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January 14, 2026

Heather A. Hunt, Town Clerk
Town of Dalton
462 Main Street
Dalton, MA 01226

Re: Dalton Annual Town Meeting of May 5, 2025 - Case # 12037
Warrant Article # 21 (Zoning)

Dear Ms. Hunt:

Article 21 - Under Article 21, the Town voted to amend its zoning by-laws regarding Accessory Dwelling Units ("ADUs") by amending Section 350-39.1, "Accessory Structures and Uses," to make specific changes (with new text in underline and deleted text in strikethrough) to allow ADUs as of right in compliance with G.L. c. 40A, § 3 and the implementing Regulations promulgated by the Executive Office of Housing and Livable Communities ("EOHLC"), 760 CMR 71.00, "Protected Use Accessory Dwelling Units" ("Regulations").[1]

We approve the specific amendments adopted under Article 21 because the approved text does not conflict with state law. In addition, we offer comments below regarding several existing provisions that, although not amended under Article 21 and therefore not now before the Attorney General for review and approval, are not consistent with the provisions of G.L. c. 40A, § 3 and the Regulations. In this decision we summarize the by-law amendments adopted under Article 21; discuss the Attorney General's standard of review of town by-laws and the recent statutory and regulatory changes that allow Protected Use ADUs as of right;[2] and we offer comments for the Town's consideration regarding certain approved and existing provisions.

[1] The Regulations can be found here: https://www.mass.gov/doc/760-cmr-7100-protected-use-adus-final-version/download.

[2] 760 CMR 71.02 defines the term "Protected Use ADU" as follows: "An attached or detached ADU that is located, or is proposed to be located, on a Lot in a Single-family Residential Zoning District and is

I. Summary of Article 21

Under Article 21, the Town voted to amend its zoning by-laws, Section 350-39.1, "Accessory Dwelling Units" to make specific identified changes with new text in underline and deleted text in strikethrough. Section 350-39.1 imposes requirements on ADUs, including allowing ADUs as-of-right in the R-1, R-2, R-3, R-4, B-1 and B-2 zoning districts, subject to the requirements of Section 350-39.1, and prohibiting ADUs in all other zoning districts.[3] The by-law imposes additional restrictions on ADUs including parking requirements and dimensional requirements.

II. Attorney General's Standard of Review of Zoning By-laws

Our review of Article 21 is governed by G.L. c. 40, § 32. Under G.L. c. 40, § 32, the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." Amherst, 398 Mass. at 795-96. The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.") "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." Bloom v. Worcester, 363 Mass. 136, 154 (1973). "

Article 21, as an amendment to the Town's zoning by-laws, must be given deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) ("With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders."). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General's standard of review is equivalent to that of a court. "[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare." Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). "If the reasonableness of a zoning bylaw is even 'fairly debatable, the judgment of the local legislative body responsible for the enactment

protected by M.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."

[3] General Laws Chapter 40A, Section 3 allows a Protected Use ADU "in a single-family residential zoning district," defined in the Regulations as "[a]ny Zoning District where Single-family Residential Dwellings are permitted or an allowable use, including any Zoning District where Single-family Residential Dwellings are allowed as-of-right or by Special Permit." According to the Town's existing Table of Use Regulations, single-family dwellings are allowed in the Residential and Agricultural District ("R-1") and the Residential Districts ("R-2", "R-3" and "R-4") and prohibited from the Industrial Districts ("I-1" and "I-2") and the Floodplain District. Additionally, single-family dwellings are prohibited in the Business Districts ("B-1" and "B-2"), but ADUs are an allowed as-of-right use in these zoning districts. For this reason, we approve Section 350-39.1. However, the Town must ensure that Protected Use ADUs are allowed in any Single-family Residential Zoning District in the Town, and we encourage the Town to consult with Town Counsel with any questions on this issue.

must be sustained.'" Id. at 51 (quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). However, a municipality has no power to adopt a zoning by-law that is "inconsistent with the constitution or laws enacted by the [Legislature]." Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Summary of Recent Legislative Changes Regarding ADUs

