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MAY 2026

ADUs TURN ONE

Regulatory Barriers to Production in Massachusetts and Ideas for Further Reform

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ABOUT BOSTON INDICATORS

Boston Indicators is the research center at the Boston Foundation, working to advance a thriving Greater Boston for all residents across all neighborhoods. We do this by analyzing key indicators of well-being and by researching promising ideas for making our region more prosperous, equitable and just. To ensure that our work informs active efforts to improve our region, we work in deep partnership with community groups, civic leaders and Greater Boston's civic data community to produce special reports and host public convenings.

ABOUT ABUNDANT HOUSING MASSACHUSETTS

Abundant Housing Massachusetts is a non-profit organization founded in 2020 to advocate for the creation of abundant housing for all and to develop and support a network of grassroots, pro-housing groups and activists across Massachusetts. AHMA is committed to fostering a movement that includes diverse voices, geography, and people with different lived experiences to help shape an inclusive statewide pro-housing network.

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Executive Summary

Massachusetts' 2024 Affordable Homes Act legalized accessory dwelling units (ADUs) statewide, taking effect February 2025. The impact was immediate. Municipalities statewide received more than 1,600 permit applications and issued over 1,200 permits in the first year—a clear increase over prior years, but still short of meeting the state's target pace and needs for ADU production.

The shortfall does not reflect a lack of interest from homeowners or renters. High construction costs and limited financing options are real challenges—that are compounded by a regulatory system that adds unnecessary costs, delays, and uncertainty to ADU projects. The regulatory system was not designed to support small housing projects at scale.

Massachusetts' experience with ADU legalization offers two main lessons for housing reform generally:

- State-level legalization of housing via zoning law unlocks housing production, yielding results in a time frame that would be impossible for municipality-by-municipality reform to accomplish, even under a state mandate. State-level zoning reform accomplished more in one year than 50 years of local reform did.
- Zoning reform alone is insufficient to meet the scale of need for housing production. A comprehensive agenda is needed to address regulatory barriers to housing production, spanning building, fire, energy, septic system, wetlands, and stormwater rules. The barriers include the fragmented complexity of the regulatory system itself.

The first round of state ADU reform is already producing results, but it is not enough on its own. Sustained gains will require follow-up work on multiple fronts, which are outlined in this report:

- **There should be clear, uniform state regulatory standards for ADUs, with minimal opportunities for municipal-level variation.** While the Affordable Homes Act legalized ADUs statewide, it did so in a way that preserved municipal authority to apply unique dimensional standards to ADUs, within some confusing parameters. It left in place a level of variation and haze that is beyond comprehension. There is no up-to-date inventory of local septic, wetlands, stormwater, and other requirements that apply to ADU construction, but a 2004 study showed that 109 communities in eastern Massachusetts had septic system rules that exceed the state's Title 5 and 131 communities had adopted local wetlands standards that exceed the state's Wetlands Protection Act. If anything, the restrictions have multiplied since 2004. Each local requirement is unique. The unmanageable complexity calls for pulling back local authority to proliferate rules that apply to ADUs.
- **State regulatory standards for ADUs should be reviewed and revised to support ADU production while protecting health, safety, and the environment.** Some state requirements are unnecessary barriers to ADU production; others may need strengthening as the local authority to augment them is rolled back.
- **Permit review processes should be regionalized.** Massachusetts has 351 cities and towns, most of them small, each with its own staffing, boards, inspection schedules, logistical demands, and informal enforcement norms. Many municipalities lack the staff and technical expertise to run the project reviews, especially if permitting activity were to pick up. Franklin County offers a model of regionalized permitting.
- **Cross departmental coordination at the local and state levels should be increased.** Applicants often have to navigate multiple departments, boards, and regulatory frameworks sequentially, with significant time and money committed to each step before the next constraint appears. Responses to one board or inspector's conditions can lead to more expensive conditions downstream in the process.

The report also makes specific recommendations for state-level reforms across regulatory domains. Some of the reforms are legislative, and some are regulatory or administrative.

ZONING

- Allow up to 1,200 square feet for any protected use ADU, regardless of the size of the principal structure.
- Define clear dimensional requirements for ADUs, such as minimum setbacks and maximum height, and allow municipalities to be more permissive with zoning requirements, but not more restrictive.
- Adopt statewide standards for site plan review.

BUILDING AND FIRE

- Conduct an ADU-focused code review with the explicit goal of reducing costs and barriers to ADU production while maintaining safety. Change the threshold between residential and commercial codes so more ADU projects stay within the residential code.
- Develop and publish statewide guidance on fire code requirements for ADUs.

ENERGY

Develop ADU-specific guidance clarifying how energy codes apply to different ADU types and evaluate opportunities to reduce requirements for internal ADUs, as the use of existing structures for new housing has climate-emissions benefits.

SEPTIC SYSTEMS

Exempt ADUs from local septic regulations that exceed Title 5, or update Title 5 to prohibit more stringent local rules for residential septic systems statewide.

WETLANDS

Strengthen the state Wetlands Protection Act and remove local authority to adopt requirements that exceed it.

STORMWATER

Establish state standards to preempt municipality-by-municipality rulemaking on stormwater requirements. Include a presumptive soil drainage capacity and eliminate mandatory pre-construction soil analysis. Define thresholds below which ADU projects are exempt from full stormwater engineering requirements, absent proximity to sensitive areas.

UTILITIES

Consolidate utilities connection rules into a centralized guide.

Together, these changes would reduce uncertainty for property owners, enable builders to operate more efficiently across jurisdictions, and allow the ADU market to grow.

Introduction

Massachusetts' 2024 Affordable Homes Act legalized accessory dwelling units (ADUs) statewide, taking effect February 2025. The legalization overrode local zoning prohibitions and many over-restrictions. The uptick in ADU permitting was immediate. Hundreds of new homes are already in the construction pipeline due to the zoning reform. These are homes that people need—homes that municipalities used to prohibit.

In the first year after statewide legalization, municipalities received more than 1,600 applications for ADU permits and issued more than 1,200 permits. Some municipalities allowed ADUs before statewide legalization. But the portion of those applications and permits attributable to statewide legalization is significant. Many of those ADUs are now under construction.

The first takeaway is that state-level legalization of housing works, yielding immediate impacts on production. Local zoning had been a primary barrier to ADU production. The state removed part of that barrier and is seeing more production.

At the same time, Massachusetts needs far more ADUs than the recent zoning reform is likely to yield. The overall need for new homes in Massachusetts is estimated at a scale of hundreds of thousands. The Healey-Driscoll administration had projected that ADU legalization would yield 8,000 to 10,000 homes in five years, which is a pace of 1,600 to 2,000 built per year.[1] Massachusetts has more than 3 million homes total, including 1.7 million single-family homes,[2] so the higher end of the target growth rate would add ADUs to a single percent of current housing units in 15 years. The state may not be on track to meet these modest and important goals, although it has taken a needed first step. Arguably, production goals could be set even higher.

This leads us to the report's second takeaway—that state and local regulations, and the complexity of the regulatory system, continue to constrain the market from producing enough ADUs. These regulatory barriers compound other challenges, such as the high cost of construction, limited opportunities for financing ADUs, and the inexperience of most homeowners building housing. Further regulatory reform is needed. To see ADU production at scale, the Commonwealth needs to have clear, uniform, well-designed statewide regulations for ADUs, without municipality-by-municipality variations. Regionalization of enforcement and cross-departmental coordination are also important.

