

# **Accessory Dwellings on Long Island: An Overview**

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## Executive Summary

In 2013, the Long Island Community Foundation and the Regional Plan Association published *Long Island's Rental Housing Crisis*, a report that identifies the urgent need for rental units in the region, and highlights the geographic unevenness of existing units. The report shows that “[t]he shortage of affordable rental homes is already straining Long Island’s economy, and will make it much harder to compete for jobs in the years ahead” and advises that “[a]ctions should be taken at all levels of government to create new homes that both meet community needs and relieve the rental housing crisis” (p. 3). One of the report’s proposed solutions was the development and legalization of accessory apartments, a type of accessory dwelling unit (ADU).

ADUs have attracted increased interest as a strategy for “retrofitting” suburbs that lack affordable and multigenerational housing. Yet, there is relatively little recent research on ADUs, either nationally or on Long Island. In this report, we begin to fill this gap for the region. We provide a basic survey of existing zoning code, local demographics in permitting and non-permitting jurisdictions, prevalence of legal ADUs, and local government officials’ attitudes towards those units. In the course of our study, we also note the challenges involved in studying ADUs generally and the challenges that reforming local ADU policy is likely to face.

We provide a literature review of ADUs in the United States, highlighting their origins and the reasons for the resurgence of interest in this form of housing. ADUs respond to a combination of demographic needs, broader design and planning trends (like Smart Growth), and NIMBY resistance to multi-family rental housing. The most compelling research shows that the devil is in the regulatory details like parking requirements, which have significant effects on ADUs’ incentives, and eventually on production and legalization.

Since the 1980s, Long Island has been at the forefront of ADU policy. Apart from national trends, the build-out of Suffolk and Nassau counties has provided added incentives to densify. As a result, several jurisdictions on the island have established procedures and significant housing stocks of ADUs. But continuing conflicts surrounding overcrowded housing and illegal apartments have created a climate in which relaxing ADU regulation appears politically difficult. Given Long Island’s political fragmentation, the result is a policy environment where code and government receptivity differs significantly between jurisdictions.

Based upon a review of the zoning code and conversations with local officials, we categorize Long Island’s towns and villages into three groups: areas where ADUs are permitted, where they are effectively banned, and where they are limited to family members or otherwise segregated from the regional rental market. We then present a demographic portrait of communities in each category. Interestingly, the non-permitted category includes both affluent and homogeneously non-Hispanic White communities with nearly no rental stock as well as communities that are far more racially and ethnically diverse with high rates of rental occupancy. Permitted and limited communities fell between these extremes, although the former was more racially and ethnically diverse than the latter. In each category, we found that Black and Latino/a residents are overrepresented in 2-unit and rental properties, suggesting that changes in ADU policy – towards either liberalization or restriction – may have an outsized effect on Black and Latino/a-headed households.

We attempted to provide a basic count of legal ADU units using several methods – a survey of localities, tax assessment records, public lists of accessory units, and Zillow listings during the prior 6 to 12 months. Our best estimate is that about two percent of single-family homes on Long Island have a legal ADU, representing about 14,500 to 16,000 units. This range roughly corresponds to seven to eight percent of the region’s rental

stock, though this estimate may be imprecise as legal ADUs may or may not be included in Census rental estimates. Similarly, it is difficult to measure unpermitted units through the Census and other data sources.

We also discuss our survey of local town and village staff. While some village officials saw ADUs as making a positive contribution to affordable housing on the island, they did not necessarily see them as supporting local planning goals. Indeed, they saw parking, safety, and inharmonious design as ADUs' most significant drawbacks. They overwhelmingly believed residents as supported status quo ADU policy, and were most concerned that residents would object to ADUs because they are a form of affordable housing. This suggests that ADUs have not escaped the challenging race and class politics of affordable housing generally, even among local officials. At the same time, strategies such as design charrettes – i.e., for model ADUs appropriate to particular neighborhoods – may alleviate at least some of the concerns regarding the incompatibility of design, and provide guidance to homeowners seeking to build an additional unit.

This report is a first step towards understanding how local laws and attitudes might enhance ADUs' potential as a solution to Long Island's affordable rental housing shortage. While officials' perceptions of public sentiment are important, additional survey work is required to measure actual resident opinions. It is also unclear which policy changes would most effectively increase the region's stock of legal ADUs. Both would be worthwhile avenues for further research.

## Introduction

Long Island's planners, housing advocates, and regional organizations have recognized the affordable housing shortage as a problem for decades. Historically, the region was dominated by single-family homes, and apartments were scarce; the absence of affordable rental stock is not a new problem. Yet, the language of 'crisis' is nevertheless appropriate, since the high housing costs that force renters to live paycheck-to-paycheck – or compel them to rent overcrowded and illegal dwellings – present immediate dangers to households and to the region that depends on their labor.

The LICF/RPA report proposes several solutions for the shortage of rental housing:

- State and federal legislators and agencies could create regulations and provide funding that make it easier to build affordable rental homes and create places that will attract the next generation.
- County leaders could build on initiatives already underway to provide incentives and assistance for towns and villages to build more rental homes.
- Town and village leaders could apply lessons learned from a growing number of places, both on and off the Island, that have successfully incorporated new rental homes into their communities.

The report also suggests the legalization and development of accessory dwelling units (ADUs), which we define for the purposes of this report as attached or detached dwellings that share property with a single-family unit, and which may be used as an independent rental unit (i.e., with separate kitchen, bathroom, and sleeping quarters).<sup>1</sup> On Long Island, legal ADUs include “accessory apartments”, “mother-daughter [or

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<sup>1</sup> Hare (1989a) provides the following definitions: “‘Accessory apartments’ are complete separate units installed in underutilized space in a single-family home. They may involve adding some floor space to the original house. They may also be installed by subdividing and/or expanding units in two and three family housing, although this is not generally permitted by local governments;” “‘Accessory cottages’ are small, separate units on the same lot as an

parent-child] units”; and “senior residences”. While guesthouses and converted detached garages may be rented as ADUs, they are seldom permitted as legal units in the region.

## Literature Review: Accessory Apartments in the United States

Accessory apartments trace their origins to rural as well as urban housing types. In rural areas, Amish households rely on the *Grossdaadi Haus*, an ancillary unit that is constructed close to the main house, providing residence for retired grandparents of the farmer household (Antoninetti, 2008). In urban areas, carriage houses or guest cottages face back alleys and were often employed as ADUs in Philadelphia and Washington, DC, among other communities (Antoninetti, 2008; Borchert, 1980). Regardless of location, accessory apartments were popular in the U.S. in the early twentieth century when multigenerational households were common (Pfeiffer, n.d.). Over the next few decades, the number of units decreased and almost disappeared. The increasing popularity of Euclidian zoning included new measures against multi-family dwellings (Brown and Cropper, 2001). Lenders discontinued originating loans on non-traditional structures due to a change in underwriting policies of the Federal Housing Administration (FHA; Brown and Cropper, 2001). The establishment of Social Security reduced the need for senior housing within extended family households (Pfeiffer, n.d.). Starting in the 1980s, accessory apartments resurfaced in the form of Elder Cottage Housing Opportunity (ECHO) housing, Elder Cottages, and Homecare Suites (Altus et al., 2002; Antoninetti, 2008; Hare, 1982, 1991b; Wegmann and Nemirow, 2011).

