

Model Zoning for Accessory Dwelling Units

Version 1.2
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Prepared by the Metropolitan Area Planning
Council (MAPC) on behalf of the Executive Office
of Housing and Livable Communities (EOHLC)
and the Massachusetts Housing Partnership (MHP)

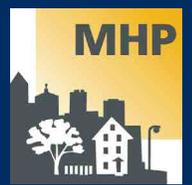


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Introduction

On August 6, 2024, Massachusetts passed the Affordable Homes Act, which, among other provisions, allows for certain Accessory Dwelling Units (ADUs) across the state by-right. ADUs are intended to help address the housing crisis that Massachusetts is facing by increasing the state's housing stock with low-impact, diverse, and less expensive options. The law aims to increase the production of and access to ADUs while maintaining municipal regulatory powers. The Legislature accomplished this goal by enshrining by-right ADUs as one of a handful of specifically protected uses exempt from certain municipal zoning regulations in M.G.L. c. 40A (the Zoning Act), § 3.

Section 3 of the Zoning Act, as amended by Section 8 of Chapter 150 of the Acts of 2024 (Statute), and the regulations under 760 CMR 71.00 : Protected Use Accessory Dwelling Units (Regulations) strike a balance between preventing local prohibition of ADUs and honoring legitimate municipal interests that are typically expressed in local zoning by:

- Protecting ADUs up to size limitation of up to 900 square feet under the Zoning Act;
- Providing for by-right approval of ADUs in areas where residential housing in the form of a Principal Dwelling is provided ;
- Prohibiting owner-occupancy requirements;
- Prohibiting parking requirements near transit;
- Allowing for flexibility of ADU types (e.g., attached, detached, or internal); and
- Enabling ADUs to be approved as-of-right by Building Permit or Special Permit where needed.

Also known as the Dover Amendment, Section 3 of the Zoning Act reflects the Legislature's determination that specific uses should be given more favorable treatment under local zoning than other uses. As such, no municipal zoning by-law or ordinance may prohibit, regulate, or restrict the use of land or structures for land uses like childcare, agriculture, religious facilities, solar energy systems, and now ADUs. The Dover Amendment allows for reasonable restrictions that effectively address legitimate municipal interests without, in this case, significantly reducing or limiting how property owners can use their land or buildings for Accessory Dwelling Units.

A Guide for Municipalities

This document provides model zoning ("Model Zoning") and guidance for municipalities to regulate Accessory Dwelling Units in accordance with the Statute and Regulations. It is meant to be a resource for municipalities that choose to update their existing zoning for ADUs or craft new zoning.

Protected Use ADUs and Local ADUs

The Regulations were promulgated by the Executive Office of Housing and Livable Communities (“EOHLC”) and published in the Massachusetts Register on January 31, 2025, following a public hearing and public comment period. The Regulations created a new definition for Protected Use ADUs, which are ADUs that, because of the new protections afforded to them by the Legislature, must be allowed by-right on Lots with a Principal Dwelling in any zoning district where Single-Family Residential Dwellings are a permitted use. However, municipalities might already have zoning by-laws or ordinances that apply to existing ADUs and/or ADUs that fall outside the parameters of the Statute and Regulations. In effect, municipalities may have zoning rules for Protected Use ADUs and other types of ADUs that are locally defined by that city or town. These “Local ADUs” are optional and apply to all other ADUs that aren’t Protected Use ADUs. They have rules that are specific to that town or city. These Local ADUs may be allowed in addition to a Protected Use ADU, at the discretion of the town or city.

This Model Zoning is written to permit Protected Use ADUs and offers some suggestions for where regulations for Local ADUs may be added. Should a municipality also permit Local ADUs in addition to the Protected Use ADUs they may need to include language throughout to regulate those additional units.

Document Guide

In this document, we outline how municipalities can define and administer zoning to encourage the production of ADUs with the goal of increasing the production of housing to address local and individual housing needs for households at all stages of life. Municipal zoning for ADUs will look different depending on local conditions, such as existing residential density and development patterns, access to transit, environmental factors, and more. As such, the Model Zoning may suggest different approaches for certain situations so zoning language can be tailored to the individual municipality’s needs.

The following document contains:

- 1. An annotated version of the Model Zoning** with commentary to guide local decision-making. For each element of the Model Zoning, commentary is broken down into three buckets: “Do,” “Proceed with Caution,” and “Don’t.” The text of the Model Zoning is shown in italics. Text between brackets – [sample text] – indicates optional text that may be tailored to a municipality’s specific needs.
 - a. Do:** Refers to items that municipalities should, or are required to, include in their zoning to comply with this law.
 - b. Proceed with Caution:** Refers to items that, while may be technically allowed under the Statute and accompanying Regulations, require further assessment based on local conditions and priorities before including.
 - c. Don’t:** Refers to items that should be avoided, otherwise they may render the zoning unenforceable.
- 2. A clean version of the Model Zoning** that can be incorporated, with appropriate modifications based on the needs of the municipality, to a city or town’s zoning ordinance or by-law.

3. Appendices, including a Checklist for Municipal Planners and Design Standards for ADUs located in historic districts.

The **Model Zoning should be adopted with modifications based on the needs of the municipality implementing it** to avoid inconsistencies with their existing zoning. Commentary in the annotated version of the Model Zoning provides guidance for those modifications and more information about the language within the sections.

Municipalities are **strongly encouraged to discuss draft zoning with municipal legal counsel** before adoption to review for and resolve any potential inconsistencies between the proposed zoning, existing zoning, the Statute, and Regulations.

If you have any questions about this Model Zoning or its commentary, please consult with your local legal counsel, or email EOHLC at EOHLCADUHomes@Mass.gov.

For more information and helpful resources, please refer to EOHLC's ADU webpage at www.mass.gov/ADU.

Model Zoning - Annotated Version

A. Purpose

The purpose of this Section [X] 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 760 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 the 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.

Annotations: Purpose

Do:
State local priorities in adopting the ADU by-law or ordinance.
Edit examples provided in the Model Zoning as appropriate to reflect intention and relevant municipality characteristics.
Reference the enabling Statute (Section 3 of M.G.L. c. 40A, as amended by Section 8 of Chapter 150 of the Acts of 2024) and accompanying Regulations (760 CMR 71.00).

