



MEETING NOTICE

posted 1/12/2025,
2:45 pm, KHT

There will be a meeting of the
BERKSHIRE REGIONAL PLANNING COMMISSION
On Thursday, January 16, 2025 at **7:00 p.m.**

This will be a virtual meeting as allowed by Ch. 2 of the Acts of 2023 extending certain provisions of the Open Meeting Law, G.L. c.30 sec.20 until March 31, 2025.

The Meeting can be accessed at: <https://us02web.zoom.us/j/3926128831?omn=84944174080>
Meeting ID: 392 612 8831

Meeting Materials are posted at www.berkshireplanning.org. Click on the meeting in the Events Calendar to open them.

Agenda

(All times approximate)

I. Opening

(7:00-7:05)

- a) *Call to Order and Open Meeting Law Statement*
- b) *Roll Call of Commission Members Attending the Meeting*
- c) *Vote to Approve Minutes of the November 21, 2024 Full Commission Meeting*

II. Comments from Berkshire Regional Planning Commission Delegates and Alternate Delegates

(7:05-7:10)

BRPC Delegates and Alternates may offer comments on any item not on the agenda. Any discussion or action will be referred to a future meeting and not discussed at this meeting.

III. Comments from the Public

(7:10-7:15)

Members of the public may offer comments regarding topics on the agenda or other matters they wish to bring to the Commission's attention. Comments are to be directed to the Commission. Commenters must state their names and the city or town they are from. Any discussion or action will be referred to a future meeting and not discussed at this meeting.

IV. Presentation of Executive Committee Actions

(7:15-7:20)

Executive Committee actions taken on the Commission's behalf at its December 5, 2024 and January 2, 2025 meetings are presented for discussion.

V. Presentation and Discussion about Bike and Multi-Use Path Planning and Development in Berkshire County

(7:20-7:45)

Senior Planner Nick Russo will give an update on the status of bike and multi-use path planning and development in Berkshire County with a focus on the Adventure to Ashwillticook Trail, which recently received a \$17.3 million award from the RAISE (Rebuilding American Infrastructure with Sustainability and Equity) Program for 100% design.

VI. Vote to Approve Berkshire Regional Planning Commission Fiscal Year 2026 Assessment as Recommended by the Executive Committee at its December 5, 2024 meeting to include a 2.5% increase over Fiscal Year 2025. (7:45 – 7:50)

By law, BRPC must notify municipalities of their assessments no later than February each year so that they may be included in city/town budgets. With municipal budget preparation starting earlier and earlier, the BRPC Executive Committee voted to recommend the FY 26 assessment increase by 2.5% over the FY25 assessment. This recommendation allowed us to send a preliminary invoice to the town but it needs to be formally voted on by the Full Commission.

VII. Presentation about the District Local Technical Assistance (DLTA) Program (7:50 - 8:05)

The DLTA Program allows municipalities to receive technical assistance by BRPC staff on a wide range of planning related topics. Municipalities must apply with the next deadline Friday February 21, 2025, [District Local Technical Assistance 2025 - Berkshire Regional Planning Commission](#). BRPC staff will discuss the program.

VIII. Discussion about Accessory Dwelling Unit Bylaw Activities by Municipalities (8:05 – 8:15)

The provision to allow protected use Accessory Dwelling Units by right as enabled by the Affordable Homes Act goes into effect in February. Members are encouraged to report on activities that are occurring in their town related to amending bylaws and any questions or concerns they have had.

IX. Report and Possible Discussion of the Executive Director's Report (8:15– 8:20)

X. Adjournment (8:20)

Other interested citizens and officials are invited to attend.

All times listed are estimates of when specific agenda items may be discussed.

City and Town Clerks: Please post this notice

BRPC has adopted the BRPC website www.berkshireplanning.org as its official posting method as allowed by 940 CMR29.00 section 29.03 (3) (b) since November 2010.

The Meeting Notice, Agenda and meeting materials are on BRPC's website: www.berkshireplanning.org. Click the calendar of events, then the meeting name, and follow the link to materials.



DRAFT FULL COMMISSION MEETING MINUTES **November 21, 2024**

This hybrid meeting was held at Greylock Glen Outdoor Center, 135 Gould Rd., Adams, MA, and via Zoom.

I. Opening

A. The meeting was called to order at 5:58 p.m.

Chair Malcolm Fick stated that per the open meeting law, BRPC was recording this meeting. Others may record the meeting after informing the meeting Chair. Documents presented must be provided to the Chair at the meeting.

