirements provided by the City when selecting a tenant or a buyer. A thirty (30) day application submission period will be established and all submitted applications will be entered into a lottery assisted by the City and compiled in a waitlist for the unit following then-current preferences. The Owner shall be responsible for maintaining the waitlist.
 - The Owner is responsible for all costs associated with fulfilling the requirements of the FHMP, including the cost of any advertisements and maintaining a waitlist as necessary.
- The owner shall select the first eligible tenant from either the CW or the lottery, and provide justification for rejecting any eligible tenant.
- Income eligibility shall first be verified, and then credit/suitability screening shall occur next for rental opportunities. Credit/suitability screening criteria and an appeal process shall be reviewed and approved by City staff prior to marketing for rental opportunities.
- Income eligibility, first time homebuyer status and completion of a first time homebuyer training course and a mortgage pre-approval for up to the purchase price shall be verified first for homeownership opportunities. An appeal process for income certifications shall be available for prospective purchasers.

Owner-Occupant Tenant/Buyer Selection

Owners claiming an owner-occupancy status must provide the Housing Division with verification of a current utility bill or a current federal income tax return (income figure on the tax return may be obscured; the address for which the filing was submitted and the owner’s name must be clear on the first page of the income tax return). Reviews shall be conducted annually as part of the monitoring and compliance process. In the event an owner occupant becomes an investor owner, upon a vacancy in the ADU in the case of a rental project, the investor owner shall comply with the two options above for investor owners to select a tenant.

Owner-occupants have four (4) methods for occupant selection:

1. Owner-occupants may rent or sell to an eligible household member within the third (3rd) degree of kinship. (https://heirbase.com/degrees_of_kinship_chart/)
 - A notarized affidavit attesting to the nature of the kinship must be provided.
2. An existing tenant household may be considered for the ADU provided the household is income-eligible, and is an appropriate household size for the bedroom type of the ADU, and in the case of homeownership, is a first-time homebuyer household that has completed or will complete a first time homebuyer training class prior to the closing.
3. Owner-occupants may elect to follow the Fair Housing Marketing Plan (FHMP) requirements provided by the City when selecting a tenant or a buyer for the third (3rd) ADU in lieu of selecting a tenant or buyer from the CW. A thirty (30) day application submission period will be designated, and all resulting applications must be compiled and split into corresponding pools based on existing City preferences in a waitlist for the unit that must be maintained by the owner or an appropriate 3rd party.
 - Owner-occupants are responsible for payment of all costs associated with fulfilling the requirements of the FHMP, including the cost of any advertisements, and maintaining the waitlist.
 - Develop a waitlist for the unit that is ranked and select a tenant from that list, starting with #1, and providing justification for any tenant that not selected.

- Credit/suitability screening criteria and an appeal process shall be reviewed and approved by City staff prior to marketing for rental opportunities. Income eligibility shall be determined first, prior to the owner initiating any credit/suitability screening.
- Income eligibility, first time homebuyer status and completion of a first time homebuyer training course and a mortgage pre-approval for up to the purchase price shall be verified first for homeownership opportunities.

4. Owner-occupants may select a tenant from the Consolidated Waitlist.

Income Eligibility

“Annual Income” is defined under 24 CFR 5.609, or as shall be defined in any successor regulation, is the anticipated total income from all sources received by all members of the Family over the age of eighteen, including members who are temporarily absent. Without limiting the generality of the foregoing, Annual Income includes interest income from assets. Upon the completion of an income certification and eligibility determination, approved households will receive a Proceed Letter from the Housing Division authorizing households to pursue next steps in a lease-up process in the case of rental tenure or next steps to purchase in the case of ownership tenure.

Rental tenure

For any existing or subsequent occupants of a rental ADU, income eligibility must be verified prior to execution of the lease and an affordable lease rider and income eligibility must be recertified on an annual basis. The Housing Division shall conduct the income certifications and re-certifications, except where the Owner owns other property in Somerville. In the event the Owner has title to other property in Somerville, at the discretion of the Housing Director, the Owner and/or their management agent shall conduct the income certifications/recertifications, and shall submit the income certifications to the Housing Division for review and approval prior to signing a lease and affordable lease rider. The income of a tenant in a 110% AMI unit may increase up to 120% of AMI after meeting the initial eligibility qualification to start at 110%. Once a household’s income surpasses the maximum income at 120% AMI, they will no longer be eligible for the ADU and must vacate the unit upon the end of the current lease term. The rent shall be established by the Housing Division prior to the marketing of the ADU.

Homeownership tenure

In the case of ownership, income eligibility must be verified prior to a household receiving a Proceed Letter. A Buyer’s income shall not exceed 140% AMI upon initial sale or re-sale. The Housing Division shall conduct the income certification. Once determined income eligible, households shall not be recertified unless there is a transfer in title. The sales price shall be established by the Housing Division prior to the marketing of the ADU.

Enhanced Affordability

Although the ordinance establishes income eligibility for the ADU at the 3rd tier (110% for rental, 140% for homeownership), at the Owner’s discretion and option, the owner may choose to rent at an amount affordable to a household below 110% AMI or sell at an amount affordable to a household below 140% AMI.

- Upon the voluntary vacancy of the initial tenant, the AMI may adjust up to 110% (the 3rd tier) for initial occupancy, with the ability to increase household income up to 120% AMI before such a household is deemed over-income and shall be required to vacate the ADU.

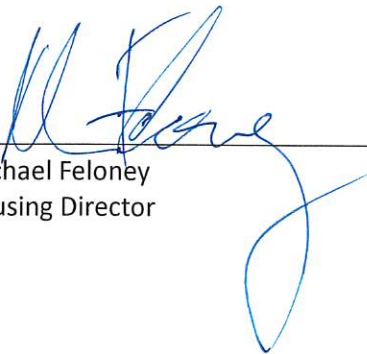
Compliance and Monitoring

Occupants of an ADU, whether a rental or homeownership project, must meet annual monitoring requirements to ensure continued eligibility. The annual monitoring shall be conducted by Housing Division compliance and monitoring staff. Annual monitoring includes current verification of residency and in the case of a rental opportunity only, annual income re-certifications are to be completed prior to a lease renewal. For projects with rental tenure, a Monitoring and Compliance MOU shall be executed prior to marketing, which outlines roles and responsibilities.

Unit Re-sale

If an Owner wishes to re-sell the ADU, the Seller must provide written notice to the Housing Division at least six (6) months prior to the date a household desires to sell the unit to ensure sufficient time to establish a re-sale price, identify a Buyer, verify Buyer eligibility and for the closing to occur. The re-sale price shall be established by the Housing Division according to the calculations established in Article 12 of the Somerville Zoning Ordinance. The Seller may either locate an eligible buyer or opt to have the City market the unit and conduct a lottery to identify an eligible buyer.

Approved by:



Michael Feloney
Housing Director

12.7.21
Date