



Braintree Town Council

ORDER NO: 25 003

DATE FILED: JANUARY 31, 2025

REQUEST OF: THE MAYOR

UPON THE REQUEST OF HER HONOR, THE MAYOR, THE TOWN OF BRAINTREE, THROUGH THE BRAINTREE TOWN COUNCIL, IT IS SO ORDERED:

To approve as submitted Order 25 003 adding amendments stated in Exhibit B and adding the amendment #2 as stated by Councilor Morin.

YEAS: Boericke, Flaherty, Maglio, Quilty, Ryan

NAYS: Morin, Reynolds, Ringius

ABSENT: Hume

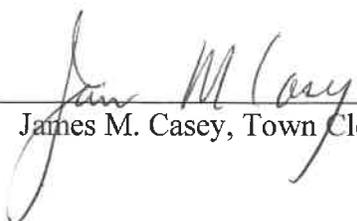
PASSED IN COUNCIL: SEPTEMBER 16, 2025

PRESENTED TO MAYOR: OCTOBER 7, 2025

A True Record, Attest:

10-14-2025

Date Approved


James M. Casey, Town Clerk


Erin V. Joyce, Mayor

**Braintree Zoning Ordinance on Protect Use Accessory Dwelling Units Under the Affordable Homes Act
Massachusetts General Laws Chapter 40A, Sections 1A and 3, and 760 CMR 71**

Under this legislation, following the Commonwealth’s enactment of the Affordable Homes Act in 2024, the Town of Braintree hereby amends the Town’s Zoning Ordinances to memorialize the allowance, as of right, of protected use accessory dwelling units (Protected Use ADUs) on lots with a principal dwelling in any zoning district where single-family residential dwellings are a permitted use. Likewise, this legislation seeks to increase housing production in Braintree to address local and regional housing needs across all income levels and at all stages of life.

In effectuating these objections, this legislation:

AMENDS Section 135-102 Definitions

AMENDS Section 135-601 Table of Principal Uses

AMENDS Section 135-603 Permitted Accessory Uses in Residential Districts

ADDS NEW Section 135-618 Protected Use Accessory Dwelling Units

AMENDS Section 135-701 Table of Dimensional and Density Regulations and Notes

REMOVES Section 135-710 Limitations on the Number of Buildings for Dwelling Purposes on each Lot

AMENDS Section 135-806A Schedule of Off-Street Parking Requirements

Amend Section 135-102

ADD the following NEW Definitions

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.

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.

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.

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.

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.

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.

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.

Pre-Existing Nonconforming Structure. A structure that does not conform to zoning.

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.

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 ½ the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller, provided that only one ADU on a Lot may qualify as a Protected Use ADU. An ADU that is nonconforming to zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

Short-Term Rental. An owner-occupied, tenant-occupied or non-owner occupied property 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; 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.

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

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.

Delete the Following Outdated Definitions:

Dwelling Unit

Lot

Modify Section 135-601 “Table of Principal Uses”

Add a NEW Use Category

	RA	RB	RC	C123	GB	HB	C	OSC	BWLD
Residential									
Protected Use ADU	Y	Y	Y	Y	Y	N	N	N	N

Modify Section 135-603 “Permitted Accessory Uses in Residential Districts”

Current Text

- A. There shall be permitted as accessory uses a garage for not more than three cars, a shed and a swimming pool. Other buildings or structures may be authorized by the special permit granting authority (SPGA).

Proposed Modified Text

- A. There shall be permitted as accessory structures/uses a garage for not more than three cars, a Protected Use ADU, a shed and a swimming pool. Other structures may be authorized by the special permit granting authority (SPGA).

Current Text

- B. It shall be permitted for a household to park on its driveway one registered motor vehicle per household, plus one registered motor vehicle per household resident having a valid driver's license. Each vehicle shall be 10,000 pounds gross weight or less.

Proposed Modified Text

- B. All vehicles parked in parking spaces or driveways of Multi-Family, Two Family, Single Family or Principal Dwelling homes shall be 10,000 pounds gross weight or less.

