

CURRENT ADU ZONING PROVISIONS

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Article IX Special Regulations

§ 179-33 General provisions.

[Amended 5-14-1984 ATM, Art. 110]

The regulations which follow shall apply to the particular use or activity, whether it is permitted by right or by special permit as an exception. In addition, the Planning Board, prior to the granting of a special permit, may also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this chapter, including but not limited to the following: front, side or rear yards greater than the minimum required by this chapter, screening, buffers or planting strips, fences or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation or extent of facilities, regulation of number and location of driveways or other traffic features and off-street parking or loading or other special features beyond the minimum required in this chapter.

§ 179-42.2 Accessory single-family dwelling units (ADUs).

[Added 12-3-2018 FYTM, Art. 12]

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

- A. An ADU may be located within or adjacent to a single-family house, or in a building accessory to a single-family house, 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.
- B. 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 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 must be occupied by the owner of the property, as defined in § 179-2 and the remaining dwelling unit shall be leased for periods of not less than 12 months. 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. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.
- F. There shall be no renting of rooms or boarding of lodgers in an ADU.
- G. An ADU shall conform to all applicable State and local laws regulating new construction or new residential use including the State Building Code, and applicable plumbing, electrical, fire, health and conservation regulations and bylaws. A Certificate of Occupancy shall be required for any ADU.
- H. There shall be no more than two residential units in total on a lot containing an ADU.

- I. A minimum of one parking space per bedroom of the ADU shall be provided.
- J. An ADU shall be clearly subordinate in use, size and design to the principal single-family 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.

§ 179-42.3 Accessory commercial dwelling units (ACDUs).
[Added 12-3-2018 FYTM, Art. 12]

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

- A. An ACDU may be located within or adjacent to a commercial building, or in a building on the same lot as a commercial use, 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.
- B. An ACDU may be located in a Commercial High Density or Village Business District.
- C. An ACDU 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 ADU's within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.
- D. All construction in connection with an ACDU shall conform to building setbacks for a commercial building in the Zoning District where it is located.
- E. The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that the ACDU will be, and/or has been, leased for a period of not less than 12 months.
- F. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.
- G. There shall be no renting of rooms or boarding of lodgers in an ACDU.
- H. An ACDU shall conform to all applicable State and local laws regulating new construction or new residential use including the State Building Code and applicable plumbing, electrical, fire, health and conservation regulations and bylaws. A Certificate of Occupancy shall be required for any ACDU.

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Article I General Provisions

§ 179-1 Authority; purpose.

- A. The Brewster Zoning Bylaw, adopted in 1960, and all subsequent amendments thereto, hereinafter called "this chapter," is adopted and from time to time amended as authorized by MGL c. 40A, as amended, herein called the "Zoning Act," and by Article 89 of the Amendments to the Constitution, the Home Rule Amendment.
- B. In conjunction with the purposes stated in the Zoning Act, this chapter shall provide protection for inland and coastal wetlands, as well as existing and potential watersheds, and shall give direction and effect to the development objectives and recommendations contained in the Brewster Master Plan of 1970, as may be amended from time to time.

§ 179-2 Definitions.

- A. Words used in the present tense indicate the future; the singular number includes the plural and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered to be used or occupied"; the words "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof," and the word "shall" is always mandatory and not merely directory. [Amended 5-3-1999 ATM, Art. 29; 11-17-2003 FYTM, Art. 16]
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY COMMERCIAL DWELLING UNIT (ACDU)

A housing unit, complete with its own sleeping, cooking and sanitary facilities, that is located within a structure containing a commercial, wholesale or industrial use, or in a separate structure on the same lot as a commercial, wholesale or industrial use. An ACDU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the commercial, wholesale or industrial unit, whichever is less. Unenclosed additions constructed to serve an ACDU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ACDU.

[Added 12-3-2018 FYTM, Art. 12]

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU)

A housing unit, complete with its own sleeping, cooking and sanitary facilities, that is accessory and clearly subordinate to a principal dwelling. An ADU may be located within a single-family house containing a principal dwelling, or in a building accessory to a single-family house. An ADU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the principal dwelling, whichever is less. Unenclosed additions constructed to serve an ADU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ADU.

[Added 12-3-2018 FYTM, Art. 12]

BUILDING, ACCESSORY RESIDENTIAL

A detached residential structure, customarily incidental to the existing principal residential structure and located on the same lot with the principal residential structure to which it is accessory. Such structures include but are not limited to guesthouse, shed, boathouse, playhouse, shelter for domestic pets, pool

houses, private swimming pools, tennis courts and detached garages. An accessory residential building may or may not contain bedrooms.

[Added 5-7-2012 ATM, Art. 23]

DWELLING, MULTIFAMILY

A building containing three or more dwelling units.

DWELLING, ONE FAMILY DETACHED

A single, separate dwelling unit, designed for occupancy by one family.