B. The following Commission members were present:

Diana Mott – Becket Alternate
Peter Traub – Cheshire Delegate
Mary McGurn – Egremont Delegate
Pedro Pachano – Great Barrington Delegate
Malcolm Fick – Great Barrington Alternate
Tony Zaniboni – Hinsdale Delegate
Leanne Yinger – Lanesborough Delegate
Buck Donovan – Lee Delegate
Laura Mensi – Monterey Delegate (left early)
Kyle Hanlon – North Adams Delegate
Sheila Irvin – Pittsfield Delegate
Sari Hoy – Sheffield Delegate
Christine Rasmussen – Stockbridge Alternate
Don Gagnon – Washington Delegate
Roger Bolton – Williamstown Alternate
Douglas McNally – Windsor Delegate (left early)+
Ben Bederson – Windsor Alternate

Towns with no Delegate or Alternate present:

Adams, Alford, Clarksburg, Dalton, Florida, Hancock, Lenox, Mount Washington, New Ashford, New Marlborough, Otis, Peru, Richmond, Sandisfield, Savoy, Tyringham, West Stockbridge

Staff Present:

Thomas Matuszko, Marianne Sniezek, Laura Brennan

Others Present:

Pittsfield Community Television recorded the meeting; Peter Matson, Washington; Lee Buttala, Sheffield; Diane George, New Ashford;

Catherine Neill & Felipe Zamborlini EOHLIC*; Margaret Hurley – Attorney General’s Office; Katherine Keenum; Susan; Dennis & Diana D; Mark Smith, Lenox; Peter Bluhm; Al B; others in-person not identified

C. Vote to Approve Minutes of the September 25, 2024

Commission Meeting

Douglas McNally motioned to approve the September 25, 2024, draft meeting minutes with the correction that Sheila Irvin is the Pittsfield Delegate, not Alternate. Peter Traub seconded the motion. A roll call vote approved it: Peter Traub, Mary McGurn, Pedro Pachano, Tony Zaniboni, Leanne Yinger, Laura Mensi, Sheila Irvin, Christine Rasmussen, Roger Bolton, Douglas McNally

Abstained: Buck Donovan, Kyle Hanlon, Don Gagnon

II. Comments from Berkshire Regional Planning Commission Delegates and Alternate Delegates

Pedro Pachano asked if there is more news about cuts to the Healthy Incentives program. It has been announced that state funding is being cut in half. Tom Matuszko has not heard anything else about it. Pedro expressed concern about the cuts' impacts on farmers, farmers' markets, and people who depend on it for access to food.

III. Comments from the Public

There were no comments.

IV. Presentation and Discussion Related to the Accessory Dwelling Unit (ADU) Provisions of the Affordable Homes Act

Representatives from the Massachusetts Executive Office of Housing and Livable Communities, Felipe Zamborlini, Manager, Community Assistance, and Catherine Neill, ADU Coordinator, and Margaret Hurley, Regional Chief, Attorney General's Office, reviewed the Accessory Dwelling Unit provisions of the Massachusetts omnibus housing bill, The Affordable Homes Act, passed earlier this year and answered questions. The slide deck from their presentation is posted on [BRPC's website](#).

Comments and questions and answers:

Jeff Clements raised concerns about new law removing single-family residential districts – If ADAs are allowed then in effect each zone is two family.

Jeff Clements questioned whether the definition of ADU will include non-conforming uses, such as gas stations in residential areas.

Reply: The regulations are still being defined. Most likely there will be language either in guidance or under regulations about nonconformity, but don't have a specific answer now. It is possible to have a mixed-use building that is non-conforming in that residential district. The principal

dwelling will guide where an ADU will be allowed.

Jeff emphasized the need to address non-conformity in guidance or regulations and the importance of clear definitions, particularly regarding means of egress. The law mentions a separate entrance. Building officials are more concerned about the means of egress and less concerned about the entrance. Jeff's opinion was that the regulations should say a separate means of egress, because the building code requires means of egress. Stating one entrance is going to cause a lot of discussion that could be avoided just by making the definition clear.

Peter Bluhm, asked two questions about the application of the statute in different zones and lots. One is, does the statute apply in a given zone? And if it does, does it apply to a given lot? Peter stated he interpreted the law to say if the Zone allows for single family residential use, then the law applies in that zone, regardless of what else may also be authorized. Can a two-family house that's in compliance with zoning also have an ADU in the backyard?

Reply: The response was that there are multiple interpretations being considered for the regulations. The law will apply to most of the town except for industrial zones. The regulations will clarify the question about two family dwelling.