The findings of the report are based on:

A. Interviews with ADU builders and architects, homeowners who have built ADUs or are considering the option, attorneys familiar with the permitting processes, state agency officials and local officials implementing the new law, and advocates tracking implementation

B. Review of state surveys of local building officials

C. Review of state and local laws and regulations

D. Literature review, and

E. Review of the Attorney General's reviews of local ADU bylaws adopted since the legalization.

The report draws on two surveys of municipal land use regulations conducted by the author, one in 2004 and the other from 2017 to 2018. The first survey, a partnership between Pioneer Institute and Rappaport Institute, covered residential zoning, wetlands requirements, and septic system requirements, among other topics, in 187 communities in eastern Massachusetts.[3] The second survey, conducted for the Massachusetts Smart Growth Alliance, covered zoning for multifamily housing and accessory dwelling units in 100 cities and towns of Greater Boston.[4] Both surveys involved reviewing local regulations and plans to answer a set of questions about land use regulation and planning. This report refers to these studies as the "2004 survey" and the "2018 survey."

This report focuses on the 350 cities and towns covered by the State Zoning Act, Chapter 40A. The City of Boston, which operates under a separate enabling statute, was not covered by the state's ADU legalization. What happens in Boston, the state's largest city, is also important. Boston has been experimenting with modest legalization of ADUs in recent years. For more detail about those efforts, see the short section at the end of the report.

This report focuses on the **350 cities and towns** covered by the State Zoning Act, Chapter 40A.

History and Background

An accessory dwelling unit is a small, self-contained residential space located on the same lot as another residence. ADUs take a variety of forms: detached backyard cottages, garage conversions, basement apartments, attached additions, and interior conversions of existing floor space. They are sometimes called in-law apartments, granny flats, carriage houses, family apartments, or secondary suites. Their benefits are multiple. They can offer relative affordability; small living spaces that are in undersupply; opportunities for rental income for homeowners; and setups well suited for intergenerational living, among other things.

Before ADUs were ever regulated in zoning, and before zoning even existed, there were ADUs, although nobody called them that. There would not have been a clear legal line between what was a two-family house and what was a single-family house with an accessory living space. The distinction was architectural rather than regulatory; a double decker looked like a double decker, and a detached house looked like a detached house. In the nineteenth century, it was common for households to have boarders, extended family, or help living in the home, mostly without their own separate private kitchens and entrances, but sometimes with.

LEFT An ADU created as a conversion of an existing garage, on a parcel with a single-family house in Greater Boston. (Photo provided by owner.)

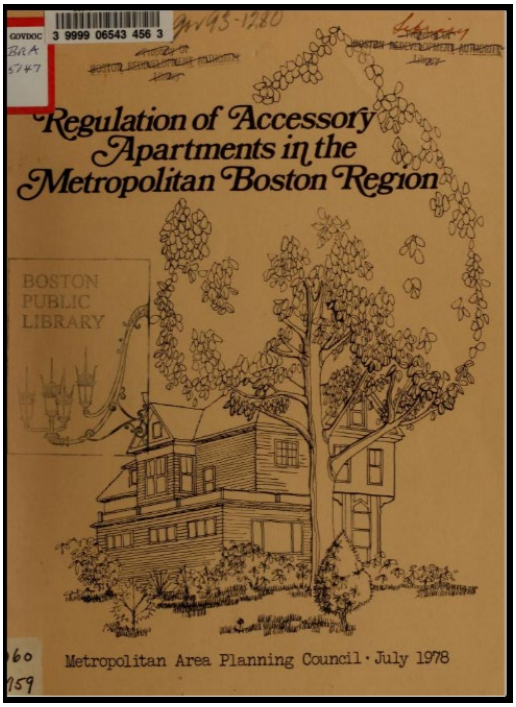
RIGHT A basement ADU in a two-family house in Greater Boston. (Photo provided by owner.)

When zoning laws began their spread across Massachusetts municipalities in the 1920s, they did not mention ADUs as a category of building use, under any name. Single-family-only residential districts became a prominent feature of the original zoning codes, a feature that has continued to this day. Under original zoning frameworks, homeowners or homebuilders may have added ADUs to homes either informally or illegally. There were never building laws limiting the number of kitchens or bathrooms within a given residence, but accessory units with tenants may have attracted the attention of zoning enforcement. A 1978 report on accessory apartments published by the Metropolitan Area Planning Council (MAPC) explained that many building inspectors allowed homeowners in single-family districts to create "in-law apartments" for relatives, including a kitchen and sometimes a separate entrance, but would not permit the modifications when the apartment would clearly be rented to strangers.[5]

In districts where two-family or multifamily homes were allowed, homeowners may have applied for permits to build an ADU as a conversion from single-family to two-family or two-family to three-family, for example. This situation held from the 1920s through the postwar era.

The 1970s marked the turning point when some Massachusetts municipalities began writing "accessory apartments" into their zoning codes as a regulated residential use. The 1978 MAPC report mentions that 23 municipalities in its region had adopted zoning provisions permitting some form of accessory apartment.[6] The provisions came with many restrictions. In Westwood, accessory apartments could only be added to homes existing since 1929. In Lynnfield, the property had to cover at least three acres to gain an accessory apartment. In Stow, the accessory unit and existing house had to share a common entrance, and no external changes could be made to the house. In Sherborn, occupancy of the accessory apartment was restricted to relatives of the homeowner "by blood or marriage."

Advocacy for local zoning reform to allow ADUs continued through the next decades. By 2004, 107 of 187 cities and towns (57 percent) within 50 miles of Boston allowed accessory apartments, according to the 2004 survey of local zoning.[7] More than half of those restricted occupancy to relatives or caretakers of the property owners. The occupancy restrictions then precipitated detailed regulatory procedures for certifying occupancy and renewal of permits. Medway, for example, required the homeowners to provide the building inspector with a notarized statement of the relevant relationship. Norfolk required annual renewal of permits for accessory apartments. Wakefield required a surety bond from applicants to ensure that improvements made for an accessory apartment will be removed after the permit expires. Dover gave owners six months to dismantle the cooking facilities after the permit lapses.



The cover of the 1978 MAPC report on Regulation of Accessory Apartments in the Metropolitan Boston Region.

According to that 2004 survey, almost 85 percent of Greater Boston municipalities that allowed ADUs required special permits for them. In general, permission to add an accessory apartment came with layers of diverse and significant restrictions. Mansfield, and other communities, prohibited more than one bedroom in an accessory apartment. Newton created an overlay district to keep accessory apartments away from the colleges. Southborough limited permits to 5 percent of single-family homes in the town.

Advocacy to allow ADUs more extensively across the state and more liberally in each community's rules continued apace over the years after 2004. In the process, the term ADU took hold, replacing "accessory apartments."

