

TOWN OF NEW BRAINTREE

Draft Accessory Dwelling Unit Bylaw DRAFT DATE- 10/16/25

A. Purpose

The purpose of this Section - Chap 9, Sec. 2.D is to allow for Accessory Dwelling Units (ADUs), as defined under M.G.L. c. 40A, §1A, to be built as-of-right in Single-Family Residential Zoning Districts in accordance with Section 3 of the Zoning Act (M.G.L. c. 40A), as amended by Section 8 of Chapter 150 of the Acts of 2024, and the regulations under 780 CMR 71.00: Protected Use Accessory Dwelling Units. This zoning provides for by-right ADUs to accomplish the following purposes:

1. Increase housing production to address local and regional housing needs across all income levels and at all stages of life.
2. Develop small-scale infill housing that fits in context of zoning districts that allow single-family housing while providing gentle/hidden density.
3. Provide a more moderately priced housing option to serve smaller households, households with lower incomes, seniors, and people with disabilities.
4. Enable property owners to age in place, downsize, or earn supplemental income from investing in their properties.

B. Definitions

For purposes of this Section - Chap 9, Sec. 2.D, the following definitions shall apply:

1. **Accessory Dwelling Unit (ADU).** A self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the Building and Fire Code for safe egress. ADUs must also meet the requirements of Title 5. ADUs may be detached, attached, or internal to the Principal Dwelling.
2. **Dwelling Unit.** A housing unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. This can include a housing unit within a single-family, duplex, or multi-unit development as well as an accessory dwelling unit.

3. Gross Floor Area (GFA). The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches, and similar spaces. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

4. Local ADU. An ADU that is not a Protected Use ADU but is subject to the provisions of Section C.3 of this bylaw.

5. Lot. An area of land with definite boundaries that is used, or available for use, as the site of a structure, or structures, regardless of whether the site conforms to requirements of zoning.

6. Modular Dwelling Unit. A pre-designed building containing a Dwelling Unit assembled and equipped with internal plumbing, electrical or similar systems, in compliance with the Building and Fire Code, prior to movement to the site where such Dwelling Unit is affixed to a foundation and connected to external utilities; or any portable structure with walls, a floor, and a roof, designed or used as a Dwelling Unit, transportable in one or more sections and affixed to a foundation and connected to external utilities; excluding “Trailer or Mobile Home” as defined in New Braintree Zoning Bylaw Section 6.M)

7. Pre-Existing Nonconforming Structure. A structure that was lawfully constructed prior to adoption of a zoning bylaw that would otherwise prohibit construction of same and that has not been abandoned or unlawfully altered or expanded.

8. Principal Dwelling. A structure, regardless of whether it, or the Lot it is situated on, conforms to zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

9. Protected Use ADU. An attached, detached or internal ADU that is located, or is proposed to be located, on a Lot in a Single-Family Residential Zoning District and is not larger in Gross Floor Area than $\frac{1}{2}$ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller, provided that only one ADU on a Lot may qualify as a Protected Use ADU. An ADU that is nonconforming to zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

10. Short-Term Rental. A residential, primary residential, or mixed-use dwelling unit rented out through the use of advance reservations, for a fee, for a period of not less than one (1) day and not more than 30 consecutive calendar days that is Registered and permitted by the New Braintree Select Board under Chapter 14 of the General Bylaws; excluding hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, section 23 or; bed & breakfast establishments.

11. **Single-Family Residential Dwelling Unit.** A structure on a Lot containing not more than one Dwelling Unit.

12. **Single-Family Residential Zoning District.** Any zoning district where Single-Family Residential Dwellings are a permitted or an allowable use, including any zoning district where Single-Family Residential Dwellings are allowed as of right, or by Special Permit.

13. **Transit Station.** A Subway Station, Commuter Rail Station, Ferry Terminal, or Bus Station.

a. A **Bus Station** includes any location serving as a point of embarkation for any bus operated by a transit authority.