Leanne Yinger asked for more information about owner occupancy - does not require owner occupancy in either dwelling. The requirement that the owner does not have to live in the house or on the property.

Reply: The key term is require. For example, if there are municipalities that have an ADU bylaw already, and they require that the primary home be a homeowner occupant or there are other bylaws that require that a person who is a family member, perhaps, is the only person that could live in the ADU. So those types of requirements are not going to be in line with the law. This will be addressed more, probably in the regulations and guidance.

Diana George asked about the possibility of renting both units and the relief for owners with unruly tenants.

Reply: Estate laws pertaining to rental will stand, and the law does not directly address tenant issues. It was confirmed that probably both units can be rented out if the owner does not occupy either unit.

Mary McGurn asked about the compatibility of commercial property structures with ADUs and read an excerpt from Egremont's ADU bylaw which states, an ADU may be located on the same lot for a permitted retail business or consumer service establishment, provided that the lot does not also contain a two family or multi family dwelling. So how does that provision fit with what the regulations may be contemplating?

Reply: It is difficult to provide a response to a specific bylaw question. Advised adhering to the current law itself prior to the regulations being prepared, and consulting the town council for specific cases. The final regulations will provide concrete guidance once completed.

Ben Bederson asked what happens if town bylaws are not consistent with the

new ADU law.

Reply: Advises communities to consider permits that meet the new law's definition to avoid rejection. Margaret (AGO) adds that bylaw provisions clearly in conflict with the statute will no longer be enforceable from February 2, 2025.

Tom Matuszko asked the AGO about the ADU Bylaws that comply with this law that are under review now.

Reply: Suggested checking the Massachusetts Municipal Law Unit's decision lookup feature on mass.gov for recent decisions on ADU bylaws. Guidance on the bylaws will be provided in the AG's decision.

Lee Buttala asked how would ADUs relate to historic districts that many of us have at the center of our towns, in terms of ADUs and what supersedes in such situations?

Reply: This is an active area of inquiry and will likely be addressed in regulations or guidance.

Malcolm Fick commented his town has an ADU by-right bylaw but faces challenges in getting loans for construction. Does this law address this issue?

Reply: The law does not directly address this issue. There needs to be efforts to educate the banks on the value of ADUs and potential financing programs. As soon as the regulations are done, EOHLC will be working on getting additional resources because Mass Housing will likely be interested in finding ways to potentially create financing tools for it. Mass Housing Partnership is also in discussion with EOHLC about potential financing tools. CEDAC might have some financing tools as well, and EOHLC may have additional financing tools outside of the law, for instance, through the capital investment plan. Incentivizing and facilitating the actual development is very important to EOHLC. EOHLC is also working closely with the AGs office to make sure that people aren't scammed and ensure seniors aren't taken advantage of.

Lillian, asked if EOHLC staff roles are being sustained in the future to provide long-term support for ADUs?

Reply: Confirms that their roles are funded for the next five years to support the implementation of ADUs. Stresses the importance of long-term support for communities to adopt and enforce ADU bylaws.

Laura Mensi asked if there is a deadline for planning boards to make their local bylaws be compliant with the state law?

Reply: There is no deadline specified in the law itself when bylaws must be amended. There real deadline is that 2/2/2025 ADUs must be allowed by right if they comply with the definition of the law, as stated in Section 8.

EOHLC representative stated that draft regulations, a public comment period, and public hearing dates are coming soon. For more information: mass.gov/adu; Emails: EOHLCADUhomes@mass.gov; Sign up for the AHA implementation newsletter: mass.gov/aha.

Other discussion

Efforts are being made by at least some communities to make bylaw amendments. There are still unanswered questions that make it hard to make bylaw amendments, such as two-family districts, non-conforming uses, height restrictions, setbacks, differences between ADUs and other accessory structures, when does a requirement for a sprinkler system or a HERS rating be triggered.

There was discussion about an ADU and foundation or slab, tax assessment if there is no owner occupancy requirement. Concerns were raised about the impact on tax rates and zoning laws, especially in historic districts.

Building inspectors discussed the new Massachusetts building code allowing tiny homes up to 400 square feet, effective October 11. Tiny homes can be built with special permits, and the code also allows straw bale and 3D homes. The 10th edition of the building code is being extended until January 30.

V. North County Legislative Update

Not presented.

VI. Presentation of Executive Committee Actions

Executive Committee actions taken at the October 3 and November 7, 2024, meetings were in the meeting's materials packet. There were no questions or discussion.