Proceed with Caution:
In general, be wary of any local purpose that may be at odds with the Statement of Purpose in 760 CMR 71.01 (1): "...increasing the production of housing to address statewide, local, and individual housing needs for households of all income levels and at all stages of life."

Annotations: Purpose, Continued

Don't:

Don't state a purpose that contradicts the intent of the enabling Statute and its accompanying Regulations. For example, including a purpose related to owner-occupancy or familial relationship of occupants contradicts the Statement of Purpose in 760 CMR 71.01 (2).

Don't state a purpose that is in violation of fair housing laws or indicates some form of local preference. For example, including a purpose related to housing for families without children, current residents of municipality, students, income-eligible residents, or housing tenure contradicts the Statement of Purpose in 760 CMR 71.01 (1). Restricting the number of bedrooms in an ADU is also an example of a fair housing violation. Title 5 provisions related to water and wastewater systems may impose limits on the number of bedrooms related to septic capacity but that is outside of zoning capabilities.

Don't state a purpose that indicates ADUs are only for the purpose of Affordable Housing, as this would contradict the Statement of Purpose in 760 CMR 71.01 (1) and impose a prohibited regulation on property owners pursuant to 760 CMR 71.03(2)(c).

B. Definitions

For purposes of this Section [X], 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 may be detached, attached, or internal to the Principal Dwelling. [General references to ADUs in this by-law include both Protected Use ADUs and Local ADUs.]
2. **Design Standards.** Clear, measurable and objective provisions of zoning, or general ordinances or by-laws, which are made applicable to the exterior design of, and use of materials for an ADU when those same design standards apply to the Principal Dwelling to which the ADU is an accessory.
3. **Dwelling Unit.** A single-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.
4. **EOHLC.** The Executive Office of Housing and Livable Communities.
5. **Gross Floor Area.** 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.
6. **[Historic District.** A district in a municipality established pursuant to M.G.L. c. 40C or other State Law that is characterized by the historic or architectural significance of buildings, structures, and sites, and in which exterior changes to and the construction of buildings and structures are subject to regulations adopted by the municipality pursuant to M.G.L. c. 40C or other state law.]
7. **[Local ADUs.** An ADU that is not a Protected Use ADU but include rules specific to [Municipality or cross-reference any existing or proposed zoning for Local ADUs].
8. **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.
9. **Modular Dwelling Unit.** A pre-designed 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.
10. **Pre-Existing Nonconforming Structure.** A structure that does not conform to zoning.
11. **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.

12. 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 [or a larger Gross Floor Area, if allowed by the Municipality], 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.

13. [Short-Term Rental. An owner-occupied, tenant-occupied, or non-owner occupied property as defined in M.G.L. c. 64G § 1, including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant [for a period of 31 consecutive days or less]; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.]

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

15. 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.

16. 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.]
- b. [A **Subway Station** includes any of the stops along the Massachusetts Bay Transportation Authority Red Line, Green Line, Orange Line, Silver Line, or Blue Line, including any extensions or additions to such lines.]
- c. [A **Commuter Rail Station** includes any commuter rail station operated by a Transit Authority with year-round service with trains departing at regular time intervals, rather than intermittent, seasonal, or event-based service.]
- d. [A **Ferry Terminal** includes any location where passengers embark and disembark from a ferry service with year-round service with ferries departing at regular time intervals, rather than intermittent, seasonal, or event-based service.]

Annotations: Definitions

Do:

Review the existing definitions in your local zoning by-law or ordinance and add or amend definitions as needed to ensure consistency with the Protected Use ADU enabling Statute and its accompanying Regulations. For example, your municipality may have an existing definition for ADUs that differs from the definition for ADUs in the Zoning Act that you must reconcile to be consistent with the definition of a Protected Use ADU under the Regulations.

Determine which Transit Station definitions are relevant to your municipality and only include those definitions.

Use definitions for key terms set forth in 760 CMR 71.02. For example, using the term and definition for Protected Use ADUs clarifies the difference between Local ADUs and those afforded the protections established by the Zoning Act.

NOTE: Throughout this Model Zoning, we refer to Protected Use ADUs when speaking specifically about these by-right ADUs, and we will refer to Local ADUs when addressing a broader range of ADU types.

All definitions that are added should be put in the existing definitions section of the zoning by-law or ordinance.

Proceed with Caution:

There may be instances where a municipality wishes to have a broader, more permissive local definition of an ADU than the definition for Protected Use ADU in 760 CMR 71.02. For example, a municipality may already allow ADUs up to 1,200 square feet by-right and want to continue allowing ADUs of that size. 760 CMR 71.03(7) allows a Municipality to provide for more permissive regulations, which means that a Municipality is permitted to provide for Protected Use ADUs that are larger than 900 square feet, so long they are permissible by-right and subject to all protections afforded to a Protected Use ADU.

Don't:

Don't use words that exist elsewhere in your zoning by-law or ordinance but with different meanings. For example, if your zoning by-law or ordinance already has a definition for ADU in the general definition section, ensure that it matches the definition in the specific ADU section.

Don't use a different meaning for a term that exists in 760 CMR 71.02. For example, using a different meaning for Gross Floor Area could lead to an inaccurate GFA count for regulated Protected Use ADUs.

Don't include definitions in 760 CMR 71.02 that are not relevant to the municipality. For example, do not include the definition for Historic District if your municipality has none.

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.

Annotations: Code Compliance

Do:

Specify that Protected Use ADUs must comply with 310 CMR 15.000 (Title V) as it applies to a Single-Family Residential Dwelling.

Don't:

Don't try to regulate the Building Code in your zoning by-law or ordinance.

Don't restrict the entrance location of the Protected Use ADU in relation to the Principal Dwelling. Protected Use ADUs can maintain a separate entrance that is either directly from the outside or through an interior entry hall or corridor shared with the Principal Dwelling sufficient to meet safe egress under the Building Code.

Don't include more restrictive requirements in zoning for utilities, safety, and emergency access than is permitted by state requirements, like the Fire Code.

b. Short-Term Rentals

- i. *[ADUs may be operated as Short-Term Rentals subject to any restrictions or prohibitions by ordinance or by-law adopted by [Municipality] 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.]*

Annotations: Short-Term Rentals

Do:

Adding Short-Term Rental restrictions for ADUs is a local municipal choice. Carefully consider your municipality's context and if allowing Short-Term Rentals for Protected Use ADUs meets local goals and priorities.

