

Accessory Dwelling Units

An overview of ADUs with
amendments from the Affordable
Homes Act



What is an ADU



- An Accessory Dwelling Unit is a secondary residential living space located on the same lot of a single-family home. ADUs can be within an existing primary residence, like converting a basement into an apartment, attached to a primary residence as a new construction addition, or completely detached, like a cottage or converted detached garage in a backyard.
- Barnstable Defines an Accessory Dwelling Unit as 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. ADUs, as proposed, are subject to regulations and requirements regarding rental, square footage, bedrooms, and occupancy.

Barnstable's ADU Ordinance

- Discussion about adopting a zoning ordinance to allow **Accessory Dwelling Units (ADUs)** commenced with an initial review of the Cape Cod Commission's model ordinance and consideration of policy issues conducted by the Town Council's [Zoning & Regulatory Subcommittee](#) in 2020.
- The draft ordinance for consideration was put forward by that Subcommittee. The draft was then referred to Town staff for technical and legal review, as well as review against the new "[Housing Choice](#)" [legislation](#) adopted by the Commonwealth on January 14, 2021.
- On **July 15, 2021**, the Town Council affirmatively voted to approve Item No. 2021-174, a zoning amendment allowing Accessory Dwelling Units (ADUs). The Council voted a modification to the rental requirements (§240-47.2(C)(11)) to state that “Either the principal dwelling or ADU, but not both, may be rented at any given time.”
- Additionally, the Town Council affirmatively voted to approve Item No. 2021-175, as written, to incorporate a provision for the ability to seek relief by special permit for ADUs greater than 900 square feet.
- The ADU zoning ordinance went into effective on Sunday August 15th, 2021.
- **As of January 2025, Barnstable has issued Certificates of Occupancy for 44 Accessory Dwelling Units since the adoption of the ADU zoning ordinance in August of 2021.**

Changes to Accessory Dwelling Units by the Affordable Homes Act



ADUs by-right. The Act allow ADUs by right in single-family zoning districts subject only to reasonable regulations including, but not limited to, site plan review, Title 5, dimensional setbacks, restrictions on the bulk and height of structures.

- Supersede any inconsistent local ADU bylaws
- Removes the ability of cities and towns to impose owner occupancy requirements on ADUs or their principal dwellings
- Affirms the ability of municipalities to regulate, or prohibit the short-term rental of ADUs
- Municipalities cannot require a special permit or other discretionary zoning approval for the use or rental of an ADU that meets the maximum size or number defined by the AHA.
- Clarifies that the square footage reference in the definition applies to **GROSS floor area**. Not larger in gross floor area than half (1/2) the gross floor area of the principal dwelling or **900 square feet**, whichever is smaller.
- Municipalities cannot impose parking requirements in excess of **ONE parking space** per ADU. No parking spaces may be required when an ADU is located not more than **0.5 mile** from a commuter rail station, subway station, ferry terminal or bus station

Use and Dimensional Requirements	Barnstable ADU Requirements	State ADU Requirements
Number of ADUs allowed per lot	1 ADU per lot. Septic/sewer capacity and number of bedrooms will determine feasibility.	1 ADU per lot. Special Permit required for more than one ADU per lot. Septic/sewer capacity and number of bedrooms will determine feasibility.
Primary residence and ADU entrance requirement	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.	Maintains 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
Number of bedrooms and occupants	2 bedrooms/2 occupant; Special Permit needed for more bedrooms or occupants. People under 18 not applicable.	Not stated in Act.
ADU size requirement	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. Special Permit for greater than 900 sf.	ADU not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet , whichever is smaller.

Use and Dimensional Requirements	Barnstable	State ADU Requirements
Zoning Requirements	New construction must comply with setback and height requirements for the zoning district in which the property is located.	The use of land or structures for such accessory may be subject to reasonable regulations concerning dimensional setbacks and the bulk and height of structures
Parking Requirement	All parking for the ADU shall be on site.	Prohibits imposing parking requirements in excess of one parking space per ADU, except that, when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, no parking spaces may be required.
Rental Requirements	Cannot be rented for shorter than 12 months. Prohibits vacation/short term rentals. Either the principal dwelling or the ADU, but not both, may be rented at any given time.	May be subject to restrictions and prohibitions on short-term rental.
Ownership/Owner Occupied	ADU must be kept in common ownership with principle dwelling and lot. Owner must occupy either the principle or the accessory dwelling.	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

AHA Changes effective February 2, 2025

What can communities do effective Sunday, February 2, 2025 on single ADUs in single-family zoning districts?

Municipalities may impose reasonable restrictions and requirements for:

- Site Plan Review
- Title V requirements
- Regulations concerning dimensional setbacks and the bulk and height of structures
- Short-term rentals

Municipalities cannot:

- Require owner occupancy for the ADU or the principal dwelling
- Require a special permit or other discretionary zoning approval for the use or rental of an ADU
- Require more than 1 parking space for an ADU located outside 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station
- Require any parking for an ADU located within 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station

Questions

Reference/Links

AFFORDABLE HOMES ACT

<https://www.mass.gov/info-details/the-affordable-homes-act-smart-housing-livable-communities>

ACCESSORY DWELLING UNITS

<https://www.mass.gov/info-details/accessory-dwelling-units>

<https://malegislature.gov/Laws/SessionLaws/Acts/2024/Chapter150>