

At the 2023 Annual Town Meeting a provision was added to the town's zoning bylaw to allow for accessory dwelling units in Marblehead.

Below is information on ADUs in Marblehead

Q. What is an Accessory Dwelling Unit (ADU)? A. An Accessory Dwelling unit (ADU) is a second small housing unit on the same property as a single-family house. It can be located within a house, attached or detached.

Q. What are the benefits of building an ADU? A. A homeowner may wish to provide a new self-contained unit within their property to receive additional income, provide social and personal support to a family member, or obtain a feeling of greater security.

Q. What are the downsides of building an ADU? A. Cost of construction can be viewed as a downside – construction costs are high, even a simple renovation can cost a lot up front and take years to recoup. Loss of storage - whether it is a garage conversion or within a house, you can lose room for a car and storage options. Disruption of daily life may also be a consideration - as a landlord, you have to manage the tenant's living space repairs and house maintenance and lastly a potential loss of privacy.

Q: Must I live on the property? A. Yes, the owner of the residence in which the accessory dwelling unit is created shall reside in either the principal or accessory unit as a principal place of residence. The owner' is one or more individuals who hold title to the property, for whom the dwelling shall be the primary residence as evidenced by voter registration, tax return or other documentation demonstrating primary residence. Owner occupancy is required for an accessory dwelling unit to be permitted.

Q. How is it different from a two family? A. The unit can never be sold separately and either the primary house or the ADU must be occupied by an owner.

Q. Can I rent out both the ADU and my house? A. No, the ADU or the primary house must be occupied by the owner.

Q. What size ADU can I build? A. You can build an ADU that is up to 1,000 square feet in size or the lesser of 1,000 sf or 50% the size of the main unit. No more than two bedrooms are permitted.

Q. Can I sell an ADU as a condo? A. No, the ADU may not be sold or transferred separately and apart from the principal dwelling to which it is an accessory use. The principal dwelling and the accessory dwelling unit shall remain in common or single ownership and shall not be severed in ownership.

Q. What if I have an illegal in-law suite now? A. An existing in-law suite could potentially be brought into compliance through this process which includes a safety code process to allow insurability. If you are using your home for something that doesn't conform to zoning, such as an illegal ADU, it can make it difficult to refinance or sell your property or make an insurance claim. Also, it may be subject to code enforcement actions that could subject you to fines and/or removal of your unlawful apartment. This new policy may be an opportunity to bring it into compliance. Often illegal living spaces/apartments do not meet codes have the potential to create unfortunate situations.

Q. How is this enforced? A. Each ADU is required to get a special permit from the Planning Board. After the special permit is issued it is recorded at the Registry of Deeds. As with any special permit, the conditions are enforced by the Building Department and the Building Permit/Certificate of Occupancy may be revoked upon determination by the Building Inspector that any condition imposed by the town has not been fulfilled.

Q. How will I know if my neighbor is building an ADU? The process of a special permit requires abutters to be notified and a legal advertisement to be posted in the newspaper. The process is very

public so no ADU will appear in a neighborhood without the abutters being aware. Short-term rental use are not allowed in ADU's and will be closely monitored and strictly enforced. This prohibition is proposed similarly to any other condition on a special permit, which is filed at the Registry of Deeds and also must proactively be transferred when the property is sold

Q. Can I build an ADU and use as an Airbnb or short-term rental? A. No, short-term rentals are prohibited in both the accessory and principal dwelling units. The purpose of this provision is to encourage naturally occurring affordable housing not to increase additional short-term rental opportunities. Ninety days is the minimum length of tenancy.

Q. I have an Airbnb at my property now, will this effect that? A. No, this has no effect on any properties or uses other than the creation of ADU's.

Q. What if I change my mind and decide I no longer want or need an ADU on my property? A. The space could simply go back to being used as part of your single-family house. The owner would discontinue the use of the accessory dwelling unit as a separate dwelling unit, the kitchen facilities of the ADU would be removed and/or made inoperable, any additional exterior entrance constructed to provide access to the accessory dwelling unit shall no longer be used as an entrance to support a tenancy.

Q. How does it work when I sell my house? A. When a structure, which has received a permit for an ADU, is sold, the new owner, if they wish to continue to exercise the Permit, must, within 30 days of the sale, submit a notarized letter stating that they will occupy one of the dwelling units on the premises as their primary residence. This shall be part of a Municipal Lien Certificate. Otherwise, they can discontinue and use as part of their single-family home by not submitting this letter during this 30-day period.

Q. Is an ADU's considered affordable housing? A. ADU's are what is called naturally occurring affordable housing (NOAH) by virtue of their size and location as they most often can rent for less than a more traditional unit but there is no subsidy. ADUs are smaller in size, do not require the extra expense of purchasing land, can be developed by converting existing structures, and do not require additional infrastructure.

Q. Can I put a tiny house on my property and use it as an ADU? A. An ADU must have a permanent foundation so a wheeled tiny house or RV would not be considered an ADU. Currently you need a special permit from the Board of Appeals to use an RV on your property and for a maximum of six months and this does not change that.