[Added 5-7-2012 ATM, Art. 23]

DWELLING, ONE FAMILY SECURITY

One family dwelling unit for owner occupancy or for occupancy by personnel hired by the owner for the protection of property and safe operation of a permitted use.

[Added 5-7-2012 ATM, Art. 23]

DWELLING UNIT

One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY

One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FLOOR AREA, NET

The sum of the areas of the several floors of a building measured from the interior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirement of this chapter or any such floor space intended and designed for accessory heating and ventilating equipment.

ZONING

179 Attachment 1

**Table 1
Use Regulations
Town of Brewster**

[Amended 12-10-1979 STM, Art. 37; 5-12-1980 ATM, Arts. 39, 40 and 41; 12-8-1980 STM, Art. 18; 5-11-1981 ATM, Art. 32; 5-11-1982 ATM, Arts. 80 and 81; 5-14-1984 ATM, Arts. 100, 101 and 103; 8-27-1984 STM, Arts. 58 and 59; 5-13-1985 ATM, Arts. 89 and 93; 5-11-1987 ATM, Art. 86; 5-9-1988 ATM, Art. 97; 10-17-1988 STM, Art. 26; 5-8-1989 ATM, Art. 47; 5-14-1990 STM, Arts. 6 and 10; 12-14-1992 STM, Art. 2; 11-15-1993 FYTM, Art. 20; 11-15-1999 FYTM, Art. 23; 5-1-2000 ATM, Art. 35 11-17-2003 FYTM, Arts. 19 and 24; 11-18-2001 FYTM, Arts. 17 and 21; 5-3-2004 ATM, Art. 24; 11-15-2004 FYTM, Art. 17; 5-2-2005 ATM, Art. 31; 11-13-2006 FYTM, Art. 25; 5-7-2007 ATM, Art. 24; 11-5-2007 FYTM, Art. 19; 11-17-2008 FYTM, Art. 18; 5-2-2011 ATM, Art. 33; 11-7-2011 FYTM, Arts. 13 and 17; 5-7-2012 ATM, Arts. 24 and 28; 5-6-2013 STM, Art. 6; 5-6-2013 ATM, Art. 23; 5-5-2014 ATM, Arts. 22 and 30; 12-3-2018 FYTM, Arts. 11, 12, and 13]

KEY:

P = Permitted Use

S = Special Permit Use

Use with a dash ("-") = Prohibited Use

		District							
		R-R	R-L	R-M	C-H	V-B	I	MRD	PWS-CF
Residential									
1.	Accessory residential building	P	P	P	P	P	-	-	-
2.	Accessory commercial dwelling unit "ACDU"	-	-	-	S	S	-	-	-
3.	Accessory single-family dwelling unit "ADU" on a lot of 30,000 square feet or more	P	P	P	S	S	-	-	-
4.	Accessory single-family dwelling unit "ADU" on a lot less than 30,000 square feet	S	S	S	S	S	-	-	-
5.	Affordable multifamily dwelling units "AMFDU"	-	-	-	P	-	-	-	-
6.	Cluster residential development	S	S	S	-	-	-	-	-
7.	Construction trailer	P	P	P	P	P	P	-	-
8.	Major residential development	S	S	S	S	-	-	-	-
9.	Multifamily dwelling	-	-	-	S	-	-	-	-
10.	One-family detached dwelling unit	P	P	P	-	P	-	-	-
11.	One-family security dwelling	-	-	-	P	P	P	-	-
12.	Planned residential development	-	S	S	-	-	-	-	-
13.	Row or town houses	-	-	-	S	-	-	-	-
14.	Subsidized elderly housing	S	S	S	S	-	-	-	-

ZONING

179 Attachment 2

**Town of Brewster
Area Regulations**

Minimum Required Lots¹

[Amended 12-10-1979 STM, Art. 37; 5-12-1980 ATM, Art. 42; 5-14-1984 ATM, Arts. 104 and 105; 8-27-1984 STM, Art. 57; 5-13-1985 ATM, Arts. 66, 74 and 94; 5-12-1986 ATM, Arts. 35 and 36; 5-11-1987 ATM, Art. 82; 5-9-1988 ATM, Art. 96; 10-17-1988 STM, Art. 26; 11-13-2006 FYTM, Arts. 29 and 33; 11-5-2007 FYTM, Art. 13; 5-5-2008 ATM, Art. 20; 5-7-2012 ATM, Art. 26; 12-3-2018 FYTM, Art. 12]

