

Real Estate Bar Association

November 20, 2025

Webinar

ACCESSORY DWELLING UNITS & SEASONAL COMMUNITIES in Massachusetts

**MCGREGOR
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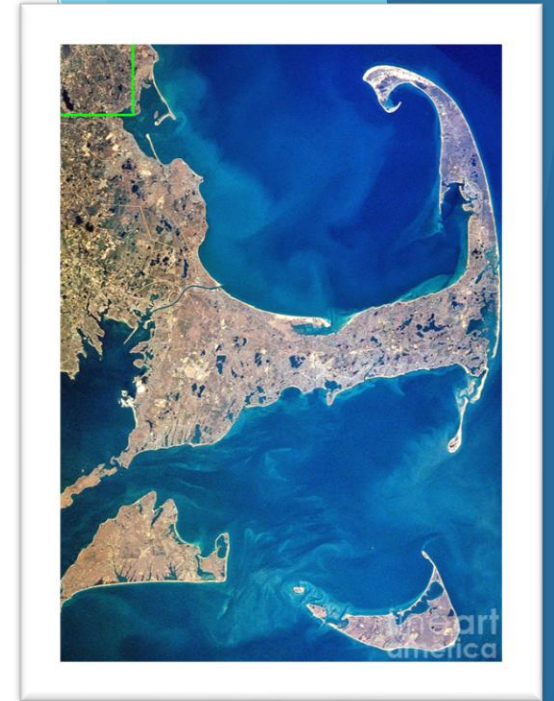
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Affordable Homes Act (Chapter 150 of the Acts of 2024)

- ▶ On August 6, 2024, Governor Maura Healey signed the Affordable Homes Act
- ▶ It authorized \$5.16 billion in spending over the next five years to counter rising housing costs caused by high demand and limited supply.
- ▶ **Seasonal Communities Designation**
 - ▶ Creates the framework for designating communities with **substantial seasonal variations** in employment and housing needs to develop policies and programs targeting seasonal communities
- ▶ **Accessory Dwelling Units (ADUs) As-Of-Right**
 - ▶ Permits ADUs (≤ 900 SF) to be built by-right in single-family zoning districts in all communities

Seasonal Communities

- ▶ Section 5 of Chapter 150 of the Acts of 2024
- ▶ Effective now
- ▶ Draft Regulations: 760 CMR 76.00 (public comment period closed 10/31/25)
- ▶ “all municipalities in the counties of **Dukes** and **Nantucket** and all municipalities with over 35 per cent seasonal housing units in the county of **Barnstable**, as determined by the executive office in consultation with the Cape Cod commission established in chapter 716 of the acts of 1989 and all municipalities with more than 40 per cent seasonal housing units in the county of **Berkshire**, as determined by the executive office in consultation with the Berkshire regional planning commission, shall receive such designation.” (Section 32(b))



Seasonal Communities

Goal = Unlock housing production opportunities to house the year-round, essential workers who either can't afford the available homes or there are not enough homes available for these workers to purchase or rent.



Seasonal Communities

- ▶ A Seasonal Community may:
- ▶ (i) **acquire year-round housing occupancy restrictions for rental or other housing;**
- ▶ (ii) **acquire and develop housing units with preference for housing seasonal community public employees** that are necessary to the health and safety of maintaining a year-round community, including teachers, public works employees, public safety employees, first responders, town administrators and other employees essential for municipal operations
- ▶ (iii) expend funds to develop, on a biannual basis, a comprehensive housing needs assessment;
- ▶ (iv) establish a Year-Round Housing Trust Fund, individually or with other seasonal communities, to provide for the creation and preservation of affordable and attainable housing in seasonal communities for the benefit of year-round residents;
- ▶ (v) expend funds designated for the creation and preservation of year-round affordable and attainable housing for individuals who, by vocation, produce or support artistic and literary activities.

Seasonal Communities

Key Definitions

- ▶ **As-of-right:** without the need for a special permit, variance, waiver, etc. - just the building permit
- ▶ **Floor Area:** The sum of the areas of a Dwelling Unit of compliant ceiling height pursuant to the Building Code, measured from the interior faces of exterior walls but excluding crawl spaces, lofts, enclosed porches, and similar spaces.