Since the Statute references the definition of Short-Term Rental under the Room Occupancy Tax (M.G.L. c. 64G), you may wish to consider incorporating the limitations and exemptions under the Short-Term Rental tax (e.g., the tax only applies to occupancies of up to 31 consecutive calendar days and provides key exemptions such as (i) lodging accommodations provided to seasonal employees by employers and (ii) tenancies at will or month-to-month leases, among other exemptions provided under M.G.L. c. 64G, § 2.)

Consider if allowing Short-Term Rentals supports the purposes outlined in 760 CMR 71.01 and implement the allowance or limitation of Short-Term Rentals accordingly.

Proceed with Caution:

Consider whether there are situations in which Short-Term Rentals should be handled differently, such as for workforce housing, and other needs that they may address such as with matters pertaining to seasonal communities.

Don't:

Don't allow Short-Term Rentals for Protected Use ADUs if they will not support local housing needs.

2. Protected Use ADUs. *The [Zoning Enforcement Officer] shall approve a Building Permit authorizing 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:*

Annotations: Protected Use ADUs Authorization

Do:
Allow Protected Use ADUs by-right within or on lots with a Principal Dwelling. This includes Single-Family Residential Dwellings, duplexes, triple-deckers, multifamily buildings, and mixed-use residential buildings within a Single-Family Residential Zoning District. When there are already two or more units in a building on a lot, the entire existing structure is considered the Principal Dwelling. For example, a triple-decker would be the Principal Dwelling, not any one unit in the triple-decker.
Allow Protected Use ADUs by-right within or on lots with a Pre-Existing Nonconforming Structure in accordance with 760 CMR 71.03(3)(b)9.
Allow all types of Protected Use ADUs: attached, detached, and internal. Carefully review any existing language about ADUs in your zoning by-law or ordinance, and update if necessary to ensure that there are no overly burdensome placement restrictions for Protected Use ADUs.
Allow the Building Commissioner to approve Protected Use ADUs via Building Permit.
Allow the Zoning Administrator (generally the Planning Director/Staff) to approve Protected Use ADUs via administrative approval.

Annotations: Protected Use ADUs Authorization, Continued

Proceed with Caution:

Your municipality may wish to require Site Plan Review for Protected Use ADUs, and this is allowed so long as the review guidelines are clear, objective, and are consistent with an as-of-right process as defined in M.G.L. c. 40A ss. 3 and 1A. Municipalities should consider if Site Plan Review is appropriate in this case, especially if it requires approval of the Special Permit Granting Authority, and whether it is reasonable under the Dover Amendment analysis in 71.03(3)(a).

Don't impose any restrictions on Protected Use ADUs that do not serve a legitimate municipal interest, such as public safety. For example, one can argue that limiting the number of curb cuts on a lot serves a legitimate municipal interest by making conditions safer for pedestrians without imposing unreasonable costs. However, in areas with large lots allowing a separate driveway may make sense.

NOTE: 760 CMR 71.03(3) recites the Dover Amendment analysis that is applied to the regulation of religious and educational institutions and has been extended to other protected uses within M.G.L. c. 40A, § 3. Municipalities should determine if a proposed regulation of a Protected Use ADU is unreasonable under M.G.L. c. 40A, §3. Any regulation must serve a legitimate municipal interest sought to be achieved by local zoning and its application to a Protected Use ADU must relate to the legitimate municipal interest. It also cannot result in the complete nullification of the use or development of a Protected Use ADU, impose excessive costs on the use or development without significantly advancing legitimate municipal interest, or substantially interfere with the use or development without appreciably advancing legitimate municipal interest.

Don't:

Don't require a Special Permit from the Special Permit Granting Authority for Protected Use ADUs within or on lots with a Principal Dwelling. This includes Single-Family Residential Dwellings, duplexes, triple-deckers, multifamily buildings, and mixed-use buildings within a Single-Family Residential Zoning District.

Special permits are required for any additional ADUs built on a lot with a Protected Use ADU.

a. Dimensional Standards

- i. Protected Use ADU shall not be larger than a Gross Floor Area of 900 square feet [or a larger Gross Floor Area, if allowed by the Municipality] or ½ the Gross Floor Area of the Principal Dwelling, whichever is smaller.
- ii. A Protected Use ADU on a Lot with a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for the Single-Family Residential Dwelling (Section [X]: Dimensional Standards), or accessory structure (Section [X]: Accessory Structures) within the same district, whichever results in more permissive regulation.
- 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 (Section [X]: Dimensional Standards), or Single-Family Residential Dwelling (Section [X]: Dimensional Standards), or accessory structure (Section [X]: Accessory Structures) within the same district, whichever results in more permissive regulation.

Annotations: Protected Use ADUs Dimensional Standards

Do:
Allow Protected Use ADUs not larger than a GFA of 900 square feet or one-half the GFA of the Principal Dwelling, whichever is smaller, in accordance with 760 CMR 71.02. Also, consider whether allowing for larger Protected Use ADUs would be appropriate for your town or city.
Impose dimensional standards on Protected Use ADUs that are no more restrictive than those required for the Principal Dwelling, a Single-Family Residential Dwelling, or accessory structure within the same zoning district, whichever results in more permissive regulation. NOTE: To result in the most permissive regulation overall, municipalities should select the most permissive regulation for each dimensional standard when comparing the Principal Dwelling, Single-Family Residential Dwelling, and accessory structure. For example, the most permissive regulation for the Protected Use ADU may include the minimum setbacks for an accessory structure and the maximum height for a Single-Family Residential Dwelling or a duplex (if the Principal Dwelling on a lot is a duplex).
Review existing dimensional standards and consider how they would apply to Protected Use ADUs. Guidance for establishing dimensional standards is provided below.

Annotations: Protected Use ADUs Dimensional Standards, Continued

Proceed with Caution:

Consider whether existing dimensional standards in your zoning by-law or ordinance may pose unreasonable restrictions, particularly given the purpose set out 760 CMR 71.01 to increase housing production and provide affordable places to live.

Consider whether restrictions will unreasonably prevent Protected Use ADUs from being built in existing structures such as detached garages or barns.