Most local master plans and housing plans recommended legalization of ADUs or liberalization of ADU policies. The 2018 survey of local housing plans produced from 2008 to 2017, across 100 communities in Greater Boston, confirmed this.[8] In that decade, at least 48 communities created plans that included recommendations related to ADU zoning. Plans typically recommended that ADUs be allowed as-of-right and for rental (not restricted to relatives). In that same decade, at least 22 communities voted to either legalize accessory apartments or allow them more generously.[9] Belmont, Swampscott, and Hudson voted to allow ADUs (unrestricted to relatives.) Ipswich, Middleton, and Milford revised their provisions to switch from allowing temporary family-apartments to allowing regular ADUs. Lexington, Newton, Carlisle, and a few other municipalities voted to allow ADUs in detached structures, and liberalized other aspects of their regulations. Hamilton went from allowing an ADU only on lots 10 acres or bigger to allowing an ADU on lots of any size.

By 2018, 68 of the 100 communities surveyed allowed some type of ADU, but more than half of those still restricted residency to relatives or caretakers, prohibiting use of the ADU as a rental. It is also notable that after several decades of advocacy, almost a third of municipalities in Greater Boston still had no zoning for ADUs. The statewide ratio would have been even higher.

The ADU provisions on the books still contained a plethora of restrictions that undermined the extent of ADU applicability. In Weston, ADUs could only be put into houses that have at least 3,000 square feet. In Belmont, ADUs were only allowed in detached historic structures, such as antique carriage houses. Manchester allowed ADUs only on exceptionally large lots, and only in houses built before 1984. Bedford, Burlington, Hudson, Manchester, Stow, and Waltham required two off-street spaces for the ADU. Only 16 of the 100 municipalities surveyed allowed ADUs in detached structures. A few of those communities allowed them only in a pre-existing structure such as a garage, barn, or gatehouse.

The ADU provisions on the books still contained a plethora of restrictions that undermined the extent of ADU applicability.

In Dedham, ADUs could be added to houses where the lot is 10 percent bigger than the minimum lot size, but most of the houses in Dedham sit on lots smaller than the zoning requires. Dedham has more than 6,000 single-family houses, but the town was only receiving a few applications per year to add ADUs.

The 2018 survey showed that municipalities in Greater Boston that allowed ADUs (including with restrictions to relatives) permitted them at an average rate of 2.5 per year from 2015 through 2017.

From 2015 through 2017 municipalities in Greater Boston that allowed ADUs (including with restrictions to relatives) **permitted them at an average rate of 2.5 per year**.

In 2017, the Commonwealth launched the Housing Choice Initiative, designating communities as "Housing Choice" that meet certain pro-housing benchmarks with their planning, zoning, and permitting.[10] The benchmarks included zoning for accessory dwelling units as-of-right. Housing Choice communities would be considered favorably in certain state grant decisions. In this way, the Commonwealth incentivized communities to allow ADUs.

In 2021, the Commonwealth reduced the local zoning amendment approval threshold from two-thirds to a simple majority vote for certain types of reforms, including to allow ADUs. The simple majority approval would hold for zoning that allowed ADUs either within the principal dwelling or a detached structure as-of-right or ADUs in a detached structure by special permit. Anecdotally, the switch to a majority threshold did facilitate further reform, although not a flood of amendments.

Also in 2021, Massachusetts led a different experiment in zoning reform that did not have to do with ADUs but served as an important backdrop to the ADU legalization that happened four years later. In 2021, instead of encouraging and incentivizing municipalities to undertake zoning reform to allow multifamily housing, the state mandated it. The state adopted the MBTA Communities zoning law that required municipalities served by the MBTA to allow multifamily housing as-of-right in at least one district.

The mandate proved far more effective than efforts to motivate voluntary local rezoning for as-of-right multifamily housing, but it still yielded mixed results, a moderate level of change.[11] Moreover, implementation of the mandate proved to be a grueling, years-long, and expensive process that still requires state monitoring and enforcement. The initiative cost the Commonwealth millions of dollars in technical assistance to municipalities and program oversight. Securing reform via local zoning votes involved intense campaigning and community organizing in the face of local opposition. The effort also resulted in multiple court cases. Through the process, it became clear that community-by-community rezoning could not achieve the profound reforms needed in a timeline that respects the urgency of the housing crisis.

The history of zoning reform for ADUs showed the same thing. The big takeaway is that after five decades of advocacy and more than a half-decade of incentives, fewer than half of the cities and towns in Greater Boston allowed ADUs as rentals; a significant number of communities in the state still had no zoning provisions for ADUs; most ADU provisions included requirements for special permits and numerous other restrictions that highly limited their applicability; and not that many ADUs were getting built statewide, despite the need for them. The system of community-by-community ADU zoning reform did not work to allow ADUs at the scale needed. The failure was not for a lack of effort by state officials, planners, housing advocates, and others to promote reform.

In general, the state has four levers of change for local zoning:

1. Persuasion (as it did with ADUs for 50 years)
2. Incentives (like with the Housing Choice program)
3. Mandates (like MBTA Communities)
4. Direct changes

For ADU legalization in 2024, the state opted to use the fourth lever, directly changing zoning rules to legalize ADUs, regardless of what is written in local zoning rules. Cities and towns did not have to take any votes to reform local zoning. Massachusetts was not alone taking this approach; California and other states also directly allowed ADUs.

State Statutory Legalization Via the Affordable Homes Act of 2024

The Affordable Homes Act of 2024 established a statewide framework legalizing accessory dwelling units as-of-right across Massachusetts.[12] It did so by amending the state's Zoning Act, extending to ADUs the protections of the Act's Dover Amendment, which has long protected religious and educational uses from exclusionary local zoning.

The statute defines ADUs as dwelling units with no more than 900 square feet of floor area, or half the floor area of the principal dwelling, whichever is smaller. The core reform prohibits any zoning ordinance or bylaw from prohibiting, unreasonably restricting, or requiring a special permit or other discretionary zoning approval for an ADU in "single-family residential districts."

The statute preserves a set of municipal regulatory tools that can be applied to such legalized ADUs. Municipalities may apply reasonable zoning regulations (or no "unreasonable" regulations) regarding dimensional setbacks, bulk and height, and short-term rental. Municipalities may also apply regulations adopted by local boards of health regarding septic systems.

The statute expressly prohibits several forms of local restrictions. Municipalities may not require owner occupancy of either the ADU or the principal dwelling. Parking requirements are capped at one space per ADU, and within a half-mile of a train or bus station, municipalities may impose no parking requirements at all.

Finally, while the statute legalizes one ADU per lot as of right, it states that "there shall be a special permit" for more than one ADU on a property.

The Commonwealth's Regulations

Several months after the Affordable Homes Act was passed, Massachusetts promulgated detailed regulations on January 31, 2025. Codified as 760 CMR 71.00, the regulations translated the statutory framework into operational guidance for municipalities and applicants.[13] Days later, on February 2, 2025, the law took effect.

The regulations introduce the concept of a "protected use ADU" to describe ADUs that benefit from the statute's as-of-right protections. Only one ADU on a given lot may qualify as a protected use ADU; any additional ADUs on the same lot require a special permit if a municipality chooses to allow them at all. Municipalities retain the authority to allow ADUs more liberally than the state legalization requires, but they cannot restrict protected use ADUs beyond the limits of what the state allows.

As of 2025, municipalities retain the authority to allow ADUs more liberally than the state legalization requires, but they cannot restrict protected use ADUs beyond the limits of what the state allows.

