

# WOULD YOU? COULD YOU ADU?

## FAQS About the Proposed Accessory Dwelling Unit (ADU) Bylaw (Articles #45 and #46 in the 2021 Wellfleet Annual Town Meeting Warrant)

### 1. Why is the Town considering allowing ADUs?

The intent of allowing Accessory Dwelling Units is to:

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

### 2. Why are there two slightly different versions of this article in my warrant?

Article #45 is the bylaw proposed by the Local Housing Partnership as adopted and edited by the Select Board. Article #46 is a Petitioned Article and is the same proposed bylaw but without the Select Board edits. A Petitioned Article signed by at least 10 certified voters MUST appear in the warrant and exactly as submitted. This guarantees to the petitioners that their proposal is seen by the voters at Annual Town Meeting. The Select Board's adoption of the article allows it to be reviewed by Town Counsel and edited by the Select Board before going before the voters. If Article #45 (Select Board's) passes Article #46 (Petitioned Article) will not be considered at Town Meeting. If #45 does not pass, it is still possible to consider #46.

### 3. Why not just stay with the Affordable Accessory Dwelling Unit (AADU) Bylaw we have now?

- The existing AADU Bylaw is only allowed "by Special Permit" from the Zoning Board of Appeals. Special Permit requirements and application fees in varying municipalities both locally and nationally have been shown to drastically reduce the amount of housing produced this way.

- The current AADU Bylaw limits rent and tenant income. Sounds good, but what happens to a tenant whose income goes up due to a raise, better job or good year farming? Currently they are technically required to move but there is no place to move to. This is particularly hard on the commercial shellfishing industry who must be domiciled in Wellfleet in order to have a permit to fish or a license to farm shellfish.
- The existing AADU Bylaw requires yearly tenant income statements and rent verification which is cumbersome to administer. The new ADU bylaw will be more streamlined while still requiring an affidavit to be submitted yearly verifying year round occupancy of the unit.
- The existing AADU Bylaw is not producing dwelling units. **We need more year-round rentals.**

**4. What will happen to those tenants currently living in AADUs?**

**Won't their rent go up?** If a property owner wishes to change their AADU to an ADU, in some cases this may happen but allowable "Affordable" rents are already close to what the market can bear given the year round income of Wellfleet residents, even those who have well paying jobs.

Number of Tenants	Maximum Allowable Income (120% of Area Median Income) 2021
1 Person	\$81,750
2 person	\$93,400
3 person	\$105,000
4 person	\$116,650
5 person	\$126,000
6 person	\$135,000

Current AADUs maximum allowable incomes are:

YEAR	Efficiency	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
2021 FMR	\$1,100	\$1,265	\$1,667	\$2,089	\$2,261
2020 FMR	\$986	\$1,149	\$1,513	\$1,919	\$2,050

Current AADU maximum allowable rents are:

FY 2021 Barnstable Town, MA MSA Fair Market Rent (FMR) for all Bedroom Sizes

Property owners renting within affordability guidelines may apply for a property tax exemption. The Wellfleet housing committees are considering ways to provide further incentives to property owners to continue to rent Affordably.

**5. How much can an ADU be rented for?** The proposed bylaw does not specify rents for ADUs. Property owners can charge market rates and allow tenants with unspecified incomes to occupy the unit. Some property owners may charge high rents. However, since the unit must be rented and occupied year round most ADUs will need to be rented at prices that someone earning a year-round income in Wellfleet can afford. Some people in Wellfleet are highly paid and can pay higher rents, others do not earn high wages and will seek ADUs of lower rent. It is not anticipated that average rents will greatly exceed those now termed “Affordable” because the market will not bear it.

**6. Won't these additional dwellings “spring up like mushrooms?”**

There are a number of requirements to be met before an ADU can be given a Certificate of Occupancy.

- The property has to be large enough and not be restricted by private covenants.
- The property owner will need adequate financing to cover not just any cost of construction, but also any required septic upgrades, a willingness to go through the construction process, if one is necessary, and to manage the responsibilities of housing tenants.
- In other Cape towns, new, similarly less restrictive zoning bylaws have resulted in an average of 5 ADUs in one year. This will not “solve” our year-round rental crisis. It will add another option.

**7. Will I have to put in a new septic system?** Getting a building permit for an ADU will trigger an inspection of the existing septic system which must be up to current Title 5 (or better) standards. Upgrading a septic system, if necessary, would be an added expense but it is one that protects ground water quality for us all. Funding sources are being sought to help reduce costs.