Given that ADUs are accessory structures, it may be reasonable to require that they not be allowed in the front yard setback in some circumstances. However, there are certain contexts, such as on corner lots, and in lower density or rural areas with large lot sizes, where it may be appropriate to allow, and unreasonable to prohibit under the Dover analysis, ADUs in the front yard.

Don't:

Don't impose dimensional standards on Protected Use ADUs that are stricter than those required for the Principal Dwelling, a Single-Family Residential Dwelling, or accessory structure within the same zoning district. See the note above for an example.

Don't require lot size minimums for Protected Use ADUs. These are expressly prohibited by 760 CMR 71.03(3)(b)2.

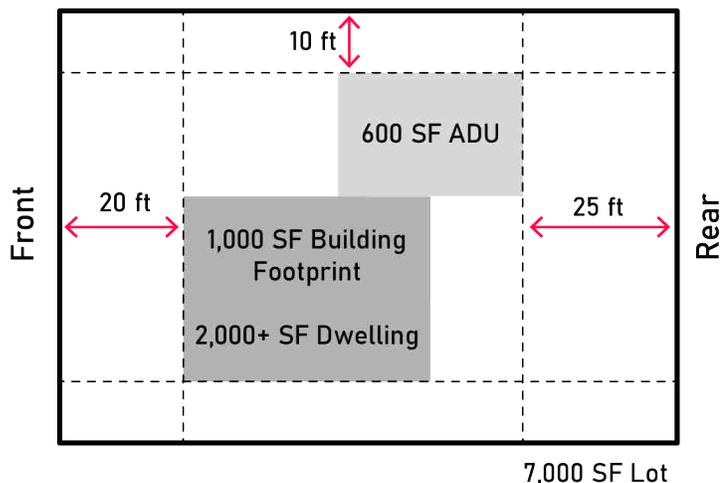
Process for Establishing Dimensional Standards for Protected Use ADUs:

1. Review your municipality's existing dimensional standards that apply to Principal Dwellings, Single-Family Residential Dwellings, or accessory structures within Single-Family Residential Zoning Districts. Consider how these dimensions would apply to Protected Use ADUs to result in the most permissive regulation.
2. Consider if any of your dimensional standards could preclude the creation of ADUs in any of your zoning districts. If this is the case, determine more lenient dimensional standards that would apply specifically to ADUs. The diagrams below provide some examples of this.
3. Consider if your dimensional standards would allow for existing detached structures to be added onto (if appropriate) and converted to Protected Use ADUs. If you see limitations, consider adapting standards to better allow for these additions and conversions.

For Small Lots:

1. Carefully consider if any of your dimensional standards could limit the development of Protected Use ADUs in denser neighborhoods, or zones with smaller lot sizes.
2. To make Protected Use ADUs easier to develop in denser areas, you may consider exempting them from lot coverage calculations and open space requirements.
3. Review your setbacks, especially rear and side setbacks, to determine if they would limit or preclude the development of Protected Use ADUs. If so, consider decreasing the setbacks for Protected Use ADUs specifically. For example, if the rear setback is 25 feet for Single Family Residential Dwellings, you could allow Protected Use ADUs to follow a 10-foot setback requirement. However, you may want to proceed with caution because you wouldn't be able to restrict the height of the ADU to lower than that for the Principal Dwelling to balance out smaller setbacks.

Diagram 1: Small Lot - Attached Protected Use ADU

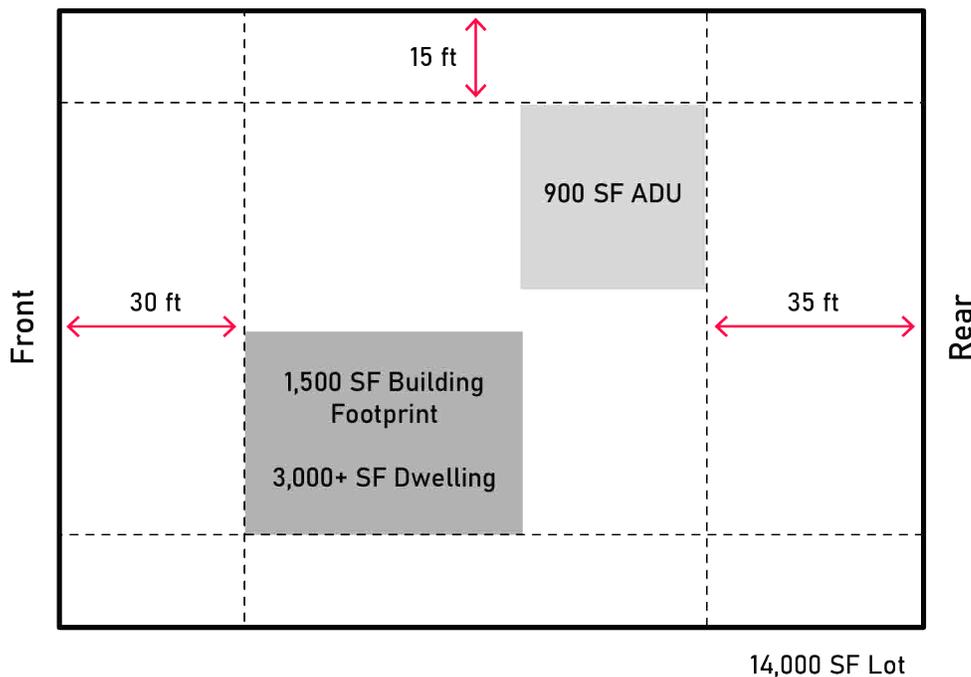


This diagram shows an average lot and setback for a small lot. The existing assumed conditions make it difficult to fit even a 600 square foot attached ADU on the lot. If the lot included a large driveway or a garage, it would be nearly impossible to fit an ADU with the existing setbacks. For municipalities with similar urban areas and/or lot sizes, it is recommended to consider decreased setbacks as applied to ADUs.

For Medium Lots:

1. Carefully consider if your dimensional standards could limit the development of Protected Use ADUs in both medium- and low-density zones.
2. To make Protected Use ADUs easier to develop in denser areas, you may consider exempting them from lot coverage calculations and open space requirements.
3. Consider allowing smaller setbacks for Protected Use ADUs if your setback requirements are currently too restrictive to leave space for a Protected Use ADU in higher density areas.
4. Consider if your bulk and height restrictions would allow a structure such as a detached garage or carriage house to be converted into a Protected Use ADU. Allowing more flexible bulk and height restrictions will help make these conversions possible in a greater number of circumstances.