On August 6, 2024, Governor Healey signed into law the "Affordable Homes Act," Chapter 150 of the Acts of 2024 (the "Act"). The Act includes amendments to the State's Zoning Act, G.L. c. 40A, to establish ADUs as a protected use subject to limited local regulation including amending G.L. c. 40A, § 1A to add a new definition for the term "Accessory dwelling unit" and amending G.L. c. 40A, § 3 (regarding subjects that enjoy protections from local zoning requirements, referred to as the "Dover Amendment"), to add a new paragraph that restricts a zoning by-law from prohibiting, unreasonably regulating or requiring a special permit or other discretionary zoning approval for the use of land or structures for a single ADU. The amendment to G.L. c. 40A, § 3, to include ADUs means that ADUs are now entitled to statutory protections from local zoning requirements.

On January 31, 2025, the EOHLC promulgated regulations for the implementation of the legislative changes regarding ADUs. See 760 CMR 71.00, "Protected Use Accessory Dwelling Units."[4] The Regulations define key terms and prohibit certain "Use and Occupancy Restrictions" defined in Section 71.02 as follows:

> Use and Occupancy Restrictions. A Zoning restriction, Municipal regulation, covenant, agreement, or a condition in a deed, zoning approval or other requirement imposed by the Municipality that limits the current, or future, use or occupancy of a Protected Use ADU to individuals or households based upon the characteristics of, or relations between, the occupant, such as but not limited to, income, age, familial relationship, enrollment in an educational institution, or that limits the number of occupants beyond what is required by applicable state code.

While a municipality may reasonably regulate a Protected Use ADU in the manner authorized by 760 CMR 71.00, such regulation cannot prohibit, require a special permit or other discretionary zoning approval for, or impose a "Prohibited Regulation"[5] or an "Unreasonable

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[4] See the following resources for additional guidance on regulating ADUs: (1) EOHLC's ADU FAQ section (https://www.mass.gov/info-details/accessory-dwelling-unit-adu-faqs\) (2) Massachusetts Department of Environmental Protection's Guidance on Title 5 requirements for ADUs (https://www.mass.gov/doc/guidance-on-title-5-310-cmr-15000-compliance-for-accessory-dwelling-units/download); and https://www.mass.gov/doc/frequently-asked-questions-faq-related-to-guidance-on-title-5-310-cmr-15000-compliance-for-accessory-dwelling-units/download; and (3) MassGIS Addressing Guidance regarding address assignments for ADUs (https://www.mass.gov/info-details/massgis-addressing-guidance-for-accessory-dwelling-units-adus).

[5] 760 CMR 71.03 prohibits a municipality from subjecting the use of land or structures on a lot for a Protected Use ADU to any of the following: (1) owner-occupancy requirements; (2) minimum parking requirements as provided in Section 71.03; (3) use and occupancy restrictions; (4) unit caps and density limitations; or (5) a requirement that the Protected Use ADU be attached or detached to the Principal

Regulation" on, a Protected Use ADU. See 760 CMR 71.03, "Regulation of Protected Use ADUs in Single-Family Residential Zoning Districts."[6] Moreover, Section 71.03 (3)(a) provides that while a town may reasonably regulate and restrict Protected Use ADUs, certain restrictions or regulations "shall be unreasonable" in certain circumstances.[7] In addition, while municipalities may impose dimensional requirements related to setbacks, lot coverage, open space, bulk and height and number of stories (but not minimum lot size), such requirements may not be "more restrictive than is required for the Principal Dwelling, or a Single-Family Residential Dwelling or accessory structure in the Zoning District in which the Protected Use ADU is located, whichever results in more permissive regulation…" 760 CMR 71.03 (3)(b)(2). Towns may also impose site plan review of a Protected Use ADU, but the Regulations requires the site plan review to be clear and objective and prohibits the site plan review authority from imposing terms or conditions that "are unreasonable or inconsistent with an as-of-right process as defined in M.G.L. c. 40A, § 1A." 760 CMR 71.03 (3)(b)(5).