The regulations define "single-family residential zoning districts" broadly, to include any district where single-family homes are allowed either as of right or by special permit. Bus stations, for purposes of the parking exemption, are defined to include bus stops.

A municipal regulation is to be deemed "unreasonable" if it results in the complete nullification of a protected use ADU; imposes excessive costs without significantly advancing a legitimate municipal interest; or substantially diminishes or interferes with a protected use ADU without appreciably advancing such an interest.

Municipalities may impose dimensional requirements—including setbacks, lot coverage, open space, bulk and height, and number of stories—but only up to the most permissive standard applicable to the principal dwelling, a single-family home, or an accessory structure in that zoning district. Whichever standard is most permissive governs. Design standards are similarly constrained: They must be clear, measurable, and objective, may not exceed what is required of single-family homes in the same district, and may not render a project infeasible or unreasonably increase construction costs. Municipalities may not impose a minimum lot size as a condition of a protected use ADU.

The state's protections for ADUs are not intended to supersede other state health and safety laws, including the building code, fire code, and Title 5 (that applies to septic systems). Those requirements remain in effect and apply to ADUs as they would to any other residential construction.

Cities and towns are not legally required to amend their local zoning ordinances and bylaws to conform to the new state framework. The state law is self-executing: Protected use ADUs cannot be subjected to local regulations that conflict with state law. Local permitting authorities are expected to disregard conflicting local zoning rules when reviewing ADU applications. Regardless of whether a municipality has adopted zoning in alignment with the state's ADU legalization statute and regulations, owners of qualifying properties in every community (outside Boston) are entitled a by-right approval process to add an ADU. The Healey-Driscoll administration has been encouraging municipalities to align their zoning with state statute and regulations to reduce confusion.

Local Adoption of ADU Bylaws and Ordinances

Once the state legalized ADUs statewide and allowed municipalities to adopt certain limits on the protected use ADUs, there was an unprecedented level of statewide voluntary zoning reform in a single year. Some communities tweaked their requirements to make them consistent with state law. For example, a town that allowed 800 square-foot ADUs by special permit may have revised the provisions to allow 900 square feet, or half the square feet of the principal dwelling, whichever is smaller, by right. Some communities took the opportunity to regulate ADUs to the extent allowed by the state framework. For example, a town that previously prohibited ADUs might have amended the local zoning to allow ADUs by right, but with dimensional requirements, a parking requirement (one space on properties far from transit) and limits on short-term rentals. Some communities, such as Newton and Somerville, also took the opportunity to allow ADUs more liberally than the state required.

Several local building officials have reported that it helps reduce confusion and conflicts when the local ADU bylaw or ordinance aligns with state requirements.[14]

In 2025 alone—a single year—nearly a third (109) of all 351 cities and towns voluntarily revised their ADU provisions or adopted new ADU provisions, according to a state survey.[15] Another 48 municipalities reported revising their zoning for ADUs between August 6, 2024, when the Affordable Homes Act was adopted, and February 2, 2025, when it became effective. In comparison, from 2008 through 2017, in the whole decade of robust pro-ADU advocacy and planning, only approximately 20 percent of cities and towns in Greater Boston adopted or revised ADU zoning.[16]

> Once the state legalized ADUs statewide, nearly a third (109) of all 351 cities and towns voluntarily revised their ADU provisions or adopted new ADU provisions in a single year.

Note that the latest round of amendments benefited from the change in approval thresholds from supermajority to majority. The state offered a model ADU zoning bylaw/ordinance for municipalities to adopt, conducted webinars, and held office hours to assist with questions of zoning text.

The Attorney General's office reviews all zoning bylaw amendments adopted by towns to ensure consistency with state laws and regulations; the standardized review does not cover amendments by cities to zoning ordinances. The office only reviews the new changes, not the whole bylaw. ADU bylaws that existed before statewide legalization are not reviewed for consistency with the new rules; only new amendments are. The office can approve or reject the whole amendment or partially approve the amendment, striking provisions in conflict with state law and regulations.

In its reviews over the last year and half, the AG's office struck language in a large number of local bylaws.[17] The level of inconsistency between new bylaws and the state rules is in itself a red flag about the complicated system of local zoning.

Multiple factors contributed to the inconsistencies. First, at least 40 municipalities passed local amendments before the state promulgated regulations. In these cases, the local lawmakers and municipal officials, in drafting and approving language, did not have the benefit of that important legal guidance. Other amendments reflected either a misunderstanding or lack of knowledge of the statutory and regulatory requirements, or an oversight. And still others may reflect deliberate local resistance to the state framework.

Planning board members are often volunteers. Some communities lack planning staff altogether; and others are staffed part-time. Local rules evolve through winding processes, including public hearings before the planning board and discussion at town meeting, which, in many towns, is a form of direct democracy. Amendments to proposals may be made in real time at the town meeting where legislative approval happens. The whole process, including public hearings and town meeting, can engage more than a hundred people in a single community. The local democratic process has all sorts of virtues, but it also poses challenges for creating an efficient, fair, and transparent system of land use regulation. It is a system designed to produce unique rules across each jurisdictional boundary.

Common inconsistencies in the newly amended local bylaws have included the following:[18]

- **SINGLE-FAMILY DWELLINGS ONLY:** The most common disapproval across all decisions involves towns defining ADUs exclusively in the context of "single-family" dwellings or structures, so ADUs can only be added to properties containing a single-family home. The state allows protected use ADUs in any district where single-family homes are allowed. Within those districts, protected use ADUs can be added to any lot with a "Principal Dwelling" which includes any structure containing at least one dwelling unit, including two-family and multifamily buildings. This inconsistency between state law and local bylaws came up at least 70 times.
- **PARKING:** Many towns imposed off-street parking requirements inconsistent with state standards.
- **DIMENSIONAL STANDARDS:** Some towns required dimensional standards for ADUs that were inconsistent with the state's framework that dimensional standards like setbacks, height, and lot coverage be the most permissive of those applied to the principal dwelling, a single-family dwelling, or an accessory structure in the same district. A few towns required minimum lot sizes for ADU approval. The state explicitly prohibits minimum lot size requirements for ADUs.
- **SPECIAL PERMITS:** Several communities required special permits for ADUs in all cases or on properties with houses that do not conform to all zoning rules, so-called "preexisting non-conforming" buildings, or in other special cases. The state regulations allow protected use ADUs as-of-right even on non-conforming properties. Municipalities cannot require special permits for protected use ADUs. Note however that municipalities may allow special permits for non-protected use ADUs, for example, ADUs that have more than 900 square feet of floor area.
- **PERMANENT FOUNDATIONS:** Several towns required that ADUs be constructed on permanent foundations. The state rules do not impose a permanent foundation requirement on protected use ADUs; this condition would represent an unreasonable restriction on their development.
- **OTHER:** One community prohibited ADUs with more than one bedroom; another limited ADUs to lots with an existing dwelling; some communities prohibited ADUs in certain business districts where single-family homes are allowed. These limits are inconsistent with state rules. Some communities defined gross floor area in ways that were inconsistent with the state standards. Some communities required minimum lease durations that went beyond restrictions the state allows against short-term rentals.

What Makes a Dwelling Unit Accessory?