BREWSTER CODE

District	Use	Area (square feet)	Lot Frontage ² (feet)	Yards ^{3,4,5,6,7}		
				Front (feet)	Side (feet)	Rear (feet)
R-R	Any permitted structure or principal use	100,000 plus 100,000 for the second dwelling unit of a duplex	200	40	25	25
R-L	Any permitted structure or principal use	60,000 plus 60,000 for the second dwelling unit of a duplex	150	40	25	25
R-M	Any permitted structure or principal use	60,000 plus 60,000 for the second dwelling unit of a duplex	150	40	25	25
C-H	Row commercial	40,000	150	30	20	20
	Multifamily dwellings	130,000 plus 10,000 per bedroom	200	100	30	30
	Hotel and motel	130,000 plus 2,000 per unit	200	100	30	30
	Row house or townhouse	130,000 plus 10,000 per bedroom	200	100	30	30
	Any other permitted structure or principal use ¹⁴	15,000	80	30	15	15
V-B	Any permitted structure or principal use	15,000	80	30	15	15
I	Any permitted structure or use, other than those listed above for the CH Zone (footnote 9) ⁹	20,000	100	30	15	40

NOTES:

- ¹ In general, only one principal structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, building and construction trade shop or garage uses, public utilities, accessory single-family dwelling units (ADUs), and accessory commercial dwelling units (ACDUs) that comply with all provisions of §§ 179-42.2 and 179-42.3, respectively. ADUs may be permitted by right in the R-L, R-M and R-R zoning districts on lots of 30,000 square feet or greater, by Special Permit in these districts on lots less than 30,000 square feet, and by Special Permit in the C-H, V-B and I zoning districts. Also, residential lots may contain two single-family units if the lot is twice that required by the Table of Area Regulations for single-family residences in that district and if each unit is provided proper street access.
- ² The width of the lot, measured at the front yard setback line, shall be at least 80% of the lot frontage.
- ³ At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- ⁴ No building, except a boathouse or building used for agricultural purposes, shall be within 50 feet of any water body, watercourse or wetland area or, if subject to flooding, within 50 feet beyond its flood line to the higher elevation.
- ⁵ Projections into required yards or other required open spaces are permitted subject to the following:
Balcony or bay window, limited in total length to 1/2 the length of the building, not more than two feet.
Open terrace or steps or stoop, under four feet in height, up to 1/2 the required yard setback.
Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.
- ⁶ Accessory buildings and structures. Any permitted accessory building in any R District shall conform to the following provisions:
It shall not occupy more than 40% of the required rear yard. It shall be not less than 40 feet for R-R and R-L Districts and 30 feet for an R-M District from any street lot line and shall be not less than 25 feet in any R-R or R-L District or 20 feet in the R-M District from any lot line. It shall not exceed 30 feet in height.
A temporary stand for retail sale of agricultural or farm products, where permitted. May be six feet from the front lot line.
Any permitted barn shall be at least 50 feet from any street lot line or side or rear property line and at least 100 feet from any abutter's dwelling.
- ⁷ The front, side and rear yard clearances shown in this table for multifamily dwellings are applicable to each structure containing dwelling units. These distances should be used as though each structure is set on a separate lot. For example, two structures sitting side by side would have side yard clearances each of 30 feet or a total of 60 feet between the structures.
- ⁸ Intensity of use applications to nursing convalescent home. For purposes of interpreting the portion of this chapter, the term "unit" shall mean each bed designed for use by an individual receiving care at such facility. The first three units of a nursing/convalescent home shall require a minimum land area equal to the lot requirements for any

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permitted structure or principal use in the district in which located, with the exception in the C-H District, where 20,000 square feet shall be required for the first three units of a nursing/convalescent home. In all districts where such use is allowed, including by special permit, each additional unit shall require a minimum of 4,000 square feet of land area. Front, side and rear yard requirements within the respective districts where special permits are required may be increased at the discretion of the Board of Appeals, if the size of the project, proximity to incompatible adjacent uses or other factors potentially having an adverse effect on the health, safety or welfare of the persons under care at such facility justifies a more extensive buffer from property lines. The Board of Appeals shall ensure that egress from such facility shall be on a street which should be safe and adequate.

⁹ No building, loading space, parking space or structure, other than a sign, shall be located within 200 feet of the Industrial District boundary line in an Industrial District.
¹⁰ Exception, panhandle lots. This exception shall only apply to a single parcel of land at least three times the area required for a single lot in that residential district, intended to be divided or subdivided into not more than two lots. Such a division or subdivision may be exempt from any or all of the requirements of the Town of Brewster Planning Board rules and regulations, upon the express written approval of the Planning Board. The regulations for lot frontage as set forth in this section may be waived by the Planning Board upon the following conditions:

There shall be no further subdivision of the lot(s).

The lots shall be used for single-family residential purposes.

The area of the access to the lot as determined by the Planning Board shall not be used in determining lot size.

The access to the lot as determined by the Planning Board shall not be used to provide access to any other lots.

In no event shall the lot frontage and lot width be less than 30 feet.

Multiple use of this section of this chapter shall not be used as a means of accomplishing the subdivision of land without the construction of ways.