Seasonal Communities

Key Definitions

- ▶ **Seasonal Community Essential Public Employee:** A household where at least one person is a Municipal Employee, County Employee or State Employee whose employment is necessary to the public health and public safety of maintaining a year-round community in a Seasonal Community, including, but not limited to, teachers at public institutions, public works employees, public safety employees, publicly employed first responders, town administrators and other employees essential for municipal operations.
- ▶ **Undersized Lot:** A Lot located in a Single-family Residential Zoning District that does not meet the minimum Lot size requirements for such Zoning District.

Seasonal Communities

A SEASONAL
COMMUNITY
SHALL:

Accept or deny the designation (by
TM vote)

Allow undersized lots to be used as
of right for the creation of
attainable year-round housing; and

Permit the construction of tiny
houses as of right

Seasonal Communities

Undersized Lots

- ▶ Residential uses shall be permitted as of right on Undersized Lots if:
 - ▶ the use is for an “Attainable Housing Unit” (Year-round Housing Unit subject to a restriction in its chain of title to income that does not exceed 250% AMI);
 - ▶ located in a Single-family Residential Zoning District;
 - ▶ complies with any applicable floor-to-area ratio requirements;
 - ▶ complies with wastewater and sewer requirements; and
 - ▶ is not used as a seasonal home or short-term rental for less than 6 months in a year

Seasonal Communities

Tiny Houses!

- ▶ “tiny house” = a year-round detached structure containing ≤ 400 square feet in floor area (excluding lofts, crawl spaces, enclosed porches)
- ▶ Must be designated for use as a year-round housing unit; and
- ▶ Meet all requirements of the state building code and local building code, BOH, Title 5, etc.

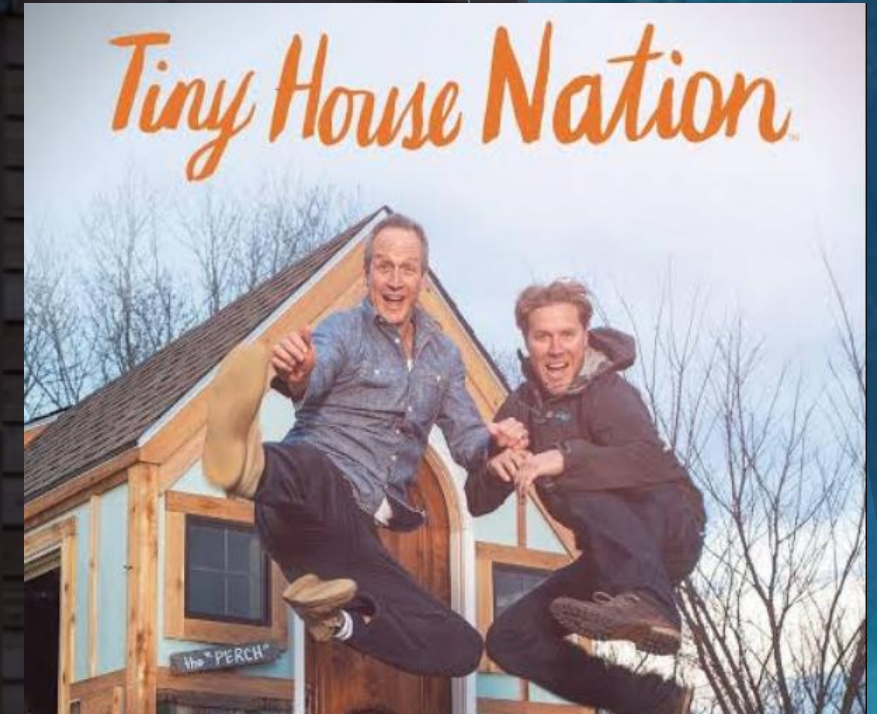


Photo: <https://www.parents.com/portable-tiny-home-loft-space-for-teens-8778503>; <https://encrypted-tbn3.gstatic.com/images?q=tbn:ANd9GcT7nB1t-iwvuokJm-QgZ37SsmkUJj1HdvU8f8uWx6WEPXFYGP>

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Artist Housing

Seasonal Communities may expend funds
to create and preserve Artist Housing



Year-round Housing Occupancy Restrictions (76.09)

- ▶ A Year-round Housing Occupancy Restriction held by a Seasonal Community shall, to the extent authorized under M.G.L. c. 184, be exempt from the following:
 - ▶ (i) the requirements under MGL c. 184, §§ 27 to § 30, inclusive; and
 - ▶ (limitations on restrictions imposed after December 31, 1961, before Jan. 1, 1962; notice of extension of a restriction; enforceability of restrictions)
 - ▶ (ii) the procedural requirements under M.G.L. c. 184, § 32.
 - ▶ (effect, enforcement, acquisition, and release of restriction)
- ▶ A Year-round Housing Occupancy Restriction held by a Seasonal Community shall be subject to the thirty (30) year limitation imposed by M.G.L. c. 184, § 23, unless eligible for exemption pursuant to said § 23.