Over the past three decades, there has been a broader resurgence of interest in ADUs (Hare, 1991a, 1992). The growing demand for small units and rental housing has been partly driven by demographic change. Baby Boomers grapple with the financial and practical challenges of maintaining suburban homes as they age in their communities (Cobb and Dvorak, 2000; Farber et al., 2011; Hare, 1989a, 1989b; Joint Center for Housing Studies of Harvard University, 2014; Lipman et al., 2012). Millennials try to start forming households and often face heavy housing cost burdens, even as they begin college debt repayment (Pendall, 2012; Wegman and Nemirow, 2011). Housing affordability problems have spanned generational divisions as housing costs overall have diverged from salaries, a long-term trend that has gradually worsened, given stagnant real incomes (Anacker & Li, 2016; Cobb and Dvorak, 2000; Joint Center for Housing Studies of Harvard University, 2014). ADUs may help homeowners in these areas turn underutilized space into a source of additional income (Hare, 1989a, 1989b; Wegman and Nemirow, 2011; Rudel, 1984). The ADU movement

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existing home. They are distinct from echo homes or granny flats because they are not temporary or movable, and are not restricted to people who are elderly or disabled. They may be attached to the main house;” “Echo housing’ (USA), ‘Granny Flats’ (USA, Australia, and Canada), and ‘Garden Suites’ (Ontario), are small, movable homes placed on a homeowner’s lot for use by elderly or disabled persons. Older men often do not like the idea of living in something called a ‘granny flat’, and its use is often discouraged. Reporters, however, typically like the term, and frequently apply it to accessory units in general;” “Second units’ as used in California, and ‘ohana units’ as used in Hawaii [to refer to an extended family], includes accessory apartments, accessory cottages, and echo housing;” “Accessory Units’ is synonymous with ‘second units’; ‘Illegals’ are units that have been installed either before an ordinance has been amended to permit them, or without obtaining zoning approval or building permits.” Pfeiffer (n.d.) also enumerates “second units,” “accessory dwelling units,” “guesthouses,” “backyard cottages,” and “secondary living quarters.” Wegman and Nemirow (2011) provide the following definition: “A secondary unit is an accessory dwelling on a house lot that has an independent exterior entrance and is equipped with its own kitchen and bathroom. It can lie within the envelope of the main house, or it can be a separate structure, whether attached or detached from the primary structure” (p. 1).

has thus been popular in metropolitan areas with high property values, housing shortages, and severe housing cost burdens.

ADUs also have the potential to meet a variety of design and planning goals, from the level of the house to that of the region. They contribute to certain planning and sustainability goals such as Smart Growth movement, as they contribute to densification in single-family areas, and reduce commuting length when located near transit hubs. Furthermore, ADUs might also be considered as part of the healthy living movement, which advocates densification strategies to promote walkability and prevent or reverse obesity (Speck, 2012).

When compared to other affordable housing strategies, ADUs, which are typically limited to one unit per property, may have political advantages over multi-family affordable housing proposals, which can meet with Not-In-My-Backyard (NIMBY) community opposition (Fischel, 2001; Galster et al. 2003; Rudel, 1984). But despite the many potential benefits of ADUs, zoning regulations (see for example the classic case of Euclid vs Ambler Realty), local building codes, and strong Not-in-My Yard attitudes (NIMBYism) have impeded the construction of new accessory units and conversion of existing units in many communities. Opposition has centered on concerns about increased traffic and density, a reduced sense of privacy, and allegedly negative impacts on property values (Antoninetti, 2008; Cobb and Dvorak, 2000; Hare, 1989a, 1989b; Nichols and Adams, 2013; Rudel, 1984).

In the New York area, housing demand had spurred informal and often unpermitted ADU construction well before ADU / “accessory apartment” ordinances were passed. In 1981, the Tri-State Regional Planning Commission analyzed single family housing conversions by analyzing building statistics and ads for apartments, and surveying local officials in the Tri-State region (Tri-State Regional Planning Commission, 1981). The authors concluded that “in a number of New York suburbs [...] between 10 and 20 percent of the single-family homes in their communities contain accessory apartments, [...] 70 percent of the respondents reported that homeowners in their community were subdividing their homes” (quoted in Rudel, 1984, p. 175).

Babylon, a racially and ethnically diverse suburb on Long Island, was in the forefront of early attempts to develop ADU-related legislation. The town legalized ADUs in 1980, resulting in over 1,000 legal in-house ADUs by early 1982. Rudel (1984) studied Babylon in the early 1980s, based on data collected in the spring of 1982 in a mail survey of ADU owners and renters (n = 312, return rate = 55 percent), at a time when only a few suburbs in the New York metropolitan area had legalized ADUs. Twenty-five percent of the surveyed ADUs had been constructed between 1979 and 1981, near the time when ADUs were legalized. Apart from demographic and socioeconomic owner and renter characteristics, Rudel (1984) concludes that ADUs provide the least expensive housing available although “they do not appear to be an economic substitute for federally-subsidized or owned low income housing” (p. 177).

Despite the spread of ADUs in the following three decades, there is scant research on their prevalence and efficacy as an affordable housing strategy. Karen Chapple and her collaborators at University of California, Berkeley have released an important series of studies on the potential of ADUs (“secondary units”) for urban infill, based a study of five adjacent cities in the East Bay of the San Francisco Bay Area (Oakland, Berkeley, Albany, El Cerrito, and Richmond). Chapple et al. (2012) investigate both the market for secondary units and the ways that local regulations can best enable the construction of secondary units. Based on parcel data purchased from a third-party vendor, the authors “analyze the effect of existing land use regulations on the

ability of a homeowner to build a detached secondary unit in the backyard, and the likely effects of liberalizing land use regulations” (p. 3).

This research demonstrates that for ADU/secondary units, the devil is in the regulatory details. Parking regulations, for example, vary across the authors’ East Bay study areas. Berkeley, while it has lenient parking regulations, does not allow a parking space to be accommodated in the front setback of the lot. A legal parking space must also be separated by a 2’ landscaped strip, separating it from the lot line. El Cerrito’s existing single-family residential properties that do not comply with the existing parking requirements for the main unit lose their grandfathered status and must conform with parking requirements upon the addition of a secondary unit by installing a two-car garage or carport in order to add a secondary unit. Oakland requires that the required off-street parking space for the secondary unit must be independently accessible, i.e., not placed in tandem (although this requirement depends on the size of the desired secondary unit and on the particular zoning district). Parking regulations are only one of several restrictions that constrain the supply of ADUs. By reforming these regulations, Chapple et al. (2012) argue that local governments can encourage the production of ADUs. Table 1 below shows the potential for the additional creation of units in “station areas” near transit hubs, and in the higher-density flatland neighborhoods of their case study areas.