¹¹ Cottage colony conversion. An existing nonconforming cottage colony may not be converted to a single-family dwelling use under separate ownership, unless the lot upon which each building is located complies with the minimum requirements for single-family dwellings in the zoning district in which the land is located, and such nonconforming cottage colony may not be converted to a single-family use under condominium-type ownership, unless the lot meets the minimum zoning requirements in which the land is located.

¹² For subsidized elderly housing, see S-I rather than Table 2.

¹³ An owner-occupied building containing two dwelling units, one of which shall be an accessory apartment with a net floor living area not exceeding 600 square feet, and including not more than one bedroom, a kitchen, living room and bath, shall be allowed by a special permit granted by the Board of Appeals. Such dwelling shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absences during which the unit is not rented.

¹⁴ **Editor's Note:** The C-L District which immediately followed was removed at the request of the Town

**PROPOSED AMENDMENTS TO ADU ZONING
PROVISIONS – MARK UP**

Article IX Special Regulations

§ 179-42.2 Accessory single-family dwelling units (ADUs).

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; and 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.

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

A. An ADU may be located within, ~~or connected adjacent to~~ or 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 ~~S~~section. An ADU shall maintain a separate entrance(s), either directly from the outside or through an entry or shared corridor sufficient to meet the requirements of the State Building Code for safe egress. Also see the Definitions section of this Chapter, § 179-2.

B. There shall be no more than one ADU per lot.

~~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. An ADU shall have no more than two bedrooms and no more than one thousand (1000) square feet of net floor area.

D. A minimum of one parking space for the ADU shall be provided in addition to the parking spaces for the principal dwelling.

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

F. All construction in connection with an ~~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, Table 3, Height and Bulk 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.~~

G~~D~~. There shall be no minimum lot size required to construct and maintain an ADU. However, a Special Permit, pursuant to the applicable standards in Section 179-51 herein, and Table 1, Use Regulations, shall be required from the Planning Board for an ADU on a lot less than 15,000 sq. ft.

H. 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 used for year-round dwelling purposes, leased or occupied for continuous periods

of not less than twelve (12) months at a time. Notwithstanding the foregoing, an owner who does not so occupy the property on a year-round basis may apply for a Special Permit from the Planning Board, pursuant to the applicable standards in Section 179-51 herein, to authorize an ADU on the property and the use of whichever dwelling unit(s) said owner does not intend to occupy, either the principal dwelling, the ADU, or both, for year-round dwelling purposes, to be leased or occupied for continuous periods of not less than twelve (12) months at a time. Pursuant to its Special Permit authority under Section 179-51 of this Chapter, the Planning Board may consider and require, among other things, safeguards to ensure that privacy to abutting properties is reasonably maintained and that there are appropriate management and facilities in place to serve the dwelling units.

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

~~IF. An ADU shall be used and designed consistent with the single-family residential nature of the underlying property. There shall be no renting of rooms or boarding of lodgers in an ADU. An ADU shall not be used as an accommodations-type use, such as a lodging house. There shall be no subletting, renting of rooms, or boarding of lodgers in an ADU on a short-term basis, and no Short-Term Rental use shall be permitted on a lot containing in an ADU.~~

~~JG. An ADU shall be subject shall conform to all applicable State and local laws and regulations, regulating new construction or new residential use including without limitation 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 residential units in total on a lot containing an ADU.~~

~~I. A minimum of one parking space per bedroom of the ADU shall be provided.~~

~~J. An ADU shall be clearly subordinate in use, size and design to the principal single family 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. K. 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.~~

~~L. 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 forms referenced herein.~~

~~MN. 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, to assist in documenting ADUs in the Town for informational or zoning compliance purposes.~~

~~NO. Without limiting other enforcement remedies or actions available under this Chapter, including fines, the Building Commissioner is authorized to order that the cooking facilities and supporting utilities and fixtures within an ADU be removed in order to abate a violation of this Section.~~

Article I

General Provisions

§ 179-2 Definitions.

B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU)

~~A dwelling unit located housing on the same lot unit, complete with its own sleeping, cooking and sanitary facilities, that is accessory and clearly subordinate to as the principal single-family dwelling to which it is accessory. An ADU shall be considered an accessory use. An ADU may be located within a single-family house containing a principal dwelling, or in a building accessory to a single-family house. An ADU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the principal dwelling, whichever is less. Unenclosed additions constructed to serve an ADU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ADU.~~

DWELLING, ONE FAMILY DETACHED

~~A building containing a single, separate dwelling unit, designed for use and occupancy by one family, which shall be considered a principal use and principal structure under this Chapter. Also referred to herein as a “single-family dwelling” or “single-family residence.”~~

FLOOR AREA, NET

~~The sum of the living areas on all the several floors within the perimeter of a building or portion thereof measured from the outside interior faces of the exterior walls, or dividing walls as applicable, without deduction for interior partitions and the like. It does not include cellars, unenclosed decks, porches, entries, or attics or unconditioned storage, cellar, mechanical, garage, or utility areas, or spaces similar to the foregoing, not used designed, intended for or capable of being used for human habitation or occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirement of this chapter or any such floor space intended and designed for accessory heating and ventilating equipment.~~