VII. Vote to Amend the BRPC Bylaws

The BRPC Executive Committee recommended the BRPC Bylaws be amended to comply with annual elections per the Regional Planning Law. At the January 18, 2024 Commission meeting, a vote was made to change the officers' terms to bi-annual. This amendment requires a two-thirds vote of Delegates or Alternates attending a Commission meeting.

Peter Traub motioned to amend the BRPC Bylaws requiring annual elections of officers with one year terms. Kyle Hanlon seconded the motion. There was no discussion. A roll call vote approved the motion: Diana Mott, Peter Traub, Mary McGurn, Pedro Pachano, Tony Zaniboni, Leanne Yinger, Buck Donovan, Kyle Hanlon, Sheila Irvin, Christine Rasmussen, Don Gagnon, Roger Bolton, Douglas McNally

VIII. Vote to Elect BRPC Officers for FY 2025

The Regional Planning Law requires BRPC Officers to be elected annually. The officers for FY 25 need to be elected. The following slate of officers is proposed for FY 2025:

- Chair: Malcolm Fick, Great Barrington Alternate
- Vice Chair: John Duval, Adams Alternate
- Clerk: Sheila Irvin, Pittsfield Delegate
- Treasurer: Buck Donovan, Lee Delegate

There were no nominations from the floor. Peter Traub motioned to approve

the proposed slate of BRPC officers for fiscal year 2025. Diana Mott seconded the motion. A roll call vote approved the motion: Diana Mott, Peter Traub, Mary McGurn, Pedro Pachano, Tony Zaniboni, Leanne Yinger, Buck Donovan, Kyle Hanlon, Sheila Irvin, Don Gagnon, Roger Bolton, Douglas McNally

IX. Report and Possible Discussion of the Executive Director's Report

Tom highlighted several items:

- The state's drought has increased to Level 3.
- The [Citizen Planner Training Collaborative](#) Western Mass conference in Greenfield is canceled.
- The Executive Office of Energy and Environmental Affairs (EEA) has initiated a Wholistic Land Use Plan for state interagency coordination of intersecting policy decisions and potentially conflicting goals and plans. BRPC has raised questions about how different planning areas will work together, such as transportation, housing, the Energy Siting Bill, etc., and the need to clarify and remove inconsistencies or conflicts.

X. Adjournment

Pedro Pachano made a motion to adjourn. Peter Traub seconded the motion. A roll call approved the motion: Diana Mott, Peter Traub, Mary McGurn, Pedro Pachano, Tony Zaniboni, Leanne Yinger, Buck Donovan, Kyle Hanlon, Sheila Irvin, Christine Rasmussen, Don Gagnon, Roger Bolton, Ben Bederson

The meeting was adjourned at 7:33 p.m.

The next meeting is scheduled for Thursday, January 16, 2025, at 7:00 p.m.



BRPC

Berkshire Regional Planning Commission

MALCOLM FICK, Chair
JOHN DUVAL, Vice-Chair
SHEILA IRVIN, Clerk
BUCK DONOVAN, Treasurer
THOMAS MATUSZKO,
Executive Director

MEMORANDUM

TO: Delegates and Alternates, Berkshire Regional Planning Commission
FROM: Thomas Matuszko, Executive Director
DATE: January 9, 2024
SUBJ: Executive Committee Actions for
December 5, 2024 and January 2, 2025 Meetings

Per the BRPC bylaws, actions taken by the Executive Committee on the Commission's behalf are reported and presented for discussion at the next Commission meeting. The Executive Committee took the following actions at the December 5, 2024 and January 2, 2025 Executive Committee meetings.

Executive Committee Actions on December 5, 2024

Approved the minutes of the November 7, 2024, BRPC Executive Committee meeting.

Approved the November 2 – November 27, 2024, Expenditures Report.

Approved a BRPC Use of AI Policy providing broad requirements for BRPC staff to follow.

Approved BRPC entering into the North Berkshire Inter-Municipal Agreement Regarding Use and Expenditure of Opioid Abatement Funds.

Approved the submission of a grant application to the Massachusetts Executive Office of Technology Services and Security's Office of Municipal & School Technology's Cybersecurity Awareness Grant Program.

Voted to enter into an Agreement with the Metropolitan Area Planning Council on behalf of the Western Region Homeland Security Council.

Approved the Submission of a Grant Application to the National Association of County and City Health Officials (NACCHO) Reimagining Health and Public Safety Overdose Initiatives Project (RHAPSODI).

Approved Berkshire Regional Planning Commission's Fiscal Year 26 Assessment Subject to Ratification at the Next Commission Meeting at a 2.5% Increase from FY25.

Executive Committee Actions on January 2, 2025

Approved the minutes of the December 5, 2024, BRPC Executive Committee meeting.