C. Regulations

1. General Provisions for All ADUs

a. Code Compliance

i. ADUs shall maintain a separate entrance from the Principal Dwelling sufficient to meet safe egress under the Building Code and Fire Code.

ii. ADU construction shall comply with 310 CMR 15.000: The State Environmental Code, Title 5 regulations for a Single-Family Residential Dwelling in the Single-Family Residential Zoning District in which the Protected Use ADU is located.

iii. ADU's up to 900 sf can be located in an accessory structure of any size.

iv. Any new driveway needed to access an ADU shall meet the requirements of Chapter 6 of the New Braintree bylaws

b. Short-Term Rentals

i. ADUs may be operated as Short-Term Rentals subject to restrictions of Chapter 14 of the New Braintree General by-laws adopted by the town of New Braintree pursuant to M.G.L. c. 64G, § 14.

ii. An ADU may be rented as a Short-Term Rental for the purpose of workforce housing for seasonal employees.

2. Protected Use ADUs. The Building Inspector/Zoning Enforcement Officer shall approve a Building Permit authorizing One Protected Use ADU installation and use within, or on a Lot with, a Principal Dwelling in a Single-Family Residential Zoning District, including within, or on a Lot with, a Pre-Existing Nonconforming Structure, if the following conditions are met:

a. Dimensional Standards

i. Protected Use ADU shall not be larger than a Gross Floor Area of 900 square feet or ½ the Gross Floor Area of the Principal Dwelling, whichever is smaller.

ii. A Protected Use ADU on a Lot with a Principal Dwelling that is a Single-Family Residential Dwelling Unit shall not be subject to more restrictive dimensional standards than those required for a Single-Family Residential Dwelling (Chap. 9, Section 4: Dimensional Requirement).

iii. A Protected Use ADU on a Lot with a Principal Dwelling that is not a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for its Principal Dwelling (Chap. 9, Section 4: Dimensional Standards), or Single-Family Residential Dwelling (Chap. 9, Section 4: Dimensional Standards).

iv. Off- Street Parking. One off-street parking space shall be required for Protected Use ADUs located outside the ½-mile radius of a Transit Station. No off-street parking is required for Protected Use ADUs located within a ½-mile radius of a Transit Station.

3. Special Permit for Local ADUs. The New Braintree Planning Board shall approve only one Special Permit authorizing a Local ADU installation and use within or on a Lot with a Single-Family Residential Dwelling in a Single-Family Residential Zoning District if the following conditions are met:

a. Dimensional Standards

i. Local ADUs may be allowed by special permit if larger than 900 square feet or ½ the Gross Floor Area of the Principal Dwelling] or there must be a Protected Use ADU already built on the same property.

ii. Local ADUs shall not be larger than a Gross Floor Area of 1,200 square feet and can be located in or as an accessory to a building of any size.

iii. Local ADUs shall comply with the following dimensional standards for both the structure and the Lot in accordance with Section 4: Dimensional Requirement.

iv. Off-Street Parking. A minimum of one (1) additional off-street parking space shall be required for Local ADUs. No off-street parking is required for Protected Use ADUs located within a ½-mile radius of a transit station.

4. Special Permit for Multiple ADUs on a Lot. More than one ADU on a Lot with a principal dwelling, in which a Protected Use ADU is already located, shall require a Special Permit from the New Braintree Planning Board. The additional ADU shall be classified as a Local ADU and shall be subject to the Dimensional Standards set forth in Section 3.a above.

5. Nonconformance

a. A Protected Use ADU shall be permitted within, or on a Lot with, a Pre-Existing Nonconforming principal dwelling so long as the Protected Use ADU can be developed in conformance with the Building Code, 780 CMR 71.00, and state law.

b. A Protected Use ADU shall be exempt from any required finding under M.G.L. c. 40A §6.

c. Accessory dwelling units (ADUs), that exist prior to the adoption of this by-law, will become legally conforming ADUs upon satisfactory inspections by the Building Inspector, Fire Department and Health Department to ensure that safety and sanitary requirements are met. A pre-existing ADU of 900 SF will be considered a Protected Use ADU. A pre-existing ADU over 900 SF will be considered a Local ADU.

D. Administration and Enforcement

1. The Building Inspector/Zoning Enforcement Officer shall administer and enforce the provisions of this Section.
2. No building shall be changed in use or configuration without a Building Permit from the Building Inspector/Zoning Enforcement Officer.
3. No building shall be occupied until a certificate of occupancy is issued by the Building Inspector/Zoning Enforcement Officer, where required.
4. The Building Inspector/Zoning Enforcement Officer shall apply the Dover Amendment as articulated in the standards in 780 CMR 71.03(3)(a), to any request for a Protected Use ADU Building Permit and shall waive any zoning requirement that the Building Inspector/Zoning Enforcement Officer finds to be unreasonable under the Dover Amendment.