**Table 1: Secondary Units that can be built in Chapple et al.’s (2012) study areas**

	<b>Berkeley</b>	<b>El Cerrito</b>	<b>North Oakland</b>
<b>Station Areas</b>			
Current zoning	1,070	244	52
With all recommended changes	1,991	1,008	516
Percent increase over current zoning	86%	313%	892%
<b>Flatland Neighborhoods</b>			
Current zoning	3,628	459	229
With all recommended changes	6,040	2,001	2,289
Percent increase over current zoning	66%	336%	900%

Source: Chapple et al. (2012; Tables 1 and 2 combined by authors)

Chapple et al. (2012) offer three conclusions, among others. First, while there is a substantial market of interested homeowners, regulations in most cities in the East Bay prevent the majority from building secondary units – and thus preclude secondary units from becoming a viable infill strategy. Liberalizing ADU regulations can have a significant positive effect on ADU rentals. Second, the case study cities could likely reduce parking requirements without contributing to parking problems, particularly because secondary unit tenants are less likely than other residents to own a car. Third, secondary units could accommodate a significant share of future population growth and meet affordable housing needs. Chapple et al. (2012) make the following policy recommendations:

- Make it as easy as possible to install secondary units “as of right.”
- Reform the land use controls that currently limit the legal secondary unit market to a small fraction of SFR properties.
- Relaxing parking requirements.
- Provide a menu of alternatives for those who cannot otherwise meet parking requirements.
- Encourage the growth of car sharing in moderate-density neighborhoods.
- Supplement deregulation of secondary unit installation with active encouragement.
- Establish a second unit amnesty program.
- Set up a loan fund for secondary units.
- And whatever you do, “know your market” (i.e., carefully tailor ADU policies to local populations).

### **Accessory Apartments on Long Island: A Brief History**

Housing advocates, planners, and elected officials have long proposed accessory housing as one possible solution to the region’s housing crisis. Accessory housing has clear advantages over other affordable housing strategies in regions with a diminishing supply of greenfield sites and frequent NIMBY opposition to higher-density multi-family development (Antoninetti, 2008).

Long Island’s local governments, in fact, were among the first in the nation to explore accessory housing as a major source of affordable housing (Rudel, 1984). In the 1970s and 1980s, the region experienced a wave of apartment-to-co-op conversions – sometimes ascribed to the introduction of rent control in 1974 – that quickly placed tremendous pressure on the rental stock. During the same period, rentals rose sharply: in its 1978 “Long Island at a Crossroads” series, *Newsday* called attention to the growing number of illegal rentals in the area; the accompanying interviews with builders, government officials, renters, and homeowners included proposals to reform of zoning ordinances to facilitate one- to two-family conversions.

During the 1980s and early 1990s, many town and village governments – particularly in Suffolk County – instituted new procedures to legalize and regulate accessory apartments. One of the earliest model accessory apartment ordinances in the country was passed in the Town of Babylon in 1979 (Rudel, 1984), followed by ordinances in Brookhaven (1983) and Islip (1984). In 1988, the Long Island Regional Planning Board released an update to the region’s master plan that estimated that 90,000 illegal units remained on Long Island and recommended legalization. Additional accessory apartment laws were passed in Southampton, Riverhead, and Huntington (1991) shortly after.

The momentum towards the legalization of accessory housing then appeared to stall. Even prior to adoption of these laws, there had been tension within two-pronged proposals (such as LIRPB’s) to permit accessory apartments that met certain standards while aggressively cracking down on illegal rentals. While these two goals were not contradictory in theory, in practice they allowed for sustained conflict between those who prioritized relaxing regulations and those who favored tightening them to the point of effective prohibition. Local policy reflected this tension. At times, ADUs have been tolerated and encouraged, regulations relaxed, and amnesty granted to owners of illegal units; at other times, regulations were tightened and code enforcement intensified. The Town of Huntington, for example, adopted a relatively permissive accessory dwelling unit law in 1991, and then tightened enforcement in stages during the late 1990s and early 2000s – e.g., investigating evidence of multiple units (mailboxes, meters, etc.), setting up a hotline for neighbors to

report on illegal units, and restricting the concentration of these units. In the mid-2000s, the town somewhat reversed course when it launched its Taking Back the Blocks program in Huntington Station<sup>2</sup>, which pressured absentee landlords to sell to owners who would legalize accessory units; the town also provided a revolving loan fund for current owner-occupants who wanted to bring their ADUs up to code.

If policy oscillated in areas with ADU ordinances, jurisdictions that prohibited or tightly restricted ADUs recommitted to limiting their prevalence. In 2004, for example, the Nassau County assessor arrogated the responsibility of policing illegal apartments to his office, beginning a multi-year effort to punish owners with illegal units by reclassifying their properties as “commercial”, greatly increasing the owners’ property’s taxes. In 2008, North Hempstead supervisors unanimously approved a measure that repealed a family requirement for accessory units, only to reinstate it after being confronted by repeal opponents at the following meeting. Intensifying debates on immigration, especially in Suffolk County, turned attention to problems of overcrowding and substandard housing, although they led to a crackdown and mass evictions in Brookhaven (Community Advocates, 2006).

Yet, the 2000s and 2010s also witnessed a renewed interest in accessory dwelling units on Long Island as well as elsewhere in the nation (Antoninetti, 2008), which as noted above seems to have emerged from several sources. Baby boomers began to retire, discussions about aging in place in suburbia again came to the fore, and a new state-backed HomeShare program encouraged the creation of multigenerational households that included owners and renters.<sup>3</sup> As home prices spiraled upwards during the housing boom, rental housing advocates pointed out that owner occupancy was increasingly out of reach for young college graduates, raising the possibility of a regional “youth drain” (albeit one that was not borne out by Census statistics). More generally, a growing awareness of the obsolescence of Long Island’s unplanned and underutilized postwar infrastructure – particularly grayfield sites near transit and LIRR nodes – provided an opportunity for the creative rethinking of the region’s landscape.

Regional advocacy groups have issued studies and advanced proposals to support the goals of rental housing production, equity, and Smart Growth, but three are most important as the immediate antecedents for the current report. In 2006, Community Advocates, Inc. released a proposal for policy reforms that would encourage the creation of ADUs in North Hempstead and on Long Island, based upon a nationwide review of ADU legislation (and model legislation; Community Advocates, Inc., 2006). Four years later, the Rauch Foundation sponsored a competition, entitled *Build Better Burb*, which solicited bold, visionary proposals for rethinking the region’s planning and design. One of the winning submissions proposed including accessory apartments in the back yards of inner-ring postwar suburbs like Levittown (Williamson, 2013). Most recently, the Long Island Community Foundation sponsored the *Long Island’s Rental Housing Crisis* report that included proposals for the expansion of accessory dwelling units as one possible solution to the affordable housing crisis.

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<sup>2</sup> <http://www.newsday.com/long-island/taking-back-the-blocks-in-huntington-station-1.881497>

<sup>3</sup> See for example <http://www.aging.ny.gov/livableny/ResourceManual/Housing/III1g.pdf>.

## Data and Methods

In this study, we provide a preliminary overview of the ADUs on Long Island, i.e., Nassau and Suffolk Counties, with the goal of laying the groundwork for future research. We use a multi-pronged approach – reviewing the zoning code, distributing a survey, requesting assessment information, analyzing Census data, and conducting a news search. Each of these methods individually provides an incomplete profile of ADUs on Long Island, although together they offer an empirical starting point.

We began our research by reviewing zoning codes for 112 towns and villages on Long Island, relying upon [ecode360.com](http://ecode360.com), or alternately, the code posted on the jurisdiction’s website. We examine each jurisdiction’s zoning code to determine whether accessory units are permitted, and if so, how they are classified and regulated. A systematic LexisNexis search and review of *Newsday* articles that included the phrase “accessory apartment”, from 1985 to the present, enhanced our understanding of the current design of local ADU ordinances, and informed much of the history in the preceding section.