We incorporate by reference our more extensive comments regarding these recent statutory and regulatory changes related to ADUs in our decision to the Town of East Bridgewater, issued on April 14, 2025 in Case # 11579.[8] Against the backdrop of these statutory and regulatory parameters regarding Protected Use ADUs, we review the zoning amendments adopted under Article 21.

IV. The Approved ADU Requirements Adopted Under Article 21 Must be Applied Consistent with G.L. c. 40A, § 3 and 760 CMR 71.00

We offer comments for the Town's consideration regarding Section 350-39.1 (C) (1) (h)'s

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Dwelling.

[6] For example, a design standard that is not applied to a Single-Family Residential Dwelling in the Single-Family Residential Zoning District in which the Protected Use ADU is located or is so "restrictive, excessively, burdensome, or arbitrary that it prohibits, renders infeasible, or unreasonably increases the costs of the use or construction of a Protected Use ADU" would be deemed an unreasonable regulation. See 760 CMR 71.03 (3)(b).

[7] Section 71.03 (3)(a) provides that while a town may reasonably regulate and restrict Protected Use ADUs, a restriction or regulation imposed "shall be unreasonable" if the regulation or restriction, when applicable to a Protected Use ADU: (1) does not serve a legitimate Municipal interest sought to be achieved by local Zoning; (2) serves a legitimate Municipal interest sought to be achieved by local Zoning but its application to a Protected Use ADU does not rationally relate to the legitimate Municipal interest; or (3) serves a legitimate Municipal interest sought to be achieved by local Zoning and its application to a Protected Use ADU rationally relates to the interest, but compliance with the regulation or restriction will: (a) result in complete nullification of the use or development of a Protected Use ADU; (b) impose excessive costs on the use or development of a Protected Use ADU without significantly advancing the Municipality's legitimate interest; or (c) substantially diminish or interfere with the use or development of a Protected Use ADU without appreciably advancing the Municipality's legitimate interest.

[8] This decision, as well as other recent ADU decisions, can be found on the Municipal Law Unit's website at www.mass.gov/ago/munilaw (decision look up link) and thn search by the topic pull down menu for the topic "ADUS."

dimensional requirements to ensure that the Town applies these provisions consistent with G.L. c. 40A, § 3 and the Regulations.

Under Article 21, the Town amended Section 350-39.1 (C) (1) (h), to impose dimensional requirements on an ADU, including: (1) requiring all ADUs to comply with "setbacks, lot coverage, bulk and height, conforming to §350-24, Table of Dimensional Requirements, 350 Attachment 21 and 350 Attachment 4, Illustrative Lot Layout"; and (2) restricting a detached ADU's location. Although we approve these provisions, we offer comments for the Town's consideration.

1. Section 350-39.1 (C) (1) (h) – Dimensional Requirements

Under Article 21 the Town amended Section 350-39.1 (C) (1) (h) to impose bulk and height requirements. In addition, the existing text of Section 350-39.1 (C) (1) (h) imposes setback and lot coverage requirements and a requirement that the ADU "conform to § 350-24, Table of Dimensional Requirements, 350 Attachment 21 and 350 Attachment 4, Illustrative Lot Layout."[9]

The Town must ensure that these dimensional requirements are applied consistent with the Regulations. Specifically, we have reviewed the Town's existing zoning, Table of Dimensional Requirements, and note the Table imposes several types of dimensional requirements including minimum area (square feet), frontage, width, setback, height, and lot coverage requirements. As an initial matter, the Town cannot apply a minimum lot size requirement to an ADU. The Regulations, 760 CMR 71.03 (3), "Unreasonable Regulation," Subsection (b)(2), "Dimensional Standards" that prohibits the imposition of a minimum lot size requirement. See 760 CMR 71.02 (3)(b)(2) ("Municipality may not require a minimum Lot size for a Protected Use ADU.)