Approved the November 28 – December 20, 2024, Expenditures Report.

Authorized the Environmental Review Committee to submit comments, if necessary, to the Massachusetts Environmental Policy Act (MEPA) Office on behalf of the Berkshire Regional Planning Commission on the Expanded Environmental Notification Form and Environmental Impact Report for the Berkshire Natural Resources Property Exploration Wells Project in Great Barrington.

Authorized the BRPC Executive Director to submit comments to the Massachusetts Executive Office of Housing and Livable Communities (EOHLC) on Accessory Dwelling Units Draft Regulations.

Use of AI Policy

December 5, 2024



Overview

Berkshire Regional Planning Commission recognizes the value of language-model-based generative artificial intelligence applications and services. AI-driven insights have the potential to impact planning across disciplines, including learning models for traffic, economic growth or change, climate impact analysis, housing needs, and other scenario modeling. As such, these tools may be highly useful for staff and municipalities in data interpretation, plan development, and decision-making and may also be beneficial for accessibility accommodations. Through careful implementation, these tools may also save time and improve productivity, improve grammar, summarize content BRPC has already produced, and provide supplemental content BRPC generates. Such technologies leverage large data sets and machine learning to produce content based on user input. In most cases, these tools will be delivered as part of an existing service to enhance user experience (e.g., predictive text, automatically generated themes, or intelligent information classification).

It is important to note that Generative AI can present inaccurate information based on the source material used for training. Employees need to be aware of these potential inaccuracies and be prepared to devote time to reviewing and proofreading generated content to mitigate these issues. Generative AI also has the potential to mirror biases from the training materials, encompassing and repeating harmful and discriminatory biases that can perpetuate and amplify negative impacts on individuals, organizations, and society. For instance, if the training data for a language model is predominantly from a specific culture, the model may favor that culture's norms and values. These biases can be related to but not limited to culture, gender, sex, sexual orientation, ethnicity, socioeconomic status, health, and other societal factors. Moreover, the algorithms responsible for parsing and processing contents may also introduce such biases, either intentionally or unintentionally.

This policy applies to all BRPC employees. Project managers are responsible for enforcing this policy for all projects they are managing. Subcontractors and consultants are expected to disclose their use of AI for BRPC projects and cite its use for content generation in accordance with the policy below.

Definitions

"Artificial Intelligence (AI)," as used in this policy, is a machine-based system that can make predictions, recommendations, or decisions based on a given set of human objectives.

"Generative Artificial Intelligence" ("Generative AI") is a type of artificial intelligence technology that can generate many forms of content, including but not limited to texts, images, and multimedia.

"Personally Identifiable Information (PII)," as used in this policy, is defined as social security numbers, dates of birth, addresses, employment data, driver's license numbers, passport numbers, state-issued

identification card numbers, medical and health data, income data, tax filing data, retirement plan data, asset ownership data, investment data, benefits data, financial account numbers, credit or debit card number (with or without security code, personal identification numbers, or passwords).

Policy

BRPC employees can leverage generative AI technologies for text generation, grammar checks, translation, data collection and analysis, and predictive analysis through current service providers that BRPC already utilizes. Employees who want to utilize other providers need to receive permission from their supervisor and have a funding source to pay for any costs associated with the software. BRPC's IT Manager must also approve additional software requested for use. Employees may experiment with AI for emerging use cases relevant to planning under the supervision of the IT Manager. In all cases, employees are responsible for the outcome regardless of the tool or technology used to create, compose, or generate a work product. Generative AI is not a substitute for employee decision-making. AI is not to be used by managers or hiring teams for employment-related decisions, which includes but is not limited to resume analysis, applicant screening or ranking, job offer decision-making, interviewing and interview response analysis, performance evaluations, promotions, terminations, and disciplinary actions. Photo and voice generation is prohibited.

BRPC employees who violate this policy will be subject to disciplinary action, up to and including termination of employment. Instances of policy violation should be reported to the IT Manager and the applicable Project Manager. Contractors and consultants who violate applicable portions of this policy may have their contracts terminated.

Compliance with Legal and Regulatory Requirements

BRPC employees must comply with all applicable laws and regulations governing the use of AI-based technologies directly or where they are included within another service or toolset. This includes compliance with data protection, privacy, intellectual property, and anti-discrimination laws. The use of generative AI tools and applications must comply with the Written Information Security Plan (WISP), which is found in BRPC's current personnel policies.