What's in a name? ADUs are called accessory. Is it important that ADUs actually be accessory? In practice, they typically are accessory; the name reflects the typical uses of them. For example, a secondary home for the homeowners' relatives and caretakers who pay no rent could be considered accessory to the principal dwelling. The rental unit that boosts homeowners' income to help make ends meet could also be called accessory.

Before the statewide legalization, local regulations enforced the accessory nature of ADUs through requirements such as owner-occupancy of one unit and occupancy restricted to relatives or caretakers of the property owners in the other unit. These requirements severely limited production of ADUs and created enforcement burdens. Under the Affordable Homes Act, protected use ADUs cannot have such restrictions on occupancy.

Protected use ADUs can even be turned into condos (when municipalities do not explicitly prohibit that), meaning the primary dwelling and ADU could even be under separate ownership. In the scenario of separate ownership, the feature that would make an ADU accessory is perhaps its smaller size relative to the primary dwelling.

But this raises the question: Does making one home smaller than another on the same property serve a public function? Production of small homes has a public benefit—meeting the market for small homes. But that goal can be accomplished by requiring ADUs to be no bigger than 900 square feet, or 1,000 square feet, or 1,200 square feet, for example.

The requirement that ADUs be no bigger than half the floor area of a small principal house is a rule designed to justify a name. The rule takes the name as prescriptive, when the name may primarily be descriptive. While most ADUs are, and will be, accessory in practice, the law should let some ADUs be small homes next to same-sized small homes that are not called ADUs.

The Results of Legalization

Following statewide legalization, the Executive Office of Housing and Livable Communities surveyed building officials in all 351 municipalities, including Boston, to track ADU permitting activity.[19] Data requests were made in July 2025 and January 2026, with 293 municipalities responding to one or both surveys. Respondents reported receiving a total of 1,639 applications for ADU building permits and issuing 1,224 permits in 2025. These figures underestimate total production as 58 municipalities did not report their numbers, and another 65 only provided a report for the first half of the year. Construction of most of the permitted ADUs has not been completed yet.

The uptick in permitting represents genuine progress. That said, Massachusetts will need to keep ramping up its rate of production to meet the Healey-Driscoll administration's target of 1,600 to 2,000 ADUs built per year in the first five years—and to meet the state's housing needs.

Quantifying the increase in ADU permitting over what would have happened without the statewide legalization is a challenge, but there is strong evidence that the permitting numbers represent a real uptick attributable to legalization. In the absence of a counterfactual, it would be helpful to compare the 2025 permit counts to an average of the years immediately prior to legalization, while acknowledging that there are demographic and market shifts over time that could impact production rates, beyond the factor of legalization. However, there is no readily available data on ADU permits from the years immediately prior to legalization. Municipalities did not have standard data tracking or reporting protocols for ADUs. However, there is ADU permit data from a few years earlier.

The 2018 survey of ADU zoning provisions in 100 cities and towns of Greater Boston asked planners and inspectors how many ADUs their communities permitted from 2015 through 2017.[20] The study found that cities and towns that allow ADUs permitted an average of 2.5 ADUs per community per year. This average did not include almost a third of communities in Greater Boston, the ones that did not allow ADUs. At the statewide level, an even bigger proportion did not allow ADUs, meaning that from 2015 to 2017, the statewide average across all 351 cities and towns was considerably lower than 2.5 permits per year. The statewide average might have been less than one permit per community per year. In 2025, after legalization, the statewide average, across all 351 municipalities, was approximately 3.5 ADUs, and that is likely an undercount as not all communities reported their numbers.

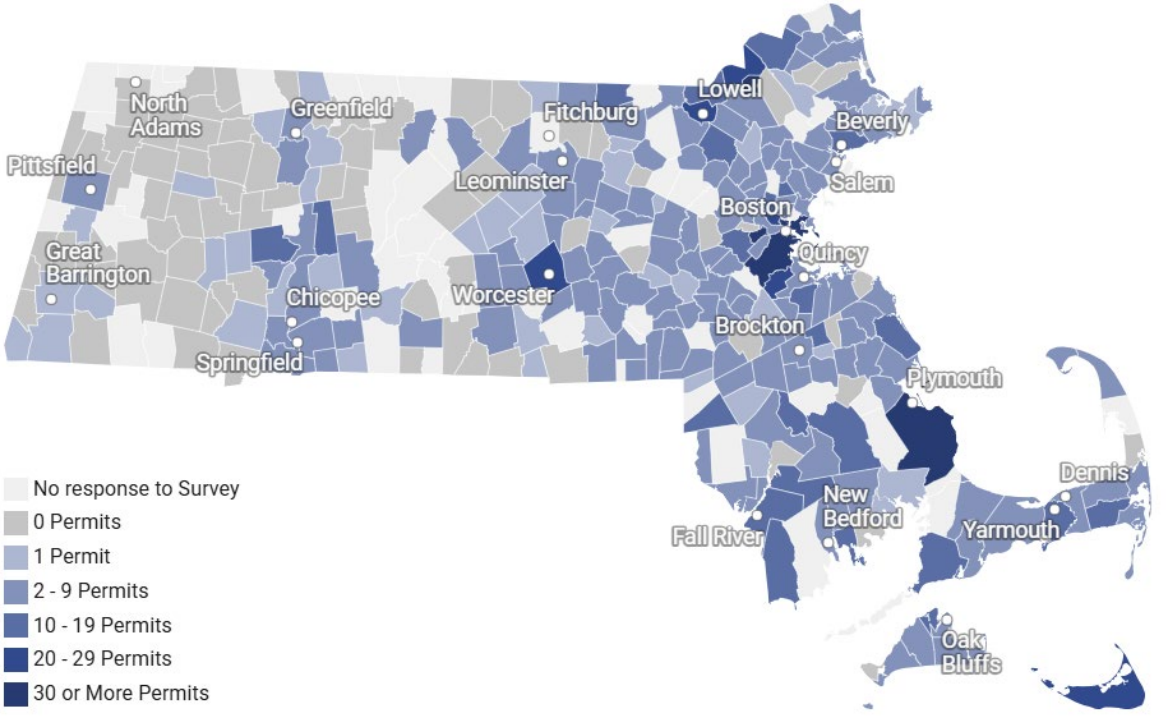
The number of proposals for *detached* ADUs also represents strong evidence that legalization led to an uptick in ADU permitting. As of 2018, only 16 of 100 cities and towns allowed detached ADUs, and a few of those only allowed them in preexisting detached structures, such as carriage houses.[21] Approximately half of the 1,224 ADUs permitted in 2025 were detached. That many detached ADUs could not have been permitted without statewide legalization of detached ADUs; they were not allowed in enough places.

Given all of this, it is safe to conclude that statewide legalization of ADUs led to an immediate uptick at a scale of hundreds of homes. Not all 1,224 permits granted in 2025 are attributable to statewide legalization, but a substantial portion are.

Of the 217 municipalities that issued at least one ADU permit in 2025, the majority are in the eastern part of the state. Many communities west of Worcester and most of the communities in the Berkshires either issued no permits or did not report their numbers.

The state's permitting data includes both protected use ADUs—those qualifying for by-right approval under the Affordable Homes Act—and ADUs permitted under local regulations, including units larger than the state's 900 square-foot threshold. Somerville, for example, received 40 applications for permits, 30 through its own ordinance for ADUs and 10 as protected use ADUs. Somerville allows greater square footage of floor area than the state's Zoning Act now allows.