As to the remainder of the dimensional requirements, the Town should be mindful that 760 CMR 71.03 (b)(2)(a) prohibits towns from imposing dimensional requirements, such as setbacks, lot coverage, open space, bulk and height, and number of stories that are more restrictive than required for the Principal Dwelling, Single-Family Dwelling (as defined in 760 CMR 71.02) or other accessory structure in the zoning district where the Protected Use ADU is located, whichever is most permissive. The Town must ensure that the application of Section 350-39.1 (C) (1) (h)'s dimensional requirements are no more restrictive than those required for a Principal Dwelling, Single Family Dwelling or other accessory structure (as defined in 760 CMR 71.02) in the zoning district where the Protected Use ADU is located, whichever is more permissive. The Town should consult with Town Counsel regarding a future amendment to Section 350-39.1 (C) (1) (h) to address these issues.

Lastly, in applying these dimensional requirements to an ADU, because a Protected Use ADU is a Dover Amendment protected use under G.L. c. 40A § 3 and the Regulations, the Town can only impose "reasonable regulations." Therefore, if dimensional requirements are used in a manner to prohibit or unreasonably restrict a Protected Use ADU, such application would run afoul to the Dover amendment protections. Moreover, the Town must ensure that any dimensional

[9] It appears that reference to "350 Attachment 21" may be a typographical error because that attachment does not exist in the Town's zoning by-laws. Based on our review of the Town's existing zoning by-laws, it appears that 350 Attachment 1, "Table of Use Regulations," is what the Town is referencing in Section 350-39.1 (C) (1) (h). The Town should discuss with Town Counsel whether it needs to be amended at a future Town Meeting.

requirement is analyzed on a case-by-case basis as it relates to a particular property because in some circumstances the provision could be unreasonable as applied to a particular property. In addition, the Town must ensure that the application of these requirements serve, and are rationally related to, a legitimate municipal interest and will not, as applied, result in a nullification, impose an excessive cost or substantially diminish or interfere with the use or development of a Protected Use ADU. See 760 CMR 71.03 (3)(a). If the Town cannot satisfy this standard, the regulation may be deemed to be unreasonable. The Town should consult with Town Counsel to ensure the proper application of any dimensional requirements to a Protected Use ADU.

2. Section 350-39.1 (C) (1) (h) (1) – Location of a Detached ADU

Section 350-39.1 (C) (1) (h) (1), as amended under Article 21, prohibits a detached ADU from being "located in the required front yard, nor any part of an ADU located between the front line of the main dwelling and the street where frontage is located." We interpret this provision to relate to the *location* of the ADU and not a setback requirement. Based on our standard of review, we cannot conclude that this requirement is unreasonable and therefore prohibited under 760 CMR 71.00, and for that reason we approve it.

However, in applying this provision, we reiterate to the Town that because a Protected Use ADU is a Dover Amendment protected use given protection under G.L. c. 40A § 3 and the Regulations, the Town can only impose "reasonable regulations." The Town should consult with Town Counsel to ensure the proper application of this provision to a Protected Use ADU.

V. The Existing Provisions Not Amended Under Article 21 Must be Applied Consistent with G.L. c. 40A, § 3 and 760 CMR 71.00

We offer comments below on certain existing provisions of Section 350-39.1 that were not amended under Article 21 and therefore are not before the Attorney General for review and approval, to ensure they are not applied in a manner that conflicts with G.L. c. 40A, § 3 and the Regulations. We encourage the Town to consult with Town Counsel regarding these existing provisions to determine if they should be amended at a future Town Meeting.

A. Section 350-39.1 (B) and (C) – References to Single-family or Two-family Dwellings

The existing text in Section 350-39.1 (B), "Definitions," defines an ADU as "a residential living unit on the same parcel *as a single-family or two-family dwelling*" (emphasis added). In addition, Section 350-39.1 (C), "Intent; conditions for authorization," limits an ADU to being constructed within or attached to a "single-family" or "two-family" dwelling or an existing or new detached structure. Although this existing text is not being amended under Article 21 and is therefore not subject to review by the Attorney General under G.L. c. 40, § 32, the application of this text to a Protected Use ADU would conflict with G.L. c. 40A, § 3 and the Regulations, as explained below.