ZONING

179 Attachment 1

**Table 1
Use Regulations
Town of Brewster**

KEY:

P = Permitted Use

S = Special Permit Use

Use with a dash ("-") = Prohibited Use

		District							
		R-R	R-L	R-M	C-H	V-B	I	MRD	PWS-CF
Residential									
1.	Accessory residential building	P	P	P	-*P	P	-	-	-
2.	Accessory commercial dwelling unit "ACDU"	-	-	-	S	S	-	-	-
3.	Accessory single-family dwelling unit "ADU" on a lot of <u>1530,000</u> square feet or more	P	P	P	-*S	<u>PS</u>	-	-	-
4.	Accessory single-family dwelling unit "ADU" on a lot less than <u>1530,000</u> square feet	S	S	S	-*S	S	-	-	-
5.	Affordable multifamily dwelling units "AMFDU"	-	-	-	P	-	-	-	-
6.	Cluster residential development	S	S	S	-	-	-	-	-
7.	Construction trailer	P	P	P	P	P	P	-	-
8.	Major residential development	S	S	S	S	-	-	-	-
9.	Multifamily dwelling	-	-	-	S	-	-	-	-
10.	One-family detached dwelling unit	P	P	P	-	P	-	-	-
11.	One-family security dwelling	-	-	-	P	P	P	-	-
12.	Planned residential development	-	S	S	-	-	-	-	-
13.	Row or town houses	-	-	-	S	-	-	-	-
14.	Subsidized elderly housing	S	S	S	S	-	-	-	-

*Except as may be permitted for pre-existing nonconforming single-family residential properties under Article VIII of this Chapter 179.

[BREWSTER CODE, ZONING, CH. 179, TABLE/ ATTACHMENT 2, AREA REGULATIONS]

District	Use	Area (square feet)	Lot Frontage ² (feet)	Yards ^{3,4,5,6,7}		
				Front (feet)	Side (feet)	Rear (feet)
R-R	Any permitted structure or principal use	100,000 plus 100,000 for the second principal dwelling unit of a duplex	200	40	25	25
R-L	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling unit of a duplex	150	40	25	25
R-M	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling unit of a duplex	150	40	25	25
C-H	Row commercial	40,000	150	30	20	20
	Multifamily dwellings	130,000 plus 10,000 per bedroom	200	100	30	30
	Hotel and motel	130,000 plus 2,000 per unit	200	100	30	30
	Row house or townhouse	130,000 plus 10,000 per bedroom	200	100	30	30
	Any other permitted structure or principal use ¹⁴	15,000	80	30	15	15
V-B	Any permitted structure or principal use ¹⁴	15,000	80	30	15	15
I	Any permitted structure or use, other than those listed above for the C-H District Zone (footnote 9) ⁹	20,000	100	30	15	40

NOTES:

- 1 In general, only one principal structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, building and construction trade shop or garage uses, and public utilities, ~~accessory single family dwelling units (ADUs), and accessory commercial dwelling units (ACDUs) that comply with all provisions of §§ 179-42.2 and 179-42.3, respectively. ADUs may be permitted by right in the R-L, R-M and R-R zoning districts on lots of 30,000 square feet or greater, by Special Permit in these districts on lots less than 30,000 square feet, and by Special Permit in the C-H, V-B and I zoning districts.~~ Also, residential lots may contain two ~~principal~~ single-family ~~detached dwellings units~~, if the lot is twice that required by the Table of Area Regulations for single-family ~~dwellings residences~~ in that district and if each ~~dwellings unit~~ is provided proper street access.
- 2 The width of the lot, measured at the front yard setback line, shall be at least 80% of the lot frontage.
- 3 At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- 4 No building, except a boathouse or building used for agricultural purposes, shall be within 50 feet of any water body, watercourse or wetland area or, if subject to flooding, within 50 feet beyond its flood line to the higher elevation.
- 5 Projections into required yards or other required open spaces are permitted subject to the following:
Balcony or bay window, limited in total length to 1/2 the length of the building, not more than two feet.
Open terrace or steps or stoop, under four feet in height, up to 1/2 the required yard setback.
Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.
- 6 Accessory buildings and structures. Any permitted accessory building in any R District shall conform to the following provisions:
It shall not occupy more than 40% of the required rear yard. It shall be not less than 40 feet for R-R and R-L Districts and 30 feet for an R-M District from any street lot line and shall be not less than 25 feet in any R-R or R-L District or 20 feet in the R-M District from any lot line. It shall not exceed 30 feet in height.
A temporary stand for retail sale of agricultural or farm products, where permitted. May be six feet from the front lot line.
Any permitted barn shall be at least 50 feet from any street lot line or side or rear property line and at least 100 feet from any abutter's dwelling.
- 7 The front, side and rear yard clearances shown in this table for multifamily dwellings are applicable to each structure containing dwelling units. These distances should be used as though each structure is set on a separate lot. For example, two structures sitting side by side would have side yard clearances each of 30 feet or a total of 60 feet between the structures.
- 8 Intensity of use applications to nursing convalescent home. For purposes of interpreting the portion of this chapter, the term "unit" shall mean each bed designed for use by an individual receiving care at such facility. The first three units of a nursing/convalescent home shall require a minimum land area equal to the lot requirements for any

