



Commonwealth of Massachusetts
Executive Office of Housing and
Livable Communities



ADU Overview

Berkshire Regional Planning Commission

November 21, 2024



Agenda



1. What is the new ADU law?
2. What are EOHLC's/AGO's/Municipalities' roles?
3. What topics are EOHLC considering for Regulations?
4. Support for Municipalities
5. Next Steps
6. Q&A



What is the new ADU Law?

- On August 6, 2024, Governor Maura Healey signed the Affordable Homes Act (AHA).
- The historic legislation authorizes \$5.16 billion in spending over the next five years along with nearly 50 policy initiatives.
- Section 7 & 8 of the AHA amends the Zoning Act and establishes new ADU laws and definitions we are discussing today.
- **Please note:** The effective date of Section 8 is February 2, 2025





What is an ADU?

- An Accessory Dwelling Unit is a secondary residential unit.
- ADUs can exist:
 - Within an existing primary residence, like converting a basement into an apartment.
 - Attached to a primary residence as a new construction addition.
 - Completely detached, like a cottage or converted detached garage in a backyard.





Why do we need this new law?

- ADUs can be **part of the solution** to create enough housing for people at all income levels and stages of life.
- Massachusetts can enable the **gradual addition of new homes**. Goal: 8,000 to 10,000 new ADU in the next five years.
- **Many MA municipalities have ADU zoning in place** with various types of restrictions but have seen limited new units.
- **We must foster collaboration to have:**
 - The right zoning in place
 - Interested and informed property owners
 - Supportive financing
 - Builders ready to go



When is the Law Effective?

August 6, 2024 - Section 7 takes effect

February 2, 2025 - Section 8 takes effect



ADU Legislation – Definition: Section 7

“Accessory dwelling unit”, 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:

- (i) 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 state building code for safe egress;
- (ii) is not larger in **gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet, whichever is smaller**; and
- (iii) is subject to such additional restrictions as may be imposed by a municipality, including, but not limited to, additional size restrictions and restrictions or prohibitions on short-term rental, as defined in section 1 of chapter 64G; provided, however, that **no municipality shall unreasonably restrict the creation or rental of an accessory dwelling unit that is not a short-term rental.**



ADU Legislation – Definition Section 7 - Highlights

“on the same lot as a principal dwelling”



ADU Legislation – Definition Section 7 - Highlights

“gross floor area than $1/2$ the gross floor area of the principal dwelling or 900 square feet, whichever is smaller”



ADU Legislation – Definition Section 7 - Highlights

“no municipality shall unreasonably restrict the creation or rental of an accessory dwelling unit that is not a short-term rental”



Section 3 of Zoning Act / Protected Uses

- The AHA adds ADUs to the list of uses — like home childcare facilities, handicapped access ramps, solar energy systems, and religious and educational programs — that have been deemed important enough to justify state-level protection from local regulation.
- These **protected uses** are listed in Section 3 of the Zoning Act (Chapter 40A of the General Laws).
- Like other **protected uses**, ADUs are still subject to reasonable regulation at the municipal level.



ADU Legislation – Section 8

No zoning ordinance or by-law shall prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for the use of land or structures for a single accessory dwelling unit, or the rental thereof, in a single-family residential zoning district; provided, that the use of land or structures for such accessory dwelling unit under this paragraph may be subject to reasonable regulations, including, but not limited to, **310 CMR 15.000** et seq., if applicable, **site plan review**, regulations concerning **dimensional setbacks and the bulk and height of structures** and may be subject to restrictions and prohibitions on short-term rental, as defined in section 1 of chapter 64G. The use of land or structures for an accessory dwelling unit under this paragraph shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling; provided, that **not more than 1 additional parking space shall be required** for an accessory dwelling unit; and provided further, that **no additional parking space shall be required for an accessory dwelling located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station**. For more than 1 accessory dwelling unit, or rental thereof, in a single-family residential zoning district there shall be a special permit for the use of land or structures for an accessory dwelling unit. The executive office of housing and livable communities may issue guidelines or promulgate regulations to administer this paragraph.



ADU Legislation – Definition Section 8 - Highlights

“No zoning ordinance or by-law shall prohibit, unreasonably restrict or require a special permit or other discretionary zoning approval for the use of land or structures for a single accessory dwelling unit, or the rental thereof, in a single-family residential zoning district”



ADU Legislation – Definition Section 8 - Highlights

“may be subject to reasonable regulations, including, but not limited to, 310 CMR 15.000 et seq., if applicable, site plan review, regulations concerning dimensional setbacks and the bulk and height of structures and may be subject to restrictions and prohibitions on short-term rental”



ADU Legislation – Definition Section 8 - Highlights

“shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling”



ADU Legislation – Definition Section 8 - Highlights

“not more than 1 additional parking space shall be required for an accessory dwelling unit”



ADU Legislation – Definition Section 8 - Highlights

“that no additional parking space shall be required for an accessory dwelling located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station”



ADU Legislation – Definition Section 8 - Highlights

“more than 1 accessory dwelling unit, or rental thereof, in a single-family residential zoning district there shall be a special permit for the use of land or structures for an accessory dwelling unit”



What are EOHLC's/AGO's/Municipalities' roles?

As of now:

- **Executive Office of Housing and Livable Communities (EOHLC):**
 - No EOHLC bylaw review like MBTA Communities
 - Work with Cities and Towns to provide helpful information
 - Promulgate regulations and further guidance
- **Attorney General's Office (AGO):**
 - Review and approve all town zoning by-laws amendment
 - Consult with cities upon request
- **Municipalities**
 - Recommended that you review your bylaws:
 - If you do not have any ADU bylaws, consider adopting
 - If you have existing ADU regulations, consider reviewing
 - Be prepared to answer questions from property owners



What topics EOHLA is considering in regulations?

- Key Definitions
- Reasonable Restrictions
- Data Collection and Reporting



Support for Municipalities

This Fall/Winter:

- FAQs updated on the website
- Engagement with municipal staff, building commissioners, RPAs, technical experts, builders, etc.
- Draft Regulations

Future supports for municipalities:

- Check List to assist in reviewing existing ADU Ordinances and By-laws
- Model By-laws
- Technical Assistance
- More information about financing, funding, and ADU construction industry
- More information for property owners



Next Steps

We want to hear from you, your questions, and your ideas!

Municipalities

(e.g., Planners, Building Inspectors, Planning and Zoning Board members)

Today's session focused on this group

Industry Professionals

(e.g., Builders, Advocacy Groups, Real Estate, etc.)

Ongoing outreach & resources coming soon

General Public

(e.g., Property owners, folks interested in building ADUs)



Coming Soon!

Draft Regulations

Public Comment Period

Public Hearing Date



For More Information

Website: mass.gov/adu

Emails: EOHLCADUhomes@mass.gov

Sign up to AHA implementation newsletter:
mass.gov/aha



Questions & Answers

