

## **Accessory Apartment Homeowner Fact Sheet**

The Town of West Tisbury wishes to give homeowners the opportunity to develop affordable rentals through a special permit issued by the West Tisbury Zoning Board of Appeals. Please read the zoning bylaw information dealing with creating affordable housing units within the text here.

The Town's zoning bylaw allows for year- round homeowners to build an attached (within an existing house or added to an existing house) or detached (part of a non-habitable structure) apartment by special permit.

### **Requirements**

1. Primary house and accessory apartment be in single ownership.
2. Accessory apartment can only be rented on a year-round basis to income qualified tenants. Income qualification is based on 80% of median income of Dukes County, MA. (see attached guidelines)
3. Income qualifications of tenant and leases will be monitored by the Dukes County Regional Housing Authority.
4. Maximum rents for the accessory apartments will be established annually by the Dukes County Regional Housing Authority for the town's Affordable Housing Committee. (see attached guidelines)

### **Feasibility Considerations**

**West Tisbury homeowners should assess the feasibility of building an accessory apartment on their property including**

1. Are there any deed restrictions on the property?
  - Easement restrictions
  - Subdivision bylaws
  - Road Association requirements
  - Deed restrictions from previous permitting or conditions of sale
2. Does the homeowner qualify to build an Accessory Apartment?
3. What is currently permitted capacity of the existing septic system?
  - Location of septic system
  - Will the septic need to be expanded or upgraded (Board of Health may need to be consulted)?
  - Property's septic has 10,000 square feet per bedroom existing and proposed (May require septic inspection)
4. What is current status of well?
  - Sufficient water for additional bathrooms and kitchen (may require inspection by Board of Health or Building Inspector)
5. Is site suitable for building additions?
  - Will addition fit into setbacks?
6. Permitting requirements
  - Intentions fit within the bylaw
  - Special permit will be required from ZBA
  - Building permit will be required
  - May require Board of Health review

## **Accessory Apartment By-Law Sections**

### **4.4-2 Second –story apartments in the MB District**

Second story apartments over non-residential uses are permitted in the MB District either by right subject to Site Plan Review, or by special Permit, depending on the structure's overall proposed floor area (see Section 3.1-1).

Second story apartments shall not be counted toward the 3,500 sq. ft. maximum floor area for non-residential structures in the MB District (as specified in the Dimension Table p. 9). For every one-bedroom or two- bedroom apartment constructed, the maximum permitted floor area for the ground floor non-residential use may be increased by 900 sq. ft. per apartment, (including an interior stair to access the apartment(s)), up to a maximum of 5,300 square ft. The maximum floor area of the entire building (including apartments) shall not be more than 7,000 sq. ft. Such apartments shall be subject to the occupancy restrictions described in Section 4.4-4, provided that if any apartment is occupied by seasonal employees, such employees must be employed on the same premises. If two apartments are constructed, at least one shall be restricted as affordable housing. The minimum floor area of such apartments shall be as follows:

A. One- bedroom apartment: 600 sq. ft.

B. Two-bedroom apartment: 800 sq. ft.

### **4.4-3 Dwelling Unit Densities Allowed by Special Permit**

#### **A. Accessory apartments**

In order to help provide affordable year-round rental housing within the context of West Tisbury's predominantly single-family home character, and to provide an opportunity for supplemental income to senior citizens and other homeowners domiciled in West Tisbury, who might otherwise find it difficult to remain in their homes due to increasing energy and maintenance costs and /or concerns about security and health, one apartment may be allowed by Special Permit from the ZBA as an accessory use to an owner-occupied single- family dwelling, on any sized lot, subject to the following conditions:

1. The lot, dwelling and apartment shall be in single ownership.
2. The maximum rental rates of accessory apartments shall be established annually by the Affordable Housing Committee and set forth in the Affordable Housing Implementation Guidelines.
3. Any unit, which is rented, is subject to the occupancy restrictions in Section 4.4-4.
4. Attached accessory apartments shall occupy a maximum of 800 square feet and a minimum of 300 square ft. The outward appearance of a residence containing an attached accessory apartment shall conform to that of a single-family residence with only one main entrance on the front or street side of the structure. Additional entrances shall be designed to ensure compatibility with the goal of retaining the appearance of a single-family residence.
5. Detached accessory apartments shall occupy a maximum of 800 square feet and a minimum of 300 square ft. as a freestanding unit or within another wise non-habitable structure such as a garage or barn.
6. Accessory apartments shall not access the non-habitable portion of the structure from the Interior of structure
7. A lot may contain either an accessory apartment or a detached bedroom, unless its area is twice the minimum lot size in that district, in which case it may have both.