Human Review and Approval

BRPC employees must always thoroughly review AI-generated material for inaccurate or incomplete information or non-compliance with policy or regulations. Employees should be diligent in reviewing AI-generated content to ensure that it does not perpetuate biases, as described above. The employee is ultimately responsible for all content produced with the assistance of AI-based tools. Any material generated by AI and used by BRPC in written documents and reports must be cited as being generated by AI and include the software used and the date generated. Generated AI used on websites, flyers, or social media should be reviewed for possible citation by the project manager, who may defer to the IT Manager. Program managers should routinely be asked by their employees to review AI-generated content to ensure accuracy and lack of bias.

Privacy and Confidentiality

Use of personally identifiable information (PII) and other regulated data by BRPC employees in generative AI is generally prohibited, except in certain circumstances where pre-approval has been given

by the Executive Director. Employees should use the minimum amount of PII necessary to support the objective of the Generative AI system. When handling PII or other regulated data, BRPC must take appropriate steps to protect such information based on its level of sensitivity and confidentiality. These steps include but are not limited to complying with BRPC's Written Information Security Plan (WISP), applicable state and federal laws and regulations, and requirements related to access controls, encryption, data retention requirements, substitution of sensitive data, and data sharing agreements. Review of existing documents with PII by AI tools for grammar checks and summarization is permitted. Only HIPAA-compliant AI tools may be utilized when sharing, interpreting, or analyzing Protected Health Information (PHI).

AI-generated recording tools that record or transcribe a meeting may jeopardize privacy and confidentiality. BRPC employees must seek the approval of meeting participants before conducting an audio recording or generating a transcription of the meeting.

For contractors and consultants, personnel must consult with their legal and security teams before utilizing Personal Identifiable Information (PII) or other regulated data within a Generative AI system. Those personnel may consult with the BRPC Executive Director and IT Manager as needed.

Training

BRPC employees are encouraged to obtain training in the use of AI. Potential training includes the ethical use of AI, understanding inherent bias, and how AI can be used within the employees' discipline, such as public policy planning, transportation modeling, etc.

Rollout

BRPC maintains access to such technology through existing Microsoft 365 service entitlements, Adobe licensing, Grammarly, and other existing software. BRPC places no restrictions on the rollout of generative AI-based features within existing approved products or services.

The BRPC IT Manager is responsible for further utilizing or limiting AI-based services, providing access to BRPC data for appropriate purposes, and complying with existing regulations or policies. Employees may be exempted from these provisions if approved by the IT Manager or their designee and only for a targeted or limited purpose or task presented.

As this policy applies to rapidly evolving technology, BRPC will review and update terms and language at least yearly to reflect changes to best practices, technologies, and legal developments.



January 9, 2025

Secretary Ed Augustus
Commonwealth of Massachusetts
Executive Office of Housing and Livable Communities
100 Cambridge Street
Suite 300
Boston, MA 02114

Re: Accessory Dwelling Units – Draft Regulations

Dear Secretary Augustus,

The Berkshire Regional Planning Commission (BRPC) commends the administration and legislature for removing regulatory barriers to allow the creation of accessory dwelling units (ADUs). Steps such as this have the potential to boost the supply and diversity of residential dwelling units, which is desperately needed in Berkshire County.

BRPC also appreciates efforts made by the Executive Office of Housing and Livable Communities (EOHLC) to address uncertainties within Section 8 of the Affordable Homes Act through the draft regulations released earlier this month. Staff has reviewed the draft regulations and discussed with communities in the region. The following are comments that BRPC believes will strengthen the regulations and remove uncertainty within our communities.

Definition of a single-family zoning district – This definition includes dwellings allowed “by special permit, variance, waiver, or other zoning relief or discretionary zoning approval.” Overall, allowing an ADU by-right when a community has required a discretionary approval for a single-family dwelling appears to disregard whatever adverse impacts the community is trying to protect against, especially considering single-family homes are typically the most underregulated use for most communities. If a community requires a discretionary approval for a single-family residence, deference should be provided to the community in regulating residential uses, even for ADUs.

Non-conformities – Allowing by-right ADUs may be inconsistent with community goals regarding non-conformities. Communities that contain non-conforming single-family homes from a use perspective may be the result of a desire to eliminate new single family homes and discourage the continued use of single-family homes (e.g., industrial-focused districts). Where communities require a special permit for the construction of an accessory structure or addition on a non-conforming parcel, it should not preclude that exact requirement in doing so related to an ADU requiring new construction.

Principal Dwelling – The draft regulations are silent to applicability. The EOHLC webinars clearly state a principal dwelling can come in the form of a range of units, from single-family to multi-family. Given the focus on single-family residences in the regulations, EOHLC should clearly state the applicability beyond single-family residences.