We developed a survey instrument to cross-check local policies, and to test local attitudes towards accessory housing. The survey included 34 questions on a variety of ADU-related topics, including the local regulations and bodies governing ADUs, the number of legal units, and whether residents (in the opinion of local administrators) saw particular characteristics of ADUs as positive or negative.<sup>4</sup>

We distributed the survey online, through Survey Monkey, to all 112 towns and villages on the island, from July to November, 2015. We made our first contacts with local building departments and village administrators, if we were able to find their e-mail addresses online. When e-mail addresses were not available, or after we had sent three e-mails without receiving a response, we called the main phone number of town or village government and attempted to either administer the survey over the phone or identify another appropriate e-mail address for survey distribution. Many local officials either refused participation (19/112 = 16.96 percent) or were completely non-responsive (22/112 = 19.64 percent). In many other cases (49/112 = 43.75 percent), we made several calls and sent several e-mails to multiple respondents within the same local government, without ever receiving a completed survey. In one survey response, and in phone conversations with staff in three different jurisdictions, local administrators and staff advised us that we were unlikely to receive a high degree of cooperation or participation, given the controversial nature of the subject. In the end, we received 22 responses, resulting in a response rate of 19.6 percent, although several of the surveys returned were incomplete responses.

Upon receiving a relatively low survey response rate, we sought further information on the number of existing ADUs by submitting Freedom of Information Law requests for assessment data to all towns and villages on the island. Again, the response rate was low, with 15 jurisdictions (13.39 percent) responding to our request within the 60 days that followed. We considered submitting FOIL requests for data on accessory unit issuance and renewal, but decided against it for two reasons. First, multiple town and village staff had told us, during the course of our survey contacts, that they had no system for tracking accessory permits in their respective jurisdiction. Second, given the relatively low response rate for the assessment FOIL request, we were pessimistic about the response to a request for permit data, a much more labor-intensive task for local government staff.

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<sup>4</sup> We defined ADUs in our online survey as, “Attached or detached dwellings that can be rented out, such as (accessory apartments, mother-daughter units, or guesthouses).”

To complement this local data collection, we downloaded Census data from the 2009-2013 American Community Survey 5-year data, and examined the demographic composition of residents living in 2-family units and rentals in Nassau and Suffolk Counties. The ACS has a large margin of error, and its estimates must be used with caution.

### Code Review and Census Analysis

As discussed above, existing academic research on accessory dwelling units suggests that fine points of local zoning code can be decisive in determining whether accessory apartment ordinances deliver significant numbers of new units. Thus, we reviewed all zoning codes available online for towns and villages on Long Island. For those municipalities that do include ADUs in their zoning codes, we searched for provisions governing the ADU site and structure, design, occupancy, and permitting process, including those related to:

- Lot size / frontage
- Additional off-street parking
- Size of unit / principal residence
- Maximum bedrooms
- Maximum occupants
- Owner-occupancy
- Type of occupants required / preferred
- Single-family unit appearance
- Age of dwelling / Certificate of Occupancy
- Total ADU in zones / jurisdictions
- Permit term
- Permit fees
- Permit transferability
- Public hearings
- Site plan submission
- Public notice
- Legislative intent

Based upon the “types of occupants required / preferred” field and the contacts that we made during the survey, we broke towns and villages into three broad groups: those that permit rentals (at least in certain circumstances) to unrelated tenants; those that do not permit ADUs; and those that permit the ADUs but limit them to family, caretaker, or domestic occupants and/or “grandfathered” units.<sup>5</sup>

#### *ADU-permitting jurisdictions*

ADUs are permitted in unincorporated areas of Suffolk County, where every town allows the development of rental units. Sag Harbor, Southampton, and Westhampton Beach – all located within the Town of Southampton – also permit ADUs.<sup>6</sup> In Nassau County, the Town of Hempstead grants permits for mother-

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<sup>5</sup> These designations are somewhat arbitrary, as the regulatory environment resembles a spectrum more than these neat categories. Some places lie on the border between providing ADUs rarely or never: some jurisdictions make special exceptions for grandfathered units or hardship cases despite a blanket prohibition; in others, exceptions for ADUs are technically legal but rarely or never given. Likewise, there are cases – most notably the Town of Hempstead – that include separate provisions for family-occupied (Mother-Daughter) or non-family-occupied (Senior Residence) units.

<sup>6</sup> See Hare (1991a) for sample ordinances from Lindenhurst, New York; Boulder, Colorado; Greenwich, Connecticut; Nevada County, California; and Riverside County, California. See Hare (1991a) for The City of Vancouver Program (for

daughter (parent-child) units and for senior residences (when either unit is occupied by a homeowner 62 years or older). Additionally, several other jurisdictions – such as Glen Cove and Lindenhurst – allow ADUs within the broader category of two-family dwellings, limited to residential zones which allow them.

We present a summary of regulations in ADU-permitting jurisdictions in Table A.1 in the Appendix. Several elements are noteworthy. Regarding site and design restrictions, most jurisdictions require ADUs to be attached to the principal residence, and in such a way as to preserve the single-family appearance of the structure. Elsewhere in the U.S., backyard structures are more commonly permitted for legal ADUs, but on Long Island these accessory buildings are seldom permitted for habitation, or if permitted, are limited to use as an unrented guesthouse. The limits on the number of bedrooms and total occupants, size of the unit, relative size of the larger unit, frontage, lot size, and off-street parking vary among the jurisdictions. Within communities, regulations related to lot size and frontage may effectively zone ADUs into or out of particular developer-built communities. At the regional level, regulatory variation may inhibit or foster the development of a niche market for construction and design professionals who specialize in ADUs. This is a topic for future research.

Even though most jurisdictions in this category do not limit occupants to relatives or caretakers, they regulate either the type of occupants, the number of permitted units, or both. In several cases, ADU occupancy was effectively limited to existing local residents, local employees and volunteers, or qualifying low- or moderate-income households; these restrictions may reflect local concerns about accessory housing, but they likely dampen rental demand for ADUs, and by extension, diminish the incentives for homeowners to build or legalize their units and ultimately limit the utility of ADUs as a regional stock of affordable housing. Occupancy restrictions may run contrary to fair housing goals as well, to the extent that residency requirements maintain racial and ethnic segregation.

Similarly, the limits on the concentration or total number of permits appear to stem from concerns that permitting too many accessory units would fundamentally change the character of the community, or strain local services. While understandable, such limits reduce the overall potential of ADUs as an affordable housing strategy, and as a concurrent densification strategy that incorporates single-family districts into transit-oriented development (TOD).

The process for securing an ADU permit – including terms, fees, renewals, transferability, and inspection requirements – also varies greatly. High fees, frequent or time-consuming renewal processes, and requirements for review by licensed architects and engineers and/or by local architectural boards may be a disincentive to legalization and construction, as they raise total owner costs. This seems to run contrary to the goals that drove the original ADU ordinances: where the legislative intent is stated, ADUs are usually justified as providing affordability for *homeowners* – especially elderly homeowners who are aging in place – as much as for *renters*. Stringent requirements, high fees, review by licensed professionals, and time-consuming renewal processes may be intended to protect neighbors, but they place cost burdens upon homeowners.

If such factors disincentivize ADUs, local zoning codes and local governments – per our review of government websites and *Newsday* – provide few incentives for their construction and conversion (Retsinas and Retsinas, 1991; Varady, 1990). Indeed, the key recommendation by Community Advocates (2006) focused on the range of reforms that would encourage the development of ADUs. In a few cases, such as Sag

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legalizing existing secondary suites). See Hare (1991a) for a building inspector's perspective on why accessory apartments should be legalized.

Harbor and Huntington, local governments and non-profits have offered loans and technical assistance to homeowners who develop legal units. But it appears that such programs are rare, even where ADUs are permitted.

