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Article IX Special Regulations

§ 179-42.2 Accessory single-family dwelling units (ADUs). [Added 12-3-2018 FYTM, Art. 12]

The purposes of this ADU Section are to promote the creation of year-round rental dwelling units in the Town; to increase housing choice and the diversity of housing types in the Town; to preserve the community, especially by facilitating housing that allows seniors, working people and young adults to remain and live in Brewster; all while supporting the existing desirable character of Brewster's residential neighborhoods and districts.

Commented [J11]: Added purpose statement

Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ADU may be located within or ~~connected adjacent to/ adjoining~~ a single-family dwellinghouse, or in a detached building accessory residential building to a single-family dwellinghouse, subject to the Definitions of § 179-2; the requirements of Table 1, Use Regulations, and Table 2, Area Regulations/Minimum Required Lots; and all standards of this section. Also see the Definitions section of this Chapter, § 179-2.
- B. A Special Permit, pursuant to the applicable standards in Section 179-51 herein, shall be required for an ADU on a lot less than 25,000 sq. ft. ~~An ADU may be located within a Zone II (Zone of Contribution to a Public Drinking Water Well), in the watershed of the Herring River, or the watershed to Pleasant Bay, subject to approval of a Special Permit by the Zoning Board of Appeals. All ADUs within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.~~
- C. All construction in connection with an ADU shall be subject to and comply with all other provisions of this Chapter, as applicable, including without limitation the building height, coverage and setback requirements for the underlying lot, either as set out in Table 2, Area Regulations, or as otherwise may be permitted in Article VIII of this Chapter. To the extent there is conflict between the provisions in this Section and other provisions in this Chapter, the provisions in this Section shall control. ~~attached to a principal dwelling shall conform to building setbacks for a single-family house in the Zoning District where it is located.~~
- D. Either the principal dwelling or the ADU ~~shall must~~ be occupied by the owner of the property on a year-round basis, except for bona fide temporary absences, as defined in § 179-2 and the other remaining dwelling unit shall be for year-round dwelling use and leased for continuous periods of not less than six (6) ~~12~~ months. ~~Notwithstanding the foregoing, an owner who does not so occupy the property year-round may obtain a Special Permit from the Zoning Board of Appeals, pursuant to the applicable standards in Section 179-51 herein, authorizing either or both of the dwelling units to be rented for year-round dwelling use, to be leased for periods of not less than twelve (12) months. Pursuant to its Special Permit authority under Section 179-51 of this Chapter, the Zoning Board of Appeals may consider and require safeguards to ensure that privacy to abutting properties is reasonably maintained and that there are appropriate management and facilities in place to serve the rental unit(s).~~

Commented [J12]: Should the 'accessory apartment' use in Table 2, note 13, be removed?

Commented [J13]: Alters 30k sq ft. Is 15k the right size instead?

Commented [J14]: Reduces existing categories requiring a special permit. State has new Title 5/ Watershed permit requirements for estuaries and DCPC zoning has new nitrogen loading requirements 11/2021.

Commented [J15]: Clarifies that there are dimensional criteria beyond setbacks (e.g. height and coverage) and that the ZBL has unique provisions about what setbacks might apply to development on a given lot.

Commented [J16]: 6 months would still fulfill year round housing needs and objectives.

Commented [J17]: Proposed new concept.

Commented [J18]: Should Sec 179-51 be the review standards? Should ZBA vs PB be the SPGA?

The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that either the principal dwelling or the accessory single-family dwelling unit will be, and/or has been, used as the principal residence of the owner for the next twelve-month period and that the remaining dwelling will be leased for a period of not less than 12 months.

- E. An ADU shall have no more than two bedrooms and no more than one thousand (1000) square feet of

~~net floor area. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.~~

Commented [J19]: Moved from Definitions 179-2 and used existing defined concept 'net floor area' vs 'habitable area' (which has a special meaning under the SBC).

F. ~~There shall be no renting of rooms or boarding of lodgers in an ADU. An ADU shall not be used as or considered an accommodations-type use, such as a lodging house. There shall be no subletting, renting of rooms or boarding of lodgers in an ADU and no Short-Term Rental use on a lot containing in an ADU.~~

G. ~~An ADU shall be subject shall conform to and comply with all applicable State and local laws and regulations, regulating new construction or new residential use including but not limited to the State Building Code and related Certificate of Occupancy requirements; and applicable State plumbing, electrical, and fire codes; Title 5, 310 CMR 15.00, and the State Sanitary Code, 105 CMR 410.00, and corresponding local Board of Health regulations; health and conservation State and local Wetlands laws and regulations and bylaws. A Certificate of Occupancy shall be required for any ADU.~~

H. ~~There shall be no more than two dwelling residential units in total on a lot containing an ADU, inclusive of the ADU.~~

Commented [J10]: Or should this say 'no more than one ADU per lot.'

I. ~~A minimum of one parking space per bedroom of the for the ADU shall be provided in addition to the parking spaces for the principal dwelling.~~

J. ~~An ADU shall be clearly subordinate in use, size and design to the used and designed consistent with the principal single-family residential nature of the lot dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained.~~

Commented [J11]: Changes focus to maintaining single family character of lot rather than matching design of main house

K. ~~A detached residential accessory building in which an ADU is located shall not otherwise contain bedrooms not associated with the ADU.~~

Commented [J12]: For consistency with bedroom and net floor area limitation of ADU

L. ~~An ADU shall not be severed in use or ownership from the principal dwelling to which it is accessory, including but not limited to subjecting the underlying lot or any portion thereof to the condominium form of ownership.~~

Commented [J13]: Proposed new concept

M. ~~The owner of a property with an ADU shall be required to file a written affidavit with the Building Department certifying compliance with the standards of this section, including the use and occupancy standards. The Building Department shall establish, administer and maintain, and may amend from time to time, the affidavit process and form referenced in this paragraph.~~

Commented [J14]: Greater administrative flexibility.

N. ~~The Building Commissioner is authorized to establish an administrative permitting and/ or registration process for ADUs, in addition to other permits or approvals that might be required for the use, to assist in documenting ADUs in the Town for informational or zoning compliance purposes.~~

Commented [J15]: Proposed new concept.

O. ~~Without limiting other enforcement remedies or actions available under this Chapter, the Building Commissioner is authorized to order that the cooking facilities within an ADU be removed in order to abate or address a violation of the standards under this Section.~~