**8. Will this affect our water quality?** The number of allowable bedrooms per lot size will remain the same. This means that if you have a three bedroom lot but only two bedrooms in your principal dwelling, you can add a one bedroom ADU as long as your septic system is sized for three bedrooms. Or you could remove a bedroom in your principal dwelling and create an ADU using that allowed bedroom. Septic flow may not exceed system capacity. In addition, the application for a permit to create an ADU will trigger a septic system inspection and possibly require an upgrade. While this will increase the cost (and possibly reduce the numbers) of some ADUs it will actually result in improved ground water quality in the neighborhood and beyond.

**9. How many ADUs can I have on my property?**

The property determines the legal allowable number of ADUs. If the property is large it may accommodate multiple ADUs but on most properties this will not be the case. While the existing AADU bylaw allowed up to 3 accessory units on a property, no more than 2 were ever built and that only on a couple of properties.

**10. Can I build an ADU in a commercial building?** Yes. An ADU may be built over a shop, office, etc or as a separate structure on a commercial property

**11. Do I still need to comply with set backs, building codes and the like?** All existing Town, State and Federal regulations apply except as specified in the Bylaw. ADUs may, however, be built within or attached to existing Accessory structures, as defined in our Zoning Bylaws, that are not in compliance with Zoning Bylaws that might apply to dwellings, and that may necessitate a Special Permit from the Zoning Board of Appeals.

**12. If a proposed ADU doesn't comply with our local bylaws and regulations, can the applicant seek relief from the Zoning Board of Appeals or Board of Health?** If a proposed ADU is not in compliance with existing bylaws and regulations there is flexibility, as there would be with any other building permit application. The applicant may be able to get a Special Permit from the Zoning Board of Appeals or, in certain cases, may seek relief from the Board of Health.

**13. Will I have to dig a new well or connect to Town water?** No, if you have a well the ADU will be connected to that. However, connection to Town water may make more properties eligible because the well head protection area on the individual property is eliminated.

**14. Won't some people cheat and rent these out short-term?** The requirement of a yearly Affidavit of Compliance means that the property owner who is out of compliance with the Bylaw is subject to charges of perjury. In addition, fines up to \$300 per day may be applied.

**15. Who's going to enforce this? (We already aren't enforcing the AADUs):** The Town Administrator will appoint an agent to monitor and administer the ADUs. There will have to be improved monitoring and enforcement of both pre-existing AADUs and ADUs in the future.

**16. Won't these just become expensive condos?** The ADU may not be separated by ownership from the principal structure (dwelling or business) on the lot.

**17. Does the property owner need to live on the property if there's an ADU?** No. There is no requirement that the property owner live on the property. In fact, part-time residents may find it desirable to build an ADU and have it occupied year-round by someone who can watch the property when the owner isn't there.

**18. Can my mother live in the ADU and rent the main house?** Yes. Perhaps your mother wants to down-size but not leave the property. Perhaps she has some physical limitations that can be better managed in a purpose built ADU. She can live in the ADU year-round and rent the main house to help her gain income.

**19. Can I let a family member, caregiver for my aging parent or my disabled child live in the ADU for free?** Yes. The property owner decides who to lease the unit to and what to charge as long as it is for year-round occupancy. An Affidavit of Compliance must still be filed yearly and the property owner could be subject to fines if out of compliance.

**20. Can I live in the ADU in the summer and use my primary house as a short term rental?** No. If you chose to live in the ADU you must sign an Affidavit of Compliance that you will be living in it year-round. Then you may rent the primary dwelling as you please.

**21. Can I use the ADU as a weekend home for my children?** No. The ADU must be leased and occupied year-round. The primary purpose of this by-law is to increase year-round rental housing.

**22. What if I want to stop renting and use it for something different?** If the property owner no longer chooses to use the unit as an ADU, they are required to report the change in use to the agent designated by the Town Administrator to administer and monitor such units who will inform the Building and Health Departments and the Assessor. The property then reverts to single-family status. The structure must be brought into compliance as a different, allowed accessory use such as an art studio, a home office, or a home business, but those items that make it a dwelling, principally the stove, must be removed.

**23. What about parking requirements in this bylaw?** Parking requirements are covered in the Wellfleet Zoning By-law Section 6.3.6. “Two spaces for each individual dwelling unit except for apartments where 1 1/2 spaces shall be required for each unit.”

*Prepared by a working group of the Local Housing Partnership and Wellfleet Housing Authority.*

*For further general information visit **All About Accessory Dwelling Units (AARP)** online.*