### *Limited / non-market jurisdictions*

Our second category – “limited” or “non-market” – includes jurisdictions that permit ADUs but do not allow new units produced for market rental. These are primarily areas that limit legal ADUs to family or employee occupancy or have “grandfathered” existing units.

We have used the “new units produced for market rental” criteria because it has direct bearing on whether particular ADU policies are likely to result in additions to the affordable rental stock. The communities in the prior section provide opportunities for the creation of new rental units, even though, as discussed above, overregulation may reduce their number. The ADUs in the limited/non-market communities, on the other hand, do not contribute directly to the general supply of affordable housing; they only contribute indirectly, i.e., by absorbing potential renters (family members, etc.) from the market for other affordable housing units.

We found 18 villages and the unincorporated areas of three towns (North Hempstead, Oyster Bay, and Smithtown) fit within this “limited” / “non-market” category (Table 2).<sup>7</sup> With the exception of Smithtown, East Hampton Village, Shoreham, and Amityville, all of these jurisdictions are located in Nassau County. The majority of these jurisdictions (13 out of 20) restrict ADUs to family occupancy, though who counts as a qualifying family member varies. In seven communities, domestic employees are specifically mentioned as potential legal occupants of otherwise-illegal ADUs, and in five communities, only units built before a certain date are permitted.

The second and third columns of Table 3 compare the American Community Survey housing and population characteristics of jurisdictions the Permitted and Limited categories. Before turning to the Census data analysis, it is important to offer two caveats. First, because most Suffolk jurisdictions permit ADUs and most Nassau jurisdictions limit them to family occupancy, the Permitted and Limited categories reflect differences in home design (era of construction), planning, and demography that are largely independent of ADU policy. Thus, the chart below should be interpreted as a “snapshot” of the profiled communities, and not used to make claims that ADU policies of one form or another have led to particular demographic patterns or built environments. Such relationships may exist, but testing for them would require additional research.

Second, Census data does not perfectly represent actual housing and population characteristics, and ADUs may not be represented consistently. The 5-year American Community Survey is roughly a 1-in-15 survey, and therefore can only provide rough estimates for small areas and detailed cross-tabulations like those below. This uncertainty is further complicated by the problem of illegal units: surveyed households have an interest in non-response or misrepresentation. It is also unclear whether Census data accurately counts *legal* units, given that they are often designed to blend inconspicuously into the exterior of single-family houses, and even honest respondents might not think of them as a separate unit (especially if occupied by a family member). On the other hand, the Census may also reveal unpermitted units. For all of these reasons, it is

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<sup>7</sup> The Town of Hempstead provides two types of legal ADUs, senior residences (that could produce new legal units for the market) and family units (which do not). Here, we have placed the town in the “permitted” category.

unclear whether the Census would undercount or overcount ADUs, and relatedly, whether the 2-unit (and 2-unit rental) figures can be used to estimate ADU prevalence -- i.e., in areas with few original 2-unit structures. While many legal ADU tenants would likely be counted as renters in 2-unit structure, not all renters in 2-unit structures would be ADU tenants.

Nevertheless, analyzing the population and housing characteristics of groups of jurisdictions does provide us with a sense of the context for changes in ADU policy. In Limited jurisdictions, 2-family dwellings and rental in 2-family dwellings represent a slightly higher percentage of total housing units than they do in Permitted jurisdictions, perhaps reflecting the higher housing densities in Nassau County generally. But rentals overall account for a large portion of total units in Permitted (19.2%) than in Limited areas (13.9%).

The residents of Limited jurisdictions have a higher mean income than those in Permitted areas, and they are more likely to be non-Hispanic White or non-Hispanic Asian. Non-Hispanic Asian residents are 10% of the population in ADU-Limited areas, largely due to settlement patterns that have extended across the Nassau-Queens border.

Non-Latino Black/African Americans and Latino residents account for nearly twice the share of population in the Permitted areas (27.1%) than in Limited areas (14.3%). Yet, in both Permitted and Limited areas, Black and Latino/a-headed households account for a disproportionate share of households that rent or live within 2-unit structures. This suggests that changes in ADU policy – towards either liberalization or restriction – may have an outsized effect on Black and Latino/a-headed households.

**Table 2. Restrictions on ADUs in “limited” jurisdictions**

<b>Jurisdiction</b>	<b>Regulations</b>
Amityville village	Family occupancy only (parents or children of owners by blood, marriage, or adoption); extensive design, parking, and permitting requirements
Bayville village	Family occupancy only (parents or children of owner); special use permit required
Cedarhurst village	Family occupancy only (mother-daughter)
Centre Island village	Domestic employees and caretakers only; detached structures permitted; minimum size requirements
Cove Neck village	Allowed for units built prior to 1985, if unit meets lot size requirement; otherwise, domestic employees and their immediate families only
East Hampton village	Allowed for units built prior to 2013, and in buildings designated as timber-framed landmarks
Floral Park village	Some units grandfathered in; otherwise, only permitted as 2-family in R-2 zones
Flower Hill village	Family occupancy (“mother-daughter”) units allowed, with special use permit
Greenport village	Artist dwellings allowed in Arts District; other dwellings covered as two-family
Malverne village	Only allowed by special exception in cases of hardship (elderly parents of owner); must be temporary alteration
Massapequa Park village	Family occupancy only (mother-daughter, defined as blood relative), permit terminates upon sale
Matinecock village	Allowed for units built prior to 2003, if unit meets lot size requirement; otherwise, domestic employees only
Muttontown village	Allowed for units built prior to 1973, if unit meets lot size requirement; otherwise, domestic employees and their immediate families only
New Hyde Park village	Family occupancy only (mother-daughter); permit and inspection requirements
North Hempstead town	Family occupancy only (mother-daughter), homes must meet requirements for 2-family; also permitted for caretakers of historic homes
Oyster Bay Cove village	Allowed for units built prior to 1988, if unit meets lot size requirement; otherwise, domestic employees and their immediate families only
Oyster Bay town	Family occupancy, and domestic employees only with Board of Appeals approval
Sea Cliff village	Family occupancy only (parents or children of owner); parking requirements
Shoreham village	Family occupancy, non-paying guests, and domestic servants only
Smithtown town	Family occupancy only (mother-daughter); detailed design, parking, and permit requirements
Valley Stream village	Family occupancy only (“mother-daughter”, defined as blood relatives of owner); parking and Board of Appeals approval required

Table 3. Demographic and Housing Characteristics of Permitted, Limited, and Non-Permitting Jurisdiction