### **4.4-4 Occupancy Restrictions on Apartments**

In order to reserve available housing for those most in need of it (year-round residents of West Tisbury and Martha's Vineyard and seasonal employees of local business), the following occupancy restrictions apply to the rental of apartments allowed under the provisions of Sections 4.4-2 and 4.4-3 above.

A. The dwelling units described above may be rented only to the following occupants:

1. Persons eligible to rent affordable housing as defined in this bylaw, as demonstrated by income and other documentation required by the Affordable Housing Committee. The Fair Housing Act allowable preference to residents may apply as allowed by the Fair Housing Act.
2. In owner-occupied buildings and/or properties only (including mixed use buildings and properties), persons employed full-time on Martha's Vineyard during the summer season, as demonstrated by a letter from an employer, current pay stubs, or other proof of employment.
3. Persons who intend to qualify under Subsections 1 or 2 above and who sign an affidavit stating that intention and submit proof of compliance within 30 days of occupancy of the dwelling unit.

B. To prove compliance with the above requirements, the owner of regulated apartments shall file the following with the Zoning Inspector before occupancy permit and yearly thereafter with the Affordable Housing Committee:

1. Prior to the issuance of an occupancy permit for the apartment and within 30 days of any change in ownership of the premises, an affidavit attesting to the owner's understanding of the occupancy restrictions of this Section 4.4-4 and intention to comply with these requirements.
2. On or before Jan. 31 of each year, the names or lessees of apartments claiming to be year-round domiciliaries of Martha's Vineyard, together with copies of their year-round leases and their driver's licenses. Any such lease shall clearly state that year-round occupancy of the apartment is a condition of the lease.
3. On or before July 15 of each year, the names or lessees of apartments claiming to be seasonal employees, together with the proof required for such employment status. Such lessees shall be furnished a statement by the owner that clearly states that occupancy of the apartment is contingent upon their employment on Martha's Vineyard.
4. Failure to comply with the requirements of this Section 4.4-4 (B) shall constitute a violation of this bylaw, subjecting the violator to all applicable fines and penalties as provided in Subsection 10.23 (A). A lessee who fails to comply with the provisions of this Section shall be considered to be in violation of this bylaw. Failure to comply with the provisions of this section shall also be grounds for revocation of the certificate of occupancy for the dwelling unit, unless the owner makes a good faith attempt to evict tenants who do not comply with the conditions of this Section.
5. Such income verification documentation as may be required by the Affordable Housing Committee. There are further Sections on Affordable Housing within the Zoning Bylaws that may be of interest.

#### **Yearly letter to West Tisbury Homeowners with an accessory apartment**

As stated in the bylaw yearly inquiries will be conducted by the West Tisbury Affordable Housing to homeowners with an accessory apartment pertaining to occupancy, etc. A survey and affirmation form shall be sent by the West Tisbury Affordable Housing Committee for the homeowner to complete and return to the committee.

The Town of West Tisbury utilizes the Dukes County Regional Housing Authority to coordinate income limits and rents of tenants in compliance with the town's zoning by-law, Section 4.3 pertaining to Accessory Apartments. This Income table and Rental table shall be attached to the Survey and Affirmation for the homeowners use in establishing renters and rent.

The following annual survey is included in each owner's file along with copies of the lease and tenant income certification. Please **check-off** the appropriate status of your accessory apartment.

Thank you for your cooperation.

West Tisbury Affordable Housing Committee

## 2021/22 Guidelines for West Tisbury Accessory Apartment Rentals

The Town of West Tisbury provides opportunity for the development of Accessory Apartments through special permits issued by its Zoning Board of Appeals. The Town’s Affordable Housing Committee provides annual monitoring of the specially permitted apartments including assistance by the Dukes County Regional Housing Authority for those apartments to be rented affordably. Additional information on the Zoning Bylaws resulting in this housing program is available at the Town Hall.

- Rental of apartments granted under Section 4.4-4 of the Zoning Bylaws are restricted to households earning no more than 80% of Dukes County median income (please see below).
- The Affordable Housing Committee requires proof of current income and recent tax returns to be certified by the Dukes County Regional Housing Authority.
- The Affordable Housing Committee maintain copies of the landlord’s lease, the tenant’s income certification and a signed program affidavit on file for review upon request by the Town.