Seasonal Communities Property Tax Incentive



Savings

Photo: <https://dbknews.com/2019/05/08/umd-college-student-money-spending-savings-budget-money-diary-journal-convenience-store/>

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Accessory Dwelling Units (ADUs)

Amends M.G.L. c. 40A, Sec. 1A, 3



- ▶ Effective NOW
- ▶ Regulations 760 CMR 71.00

Accessory Dwelling Units (ADUs)

Key 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 to meet the requirements of the state building code for safe egress (going through the main dwelling's kitchen is not an egress)
 - ▶ 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
 - ▶ is subject to such additional restrictions as may be imposed by a municipality including additional size restrictions, and restrictions or prohibitions on Short-term Rental

Accessory Dwelling Units (ADUs)

Key Definitions

- ▶ **Gross Floor Area (GFA):** 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.
- ▶ **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.

Accessory Dwelling Units (ADUs)

- ▶ “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”
- ▶ May be subject to reasonable regulations, including, but not limited to, 310 CMR 15.000 et seq. [Title 5 – septic], 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 rentals
- ▶ Municipalities shall not put a cap or limit on the # of Protected ADUs that may be permitted in the municipality

Accessory Dwelling Units (ADUs)



Photo: <https://www.hcd.ca.gov/policy-and-research/accessory-dwelling-units>

- ▶ Cannot require owner occupancy of the ADU or principal dwelling unit
- ▶ Cannot require more than 1 additional parking space; cannot require **any** parking if within .50 of a “Transit Station” (subway, commuter rail, ferry, bus)
- ▶ More than 1 Protected Use ADU requires a special permit

Accessory Dwelling Units (ADUs)

Regulations 760 CMR 71.00

- ▶ The Commonwealth has deemed the following “unreasonable” =
 - ▶ Design standard that would not apply to the SF dwelling
 - ▶ Dimensional standards (setbacks, lot coverage, # of stories, etc.) that are more restrictive than required for the principal dwelling, a SF dwelling, or an accessory structure, whichever results in more permissive regulation
 - ▶ Requiring a minimum lot size
 - ▶ Site plan review conditions that are unreasonable
 - ▶ Cannot prohibit the development of a Protected Use ADU in an existing structure, Principal dwelling, or Lot due to nonconformance as long as it can meet the Building Code.
 - ▶ This does not necessarily mean the municipality must allow you to make the existing structure more nonconforming

Accessory Dwelling Units (ADUs) Municipalities

- ▶ Update zoning bylaw/ordinances to reflect change in state law
- ▶ Implement “reasonable regulations” under zoning bylaw/ordinance



Accessory Dwelling Units (ADUs)

Regulations 760 CMR 71.00

- ▶ You may now apply for a building permit for an ADU in all municipalities



RESOURCES

▶ Executive Office of Housing and Livable Communities

ADUs:

- ▶ <https://www.mass.gov/info-details/accessory-dwelling-units>
- ▶ Claire Morehouse, Accessory Dwelling Unit (ADU) Coordinator, Community Assistance Unit, Claire.Morehouse@Mass.gov

Seasonal Communities:

- ▶ <https://www.mass.gov/info-details/seasonal-communities>
- ▶ EOHLCSeasonalCommunities@mass.gov

RESOURCES

- ▶ Attorney General's Office Municipal Law Unit has plenty of decisions on town bylaws to review (for ADUs)
- ▶ <https://massago.hylandcloud.com/231publicaccess/MLU.html>
- ▶ We have not seen any for Seasonal Communities yet

 11956	MARSHFIELD	11/6/2025	ADUS
 11758	MASHPEE	11/4/2025	ADUS
 11897	HATFIELD	11/3/2025	ADUS
 12006	LEYDEN	11/3/2025	ADUS
 11976	WRENTHAM	10/31/2025	ADUS
 11802	BEDFORD	10/31/2025	ADUS
 11884	SHREWSBURY	10/30/2025	ADUS
 11877	SHARON	10/30/2025	ADUS

Questions?



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