

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

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-174
INTRO: 05/06/21**

2021-174 AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO ADD A DEFINITION FOR ACCESSORY DWELLING UNIT (ADU) AND DWELLING UNIT, AND REVISE THE DEFINITION OF DWELLING, SINGLE-FAMILY AND ADD ARTICLE V, CHAPTER 240, SECTION 47.2 ACCESSORY DWELLING UNITS (ADUS) TO THE ZONING ORDINANCE

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 a definition of “Accessory Dwelling Unit (ADU)” 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.

SECTION 2

By amending Article XIV, Chapter 240, Section 128 by adding a definition of “Dwelling Unit” as follows:

DWELLING UNIT

Complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

SECTION 3

By amending Article XIV, Chapter 240, Section 128 by striking in the definition of DWELLING, SINGLE-FAMILY the phrase “including permanent provisions for living, sleeping, eating, cooking and sanitation” so it reads as follows:

DWELLING, SINGLE-FAMILY

A detached residential building designed for and occupied by a single family and providing complete independent living facilities for one or more persons.

SECTION 4

By adding Article V, Chapter 240, Section 47.2 **Accessory Dwelling Units (ADUs)** which reads as follows:

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 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 (1) ADU may be created per lot. This provision is not subject to variance.
- (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. 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 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 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.
- (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.
- (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.
- (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 ordinance hereby transfer upon the sale of a property containing an ADU built under the provisions of this ordinance.
- (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. Both the ADU and the principal dwelling may be rented concurrently.

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

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# 2021-174
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 add a definition for Accessory Dwelling Unit (ADU) and Dwelling Unit, and revise the definition of Dwelling, Single-Family and add Article V, Chapter 240, Section 47.2 Accessory Dwelling Units (ADUs) to the Zoning Ordinance

RATIONALE:

This item proposes an update to the Town's Zoning Ordinance to allow Accessory Dwelling Units (ADUs) as an accessory use to single-family residential dwellings town-wide. The intent and purpose of this amendment, as stated in the proposed ordinance is to increase the number of dwelling units available for year-round rental while remaining within our current wastewater capacity limitations; allow adaptation of single-family residential properties to be supportive of residents at a variety of stages in their life cycle; encourage greater diversity and support of all populations with particular attention to young adults and senior citizens enabling an intergenerational community; 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 provide homeowners with a means of obtaining rental income to defray housing costs.

The proposed Accessory Dwelling Unit ordinance directly responds to goals and recommendations in the Town's Housing Production Plan and the associated Housing Needs Assessment. These plans identify the need for expanded housing choice and additional supply of rental housing to support an intergenerational community by encouraging aging in place and the attraction and retention of younger residents. The Needs Assessment emphasizes the need for more alternative choices to single-family houses, which currently compose the majority of the Town's housing stock. Limited housing choice and the high cost of housing results in homeownership being out of reach for many families. These factors, coupled with very low vacancy rates, place a significant burden on those seeking rental housing options. The Housing Production Plan, which is a compilation of housing recommendations for the community based on the Needs Assessment and an extensive community engagement process, explicitly recommends permitting market-rate Accessory Dwellings Units accessory to existing single-family homes and in outbuildings throughout Barnstable to increase housing options.

The proposed Accessory Dwelling Unit ordinance is based on the Cape Cod Commission's model Accessory Dwelling Unit ordinance. The model ADU ordinance allows ADUs by-right to support the addition of small scale housing alternatives in an effort to meet housing needs within our region. In an overview of the model ADU ordinance, the Commission highlights how the gap between median annual income and the cost of housing continues to widen. At the same time, the average household size is declining creating a demand for smaller units. Allowing ADUs by right will expand housing choices and increase the number of smaller units, which the Commission notes as being an important part of meeting Cape Cod's housing challenge especially in areas of our region with limited infrastructure and sensitive habitats. To date nine other towns on Cape Cod have adopted by-right Accessory Dwelling Unit bylaws.

Additionally, the new "Housing Choice" legislation, adopted by the Commonwealth on January 14, 2021, encourages and promotes new housing production by making it easier to approve housing supportive zoning. The new legislation reduces the required vote for the approval of zoning amendments allowing as of right ADUs, whether within the principal dwelling or a detached structure on the same lot, from a two-thirds majority vote to a simple majority vote.

Furthermore, Town Council's Strategic Plan housing goal includes developing and promoting rental housing to meet the needs of residents. One of the identified strategies is to review zoning issues identified by the Council to determine how to best achieve housing goals through zoning and regulatory changes. Our current zoning allows for the incorporation of accessory apartments through the Accessory Affordable Apartment Program (AAAP) and our Family Apartment ordinance. However, the Housing Production Plan notes that although AAAP has been a successful tool for producing affordable housing, the process requires a Comprehensive Permit and Zoning Board of Appeals approval for each unit, which was noted to be a cumbersome process. The Family Apartment ordinance allows, within a residential district, 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. While the Family Apartment ordinance allows more diverse housing it is limited by factors including duration and is prohibited for non-family members. Allowing ADUs as of right is an effort aimed at increasing the supply of rental housing to better meet the needs of our residents.

The proposed zoning ordinance allows ADUs "by right" to encourage the creation of new units, while including limitations on size, dimension, style, number of bedrooms, and occupancy necessary to protect community character. ADUs are further limited by the general standards required for all buildings (setbacks, height, etc.) and uses contained in the underlying zoning. The ordinance proposes allowing specific restrictions to be exceeded with the grant of a Special Permit by the Zoning Board of Appeals: bedrooms in excess of two and occupants (over 18) in excess of two. A third standard, ADUs in excess of 900 square feet, is the subject of the second item under consideration.

The proposed ordinance does not include an owner occupancy requirement, consistent with the recommendation in the Cape Cod Commission's model. It allows the rental of both or either of the units, so long as the ownership of the units is not severed. The proposed zoning ordinance requires that any rental on a property with an ADU be no shorter than 12 consecutive months, in

keeping with the goal of increasing the supply of year-round rentals. This provision prevents the owner of a single family dwelling with an ADU from offering any rental for a time period shorter than 12 consecutive months, thereby deterring short term rentals in neighborhoods and promoting housing opportunity for year-round residents.

The ordinance also requires properties with ADUs to remain within established wastewater capacity limitations. The principal dwelling unit and ADU must meet all wastewater requirements for the combined number of bedrooms/wastewater flow on a lot. No additional wastewater disposal capacity is permitted by this zoning amendment.

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