

Accessory Dwelling Units

Potential amendments to be
consistent with the Affordable
Homes Act

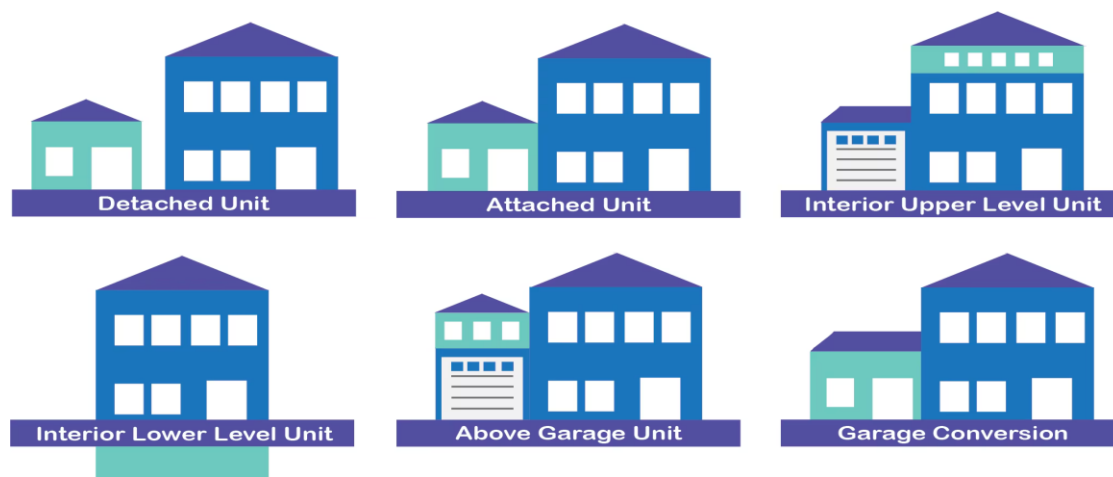



May 2025

- Intent tonight:
 - Answer any questions
 - Review and Approve certain amendment to the ADU ordinance to comply and be consistent with recently passed State Law.


Different Types of Accessory Housing

- Affordable Accessory Apartments
- Family Apartment Ordinance
- ADU




- Affordable Accessory Apartments
 - Chapter 9
 - General Code
 - to provide an opportunity to bring into compliance many of the currently unpermitted accessory apartments and apartment units in the Town of Barnstable, as well as to allow the construction of new dwelling units accessory to existing single-family homes to create additional affordable housing.
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- Family Apartment Ordinance
 - Chapter 240-47.1
 - Zoning
 - to allow within all residential zoning districts one temporary family apartment occupied only by the property owner or a member(s) of the property owner's family as accessory to a single-family residence to provide families the ability to live together as a family unit, but not to allow for a separate dwelling for rental purposes to non-family members

- Accessory Dwelling Units
 - Chapter 240-47.2
 - Zoning
 - a self-contained dwelling unit, inclusive of sleeping, cooking and sanitary facilities, Incorporated within a lawful principle dwelling or within a detached building accessory to and on the same lot and the same ownership as a lawful principal dwelling use.
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How ADUs Interact w/ other Regulations

- Bulk Regulations – Setbacks, Height, Lot Coverage, etc.
 - Saltwater Estuary/Title V
 - Wetland Protection Act
 - Parking
 - State Fire Code
 - State Building Code
- 

BLDR-2

Building Permit - Residential

Details

Workflow

Attachments 39

Location 1

Applicant 1

Activity

View By

Edit Workflow



Building Permit Fee

Paid Mar 30, 2023 at 2:41 pm

Due: Apr 28



Application Review - Construction

Completed Apr 05, 2023 at 10:37 am

Due: Mar 30



Planning: - Design

Completed Apr 11, 2023 at 7:35 am



Conservation

Completed Apr 05, 2023 at 10:48 am



Health - Inspector

Completed Apr 11, 2023 at 4:29 pm

Due: Apr 05



Fire Department Approval - Cotuit

Completed Apr 05, 2023 at 4:45 pm

Due: Apr 09



Building Inspector Review

Completed May 01, 2023 at 8:28 am



Application
Complete

Local Ordinance


WPA


Title V



Fire Code


Building Code






**Building Inspection**
Completed Nov 15, 2023 at 8:14 am

 Due: May 01




**Fire Department Inspection - Cotuit**
Completed Nov 09, 2023 at 8:25 am



 Due: May 05



Fire Code






**Building Inspection Final**
Completed Nov 15, 2023 at 8:14 am



Building Code





**C00 Approval - Health**
Completed Nov 17, 2023 at 1:59 pm



Title V




**C00 Approval - Building**
Completed Nov 17, 2023 at 2:06 pm




Building Code



**C00 Document**
Issued Nov 17, 2023 at 2:06 pm

Two Bedroom ADU Maximum

- Removal of the 2-bedroom limit
 - cannot regulate interior space through zoning
 - state Building Code and Title V better regulate interior space
 - Building code and Title V reviewed during the permitting process.
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How do we keep track of each unit

- Rental Registration Program.
 - As of January 2025 Barnstable had 44 ADUs in the permitted.

[Health Division](#) / [Rental Registration](#)

[Apply Online](#)

Rental Registration

For New Registrations Only

For questions on new registrations or renewals please call, 508-862-4072, or email: thamara.froes@town.barnstable.ma.us

Welcome to the Town of Barnstable's Rental Registration Program.