[BREWSTER CODE, ZONING, CH. 179, TABLE/ ATTACHMENT 2, AREA REGULATIONS]

permitted structure or principal use in the district in which located, with the exception in the C-H District, where 20,000 square feet shall be required for the first three units of a nursing/convalescent home. In all districts where such use is allowed, including by special permit, each additional unit shall require a minimum of 4,000 square feet of land area. Front, side and rear yard requirements within the respective districts where special permits are required may be increased at the discretion of the Board of Appeals, if the size of the project, proximity to incompatible adjacent uses or other factors potentially having an adverse effect on the health, safety or welfare of the persons under care at such facility justifies a more extensive buffer from property lines. The Board of Appeals shall ensure that egress from such facility shall be on a street which should be safe and adequate.

⁹ No building, loading space, parking space or structure, other than a sign, shall be located within 200 feet of the Industrial District boundary line in an Industrial District.
¹⁰ Exception, panhandle lots. This exception shall only apply to a single parcel of land at least three times the area required for a single lot in that residential district, intended to be divided or subdivided into not more than two lots. Such a division or subdivision may be exempt from any or all of the requirements of the Town of Brewster Planning Board rules and regulations, upon the express written approval of the Planning Board. The regulations for lot frontage as set forth in this section may be waived by the Planning Board upon the following conditions:

There shall be no further subdivision of the lot(s).

The lots) shall be used for single-family residential purposes.

The area of the access to the lot as determined by the Planning Board shall not be used in determining lot size.

The access to the lot as determined by the Planning Board shall not be used to provide access to any other lots.

In no event shall the lot frontage and lot width be less than 30 feet.

Multiple use of this section of this chapter shall not be used as a means of accomplishing the subdivision of land without the construction of ways.

¹¹ Cottage colony conversion. An existing nonconforming cottage colony may not be converted to a single-family dwelling use under separate ownership, unless the lot upon which each building is located complies with the minimum requirements for single-family dwellings in the zoning district in which the land is located, and such nonconforming cottage colony may not be converted to a single-family use under condominium-type ownership, unless the lot meets the minimum zoning requirements in which the land is located.

¹² For subsidized elderly housing, see ~~S-I Section 179-42~~ rather than this Table 2.

¹³ An owner-occupied building containing two dwelling units, one of which shall be an accessory apartment with a net floor ~~living~~ area not exceeding 600 square feet, and ~~including not more than one bedroom, a kitchen, living room and a bathroom, is~~ shall be allowed by a special permit granted by the Board of Appeals. Such ~~building dwelling~~ shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absences ~~during which the unit is not rented.~~ A lot shall not contain both an ADU and an accessory apartment.

¹⁴ Except that single-family dwelling uses and structures in the V-B district shall be subject to the R-M district requirements set out in this Table 2.

Editor's Note: The C-L District ~~which immediately followed~~ was removed pursuant to Article 51, Annual Town Meeting, May 8, 1989, at the request of the Town.

**PROPOSED AMENDMENTS TO ADU ZONING
PROVISIONS – CLEAN**

Article IX Special Regulations

§ 179-42.2 Accessory single-family dwelling units (ADUs).

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; and 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.

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

- A. An ADU may be located within, connected to or adjoining a single-family dwelling, or in a detached, accessory residential building to a single-family dwelling, subject to all standards of this Section. An ADU shall maintain a separate entrance(s), either directly from the outside or through an entry or shared corridor sufficient to meet the requirements of the State Building Code for safe egress. Also see the Definitions section of this Chapter, § 179-2.
- B. There shall be no more than one ADU per lot.
- C. An ADU shall have no more than two bedrooms and no more than one thousand (1000) square feet of net floor area.
- D. A minimum of one parking space for the ADU shall be provided in addition to the parking spaces for the principal dwelling.
- E. A detached, accessory residential building in which an ADU is located shall not otherwise contain bedrooms not associated with the ADU.
- F. 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, Table 3, Height and Bulk 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.
- G. There shall be no minimum lot size required to construct and maintain an ADU. However, a Special Permit, pursuant to the applicable standards in Section 179-51 herein, and Table 1, Use Regulations, shall be required from the Planning Board for an ADU on a lot less than 15,000 sq. ft.
- H. Either the principal dwelling or the ADU shall be occupied by the owner of the property on a year-round basis, except for bona fide temporary absences, and the other dwelling unit shall be used for year-round dwelling purposes, leased or occupied for continuous periods of not less than twelve (12) months at a time. Notwithstanding the foregoing, an owner who does not so occupy the property on a year-round basis may apply for a Special Permit from the Planning Board, pursuant to the applicable standards in Section 179-51 herein, to authorize an ADU on the property and the use of whichever dwelling unit(s) said owner does not intend to occupy, either the principal dwelling, the ADU, or both, for year-round dwelling purposes, to be leased or occupied for continuous periods of not less than twelve (12) months at a time. Pursuant to its Special Permit authority under Section 179-51 of this Chapter, the Planning Board may consider and require, among other things, safeguards to ensure that privacy to abutting properties is reasonably maintained and that there are appropriate management and facilities in place to serve the dwelling units.