Total ADU Permits in 2025



Source: Executive Office of Housing and Livable Communities • Map data: MassGIS • Get the data

Communities That Permitted the Most ADUs in 2025

MUNICIPALITY	PERMITS	APPLICATIONS RECEIVED
Boston	44	69
Plymouth	34	42
Lawrence	32	44
Nantucket	27	27
Lowell	26	26
Somerville	24	40
Milton*	24	25
Worcester	23	31
Methuen	21	28
Medford	19	22
Fairhaven*	18	18
Middleborough	18	18
Newton	18	40
Raynham	18	18
Yarmouth	16	8
Harwich	15	15
Northampton	15	20
Tisbury	14	15
Westport	14	14
Billerica*	13	18
Fall River	13	25
Freetown	13	17
Haverhill	13	29
Amherst	12	23
Beverly	12	12
Falmouth	12	12
Marshfield	11	24
Melrose	11	11
Attleboro	10	15
Braintree	10	11
Dracut	10	12
Pepperell	10	10

Note: Municipalities marked with asterisk submitted only the half-year survey and not the year-end survey.

Source: Executive Office of Housing and Livable Communities

As a point of comparison to Massachusetts, California permitted 150,000 ADUs, of which 80,000 have been built in the last decade.[22] Per capita, California's actual building rate, averaged across ten years, is slightly lower than the target pace, per capita, that the Healey-Driscoll administration has set (1,600 to 2,000 ADUs per year). However, the rate of ADU permitting in California has increased dramatically year after year, over the last decade, so its average growth numbers obscure its latest numbers. The chart to the right shows the number of ADU permits California issued per year from 2015 to 2024.[23]

To match California's very recent ADU permitting pace (in 2023 and 2024), adjusted per capita, Massachusetts would need to surpass its current targets. It is important to understand that California did not accomplish its ADU outcomes with one legislative reform. California's first major ADU reforms were adopted in 2016, followed by waves of further reforms. California's success required sustained legislative attention.

ADU Permits in California

YEAR	PERMITS
2015	1,298
2016	1,336
2017	5,153
2018	8,895
2019	12,682
2020	12,755
2021	20,587
2022	25,434
2023	28,294
2024	30,351

Need for Standardization, Regionalization, and Coordination

Without further policy reforms in Massachusetts, annual ADU permit numbers would likely ramp up somewhat after the first year, as property owners continue to learn about the opportunity and make plans, and as ADU construction firms enter the market and grow. But there is ample reason to believe that the rate of growth would still fail to meet needs. Substantial barriers to growth remain.

The barriers to ADU production are multiple, but do not include a lack of interest in ADUs by either property owners or home seekers. For sure, not all homeowners want tenants or relatives to live on their property, or to have a condo association with another household. Yet, many homeowners do. Building inspectors are reporting a surge in calls by property owners inquiring about the possibility of adding an ADU. If just two percent of single-family homes, let alone other residential buildings, gained an ADU, that would be more than 30,000 new homes in Massachusetts. For home seekers, there has been a shortage of small-scale and rental housing options across broad swaths of the state. Market interest on both sides of the market transaction has not been the constraint.

Barriers include the high cost of constructing ADUs (often hundreds of thousands of dollars), limited access to construction financing for ADUs, the inexperience of most property owners managing development projects, and a range of regulatory requirements that add cost, time, and uncertainty to projects that are already financially marginal for many households. As is well known, the costs of labor and materials have been rising. The costs of loans have also been high. Many property owners are not positioned to tap home equity to build an ADU. And the overhead of administering loans for ADUs, and the risks involved, can be too high to make the small loans worthwhile for most lenders.

The Healey-Driscoll administration has launched several programs to address various barriers, including a construction loan program through MassHousing;[24] a $10 million technical assistance program based at Mass Housing Partnership to support property owners with development costs and pre-development activities needed to build an ADU;[25] a design competition for replicable ADU plans that are now publicly available;[26] and significant outreach and coordination among state agencies, local jurisdictions, and building professionals regarding ADU regulation. Under the technical assistance program, design professionals will advise homeowners about zoning requirements and other regulations, site constraints, what utilities connections are needed, and potential construction costs, among other things. The loan program will offer loans up to $250,000 to households earning up to 135 percent of area median income.[27] The administration's extensive efforts should lead to increased ADU production.

A new $10 million technical assistance program via Mass Housing Partnership supports property owners with development costs and pre-development activities needed to build an ADU.

But all of this work is still held back by a regulatory system that fails to meet the needs of the public for knowable and consistently applied development standards that serve the public's safety, health, and environmental interests while meeting the public's needs for diverse and abundant housing. The regulatory system can deliver on all the goals, but not the way it is structured and designed now.

First of all, the Commonwealth's reform of the state Zoning Act to legalize ADUs did not go far enough in reducing zoning restrictions against ADUs. Experience across many states has shown that the zoning reform often takes many iterations to get right. This is due both to the contentious politics of zoning and to the abstract nature of the rules. Massachusetts has more work to do reforming zoning for ADUs.

Zoning reform is a first and necessary step to see increased housing production in general, but once that step is taken, other regulatory barriers become obvious. They relate to building, energy, fire, wetlands, septic systems, stormwater, and other issues.

The barriers to production are not only to be found within specific regulatory standards, but also within the complexity of the whole regulatory system. Regulation of ADU production operates through four overlapping layers:

1. State regulatory frameworks and standards, relating to zoning, building, fire, energy, stormwater, wetlands, septic systems, and more.
2. Municipal regulations adopted within those frameworks or that expand upon state standards, across many categories.
3. Municipal staffing, boards and commissions, schedules, permitting procedures, and other logistics across each regulatory category.
4. Municipal policies, both posted and unposted (but unpromulgated), that represent discretionary differences of regulatory interpretation, across each regulatory area.

Massachusetts Accessory Dwelling Unit (ADU) Design Challenge








Award-winning ADU design proposals featured in the Massachusetts Accessory Dwelling Unit (ADU) Design Challenge, including “Fabricated Module, Local Dwelling: A New England ADU” by ICON Architecture, “Eco Gable” by Catalano Architects, “Good Fences, Good Neighbors” by Nidify Studio, and “ADU For All” by Ruhl|Jahnes Architects.

One way to illustrate the complexity would be to create two charts. First, a state-level chart showing all the regulatory frameworks and standards that govern ADU production in at least some places and situations: the Zoning Act, the State Building Code, the Fire Code, Title 5, the Wetlands Protection Act, the Stretch Energy Code, etc.

Second, a massive municipal chart listing 350 cities and towns down the left side. Across the top: each regulatory category—zoning, wetlands, septic, stormwater, energy, fire, building, etc. Then, within each cell are the answers to three questions: A) What, if any, unique requirements does the municipality have that go beyond or complement state standards? B) Which staff, boards, and commissions oversee ADU regulation, what are local procedures for inspections and permitting, and what are other unique local logistical requirements? C) What are the unwritten and written policies, priorities, and expectations that each inspector, board, and department bring to the task of regulatory oversight?