NEW Section 135-618 “Protected Use ADU”

135-618 Protected Use ADU

- A. Purpose. The purpose of this Ordinance is to increase housing production in Braintree to address local and regional housing needs across all income levels and at all stages of life by allowing the construction and use of Accessory Dwelling Units as defined in G.L. c. 40A, sec. 1A. For added clarity, an accessory dwelling unit allowed as of right in Braintree, consistent with G.L. c. 40A, sec. 3, is called a **Protected Use ADU** under Braintree’s Zoning Ordinances (See Definition of Protected Use ADU under Section 135-102). A Protected Use ADU is permitted by right in all Braintree Zoning Districts where single-family residences are permitted (*See Section 135-601 Table of Principal Uses*), subject to this section.
- B. Features.
1. The features of a Protected Use ADU are noted under the Definition of Protected Use ADU in Section 135-102.
 2. For Dimensional Regulations for Protected Use ADUs, see Section 135-701 and 133-701 Notes.
 3. 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.
 4. No Protected Use ADU shall be used for a Short-term rental as defined in MGL Chapter 64G, Section 1.
- C. Converting Existing Nonconforming Accessory Structures to Protected Use ADUs.
An existing Accessory Structure that is nonconforming with respect to setbacks, stories or building height may be converted to a Protected Use ADU, consistent with this Ordinance and G.L. c. 40A, Sections 1A and 3, if that conversion complies with Section 135-701 of Braintree’s Zoning Ordinance and that conversion of use within such non-conforming structure will not extend, expand or alter the non-conformity in any manner.
- D. G.L. c. 40A, Sections 1A and 3, and 760 CMR 71, are each incorporated herein by reference and shall govern any and all Protected Use ADU matters not expressly mentioned in this legislation.

Modify Section 135-701 “Table of Dimensional and Density Regulations: Notes.”

Current Text Note #4

4. No swimming pool (above or below ground) shall be built within 10 feet of any side or rear lot line. No other building of accessory use shall be built within five feet of any lot line.

Proposed Modified Text Note #4 with the following table and text.

4. Any Accessory Use Structure or Building, including, without limitation, a Protected Use ADU but excluding swimming pools, consistent with Section 135-603 of the Braintree Zoning Ordinance, shall conform to the following dimensional standards:

	RA	RB	RC	C123	GB	HB	Com	OSC
Setbacks								
Minimum Setbacks								
Side	5	5	5	5	5	30	20	50
Rear	5	5	5	5	5	50	35	100
Height								
Maximum Building Height *								
Feet (Linear Feet)	18	18	18	18	18	18	18	18
Stories	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5

*Maximum Building Height may be extended by holding a 1:1 Rear Setback to Building Height Ratio. The Maximum allowed Building Height for any Accessory Structure shall not exceed 28 Feet and 2.5 stories.
 ** No swimming pool (above or below ground) shall be built within 10 feet of any side or rear lot line. No other building of accessory use shall be built within five feet of any lot line.

Current Text Note #6

6. An attached garage or other attached structure shall be considered part of the main building and shall comply with all the dimensional and density requirements for that building.

Proposed Modified Text Note #6

6. An attached garage, accessory dwelling unit or other attached structure shall be considered part of the main building or principal dwelling and shall comply with all the dimensional and density requirements for that building.

Amend Section 135-710

“Limitations on number of buildings for dwelling purposes on each lot.”

- A. With the exception of Protected Use ADUs regulated under Section 135-618, there shall not be more than one building, designed or available for dwelling purposes, erected, placed or converted for use on any lot unless, after a public hearing, the Planning Board determines that such use may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning Ordinances. Such approval will be conditional on providing adequate ways and utilities, and furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision.
- B. Notice of a public hearing shall be given in accordance with the procedures stipulated in Article V.

Modify Section 135-806A “Schedule of Off-Street Parking Requirements”

Add the following Parking Requirement:

Use	Parking Requirement
Protected Use ADU	1 Space Per Unit**

Add the following Note:

** No parking space is required for a Protected Use ADU on a Lot if any portion of such Lot is located within a 0.5-mile radius of a Subway Station, Bus Station, Ferry Terminal, or Commuter Rail Station.