Diagram 2: Medium Lot – Detached Protected Use ADU

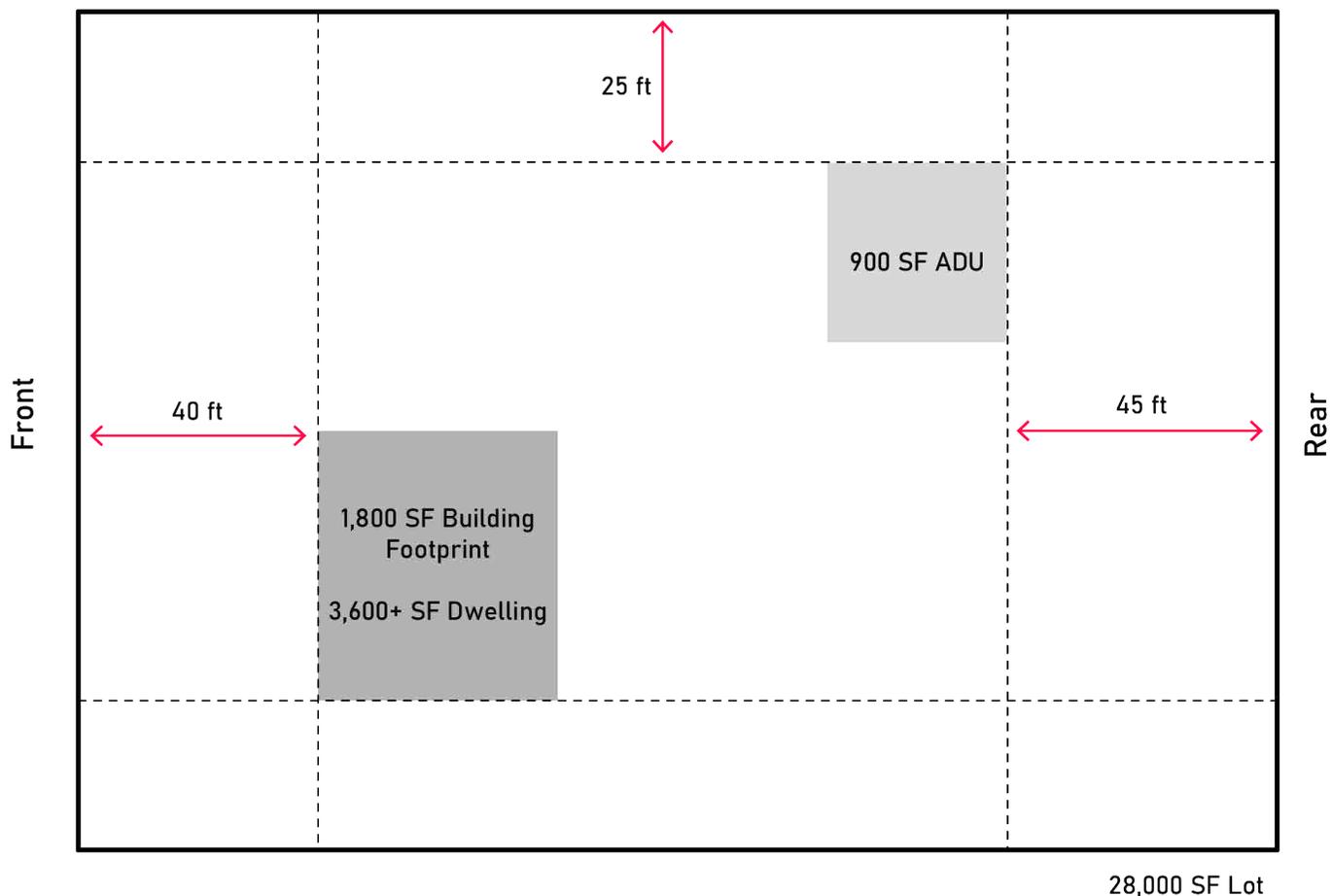


This diagram shows an average medium size lot. The existing assumed conditions can fit a 900 square foot ADU, but if the lot included a larger dwelling, garage or other accessory structure, it would be difficult to fit an ADU as well. For municipalities with similar lot sizes, it is recommended to consider decreased setbacks as applied to ADUs.

For Large Lots:

1. Carefully consider any larger setback requirements you may have and if they are appropriate for lots with Protected Use ADUs.
2. Even with larger lot sizes, it may not be necessary to have large setback requirements for Protected Use ADUs. Decreasing restrictions could provide greater flexibility to allow for these ADUs without imposing on neighboring properties.
3. Consider current regulations around maximum lot coverage. If your maximum lot coverage requirements are relatively small, or if housing footprints in a given district commonly approach the maximum allowable lot coverage, the requirements may need to be amended so as not to effectively preclude Protected Use ADUs.

Diagram 3: Large Lot – Detached Protected Use ADU



This diagram shows an average lot and setbacks for a large lot. The existing assumed conditions can fit a 900 square foot ADU. While a lot of this size has less trouble fitting an ADU even with additional structures or features, the setbacks may be larger than necessary for considering an ADU placement.

- b. **Off-Street Parking** [Up to one] additional off-street parking space shall be required for Protected Use ADUs located outside the ½-mile radius of the [Transit Station]. No off-street parking is required for Protected Use ADUs located within a ½-mile radius of the [Transit Station].

Annotations: Protected Use ADUs Off-Street Parking

Do:

Decide if you will require a parking space for all Protected Use ADUs located outside of a half mile from a Transit Station, or if you will not require any additional parking. Consider the general walkability and pedestrian safety of your municipality to determine if requiring no parking outside the half-mile radius is realistic. A municipality has discretion to reasonably determine the center point from which the ½ -mile radius is calculated.

Don't:

Don't require either on or off-street parking for a Protected Use ADU within a half-mile radius of a Transit Station.