	Permitted jurisdictions	Limited Jurisdictions	Non-permitting jurisdictions – rental units as a percentage of total housing units (Source: 2009-2013 American Community Survey)			
			Total	Less than 10% rental	10-25% rental	Over 25% rental
<b>Number of Occupied Housing Units</b>	601,983	190,677	140,110	26,349	25,192	88,569
<b>Number and Proportion of 2-family units (of total housing units)</b>	28,457 (4.7%)	10,254 (5.4%)	10,714 (7.6%)	145 (0.6%)	696 (2.8%)	9,873 (11.1%)
<b>Renter-occupied (of total housing units)</b>	115,807 (19.2%)	26,595 (13.9%)	41,755 (30.2%)	1,359 (5.2%)	4,720 (18.7%)	35,676 (40.3%)
<b>Renter-occupied 2-family (of total Hus)</b>	18,734 (3.1%)	6,332 (3.3%)	6,889 (4.4%)	57 (0.2%)	475 (1.9%)	6,352 (7.2%)
<b>Renter-occupied 3+ family (of total Hus)</b>	43,763 (7.3%)	9,647 (5.1%)	26,153 (18.7%)	395 (1.5%)	2,428 (9.6%)	23,330 (26.3%)
<b>Non-Latino White HHs, % of Total</b>	453,081 (75.3%)	153,103 (80.3%)	98,091 (70.0%)	23,776 (90.2%)	21,630 (85.9%)	52,685 (59.5%)
<b>Non-Latino White HHs, % of renters</b>	80,745 (69.7%)	19,712 (74.1%)	24,871 (59.6%)	1,205 (88.7%)	3,856 (81.7%)	19,810 (55.5%)
<b>Non-Latino White HHs, % living in 2-unit</b>	15,868 (55.8%)	6,601 (64.4%)	6,202 (57.9%)	109 (75.1%)	402 (57.8%)	5,691 (57.6%)
<b>Black HHs, % of Total</b>	52,002 (8.6%)	6,430 (3.4%)	16,364 (11.7%)	205 (0.8%)	313 (1.2%)	15,846 (17.9%)
<b>Black HHs, % of renters</b>	16,881 (14.6%)	2,311 (8.7%)	8,461 (20.3%)	33 (2.4%)	146 (3.1%)	8,282 (23.2%)
<b>Black HHs, % living in 2-unit</b>	3,327 (11.7%)	823 (8.0%)	1,379 (12.9%)	5 (3.4%)	54 (7.8%)	1,320 (13.4%)
<b>Asian HHs, % of total</b>	20,473 (3.4%)	15,290 (8.0%)	5,993 (4.3%)	1,356 (5.1%)	1,766 (7.0%)	2,871 (3.2%)
<b>Asian HHs, % of renters</b>	4,024 (3.5%)	1,905 (7.2%)	1,667 (4.0%)	56 (4.1%)	385 (8.2%)	1,226 (3.4%)
<b>Asian HHs, % living in 2-unit</b>	1,021 (3.6%)	624 (6.1%)	445 (4.2%)	3 (2.1%)	68 (9.8%)	374 (3.8%)
<b>Latino HHs, % of total</b>	72,379 (12.0%)	14,017 (7.4%)	18,675 (13.3%)	893 (3.4%)	1,228 (4.9%)	16,554 (18.7%)
<b>Latino HHs, % of renters</b>	25,881 (22.3%)	4,576 (17.2%)	11,081 (26.5%)	141 (10.4%)	576 (12.2%)	10,364 (29.1%)
<b>Latino HHs, % living in 2-unit</b>	7,850 (27.6%)	2,055 (20.0%)	2,629 (24.5%)	31 (22.4%)	172 (24.7%)	2,426 (24.6%)
<b>Mean income</b>	\$107,773	\$136,213	\$133,506	\$240,112	\$150,552	\$96,943
<b>Total Population</b>	1,846,060	575,990	400,284	83,644	71,431	245,209
<b>Proportion Non-Lat. White</b>	66.9%	74.3%	63.4%	85.8%	81.9%	50.3%
<b>Proportion Non-Lat. Black</b>	9.7%	4.0%	11.8%	1.8%	1.6%	18.1%
<b>Proportion Non-Lat. Asian</b>	4.4%	9.9%	5.1%	6.0%	8.1%	3.9%
<b>Proportion Latino</b>	17.4%	10.3%	18.0%	4.8%	6.5%	25.9%

### *Non-permitting jurisdictions*

In 65 of the Island's villages and in Long Beach, ADUs are not permitted at all. These villages are generally small, and although they account for the majority of the region's local governments, they are only home to about 12 percent of Long Island's population.

It is difficult to ascertain through the code alone whether the ADU policy reflects a broadly exclusionary policy towards rental units and their tenants, who (again) in these communities are disproportionately Black and Latino/a. Most of these jurisdictions, after all, include some provision for multiple-family and/or rental dwellings. It could be the case that these villages have met their rental housing goals through other forms of multiple-family dwelling.

Data from the American Community Survey (ACS) can be helpful in this regard. The housing and demographic profile of non-permitting jurisdictions is similar to that of permitting jurisdictions, but there are sharp variations within the non-permitting group (see Table 2). First, in 33 villages, less than 10 percent of the housing stock is renter-occupied. These tend to be smaller villages in Nassau County, and have a combined population of only 83,644. More than two-thirds of the few rental housing units that does exist in these places is single-family; the Census only records 452 renter households in multi-family stock, or less than 2 percent of all housing units. Mean household income in these villages is high at \$240,112. People of color make up about 14 percent of the population, though Islandia accounts for most the demographic diversity; excluding Islandia, 88 percent of residents are non-Hispanic White, 5 percent are Asian, 4 percent are Latino/a, and less than 1 percent are Black/African American.

By contrast, in 16 non-ADU permitting communities (15 villages and Long Beach), rentals account for over 25 percent of housing. Over 80 percent of rental housing is included in multi-family units, including 18 percent located in 2-family units. These much larger communities have a combined population of 245,209 and a mean income of \$96,643. Half of the residents are non-Latino/a White, 26 percent are Latino/a, 18 percent are non-Hispanic Black/African American, and 4 percent are non-Hispanic Asian. Thus, some communities – through whatever combination of history, regional segregation patterns, and deliberate local policy – have substantial stocks of rental housing, even in the absence of ADU policy. These communities roughly correspond to the Nassau County communities with concentrations of rental housing identified in the 2013 LICF/RPA report (although that report included unincorporated Census designed places that are included here within their respective towns). In the remaining 17 non-permitting communities, rentals are 10 to 25 percent of housing. Most demographic and housing indicators fall between the other two subgroups, while more closely resembling the “less than 10 percent rental” subgroup.

### *Unclear / conflicting*

Finally, for five jurisdictions, we were unable to establish the status of ADUs. In two cases, the code was not entirely clear and staff were unavailable after repeated contacts. In the other three cases, we did contact local staff, but their descriptions of local policy ran contrary to published code. In two of these cases, we were told that ADUs were never approved, even though the jurisdiction appeared to fit the Limited category. This contradictory information is nevertheless important since it highlights the effect that staff – and Boards of Appeals, Architecture Review Boards, etc. – can have on implementing ADU policy, conveying information,

and approving or rejecting ADUs on a case-by-case basis. In these communities, staff and elected officials may effectively prohibit ADUs.