To be clear, a completed chart like this does not exist. There is no centralized statewide repository of all the local codes that apply to ADU development. Right now, nobody knows how many cities and towns statewide have local septic system regulations or wetlands requirements (although we know there are more than a hundred of each, based on the 2004 survey of communities in eastern Massachusetts); nobody knows how many communities have adopted stormwater bylaws and ordinances; and there are no charts of local setback requirements and building height requirements relevant to ADUs. There is no single database of local contacts and procedures for ADU permitting across all relevant municipal departments. The concept of the chart helps us to imagine the complexity that nobody has mapped. Also, the information in such a chart would constantly evolve as staff turnover and votes on local code reform are taken, across hundreds of places.

For a given property owner, the set of local and state requirements that apply to the given property often contain barriers to production. Research has documented how zoning has been used on purpose toward exclusionary ends and to favor single-family-only development.[28] Transportation and sewer policies have also been used to protect low-density settlement patterns. It is likely that similar motivations have informed votes to adopt local land use codes beyond zoning. Regardless of motivation, though, the regulations do often prevent, delay, or add expense to the development of diverse types of housing.

Research has documented how zoning has been used on purpose toward exclusionary ends and to favor single-family-only development.

Notably, the regulatory barriers related to zoning, building codes, fire codes, septic systems, stormwater, and wetlands do not operate independently. A single ADU project may trigger requirements across all of them simultaneously, and decisions in one area frequently constrain options in another. The setback required by the local wetlands bylaw may determine where on a lot a detached ADU can be sited. That location might then lead to an expansion of the driveway to satisfy fire apparatus access requirements. And the bigger driveway might trigger the need for stormwater engineering. Each decision is downstream of another, and the full picture only becomes clear after navigating multiple departments, boards, and regulatory frameworks—often sequentially, and often with significant time and money already committed to each step before the next constraint appears. Managing this puzzle requires a level of skill and experience that most homeowners do not have, and that even experienced builders find demanding.

Moreover, the complexity is different in every community. The regulatory landscape a builder masters in one town does not transfer to the next. For a builder seeking to deliver ADUs at scale, the learning curve does not flatten. Every new community requires its own research, its own relationship-building, and its own set of adaptations. This is one of the central reasons why small residential construction projects in Massachusetts remain dominated by small operators who specialize in one or two communities—and why it is hard for companies to gain economies of scale delivering ADUs across multiple jurisdictions.

What makes this particularly complex is the scale of fragmentation. The median municipality, in the mix of 351, has about 10,000 residents. In other parts of the country, one team with shared rules oversees permitting for millions of residents. In Massachusetts, variations compound across hundreds of jurisdictions and diverse regulatory categories.

Recommendations for Standardization, Regionalization, and Coordination

Based on analysis of these layers of complexity, this report offers layers of recommendations to facilitate more housing development while protecting health, safety, and the environment:

1. Standardize and improve the regulatory standards.
2. Regionalize enforcement.
3. Increase cross-departmental coordination.

STANDARDIZING AND IMPROVING REQUIREMENTS

The most direct way to reduce variation is to strengthen state-level standards across each regulatory domain and limit local authority to deviate from them. Each of the following sections of this report on individual regulatory categories points in this direction. On wetlands, the state should strengthen the Wetlands Protection Act and remove the local authority to adopt bylaws and ordinances that go beyond it. On septic systems, the state should strengthen Title 5 and eliminate the local authority to adopt more stringent local rules. On stormwater, the state should create a unified statutory framework, incorporating a presumptive soil drainage capacity and exemptions based on parcel size, proportion of impervious surface, and proximity to sensitive areas. On zoning, the state should simplify and specify the standards for protected use ADUs—setbacks, dimensional limits, and review procedures—so that local variation is minimized.

Delivering on this recommendation would not only reduce municipalities' authority to create unique requirements but would also improve state standards in the process. The idea is to interrogate whether each major requirement is necessary for safety, health, and environmental protection, whether they are well calibrated to the case of ADU production, and whether there are ways to design the requirements to allow more ADU production while still achieving the other goals. Moreover, as local authority to adopt more stringent requirements is pulled back, the state may need to create requirements to replace some of those protections.

Standardization of substantive requirements should be paired with standardization of procedures. The way inspections are conducted, scheduled, and sequenced varies unnecessarily across communities. One ADU builder described encountering different requirements for how foundation inspections are conducted from town to town—not differences rooted in safety, but differences in local administrative practice. Bringing building inspectors together to develop a shared playbook for ADU-related inspections—covering what is reviewed at each stage, how inspections are scheduled, and what documentation is required—would reduce this variation and make the process more predictable for builders working across multiple communities.

The state should also produce a comprehensive handbook consolidating all regulations commonly triggered by ADU development, with plain-language guidance on how each applies and how they interact. Several state agencies have issued or are working on guidance documents on individual regulatory topics, but these exist as separate documents that a property owner or builder must locate, read, and synthesize independently. A single integrated resource, covering zoning, building, fire, septic, stormwater, and wetlands in one place, would be a significant practical improvement. Coordinating its production across agencies would itself require the kind of cross-agency collaboration that the regulatory system needs more of.

REGIONALIZING REGULATORY CAPACITY

Standardization of rules and procedures can only go so far when the underlying problem is capacity. Many Massachusetts municipalities—particularly smaller towns—do not have the staff or expertise to administer complex regulatory reviews consistently and efficiently. Inspectors may be part-time. Commission and board members are often volunteers without technical backgrounds. There may not be local fire officials with experience in residential building approvals. The knowledge and bandwidth required to administer ADU permitting well, across zoning, environmental, building, and fire domains simultaneously, is substantial. And the cost of building that capacity town by town across 351 municipalities, most of which have fewer than 15,000 residents, would be prohibitive.

Many Massachusetts municipalities—particularly smaller towns—do not have the staff or expertise to administer complex regulatory reviews consistently and efficiently.

Even when capacity isn't a challenge, having separate inspectors across 351 cities and towns can lead to countless different interpretations of the rules that are on the books. Even when those rules have been clarified and simplified, building inspectors have discretion in how to interpret their application. The more fragmented the system is, the more different interpretations there will always be.

Regionalization offers a better path. Franklin County provides a useful model: The Franklin Regional Council of Governments' Franklin County Cooperative Inspection Program provides shared services to member towns, allowing smaller communities to access planning, permitting, and technical expertise that they could not sustain independently. A similar model applied to permitting in other regions—regional building inspection services, shared conservation commission staff, regional fire prevention expertise—would allow smaller communities to offer faster, more consistent, and more knowledgeable regulatory review without each bearing the full cost of that capacity alone.

CROSS-FUNCTIONAL COORDINATION

Whether at the local, regional, or state level, the regulatory system for ADU development suffers from a lack of coordination across functions. Zoning, environmental review, building, and fire are typically administered by separate departments or boards with separate schedules, separate application processes, and limited communication with one another.

A cross-departmental pre-application meeting is one mechanism for improving local coordination. Municipalities should be encouraged to offer a single pre-application session at which the property owner and builder can meet with all relevant departments at once, receive preliminary feedback on the proposed project, and identify potential conflicts before any formal application is submitted. This practice is not standard across Massachusetts municipalities.

At the state level, coordination across agencies is equally important. The regulations and guidance documents governing ADU development are produced by multiple state agencies—with limited integration across these agencies. A coordinated effort to align guidance, identify conflicts between regulatory frameworks, and produce consolidated resources for property owners and municipalities would make the system more navigable.