- I. An ADU shall be used and designed consistent with the single-family residential nature of the underlying property. An ADU shall not be used as an accommodations-type use, such as a lodging house. There shall be no subletting, renting of rooms, or boarding of lodgers in an ADU on a short-term basis, and no Short-Term Rental use shall be permitted on a lot containing an ADU.
- J. An ADU shall be subject to all applicable State and local laws and regulations, including without limitation the State Building Code and related Certificate of Occupancy requirements; 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; and State and local Wetlands laws and regulations.
- K. 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.
- L. 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 forms referenced herein.
- M. 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, to assist in documenting ADUs in the Town for informational or zoning compliance purposes.
- N. Without limiting other enforcement remedies or actions available under this Chapter, including fines, the Building Commissioner is authorized to order that the cooking facilities and supporting utilities and fixtures within an ADU be removed in order to abate a violation of this Section.

Article I
General Provisions

§ 179-2 **Definitions.**

B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU)

A dwelling unit located on the same lot as the principal single-family dwelling to which it is accessory. An ADU shall be considered an accessory use.

DWELLING, ONE FAMILY DETACHED

A building containing a single, separate dwelling unit, designed for use and occupancy by one family, which shall be considered a principal use and principal structure under this Chapter. Also referred to herein as a “single-family dwelling” or “single-family residence.”

FLOOR AREA, NET

The sum of the living areas on all floors within the perimeter of a building or portion thereof measured from the outside faces of the exterior walls, or dividing walls as applicable, without deduction for interior partitions and the like. It does not include unenclosed decks, porches, entries, or unconditioned storage, cellar, mechanical, garage, or utility areas, or spaces similar to the foregoing, not designed, intended or capable of being used for human habitation or occupancy.

ZONING

179 Attachment 1

**Table 1
Use Regulations
Town of Brewster**

KEY:

P = Permitted Use

S = Special Permit Use

Use with a dash ("-") = Prohibited Use

		District							
		R-R	R-L	R-M	C-H	V-B	I	MRD	PWS-CF
Residential									
1.	Accessory residential building	P	P	P	-*	P	-	-	-
2.	Accessory commercial dwelling unit "ACDU"	-	-	-	S	S	-	-	-
3.	Accessory single-family dwelling unit "ADU" on a lot of 15,000 square feet or more	P	P	P	-*	P	-	-	-
4.	Accessory single-family dwelling unit "ADU" on a lot less than 15,000 square feet	S	S	S	-*	S	-	-	-
5.	Affordable multifamily dwelling units "AMFDU"	-	-	-	P	-	-	-	-
6.	Cluster residential development	S	S	S	-	-	-	-	-
7.	Construction trailer	P	P	P	P	P	P	-	-
8.	Major residential development	S	S	S	S	-	-	-	-
9.	Multifamily dwelling	-	-	-	S	-	-	-	-
10.	One-family detached dwelling	P	P	P	-	P	-	-	-
11.	One-family security dwelling	-	-	-	P	P	P	-	-
12.	Planned residential development	-	S	S	-	-	-	-	-
13.	Row or town houses	-	-	-	S	-	-	-	-
14.	Subsidized elderly housing	S	S	S	S	-	-	-	-

*Except as may be permitted for pre-existing nonconforming single-family residential properties under Article VIII of this Chapter 179.