3. Special Permit for [Local ADUs]. The [Special Permit Granting Authority] shall approve a Special Permit authorizing a [Local ADUs] 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:

Annotations: Local ADUs Authorization

Do:
Determine if another ADU type outside the definition of a Protected Use ADU should be allowed by-right, through Site Plan Review, or by Special Permit in your municipality. Since these would not be considered Protected Use ADUs, they are not bound by the same limitations under 760 CMR 71, such as occupancy restrictions or minimum parking requirements.
Coinciding with the definition of Local ADUs, determine what additional allowances you would like to provide for ADU development or use outside of the Protected Use ADU definition.
Create a Special Permit process for properties that would like to create any additional ADU after the one Protected Use ADU that is allowed by right.

Proceed with Caution:
Be aware that allowing any ADUs not meeting the definition and requirements for Protected Use ADUs on a lot would be in addition to a Protected Use ADU. For example, a municipality may wish to allow an additional ADU with an occupancy restriction, which would be their Local ADUs. This means that any eligible property would then be allowed two ADUs: one Protected Use ADU by right, and the Local ADUs by Special Permit. For this reason, you may wish to request approval by Special Permit.

a. Dimensional Standards

- i. [Local ADUs] must be larger than [900 square feet] 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].
- iii. [Local ADUs] shall comply with the following dimensional standards for both the structure and the Lot in accordance with Section [X]: Dimensional Standards and Section [X]: Accessory Structures.

b. Off-Street Parking. A minimum of [one (1)] additional off-street parking space shall be required for [Local ADUs].

4. Special Permit for Multiple ADUs on a Lot. More than one ADU on a Lot in a Single-Family Residential Zoning District in which a Protected Use ADU is already located shall require a Special Permit from the [Special Permit Granting Authority]. The additional ADU shall be classified as a [Local ADUs].

Annotations: Local ADUs Dimensional Standards

Do:
Determine the maximum gross floor area and dimensional standards that your municipality would allow for an ADU that is not a Protected Use ADU. If you require the approval of a Special Permit, you may wish to allow larger ADUs as an incentive.

Annotations: Local ADUs Off-Street Parking

Do:
Determine if you would like to require parking for ADUs that are not Protected Use ADUs, both within and outside a ½-mile radius of the Transit Station. As for Protected Use ADUs, you should consider the general walkability and pedestrian safety of your municipality when making these decisions.

Proceed with Caution:
Since this is not a Protected Use ADU, you may require a parking space within a ½-mile radius of a Transit Station, but you should consider carefully if it is necessary.

Annotations: Multiple ADUs on Lot

Do:
Require a Special Permit if choosing to allow additional ADUs on the same lot as a Protected Use ADU as delineated in 760 CMR 71.03(5).

5. Nonconformance

- a. *A Protected Use ADU shall be permitted within, or on a Lot with, a Pre-Existing Nonconforming Structure so long as the Protected Use ADU can be developed in conformance with the Building Code, 760 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. *[A finding under M.G.L. c 40A §6, that the extension or alteration of the pre-existing nonconforming structure is not substantially more detrimental than the existing nonconforming use to the neighborhood, shall be made by the Permit Granting Authority in an as-of-right process, without requiring a Special Permit or other discretionary waiver.]*

Annotations: Nonconformance

Do:
Allow Protected Use ADUs by-right within or on lots with a Pre-Existing Nonconforming Structure in accordance with 760 CMR 71.03(3)(b)9.
Consider whether it is reasonable under the Dover analysis, as articulated in 760 CMR 71.03(3)(a), to require a finding pursuant to M.G.L. c. 40A §6 for expansion or alteration of pre-existing nonconforming structures. Some municipalities exempt Dover uses from this provision, and it may not be reasonable in all circumstances to require such a finding.
If a finding under M.G.L. c. 40A §6 is required by the municipality, then they must provide for a clear, objective, as-of-right process by the permit granting authority, not the special permit granting authority.

Don't:
Don't prevent an existing ADU that is nonconforming to zoning from qualifying as a Protected Use ADU, or require a finding under M.G.L. c. 40A §6, if it otherwise meets the definition for Protected Use ADU in 760 CMR 71.02.
Don't require a special permit or review by the special permit granting authority, for development of a Protected Use ADU where the lot or structure is nonconforming. M.G.L. c. 40A §6 provides that a finding under this section can be made by the permit granting authority or the special permit granting authority. Read in combination with Section 3's prohibition on special permits as they apply to the development of Protected Use ADUs, the finding should be made by the permit granting authority since a special permit is not required, and therefore not allowed for this purpose.
Don't require a finding under M.G.L. c. 40A §6 for conversion of a nonconforming use into a Protected Use ADU.
Don't require a Section 6 finding for the alteration of a pre-existing nonconforming structure where the regulations creating the nonconformity cannot reasonably be applied to a Protected Use ADU.

D. Administration and Enforcement

1. The [Zoning Enforcement Officer] shall administer and enforce the provisions of this Section [X].
2. No building shall be changed in use or configuration without a Building Permit from the [Zoning Enforcement Officer].
3. No building shall be occupied until a certificate of occupancy is issued by the [Zoning Enforcement Officer], where required.
4. The [Zoning Enforcement Officer] shall apply the Dover analysis as articulated in the standards in 760 CMR 71.03(3) (a), to any request for a Protected Use ADU Building Permit and shall waive any zoning requirement that the [Zoning Enforcement Officer] finds to be unreasonable under the Dover analysis.

Annotations: Administration and Enforcement

Do:
Follow all Building Code and zoning requirements when building a new ADU or converting a space into an ADU. This applies to all ADUs, not just Protected Use ADUs.
Provide a limited waiver for occasional circumstances where a normally reasonable regulation would be unreasonable as applied to a particular lot. The Dover Amendment is a heavily fact-based analysis that is applied both in terms of the overall zoning, and on a lot-by-lot basis. For example, a requirement that Protected Use ADUs be beside or behind the Principal Dwelling might not be reasonable as applied to a large lot where the Principal Dwelling has a large front yard and sits along the rear setback.

