

**B. NEW BUSINESS (Refer to the Planning Board for Public Hearing)**

**BARNSTABLE TOWN COUNCIL**

**ITEM# 2021-175  
INTRO: 05/06/21**

**2021-175 AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO REVISE THE DEFINITION OF ACCESSORY DWELLING UNIT (ADU) AND AMENDING ARTICLE V, CHAPTER 240, SECTION 47.2(C)(4) TO ALLOW ADUS WITH GREATER THAN 900 SQUARE FEET BY SPECIAL PERMIT FROM THE ZONING BOARD OF APPEALS**

**ORDERED:** That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

**SECTION 1**

By amending Article XIV, Chapter 240, Section 128 by adding in the definition of “Accessory Dwelling Unit (ADU)” the phrase “unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage” so it reads as follows:

ACCESSORY DWELLING UNIT (ADU)

An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain 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. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller, **unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage.**

**SECTION 2**

By amending Article V, Chapter 240, Section 47.2(C)(4) by adding the phrase “and/or a maximum habitable floor area greater than 900 square feet” so it reads as follows:

The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms **and/or a maximum habitable floor area greater than 900 square feet** may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.

**SPONSOR:** Town Council Zoning & Regulatory Advisory Subcommittee (as constituted on December 16, 2020): Paula Schnepf, Councilor Precinct 12; Matthew Levesque, Councilor Precinct 10; Kristine Clark, Councilor Precinct 11; Jennifer Cullum, Councilor Precinct 13; Gordon Starr, Councilor Precinct 1

DATE

ACTION TAKEN

\_\_\_\_\_  
\_\_\_\_\_

- \_\_\_\_ Read Item
- \_\_\_\_ Motion to Open Public Hearing
- \_\_\_\_ Rationale
- \_\_\_\_ Public Hearing
- \_\_\_\_ Close public hearing
- \_\_\_\_ Council discussion
- \_\_\_\_ Move/vote

## **BARNSTABLE TOWN COUNCIL**

**ITEM# 2021-175**  
**INTRO: 05/06/2021**

### **SUMMARY**

**TO:** Town Council  
**FROM:** Mark S. Ells, Town Manager  
**THROUGH:** Elizabeth Jenkins, Director, Planning & Development Department  
**DATE:** May 4, 2021  
**SUBJECT:** Amending Article XIV, Chapter 240, Section 128 of the zoning ordinance to revise the definition of Accessory Dwelling Unit (ADU) and amending Article V, Chapter 240, Section 47.2(C)(4) to allow ADUs with greater than 900 square feet by special permit from the Zoning Board of Appeals

### **BACKGROUND:**

The proposed amendment adds to the definition for an Accessory Dwelling Unit (ADU) and the dimensional requirements for an ADU as defined within Article V, Chapter 240, Section 47.2(C)(4) to allow that an ADU with more than 900 square feet may be permitted by a special permit from the Zoning Board of Appeals. The new “Housing Choice” legislation, adopted by the Commonwealth on January 14, 2021, encourages and promotes new housing production by establishing that zoning for ‘as of right’ ADUs, defined to be no larger than 900 square feet, shall be adopted by a simple majority vote. The ability to seek relief by special permit for ADUs that are greater than 900 square feet diverges from the Commonwealth’s Housing Choice provisions and therefore requires a two-thirds majority vote. Massachusetts General Laws Chapter 40A Section 5 was amended to note that “any amendment that requires a simple majority vote shall not be combined with amendments that require a two-thirds majority vote.” Therefore, consistent with the guidance from local officials on determining voting thresholds for zoning ordinances and bylaws, the additional provision to seek a special permit for an ADU greater than 900 square feet is voted upon as a separate amendment in an effort to not combine provisions that require different voting thresholds.

### **RATIONALE:**

The ability to seek a special permit for an ADU greater than 900 square feet enables additional flexibility supporting more diverse housing options and aligns with the provisions of the Family Apartment ordinance which similarly allows an apartment that exceeds the established maximum square footage to be authorized by special permit from the Zoning Board of Appeals. Despite any allowed increase in square footage for the ADU, the principal dwelling unit and the ADU shall meet all wastewater requirements for the combined number of bedrooms/wastewater flow on the lot.

**FISCAL IMPACT:** There is no significant fiscal impact of the proposed zoning amendment.

**TOWN MANAGER RECOMMENDATION:** Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

**STAFF SUPPORT:** Elizabeth Jenkins, Director of Planning & Development; Arden Cadrin, Housing Coordinator; Kate Maldonado, Assistant Director of Planning & Development, Gloria McPherson, Planning & Economic Development Coordinator; Brian Florence, Building Commissioner; Karen Nober, Town Attorney; Charles McLaughlin, Assistant Town Attorney; Kathleen Connolly, Assistant Town Attorney