### 2021 Household Income Limits\* (80% of Dukes County Area Median Income)

One Person	\$59,200
Two Persons	\$67,650
Three Persons	\$76,100
Four Persons	\$84,550

### 2021 Maximum Rent Limits\*

	<u>Studio</u>	<u>1 Bedroom</u>	<u>2 Bedrooms</u>
With Utilities:	\$1,480	\$1,585	\$1,902
Split Utilities**	\$1,406	\$1,486	\$1,791
Without Utilities***	\$1,326	\$1,406	\$1,665

\* Income and rent levels provided annually by the U.S. Department of Housing & Urban Development (HUD) and the Mass Housing Partnership (MHP).

\*\* In order to charge the split utilities rental rate, the heating or electric (not both) must be the utility shared with the primary resident. One example would be a tenant who pays a monitor heater fuel bill while sharing an electric service with the landlord.

\*\*\* In order to charge the rental rate without utilities, all utilities must be separately metered and billed in the name of the tenant.

The West Tisbury Affordable Housing Committee has reviewed these guidelines.

**Examples of Survey and Affirmation**

**West Tisbury Affordable Housing Committee (WTAHC)**  
**P.O. Box 278**  
**West Tisbury, MA 02575**  
**508-696-0100 Ext. 121**

Dear West Tisbury Accessory Apartment Owner,

The Town of West Tisbury request an annual compliance of the accessory apartment status. WTAHC request basic documentation on current usage form each special permit.

**Please fill in the current status of your Accessory Apartment**

<b>Name</b> _____	<b>Physical Address</b> _____
_____	<b>Apartment rented year-round with current annual lease and tenant name and income information on file with the WTAHC or Dukes County Regional Housing Authority (DCRHA).</b>
_____	<b>Apartment rented year-round <i>without</i> annual lease and tenant income information on file with the WTAHC or DCRHA. (contact WTAHC with information to place on file as soon as possible)</b>
_____	<b>Apartment currently occupied by a family member.</b>
	<b>Name</b> _____ <b>Relation</b> _____
_____	<b>Occupancy Permit issued but apartment not currently occupied. Explanation</b> _____
_____	<b>Occupancy Permit <i>not issued</i> and apartment not currently occupied</b>
	<b>Status</b> _____
_____	<b>Other</b> _____

Please mail the signed survey and a signed copy of the town's Accessory Apartment Affirmation in the self-addressed envelope enclosed in this mailing for your convenience.

The WTAHC appreciates your participation in affordable housing efforts on Martha's Vineyard as a landlord in West Tisbury's Accessory Apartment program. Please let us know if we may be of any assistance to you.

Sincerely,  
West Tisbury Affordable Housing Committee

**Accessory Apartment Affirmation**

**A Special Permit for the Accessory Apartment located at**

\_\_\_\_\_, **West Tisbury**

Map \_\_\_ Lot \_\_, was granted by the Zoning Board of Appeals on \_\_\_/\_\_\_/\_\_\_.

Mailing Address \_\_\_\_\_.

The West Tisbury Zoning By-Law requires the following affirmation attesting to the owners understanding of the occupancy restrictions of Section 4.4-4 and intention to comply with these requirements.

I/We understand, and agree to comply with, Section 4.4-4 of the West Tisbury Zoning By-Law. At this time, I/We attest that the above Accessory Apartment is rented to an approved affordable housing tenant.

\_\_\_\_\_ (Owners) Date \_\_\_\_\_

\_\_\_\_\_ (Owners) Date \_\_\_\_\_

Name of tenant and mailing address) \_\_\_\_\_

\_\_\_\_\_

At this time, I/We attest that the above Accessory Apartment is for family use only and is not rented.

\_\_\_\_\_ (Owners) Date \_\_\_\_\_

\_\_\_\_\_ (Owners) Date \_\_\_\_\_

At this time, I/We attest that the Accessory Apartment is unoccupied.

\_\_\_\_\_ (Owners) Date \_\_\_\_\_

\_\_\_\_\_ (Owners) Date \_\_\_\_\_

(A copy of the lease, if one exists, must be filed with this affirmation and yearly thereafter.)  
Non-compliance may lead to the cancelation of your occupancy permit.