Pursuant to the Town's General Ordinance, *Chapter 170, No person shall rent or lease, or offer to rent or lease, any dwelling or any portion of a dwelling to be used for human habitation without first registering with the Board of Health.*

This platform provides a convenient and secure way to register all residential rentals within the Town of Barnstable.

While registering your property you should be aware that each property is subject to reasonable inspections and it remains the responsibility of the property owner to provide a safe environment for their tenants. Each rental registration shall be for properties and/or portions of properties that have been legally created and shall be utilized in a manner consistent with its creation.

The approval of a rental registration does not imply that the property being registered meets all the required safety and sanitary requirements and does not legalize spaces created without proper permitting and inspections. The rental registration does not mean that an inspection will be conducted. All properties

Parking Requirements


- Currently tenants of the ADUs are required have sufficient parking available on site to not park on the way. No numerical number is offered.
- The State suggests a numerical value in the state regulations at 760 CMR 71.02, which prohibits municipalities from imposing parking requirements in excess of one parking space per ADU, except that when an ADU is located not more than 0.5 acres from a commuter rail station, subway station, ferry terminal or bus station, no parking spaces may be required.

Can the two dwellings (the main house and the ADU) be sold individually, a condominium created, or other means to have separate ownership?

- No. An accessory use or structure must be incidental to a principal use or structure so they must be owned together. They can have separate utilities

Town Council Item 2025-060

Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to revise the definition of Accessory Dwelling Unit (ADU) and to revise use and dimensional requirements, floor area definition, and clarify parking restrictions and no- owner-occupancy requirement for ADU's



Amendments Proposed

- Red font - the original redline text found in the Town Council agenda
- Blue font - additional potential amendments

A. Purpose and intent. The intent of permitting accessory dwelling units (ADUs) is to:

- (1) Increase the number of dwelling units available for ~~year-round~~ rental in Town while remaining within our current wastewater capacity limitations;
- (2) Adapt ~~single-family~~ residential properties so they are supportive of residents at a variety of stages in their life cycle;
- (3) Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and
- (4) Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's ~~single-family~~ neighborhoods; and
- (5) Provide homeowners with a means of obtaining rental income to defray housing costs.

B. Procedural requirements.

- (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful ~~single-family~~ dwelling use. ~~except that no ADU shall be permitted on a lot at the same time either an affordable accessory apartment exists on that lot pursuant to Chapter 9, Article II, §§ 9-12 through 9-16, of the General Ordinances of the Code of the Town of Barnstable or as a family apartment exists on that lot pursuant to § 240-47.1.~~
- (2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new buildings and improvements on a lot associated with a proposed ADU.
- (3) The construction of any accessory dwelling unit must be in conformity with the federal, state, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.

C. Use and dimensional requirements. The Building Commissioner may issue a building permit authorizing the installation and use of an accessory dwelling unit within a lawful existing or new ~~single-family~~ dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

1) No more than one ADU may be created per lot. **A Special Permit is required if an applicant is seeking more than one ADU on a lot.** This provision is not subject to variance.

OR

1) No more than one ADU may be created per lot. ~~A Special Permit is required if an applicant is seeking more than one ADU on a lot.~~ This provision is not subject to variance. (POTENTIAL AMENDMENT TO REVERT BACK TO ORIGINAL LANGUAGE)

2) If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.

3) An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a ~~single-family~~ residential property. Any addition or new construction shall be consistent in design with the principal ~~single-family~~ dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials. **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.** Any person aggrieved by the determination of a Town official with respect to a determination under this subsection may appeal said determination to the Zoning Board of Appeals

4)~~The ADU shall contain no more than two bedrooms.~~ ADUs, in accordance with the definition, shall have a maximum **habitable gross** floor area that is not larger than 1/2 of the ~~habitable-gross~~ 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 gross** floor area greater than 900 square feet may be permitted by special permit from the Zoning Board of Appeals. ~~Only existing structures with a gross floor area greater than 900 square feet shall be considered for a special permit.~~ Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.

5) ~~Occupancy of the ADU shall not exceed two persons; occupancy limitations shall not apply to children ages 18 and under. Occupancy of an ADU by more than two persons over the age of 18 may be permitted by special permit from the Zoning Board of Appeals.~~ (to be renumbered)

6) Once an ADU has been added to a ~~single-family~~ dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.

7) All parking for the ADU shall be off street. No more than one additional parking space per ADU shall be required, provided that no additional parking shall be required when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, as those terms are defined in 760 CMR 71.02.

8) The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/wastewater flow on the lot. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit.

- 9) The rights and requirements of this section hereby transfer upon the sale of a property containing an ADU built under the provisions of this section.
- 10) An ADU and the principal dwelling to which it is accessory may be rented only in accordance with the terms of this section.
- 11) An ADU shall be used only as a rental, except that the owner of the property may reside in the ADU while renting the principal dwelling. The rental period for an ADU and for a principal dwelling shall not be shorter than 12 consecutive months. ~~Either the principal dwelling or ADU, but not both may be rented at any given time.~~ The principal dwelling or ADU, or both, may be rented at any given time.

OR

Any use of an ADU as a short-term rental, as defined by G.L. c. 64G, § 1, is prohibited. The principal dwelling or ADU, or both, may be rented at any given time.

OR

Any use of an ADU as a short-term rental, as defined by G.L. c. 64G, § 1, is prohibited. The principal dwelling or ADU, or both, may be rented at any given time; provided that, if the owner of the principal dwelling chooses to reside in the ADU, the principal dwelling shall not be used as a short-term rental during the period in which the property owner resides in the ADU.

12) The use of land or structures for an accessory dwelling shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling.

13) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.

Questions