Parking – The requirement of one parking space per ADU is reasonable. Removing this requirement in relationship to proximity to transit in Berkshire County is unreasonable. The Berkshire Regional Transit Authority services Berkshire County. From a geographic perspective, most routes traverse rural areas connecting the larger population centers. With the limitations to service on existing routes, especially on evenings and weekends, eliminating the requirement of on-site parking as a reasonable requirement does not reflect the reliance on automobiles and their prevalence throughout the region. Additionally, many

communities do not allow for overnight on-street parking and/or have on-street parking limitations during the winter months. Ensuring a community can require one parking space for an ADU (whether on-site or offsite, where practicable) is not an onerous requirement in Berkshire County.

Access to water/wastewater – Most of Berkshire County does not have access to public or private water and wastewater districts. Residences in most communities contain on-site wells and septic systems. This reality may not allow for the creation of ADUs without significant improvements or replacement. Clearly stating that the new law does not supersede local Board of Health purview may help protect rural communities from unreasonable expectations.

Short Term Rentals – Chapter 150, Section 7 of the Acts of 2024 includes text within the definition of an “Accessory dwelling unit” that is interpreted that a community can prohibit short term rentals. As recent as the December 16, 2024 EOHLC webinar, the guidance is that the use and occupancy restrictions included in the draft regulations “does not prohibit municipalities from restricting or prohibiting short-term rentals”. More recently, communities have reached out questioning whether the draft regulations as written uphold that guidance or put limitations on prohibition based on the proposed 71.03 Section 3.b.8, “Short-term Rentals.” The draft regulations state that “Any restrictions or prohibitions on Short-Term Rentals that are not consistent with M.G.L. c. 64G” shall be considered unreasonable. As written, several of our communities are concerned this may reduce their ability to limit the siting of short-term rentals. Given that short-term rentals are not a protected use, EOHLC should clarify the intent of the text included in the draft regulations to avoid confusion.

Pre-existing ADUs – BRPC is aware of concerns from communities related to pre-existing ADUs and how to interpret Section 4 of 71.03, Enforceability of Restrictions and Regulations on Pre-Existing ADUs. Some communities have existing ADUs that were approved via a special permit process. In instances where a unit was approved that does not meet the definition of a Protected Use ADU, there is concern that a by-right Protected Use ADU is now allowable in addition to a pre-existing ADU. If the intent is to allow a by-right Protected Use ADU where there is a pre-existing ADU onsite, we strongly urge EOHLC to reconsider. Regardless, the draft regulations could provide greater clarity on this concern raised by our communities.

BRPC appreciates the opportunity to provide this response to the draft regulations.

The BRPC Executive Committee endorsed the submittal of comments at its meeting on January 2, 2025.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas Matuszko', is written over a light blue horizontal line.

Thomas Matuszko
Executive Director

Finance Committee & Excecutive Committee Recommend a 2.5% increase to the Commission to Ratify on 1.16.2025