Model Zoning - Clean Version

A. Purpose

The purpose of this Section [X] 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 760 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 [X], 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 may be detached, attached, or internal to the Principal Dwelling. [General references to ADUs in this by-law include both Protected Use ADUs and Local ADUs.]
2. **Design Standards.** Clear, measurable and objective provisions of zoning, or general ordinances or by-laws, which are made applicable to the exterior design of, and use of materials for an ADU when those same design standards apply to the Principal Dwelling to which the ADU is an accessory.
3. **Dwelling Unit.** A single-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.
4. **EOHLC.** The Executive Office of Housing and Livable Communities.
5. **Gross Floor Area.** 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.
6. **[Historic District.** A district in a municipality established pursuant to M.G.L. c. 40C or other State Law that is characterized by the historic or architectural significance of buildings, structures, and sites, and in which exterior changes to and the construction of buildings and structures are subject to regulations adopted by the municipality pursuant to M.G.L. c. 40C or other state law.]
7. **[Local ADUs.** An ADU that is not a Protected Use ADU but includes rules specific to [Municipality or cross-reference to any existing or proposed zoning for Local ADUs].]
8. **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.
9. **Modular Dwelling Unit.** A pre-designed 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.

- 10. Pre-Existing Nonconforming Structure.** A structure that does not conform to zoning.
- 11. 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.
- 12. 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 [or a larger Gross Floor Area, if allowed by the Municipality], 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.
- 13. [Short-Term Rental.** An owner-occupied, tenant-occupied, or non-owner occupied property as defined in M.G.L. c. 64G § 1, including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant [for a period of 31 consecutive days or less]; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.]
- 14. Single-Family Residential Dwelling Unit.** A structure on a Lot containing not more than one Dwelling Unit.
- 15. 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.
- 16. Transit Station.** A Subway Station, Commuter Rail Station, Ferry Terminal, or Bus Station.
- [A **Bus Station** includes any location serving as a point of embarkation for any bus operated by a transit authority.]
 - [A **Subway Station** includes any of the stops along the Massachusetts Bay Transportation Authority Red Line, Green Line, Orange Line, Silver Line, or Blue Line, including any extensions or additions to such lines.]
 - [A **Commuter Rail Station** includes any commuter rail station operated by a Transit Authority with year-round service with trains departing at regular time intervals, rather than intermittent, seasonal, or event-based service.]
 - [A **Ferry Terminal** includes any location where passengers embark and disembark from a ferry service with year-round service with ferries departing at regular time intervals, rather than intermittent, seasonal, or event-based service.]

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.

b. [Short-Term Rentals]

- iii. [ADUs may be operated as Short-Term Rentals subject to any restrictions or prohibitions by ordinance or by-law adopted by [Municipality] pursuant to M.G.L. c. 64G, § 14.]
- iv. [An ADU may be rented as a Short-Term Rental for the purpose of workforce housing for seasonal employees.]

2. Protected Use ADUs. The [Zoning Enforcement Officer] shall approve a Building Permit authorizing 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 a larger Gross Floor Area, if allowed by the Municipality] or $\frac{1}{2}$ the Gross Floor Area of the Principal Dwelling, whichever is smaller.
- ii. A Protected Use ADU on a Lot with a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for the Single-Family Residential Dwelling (Section [X]: Dimensional Standards) or accessory structure (Section [X]: Accessory Structures) within the same district, whichever results in more permissive regulation.
- 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 (Section [X]: Dimensional Standards), or Single-Family Residential Dwelling (Section [X]: Dimensional Standards), or accessory structure (Section [X]: Accessory Structures) within the same district, whichever results in more permissive regulation.

b. Off-Street Parking. [Up to one] additional off-street parking space shall be required for Protected Use ADUs located outside the $\frac{1}{2}$ -mile radius of the [Transit Station]. No off-street parking is required for Protected Use ADUs located within a $\frac{1}{2}$ -mile radius of the [Transit Station].

- 3. Special Permit for [Local ADUs].** The [Special Permit Granting Authority] shall approve a Special Permit authorizing a [Local ADUs] 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] must be larger than [900 square feet] 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].
 - iii. [Local ADUs] shall comply with the following dimensional standards for both the structure and the Lot in accordance with Section [X]: Dimensional Standards and Section [X]: Accessory Structures.
 - iv. Off-Street Parking. A minimum of [one (1)] additional off-street parking space shall be required for [Local ADUs].
 - b. Off-Street Parking.** A minimum of [one (1)] additional off-street parking space shall be required for [Local ADUs].
- 4. Special Permit for Multiple ADUs on a Lot.** More than one ADU on a Lot in a Single-Family Residential Zoning District in which a Protected Use ADU is already located shall require a Special Permit from the [Special Permit Granting Authority]. The additional ADU shall be classified as a [Local ADUs].
- 5. Nonconformance**
- a. A Protected Use ADU shall be permitted within, or on a Lot with, a Pre-Existing Nonconforming Structure so long as the Protected Use ADU can be developed in conformance with the Building Code, 760 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. [A finding under M.G.L. c 40A §6, that the extension or alteration of the pre-existing nonconforming structure is not substantially more detrimental than the existing nonconforming use to the neighborhood, shall be made by the Special Permit Granting Authority in an as-of-right process, without requiring a Special Permit or other discretionary waiver.]

D. Administration and Enforcement

1. The [Zoning Enforcement Officer] shall administer and enforce the provisions of this Section [X].
2. No building shall be changed in use or configuration without a Building Permit from the [Zoning Enforcement Officer].
3. No building shall be occupied until a certificate of occupancy is issued by the [Zoning Enforcement Officer], where required.
4. The [Zoning Enforcement Officer] shall apply the Dover analysis as articulated in the standards in 760 CMR 71.03(3)(a), to any request for a Protected Use ADU Building Permit and shall waive any zoning requirement that the [Zoning Enforcement Officer] finds to be unreasonable under the Dover analysis.

Appendix A: Checklist for Municipal Staff

This checklist is to help municipal staff and board members updating or creating new zoning for Accessory Dwelling Units ensure that the zoning is enforceable 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 760 CMR 71.00: Protected Use Accessory Dwelling Units.