General Laws Chapter 40A, Section 3 and the Regulations allow ADUs as of right on the same lot as any type of "Principal Dwelling." See West Street Associates, LLC v. Planning Board of Mansfield, 488 Mass. 319, 324 (2021) (citing with approval trial judge's ruling that "By

limiting medical marijuana facilities to nonprofit entities, the bylaw[,] while not prohibit[ing] those facilities, does restrict them in a way that the [S]tate explicitly determined they should not be limited" and "[a]ccordingly, the town's bylaw is preempted by State law to the extent it requires all medical marijuana dispensaries to be nonprofit organizations.").

General Laws Chapter 40A, Section 3 and the Regulations allow Protected Use ADUs as-of-right on the same lot as any type of "Principal Dwelling," not just a one-family or two-family dwelling. See 760 CMR § 71.02's definitions of "Accessory Dwelling Unit (ADU)" (defining an ADU as "[a] self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same Lot as a Principal Dwelling . . .") and "Protected Use ADU" (defining a "Protected Use ADU" as "[a]n attached or detached ADU that is located, or is proposed to be located, on a Lot in a Single-Family Residential Zoning District."). The Regulations define "Principal Dwelling" as a structure that contains at least one dwelling unit as follows (with emphasis added):

> A structure, regardless of whether it, or the Lot it is situated on, 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.

The Regulations' definition of "Principal Dwelling" contemplates Protected Use ADUs on lots that include more than one dwelling unit. For example, Protected Use ADUs are allowed on lots containing a two-family dwelling or a multi-family dwelling.[10] Therefore, allowing an ADU only in the context of a "single-family" or "two-family" dwelling conflicts with G.L. c. 40A, § 3 and the Regulations. We suggest the Town consult with Town Counsel to discuss amendments to these provisions at a future Town Meeting. In the interim, these provisions cannot be applied in a manner to prohibit an ADU in principal dwellings other than single-family or two-family dwellings.

B. Section 350-39.1 (C) (1) – Special Permit Requirement

The existing text of Section 350-39.1 (C) (1) references a special permit requirement for newly constructed detached ADUs as follows:

> A newly constructed detached accessory dwelling unit to any single- or two-family dwelling shall be authorized by special permit from SPGA in R-1, R-2, R-3, and R-4, B-1 and B-2 zones provide that the following conditions are met.

The Town cannot impose a special permit requirement on a Protected Use ADU because this requirement would conflict with G.L. c. 40A, § 3 and the Regulations.

General Laws Chapter 40A, Section 3 prohibits the imposition of a special permit requirement, except in limited situations not relevant here,[11] or other discretionary zoning approval

[10] Under the Town's "Table of Use Regulations" multi-family dwellings are an allowed use in the R-3 and R-4 zoning districts.

[11] The Regulations include only two instances when the Town may require a special permit for an ADU. First, notwithstanding 760 CMR 71.03 (1)'s prohibition on special permits for ADUs, 760 CMR 71.03 (5)

for a single ADU in relevant part as follows:

> No zoning…by-law shall prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for the use of land or structures for a single accessory dwelling unit, or the rental thereof, in a single-family residential zoning district; provided, that the use of land or structures for such accessory dwelling unit under this paragraph may be subject to reasonable regulations…

In addition, 760 CMR 71.03 (1) prohibits a special permit requirement for the use of land or structures for a Protected Use ADU as follows:

> Municipalities shall not prohibit, impose a Prohibited Regulation, or Unreasonable Regulation, or except as provided under 760 CMR 71.03 (5) and 760 CMR 71.03 (c), require a special permit, wavier, variance or other zoning relief or discretionary zoning approval for the use of land or structures for a Protected use ADU, including the rental thereof, in a Single-family Residential Zoning District; provided that Municipalities may reasonably regulate a Protected Use ADU, subject to the limitations under 760 CMR 71.00.

The existing text in Section 350-39.1 (C) (1) requiring a special permit for a "newly constructed detached ADU" conflicts with G.L. c. 40A, § 3 and 760 CMR 71.03 (1) and the Town cannot apply this existing text to a Protected Use ADU. We strongly encourage the Town to consult with Town Counsel regarding the proper application of the by-law and an amendment to Section 350-39.1 (C) (1) at a future Town Meeting to address this issue.