		Option A	Option A	Option B	Option B	Recommended	Recommended
		No increase in total assessment over FY26	No Change from FY25 to FY26	1% increase over FY25 Total	Change from FY25 to FY26 with 1% increase	2.5% increase over FY25 Total	Change from FY25 to FY26 with 2.5% increase
		0.8726	-	0.8813	0.00868	0.89440	0.0218
		\$ 112,590.35	-	\$ 113,716.25	\$ 1,125.900	\$ 115,405.11	\$ 2,814.760
Municipality	4/1/2020 Population						
Adams	8166	\$ 7,125.79	-	\$ 7,197.05	\$ 71.258	\$ 7,303.93	\$ 178.14
Alford	486	\$ 424.09	-	\$ 428.33	\$ 4.241	\$ 434.70	\$ 10.60
Becket	1931	\$ 1,685.03	-	\$ 1,701.88	\$ 16.850	\$ 1,727.15	\$ 42.13
Cheshire	3258	\$ 2,842.99	-	\$ 2,871.42	\$ 28.430	\$ 2,914.07	\$ 71.07
Clarksburg	1657	\$ 1,445.93	-	\$ 1,460.39	\$ 14.459	\$ 1,482.07	\$ 36.15
Dalton	6330	\$ 5,523.67	-	\$ 5,578.91	\$ 55.237	\$ 5,661.77	\$ 138.09
Egremont	1372	\$ 1,197.23	-	\$ 1,209.20	\$ 11.972	\$ 1,227.16	\$ 29.93
Florida	694	\$ 605.60	-	\$ 611.66	\$ 6.056	\$ 620.74	\$ 15.14
Great Barrington	7172	\$ 6,258.41	-	\$ 6,321.00	\$ 62.584	\$ 6,414.87	\$ 156.46
Hancock	757	\$ 660.57	-	\$ 667.18	\$ 6.606	\$ 677.09	\$ 16.51
Hinsdale	1919	\$ 1,674.55	-	\$ 1,691.30	\$ 16.746	\$ 1,716.42	\$ 41.86
Lanesborough	3038	\$ 2,651.01	-	\$ 2,677.52	\$ 26.510	\$ 2,717.28	\$ 66.28
Lee	5788	\$ 5,050.71	-	\$ 5,101.22	\$ 50.507	\$ 5,176.98	\$ 126.27
Lenox	5095	\$ 4,445.98	-	\$ 4,490.44	\$ 44.460	\$ 4,557.13	\$ 111.15
Monterey	1095	\$ 955.52	-	\$ 965.07	\$ 9.555	\$ 979.40	\$ 23.89
Mount Washington	160	\$ 139.62	-	\$ 141.01	\$ 1.396	\$ 143.11	\$ 3.49
New Ashford	250	\$ 218.15	-	\$ 220.33	\$ 2.182	\$ 223.60	\$ 5.45
New Marlborough	1528	\$ 1,333.36	-	\$ 1,346.69	\$ 13.334	\$ 1,366.70	\$ 33.33
North Adams	12961	\$ 11,310.00	-	\$ 11,423.10	\$ 113.100	\$ 11,592.75	\$ 282.75
Otis	1634	\$ 1,425.86	-	\$ 1,440.12	\$ 14.259	\$ 1,461.50	\$ 35.65
Peru	814	\$ 710.30	-	\$ 717.41	\$ 7.103	\$ 728.06	\$ 17.76
Pittsfield	43927	\$ 38,331.46	-	\$ 38,714.78	\$ 383.315	\$ 39,289.75	\$ 958.29
Richmond	1407	\$ 1,227.78	-	\$ 1,240.05	\$ 12.278	\$ 1,258.47	\$ 30.69
Sandisfield	989	\$ 863.02	-	\$ 871.65	\$ 8.630	\$ 884.59	\$ 21.58
Savoy	645	\$ 562.84	-	\$ 568.47	\$ 5.628	\$ 576.91	\$ 14.07
Sheffield	3327	\$ 2,903.20	-	\$ 2,932.23	\$ 29.032	\$ 2,975.78	\$ 72.58
Stockbridge	2018	\$ 1,760.94	-	\$ 1,778.55	\$ 17.609	\$ 1,804.96	\$ 44.02
Tyringham	427	\$ 372.61	-	\$ 376.33	\$ 3.726	\$ 381.92	\$ 9.32
Washington	494	\$ 431.07	-	\$ 435.38	\$ 4.311	\$ 441.85	\$ 10.78
West Stockbridge	1343	\$ 1,171.93	-	\$ 1,183.65	\$ 11.719	\$ 1,201.23	\$ 29.30
Williamstown	7513	\$ 6,555.97	-	\$ 6,621.53	\$ 65.560	\$ 6,719.87	\$ 163.90
Windsor	831	\$ 725.15	-	\$ 732.40	\$ 7.251	\$ 743.28	\$ 18.13
Berkshire County	129026	\$ 112,590.35	\$ -	\$ 113,716.25	\$ 1,125.90	\$ 115,405.10	\$ 2,814.76



MEMORANDUM

TO: Berkshire Regional Planning Commission Delegates & Alternates
FROM: Thomas Matuszko, Executive Director
DATE: January 9, 2025
SUBJ: January 16, 2025, Commission Meeting

A. **RAISE Grant Award**

BRPC received a major grant award from the U.S. Department of Transportation's Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program. The grant will fund complete planning, design, and permitting for the "Adventure to Ashuwillticook Trail," or "A2A Trail Project", a 9.3-mile stretch of shared-use pathway connecting the existing Ashuwillticook Rail Trail to the Williamstown Mohican Path by way of downtown North Adams and the rotary of the MASS MoCA campus. This comprehensive preparation phase will move a unique regional opportunity for connectivity to 100% design and "shovel-ready" status.

B. **Transportation Funding**

The Massachusetts Budget and Policy Center, massbudget, recently released an in-depth analysis of where transportation funding comes from and goes, [What Does Massachusetts Transportation Funding Support and What Are the Revenue Sources? - Mass. Budget and Policy Center](#). It is a very thorough explanation.