[BREWSTER CODE, ZONING, CH. 179, TABLE/ ATTACHMENT 2, AREA REGULATIONS]

District	Use	Area (square feet)	Yards ^{3,4,5,6,7}			
			Lot Frontage ² (feet)	Front (feet)	Side (feet)	Rear (feet)
R-R	Any permitted structure or principal use	100,000 plus 100,000 for the second principal dwelling	200	40	25	25
R-L	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling	150	40	25	25
R-M	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling	150	40	25	25
C-H	Row commercial	40,000	200	100	30	30
	Multifamily dwellings	130,000 plus 10,000 per bedroom	200	100	30	30
	Hotel and motel	130,000 plus 2,000 per unit	200	100	30	30
	Row house or townhouse	130,000 plus 10,000 per bedroom	80	30	15	15
	Any other permitted structure or principal use	15,000	80	30	15	15
V-B	Any permitted structure or principal use ¹⁴	15,000	100	30	15	40
I	Any permitted structure or use, other than those listed above for the C-H District ⁹	20,000				

NOTES:

- 1 In general, only one principal structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, building and construction trade shop or garage uses, and public utilities. Also, residential lots may contain two principal single-family detached dwellings if the lot is twice that required by the Table of Area Regulations for single-family dwellings in that district and if each dwelling is provided proper street access.
- 2 The width of the lot, measured at the front yard setback line, shall be at least 80% of the lot frontage.
- 3 At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- 4 No building, except a boathouse or building used for agricultural purposes, shall be within 50 feet of any water body, watercourse or wetland area or, if subject to flooding, within 50 feet beyond its flood line to the higher elevation.
- 5 Projections into required yards or other required open spaces are permitted subject to the following:
 Balcony or bay window, limited in total length to 1/2 the length of the building, not more than two feet.
 Open terrace or steps or stoop, under four feet in height, up to 1/2 the required yard setback.
 Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.
- 6 Accessory buildings and structures. Any permitted accessory building in any R District shall conform to the following provisions:
 It shall not occupy more than 40% of the required rear yard. It shall be not less than 40 feet for R-R and R-L Districts and 30 feet for an R-M District from any street lot line and shall be not less than 25 feet in any R-R or R-L District or 20 feet in the R-M District from any lot line. It shall not exceed 30 feet in height.
 A temporary stand for retail sale of agricultural or farm products, where permitted. May be six feet from the front lot line.
 Any permitted barn shall be at least 50 feet from any street lot line or side or rear property line and at least 100 feet from any abutter's dwelling.
- 7 The front, side and rear yard clearances shown in this table for multifamily dwellings are applicable to each structure containing dwelling units. These distances should be used as though each structure is set on a separate lot. For example, two structures sitting side by side would have side yard clearances each of 30 feet or a total of 60 feet between the structures.
- 8 Intensity of use applications to nursing convalescent home. For purposes of interpreting the portion of this chapter, the term "unit" shall mean each bed designed for use by an individual receiving care at such facility. The first three units of a nursing/convalescent home shall require a minimum land area equal to the lot requirements for any

permitted structure or principal use in the district in which located, with the exception in the C-H District, where 20,000 square feet shall be required for the first three units of a nursing/convalescent home. In all districts where such use is allowed, including by special permit, each additional unit shall require a minimum of 4,000 square feet of land area. Front, side and rear yard requirements within the respective districts where special permits are required may be increased at the discretion of the Board of Appeals, if the size of the project, proximity to incompatible adjacent uses or other factors potentially having an adverse effect on the health, safety or welfare of the persons under care at such facility justifies a more extensive buffer from property lines. The Board of Appeals shall ensure that egress from such facility shall be on a street which should be safe and adequate.

⁹ No building, loading space, parking space or structure, other than a sign, shall be located within 200 feet of the Industrial District boundary line in an Industrial District.
¹⁰ Exception, panhandle lots. This exception shall only apply to a single parcel of land at least three times the area required for a single lot in that residential district, intended to be divided or subdivided into not more than two lots. Such a division or subdivision may be exempt from any or all of the requirements of the Town of Brewster Planning Board rules and regulations, upon the express written approval of the Planning Board. The regulations for lot frontage as set forth in this section may be waived by the Planning Board upon the following conditions:

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The access to the lot as determined by the Planning Board shall not be used to provide access to any other lots.

In no event shall the lot frontage and lot width be less than 30 feet.

¹¹ Multiple use of this section of this chapter shall not be used as a means of accomplishing the subdivision of land without the construction of ways.

¹¹ Cottage colony conversion. An existing nonconforming cottage colony may not be converted to a single-family dwelling use under separate ownership, unless the lot upon which each building is located complies with the minimum requirements for single-family dwellings in the zoning district in which the land is located, and such nonconforming cottage colony may not be converted to a single-family use under condominium-type ownership, unless the lot meets the minimum zoning requirements in which the land is located.

¹² For subsidized elderly housing, see Section 179-42 rather than this Table 2.

¹³ An owner-occupied building containing two dwelling units, one of which shall be an accessory apartment with a net floor area not exceeding 600 square feet and not more than one bedroom, is allowed by a special permit granted by the Board of Appeals. Such building shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absences. A lot shall not contain both an ADU and an accessory apartment.

¹⁴ Except that single-family dwelling uses and structures in the V-B district shall be subject to the R-M district requirements set out in this Table 2.

Editor's Note: The C-L District was removed pursuant to Article 51, Annual Town Meeting, May 8, 1989.