C. Sections 350-39.1 (C) (1) (d) and (e) – Size Limitation of ADUs

The existing provisions in Sections 350-39.1 (C) (1) (d) and 350-39.1 (C) (1) (e) impose size limitations on ADUs in conflict with G.L. c. 40A, § 3 and the Regulations. Specifically, Sections 350-39.1 (C) (1) (d) and (e) provide as follows (with emphasis added):

> Section 350-39.1 (C) (1) (d):
> The gross floor area of a detached accessory dwelling unit is not larger in floor area than ½ of the *floor area* of the principal dwelling or 900 square feet, whichever is smaller (stairwell access, porches, patios, shall not be included in the computation).

> Section 350-39.1 (C) (1) (e):
> An existing structure or portion thereof may be converted to an accessory dwelling unit as long as the converted portion is not larger than ½ of the *floor area* of the principal dwelling or 900 square feet, whichever is smaller.

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requires a municipality that "chooses to allow additional ADUs on the same [l]ot as a Protected use ADU in a Single-family Residential Zoning District," to allow the additional ADUs by special permit. Second, 760 CMR 71.03 (6) allows a Town to require a special permit "for development of a Protected Use ADU in a floodplain or aquifer protection overlay if required for the Principal Dwelling, provided that the Special Permit is based on clear, objective, and non-discretionary criteria." Neither of these exceptions authorize Section 350-39.1 (C) (1)'s special permit requirement.

Sections 350-30.1 (C)(1)(d) and (e) reference "floor area" instead of "gross floor area." The Town must ensure that these provisions are applied consistent with the Regulations that allow a Protected Use ADU up to 50% of the *gross* floor area of the principal dwelling or 900 square feet (whichever is less). General Laws Chapter 40A, Section 1A defines an ADU as a "self-contained housing unit…not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet, whichever is smaller." (emphasis added). And further, the Regulations, 760 CMR 71.02, "Definitions," define "Gross Floor Area" as follows (with emphasis added):

> The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, 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. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

Therefore, the existing text in Sections 350-39.1 (C) (1) (d) and (e) conflict with G.L. c. 40A, § 3 and the Regulations. Section 350-39.1 (C) (1) (d) defines a detached ADU by *floor area* and Section 350-39.1 (C) (1) (e) requires an existing structure being converted to an ADU's size be "1/2 the *floor area*" instead of gross floor area. For this reason, the Town should consult with Town Counsel regarding an amendment to Sections 350-39.1 (C) (1) (d) and (e) at a future Town Meeting. In the interim, the Town should not apply this existing text in a manner that restricts the size of a Protected Use ADU in conflict with G.L. 40A, § 3 and the Regulations.

VI. Conclusion

We approve the specific amendments adopted under Article 21 (indicated by new text in underline and deleted text in strikethrough). However, the Town should consult with Town Counsel regarding the existing text of Section 390-39.1 to address the issues discussed herein. Moreover, if any provision adopted under Article 21 or the Town's existing text is used to deny a Protected Use ADU or otherwise applied in ways that constitute an unreasonable regulation in conflict with 760 CMR 71.03 (3), such application would violate G.L. c. 40A, § 3 and the Regulations. The Town should consult with Town Counsel and EOHLC to ensure that the approved by-law provisions as well as the existing text not amended under Article 21 are applied consistent with G.L. c. 40A, § 3 and 760 CMR 71.00.

Finally, we remind the Town of the requirements of 760 CMR 71.04, "Data Collection," that requires municipalities to maintain certain records, as follows:

> Municipalities shall keep a record of each ADU permit applied for, approved, denied, and issued a certificate of occupancy, with information about the address, square footage, type (attached, detached, or internal), estimated value of construction, and whether the unit required any variances or a Special Permit. Municipalities shall make this record available to EOHLC upon request.

The Town should consult with Town Counsel or EOHLC with any questions about complying with Section 71.04.

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.

Very truly yours,

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cc: Town Counsel Timothy D. Zessin