Purpose

- No purpose contradicts the intent of the enabling legislation and its accompanying regulations: "...increasing the production of housing to address statewide, local, and individual housing needs for households of all income levels and at all stages of life"
- No purpose indicates some form of local preference
- No purpose refers to a prohibited regulation on property owners, such as requiring the inclusion of Affordable Housing units

Definitions

- Zoning includes relevant definitions from 760 CMR 71.02 and makes clear the difference between Protected Use ADUs and other ADUs that the municipality may choose to regulate
- No terms that exist in 760 CMR 71.02 or elsewhere in the municipal zoning by-law have different or contradictory meanings

Regulations

- Protected Use ADUs are allowed by-right within or on lots with a Principal Dwelling in Single-Family Residential Zoning Districts
- No Special Permit requirement for Protected Use ADUs within or on lots with a Principal Dwelling, except within a Floodplain or Aquifer Protection Overlay District
- No Special Permit required for Protected Use ADUs within or on existing nonconforming lots, or lots with an existing nonconforming primary dwelling.
- Any Special Permit requirement for Protected Use ADUs within a Floodplain or Aquifer Protection Overlay District is based on clear, objective, and non-discretionary criteria
- A Special Permit is required if additional ADUs are allowed on the same lot as a Protected Use ADU
- No enforcement of a Prohibited or Unreasonable Regulation imposed as a condition for the approval of a Protected Use ADU prior to the effective date of 760 CMR 71.00
- Zoning for Protected Use ADUs includes no Prohibited or Unreasonable Regulations

Prohibited Regulations

- Owner-Occupancy Requirements: No requirement for owner-occupancy of the Protected Use ADU or Principal Dwelling
- Minimum Parking Requirements:
 - No requirement for off-street parking for Protected Use ADUs within a half-mile radius of a Transit Station
 - No requirement for more than one parking space for Protected Use ADUs outside the half-mile radius
- Use and Occupancy Restrictions: No requirement that a Protected Use ADU to be subject to a Use and Occupancy Restriction, such as a requirement that the ADU be occupied by a family member
- Unit Caps and Density:
 - No limit to the number of Protected Use ADUs that may be permitted, constructed, or leased in the Municipality or a particular zoning district
 - Protected Use ADUs not counted in density calculations
- Relationship to Principal Dwelling: All types of Protected Use ADUs are allowed (attached, detached, and internal)

Unreasonable Regulations

- Design Standards:
 - Any Design Standard applied to Protected Use ADUs is the same or more lenient than the design standard applied to Single-Family Residential Dwellings within the same zoning district
 - No Design Standard prohibits, renders infeasible, or unreasonably increases the costs of the use or construction of a Protected Use ADU
 - All design standards applied to ADUs are clear and measurable
- Dimensional Standards:
 - Protected Use ADUs have a maximum Gross Floor Area requirement of 900 square feet or ½ the Gross Floor Area of the Principal Dwelling, whichever is smaller
 - Any Dimensional Standard for Protected Use ADUs is the same or more permissive than what is required for the Principal Dwelling, a Single-Family Residential Dwelling, or accessory structure in the same zoning district
 - No minimum lot size requirement for Protected Use ADUs
- Utilities, Safety, and Emergency Access:
 - No requirements concerning utilities, safety, and emergency access are more restrictive than state requirements
 - No requirement for a separate utility connection for Protected Use ADUs
- Environmental Protection: Any regulation pursuant to 310 CMR 15.000 (Title V) applied to Protected Use ADUs is not more restrictive than those for Single-Family Residential Dwellings in the same zoning district
- Site Plan Review: If there is a requirement for Site Plan Review approval of Protected Use ADUs, the review guidelines are clear, objective, and consistent with an as-of-right process as defined in M.G.L. c. 40A ss. 1A and 3
- Impact Analysis, Studies, and Fees: An impact analysis, study report, or impact fee is only required for a Protected Use ADU if the requirement is already in place for Single-Family Residential Dwellings in the same zoning district.

Unreasonable Regulations, Continued

- Modular Dwelling Units: No requirements more restrictive than the Massachusetts Building Code for prohibiting, regulating, or restricting a Modular Dwelling Unit from being used as a Protected Use ADU
- Historic Districts:
 - Design Standards and Dimensional Standards for Protected Use ADUs in Historic Districts are not unreasonable pursuant to 760 CMR 71.03(3)(a)
 - Design standards applied to Protected Use ADUs in Historic Districts must be clear and measurable standards
- Pre-Existing Nonconforming Structures: Protected Use ADUs allowed by-right within or on lots with a Pre-Existing Nonconforming Structure

Appendix B: Design Standards for ADUs Located in Historic Districts

Design Standards may be applied to Protected Use ADUs and other ADUs within Local Historic Districts. The Design Standards may be more restrictive for a Protected Use ADU than they are for a Single-Family Residential Dwelling, or Principal Dwelling, within the same Single-Family Residential Zoning District so long as they are not unreasonable pursuant to 760 CMR 71.03(3)(a).

Specific Design Standards will need to be tailored to the architectural character of each Historic District, but the standards must not be so restrictive, excessive, burdensome, or arbitrary that they prohibit, render infeasible, or unreasonably increase the costs of the use or construction of a Protected Use ADU.

Design Standards must all be measurable and objective. These mandatory standards may not be arbitrary, subjective, or create any gray area about implementation.

Examples of Design Standards for Historic Districts that May Be Reasonable:

- **Roof Pitch:** Roofs shall be gabled with a minimum pitch of 9/12 (9" vertical for every 12" horizontal) and have overhanging eaves of at least one foot. Two- or three-story buildings, or two- or three-story portions of a building, may have a flat roof.
- **Window Scale and Dimension:** Windows visible from the street shall have a 2:1 ratio of height to width. Alternative window designs may be allowed provided by a Special Permit.
- **Window Coverage:** The building front(s) visible from the street shall contain windows covering at least 20 percent but not to exceed 80 percent of the facade surface. Windows shall be highlighted with frames, lintels, and sills, or equivalent trim features.
- **Utility Screening:** All dumpsters or other service areas shall be completely visually enclosed with a screening wall or fence and integrated with the overall site layout.

Annotations: Design Standards for ADUs in Historic Districts

Do:

Apply design standards only to Protected Use ADUs located within Historic Districts.

Determine which existing standards for your Historic District are measurable and objective and therefore can be applied to Protected Use ADUs within the district.

Proceed with Caution:

Determine if your existing historic district standards only apply to structures visible from main thoroughfares, and if so, note that they may not apply to ADUs that are not visible from the street.

You may provide design guidelines that also apply to Protected Use ADUs within Historic Districts. However, these subjective guidelines cannot be legally enforced and are instead meant to provide guidance to property owners in Historic Districts as they upgrade existing or build new structures on their lots.

Don't:

Don't restrict the development of ADUs in Historic Districts through overly complex or limiting Design Standards.