## Counting ADUs

By reviewing zoning code and following up with local staff, we were able to establish whether ADUs were permitted and if so, under what circumstances. It is considerably more difficult to provide an estimate of the number of legal ADU units. We attempted to estimate that number through four different methods, each with a high degree of uncertainty:

1. In our survey, we asked local officials whether they had conducted local surveys of ADUs. If so, we asked them for the tally of observed, permitted and non-permitted units. If they had not conducted the survey, we asked them to provide estimates of the units. Nine of the 23 survey respondents provided data on permitted units (two of which were zero entries); another respondent did not answer the survey, but provided total unit counts by phone, for a total of 2,122 permitted units for all respondents (two towns and eight villages). The ACS counts 142,496 owner-occupied 1-family detached and 2-family units in these communities, yielding a legal ADU prevalence of 1.49 percent.<sup>8</sup> Of course, this is a very small sample and a very uncertain estimate.
2. Apart from this survey data, the Town of Huntington is noteworthy for providing a public and regularly updated list of accessory units, which records 1,623 permits issued, or 2.90 percent of the 56,019 owner-occupied dwellings reported in the ACS.
3. We reviewed parcel assessment data from the New York Office of Real Property Tax Services MuniPro system, and cross-checked and updated this data by submitting FOIAs to all towns on Long Island. In the two counties, 9,394 residential parcels are classified as Class 215 (single family with accessory apartment), of 768,977 parcels, for a rate of 1.21 percent. If we replace the assessment data with the survey figures for our two town respondents, we arrive at a figure of 10,933, or 1.40 percent of single-family (owned *and* rented) parcels. Parcel data (like permit data) may inflate the number of legal units on the market, since owners may decide not to offer their units for rental. But on the whole, this estimate is likely to understate legal ADUs. Yet overall, this figure is likely an underestimate, since Class Code 215 is a relatively new addition to the classification system. Thus, many single-family units with accessory units are misclassified. Most notably, public MuniPro records on the Town of Babylon do not distinguish any homes as having accessory units, though in 2002, the Town's planning commission told *Newsday* that there were 3,500 active permits. If we use this figure in the absence of a more recent estimate, the island-wide prevalence of legal ADUs rises to 1.84 percent.
4. As a final check, we used Zillow.com to check for homes sold in the last six months (excluding apartments, condo/co-ops, townhomes, lots, and manufactured housing). In Nassau County, about 106 of the 5,658 homes (1.87 percent) sold in the six months between August 2015 and January 2016 include the phrase "mother-daughter" (96), "in-law" (8), "senior residence" (1), or "accessory

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<sup>8</sup> Three respondents recorded a total of six non-permitted units; two jurisdiction had observed one and two units in separate 'windshield' surveys, while the other respondent knew about three units "informally".

apartment” (1). Within Suffolk County, where accessory apartments are largely legalized, 195 of 7,198 properties include the phrases “mother-daughter” (101), “accessory apartment” (75), or “in-law” (19), out of 7,198 (or 2.71 percent) sold homes.<sup>9</sup> The combined rate for Long Island is 2.34 percent. We believe that this estimate is likely an underestimate: although most owners will mention a legal, income-generating unit as a selling point, a parent-child unit may not appear in the listing, especially in those jurisdictions that require removal of a unit prior to resale.<sup>10</sup>

All of the above methods provide very rough estimates of the prevalence of ADUs with a high degree of uncertainty, but inform our guess that about 1.85% of single-family units (from method #3) or 2.35% of owner-occupied single- and 2-family units include ADUs (method #4), roughly the range between 14,500 and 16,000 legal ADU units. The precise division of these units between market-rate, family-occupancy, and other types is uncertain. For the sake of comparison, there were 190,000 renter-occupied units and another 9,300 that were vacant in the 2009-2013 ACS for Long Island. Legal ADUs thus account for roughly 7-8 percent of rental housing stock (given that they may or may not be included among the rental units counted in the ACS).

It is much more difficult to estimate the number of illegal ADUs on Long Island. Few jurisdictions count ADUs regularly, so existing inventories and estimates are rather *ad hoc*. From the early 1990s to early 2000s, regular reporting in *Newsday* indicated a massive shadow inventory of apartments: the Long Island Regional Planning Board offered estimates of between 90,000 and 100,000 illegal apartments during this period. At various points between 1995 and 2002, officials in Babylon, Huntington, and Islip each estimated that there were about 10,000 units in their respective towns. It is difficult to assess whether these estimates accurately represent (or have ever represented) the scale of the hidden stock without conducting time-intensive on-the-ground research within each community.

### **Staff and public opinion of ADUs**

Our survey included questions that measured staff attitudes towards ADUs. Survey respondents were primarily local Building Department staff, village clerks, and village administrators. Our goal was twofold: we asked administrators to identify what they saw as the advantages and disadvantages of ADUs, and then asked them about the opinions of their constituents. These results do not necessarily reflect the actual opinions of the public; rather, they reflect administrators’ impressions of those opinions, which affect whether those local officials are willing to support policy change and how they implement policy – i.e., whether they actively encourage the construction of ADUs on a day-to-day basis.

Many town and village staff did believe that ADUs offered potential benefits. We asked them about the importance of various commonly-described benefits to legalizing ADUs, as shown in Table 4. Respondents favored affordable housing for the elderly and housing options for relatives over the more goals of additional housing to provide affordability to owners or renters more generally. Few respondents saw the densification

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<sup>9</sup> While this basic search does erroneously count a small number of units that have not received permits or are merely “ready” for conversion, it also misses several units where the words “accessory” and “apartment” are not adjacent, e.g., “accessory 1-bedroom apartment”.

<sup>10</sup> Spot checking of properties suggests both that a small number of these listings (about 10%) describe the apartment as a potential unit – i.e., habitable with permits. On the other hand, searching for other phrases, including variants of “accessory apartment”, turned up an additional 5-10% of units.

provided by ADUs as benefits, though this may partly result from our small sample, which included few villages with well-developed downtowns.

**Table 4. Staff identification of potential ADU advantages**

	Very important	Somewhat important	Not important (or not a benefit)	Total
Affordable housing to meet general need	5	4	4	13
Affordable rental housing for the elderly	7	3	3	13
Affordable rental housing for young adults	5	4	3	12
Rental income that enables owners to afford their homes	4	5	4	13
Rental income that enables elderly / retired owners to afford their homes	6	2	3	11
Housing options for relatives of residents	6	3	1	10
Increased density to complement other planning goals related to transportation or downtown redevelopment	0	2	8	10

The survey also revealed that town and village staff see their constituents as resistant to ADU policy change. Tables 5a and 5b summarize staff evaluations of overall resident attitudes towards ADUs, and changing the number of legal ADUs. Of the 16 responses to the question about general attitudes towards ADUs, six respondents (or 37.5 percent) saw ADUs in a strongly unfavorable light, five respondents (or 31.25 percent) were indifferent, three (or 18.75 percent) regarded ADUs somewhat favorably, and two (or 12.5 percent) somewhat unfavorable. Regarding residents' attitudes towards increasing or reducing the number of legal units within the area, ten respondents (or 71.43 percent) favored the status quo, three (or 21.43 percent) favored some increase, and one (or 7.14 percent) favored a significant reduction.

**Table 5a. Staff evaluation of overall resident attitudes towards ADUs**

Strongly favorable	0
Somewhat favorable	3
Neither favorable nor unfavorable	5
Somewhat unfavorable	2
Strongly unfavorable	6
<b>Total</b>	<b>16</b>

**Table 5b. Staff evaluation of overall resident attitudes towards increasing / decreasing number of legal ADUs**

Favor significant increase	0
Favor some increase	3
Status quo (even if status quo is no legal ADUs)	10
Favor some reduction	0
Favor significant reduction	1
<b>Total</b>	<b>14</b>

**Table 6. Staff perceptions of ADU drawbacks and explanations for resident opposition**

	Total responses, staff perception of ADU drawbacks	Average score (5 = Very important drawback / 1 = Not important)	Total responses, staff explanation of resident opposition	Average score (5 = Very important explanation / 1 = Not important)
Inharmonious design features	14	3.57	6	4.50
On-street parking problems	15	4.07	6	4.33
Additional traffic	15	3.27	6	4.33
Burden on local schools	14	3.21	6	3.83
Burden on other public services	14	3.07	6	4.00
ADU residents incompatible with community	14	2.29	6	4.33
Sites affordable/rental housing in the wrong locality	14	2.57	6	4.83
Overcrowding	14	3.14	6	4.17
Safety	14	3.64	6	3.83
Administrative costs of regulating legal units	14	3.29	6	2.67
Runs counter to other local planning / zoning priorities	14	3.50	6	4.17

Table 6 shows results from respondents' perceptions of ADU drawbacks and the explanations of resident opposition. The most important reason for ADU drawbacks was on-street parking problems (score 4.07 out of 5.0) followed by safety (score 3.64 out of 5.0), inharmonious design features (3.57 out of 5.0), and the incompatibility of ADUs with local planning and zoning priorities (3.50 out of 5.0). Interestingly, this ranking

is somewhat inconsistent with respondents' perceptions of residents, whom they believe would most object to siting of affordable rental housing (4.83 out of 5.0), followed by ADUs' inharmonious design features (4.5 out of 5.0), and on-street parking problems, additional traffic, and the incompatibility of ADU residents that are incompatible with the community (all tied at 4.33 out of 5.0). If local officials have a baseline expectation of resident resistance, motivated by opposition to rental and affordable housing and tenants, it is possible that opposition to ADUs is rooted more in the familiar exclusionary politics of affordable housing, rather than concerns about design or safety. Given the overrepresentation of Black and Latino households in 2-unit and rental properties (shown above), the ADU – especially the unrestricted ADU that is not limited to family occupancy – may be a form of affordable housing that has become racialized. In communities where some nativist residents have framed the issue of overcrowded housing as an immigration problem, debates over ADU policy may be particularly contentious if they are linked to illegal boarding houses in single-family neighborhoods. Future research could investigate the attitudes of residents more directly than we have here, for example through household surveys in select communities on Long Island.

The relatively high scores for parking and inharmonious design indicate a possible opportunity. As Chapple, et al. (2012) note, parking and design regulations suppress the potential of ADUs as affordable housing. These concerns could be allayed through planning and design charrettes that would enable residents and staff to envision aesthetically pleasing designs that are appropriate for the neighborhood. Our survey results, however, also suggest that such initiatives would need to link ADU reform with the challenging long-term efforts to build broad coalitions that support affordable housing more generally.

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## Appendix

Table A.1. Regulations in selected jurisdictions with detailed ADU-relevant zoning code

Name of jurisdiction	County	Key zoning code sections	Lot size / frontage req.	Additional off-street parking	Size	Max BD / occ	Attached/detached	Single-fam. appearance reqs.	Owner-occupancy	ADU occupancy restrictions / preferences
Babylon town	S	§153		Sufficient	350 sq ft for each unit; one unit limited to 3 rooms not including kitchen, living room, or bathrooms; no basements		Attached	Yes (one front entrance)	Required	
Brookhaven town	S	§85-258		1 per ADU	300-650 sq ft, but not more than 40% of total habitable area, except that AARB may approve larger apts up to 850 sq ft may be approved if they are <40% habitable space (see table)	1 BD, 1 unit/lot	Attached	Yes	Required	No sex offenders
East Hampton town	S	§255-11-63		2 per ADU	300-600 sq ft	1 BD, 2 occs.	Attached		Required	
Hempstead town	N	§85-1; §BZ-256		Mother-daughter reviewed by Bd. of Architectural Review	Max 800 sq ft.		No basements	Yes (arch. review board)	Required	Senior residence: ADU or main unit used by owners aged 62 or over
Huntington town	S	§ 198-134	Yes	3 per ADU	1 person per 70 sq ft of bedrooms (child exception); 300-650 sq ft.; max 2 bedrooms.	2 BD	Attached	Yes (one entrance, no vis. 2nd meters)	Required with non-profit exceptions	No sex offenders
Islip town	S	§68-600	Yes	4 total, subject to Town Engineer	1 person per 150 sq ft.; min. 300 sq ft total; max. 850 sq ft or 50% of gross floor area	2 BD, 1 unit / lot	Attached, no basements	Yes (one entrance, no vis. 2nd meters)	Required	

Name of jurisdiction	County	Key zoning code sections	Lot size / frontage req.	Additional off-street parking	Size	Max BD / occ	Attached/detached	Single-fam. appearance reqs.	Owner-occupancy	ADU occupancy restrictions / preferences
Riverhead town	S	§108-34 to -39		2 per ADU	Min. 300 sq ft.; max is 650 sq ft. or 40% habitable area (grandfather prov.)	1 BD	Attached / detached	Yes	Required	
Sag Harbor village	S	§300-11.6		Good faith effort to provide 1; none required	300-650 sq st., exceptions in VB district	2 BD	Attached	Yes (no entries face the street)	Required	Low/moderate income occupants; PD/FD/amb/school employees
Shelter Island town	S	§113-17		Required for all vehicles associated with ADU	Min. 480 sq ft.	2 BD	Attached	Yes (entrance from side/rear)	Required	
Southampton town	S	§330-11.1-11.2, among others	Yes	1 per studio/1BD and 2 for 2BD, with addl. requirements	400-1000 sq ft, but not more than 35% total floor area	2 BD, 1 unit / lot	Attached, no basements	Yes (entrance from side/rear)	Required with non-prof/HA except.	Family, vol. FD, amb., or non-prof. within town; Town / local employee; or restricted low-/mod-inc housing
Southampton village	S	§116-8.1		1 space for each 400 square feet, or part thereof, or floor area	Min. 400 sq ft		Attached	Yes (single front entrance)	Required in either dwelling	1-year lease req; must be family, permanent village res. or employee
Southold town	S	§280-13		3	Min. 450 sq ft.; existing dwelling > 1600 sq ft.		Attached w/exceptions		Required	A family member or resident who is on the Southold Town Affordable Housing Registry and eligible for placement
Westhampton Beach village	S	§197-93.1		1 per ADU bedroom, plus additional requirements	Min. 400 sq ft., max. 35% total floor area or 850 sq ft.; 2 bedrooms max.		Attached / detached	Yes	Required in either dwelling	Family, fire dept., village/town empl., town HS graduate, or reserved for low-inc

Table A.2. Non-permitting jurisdictions: rentals as a proportion of total units

Renter-occupied units less than 10% of total		10-25%	More than 25%
Asharoken village	Lloyd Harbor village	Atlantic Beach village	Dering Harbor village
Belle Terre village	Mill Neck village	Babylon village	East Rockaway village
Bellerose village	Munsey Park village	Baxter Estates village	Farmingdale village
Brightwaters village	Nissequogue village	Great Neck Estates village	Freeport village
Brookville village	Ocean Beach village	Great Neck village	Great Neck Plaza village
East Hills village	Old Brookville village	Lake Grove village	Hempstead village
East Williston village	Old Field village	Lawrence village	Long Beach city
Garden City village	Plandome Heights village	North Haven village	Lynbrook village
Head of the Harbor village	Plandome Manor village	North Hills village	Manorhaven village
Hewlett Bay Park village	Plandome village	Old Westbury village	Mineola village
Hewlett Harbor village	Roslyn Estates village	Poquott village	Patchogue village
Hewlett Neck village	Roslyn Harbor village	Port Jefferson village	Port Washington North village
Islandia village	Sands Point village	Quogue village	Rockville Centre village
Kensington village	Upper Brookville village	Saddle Rock village	Roslyn village
Kings Point village	Village of the Branch village	Saltaire village	Russell Gardens village
Lake Success village	Woodsburgh village	Stewart Manor village	South Floral Park village
Laurel Hollow village		Thomaston village	