Remaining Regulatory Barriers

Zoning reform is the starting point, the reason, for this evaluation. Once zoning reform created a legal envelope in which more ADUs could be built, people who wanted to build ADUs became aware of other barriers to production. This section of the report presents a landscape overview of a range of regulatory issues, including specific requirements that various stakeholders have flagged as concerns and the entire structure of the permitting and enforcement system, something many stakeholders have also mentioned.

Remaining Barriers: **Zoning Requirements**

The Commonwealth got many things right with the zoning reform for ADUs. First, instead of waiting for cities and towns to revise their zoning, the state went ahead and legalized ADUs across the state, via changes to the state Zoning Act. Second, the state allowed ADUs as-of-right and prohibited certain local restrictions on them, for example minimum lot sizes, parking minimums near transit, and occupancy restrictions. This is a strong start. Yet, there is still more work to be done reforming zoning for ADUs.

The Affordable Homes Act defined ADUs conservatively, allowing, for example, only 900 square feet of gross floor area in ADUs when many municipalities, such as Newton and Somerville, already allowed bigger ADUs. Defining protected use ADUs more liberally will enable or motivate more construction projects.

In addition, the Affordable Homes Act carved out an unnecessarily large envelope of local authority to pass certain zoning restrictions on protected use ADUs. The problem here is not only the specific restrictions that cities and towns adopt within that envelope. The carve-out of authority creates layers of confusion. The variation in standards increases costs and undermines development opportunities without yielding significant benefits. The numerous unique local zoning restrictions are not critical for health, safety, and the environment; the state can standardize dimensional standards without critical local harms. Moreover, the current state standards regarding what constitutes reasonable restrictions by municipalities create uncertainty for property owners and building inspectors alike. What is needed are clear, accessible rules.

ZONING RECOMMENDATIONS

Revise the state Zoning Act's ADU provisions to:

- Allow up to 1,200 square feet of **floor area** for any ADU, regardless of the size of the principal structure.
- Define required setbacks, maximum heights, and any other **dimensional standards** that will apply to protected use ADUs. Establish a standard 5-foot setback requirement from rear and side property lines.
- Remove local ability to require **setbacks** between ADU and other structures in the zoning.
- Remove local ability to require **parking** for ADUs in any location.
- Allow **additional ADUs** by special permit, without the need for municipalities to adopt zoning to allow them. Allow the addition of two protected use ADUs as-of-right to properties that have two-family houses, one ADU for each principal dwelling unit.
- Revise the state Zoning Act to create standards for **site plan review** that will apply to ADUs and other housing types.

Zoning legalization touches on diverse issues explained in the following subsections.

Floor area. Massachusetts statute establishes that a protected use ADU "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." The "1/2 the gross floor area" is unnecessary. A 900 square-foot ADU would be appropriate next to both a tiny 1950s ranch home and a large 1990s McMansion. A property owner should not have to expand the ranch or replace the ranch with a large home to gain approval for a full-sized small ADU (900 square feet) on the property. An ADU could be defined across the board as "not larger than 900 square feet." This would also ease challenges that building inspectors, developers, and property owners are experiencing measuring the "gross floor area" of the principal dwelling. Indeed, replacing "whichever is smaller" with a single standard would save property owners the cost of measuring the floor area of the primary dwelling. Several building inspectors have mentioned the measurements as an issue, which is also evidence that owners of small homes would like to add ADUs to their properties.

It should be noted that drafters of the regulations about measuring floor area were balancing different goals for measuring the principal dwelling and the ADU. For the principal dwelling, the interest was to measure floor area liberally, for example including the basement in the total, in order to enable more homeowners to build full-sized 900 square feet ADUs. For the ADU, the interest was not to include as much floor area in the measurement, to allow property owners more flexibility. For example, if basement area is not included in the floor area calculation, then they can build 900 square feet of livable space and still have an added basement. The result of the definitions has been dissatisfaction and confusion by many property owners and building inspectors.

In addition to removing the dichotomy of size standards, the state could even raise the single standard to 1,200 square feet. The bigger the allowance, the more people will find the endeavor worthwhile. A higher limit gives property owners more options to meet their own diverse needs. Also, 1,200 square feet offer more space to make a home wheelchair accessible or to include three bedrooms, which would appeal to more families with children.

ADU under construction.

The policy preference to limit ADUs to 900 square feet may be, in part, a reaction to the mansionization that is so common in Massachusetts communities. Smaller structures inherently take up less space and overall draw less attention. Also, the smaller the home, the less expensive it will be for tenants, all things being equal. But, 1,200 feet, for example, is a relatively modest size for a home in Massachusetts, far smaller than the typical new build. And some property owners will still choose to build under that threshold.

Setbacks and other dimensions. The statute says that protected use ADUs "may be subject to reasonable regulations, including, but not limited to [...] regulations concerning dimensional setbacks and the bulk and height of structures [...]." The state regulations then set up a multi-step process for figuring out the required setbacks. First, look up the setbacks required for the principal dwelling and single-family homes in the zoning district. Second, look up the setbacks for accessory structures, such as sheds or garages, in the zoning district. Third, determine which is the most permissive. Whichever is more permissive will serve as the setback requirement for the ADU. But, if that requirement undermines the ability to add an ADU, then it can be considered unreasonable. In that case, there is a fourth step, getting the unreasonable requirement waived.

In general, it is relatively straightforward to locate in zoning codes the setback requirements listed for single-family homes or other principal dwelling types. They are typically in tables of dimensional standards. Even when they are embedded in text (as opposed to a table), they are clearly stated. Standards for accessory structures, though, can appear in footnotes or hidden in unexpected parts of hundred-page codes. Those standards were not written for ADUs, so they are not intuitively located in the codes where people building ADUs would look. The relevant standards could be referenced in sections about sheds, garages, chicken coops, barns, farm stands, pool houses, gazebos, tennis courts, outdoor wood furnaces, boat houses, solar arrays, and other structures. Finally, property owners should not have to trust in the "reasonable" principle when it comes to applying for a permit.

As an example of how confusing this is, the Town of Ashland has posted on its Inspectional Services webpage[29] a two-pager about protected use ADUs, with a paragraph explaining the town's requirements for "accessory structures:"[30]

> *4. Under the Town of Ashland Zoning Ordinances, Accessory structures may not be placed within required yards, except that permitted signs or roadside stands may be located within required front yard area, and a permitted one-story accessory structure may be located within a required rear yard, provided that it occupies not more than 30% of either the required or actual yard, and further provided that it is not located within 10ft of any property line.*

Presumably this means a property owner should compare the setbacks for principal dwelling units to the 10-foot setback for accessory structures, and then use the more permissive standard, but the document does not spell this out. It does say, "7. ADUs are required to meet the Town's zoning setback requirements."

It is understandable how the state got to this confusing situation. On the one hand, the legislature wanted to respect local democratic rulemaking around zoning dimensions. On the other hand, the administration interpreted the statute generously for ADU development, using standards of reasonableness long established under the Dover Amendment, and referencing accessory structure setbacks, which are typically more permissive than setbacks for houses. After all, ADU development is the law's purpose, and municipalities have long used dimensional restrictions to make development projects infeasible. The state regulations created feasible pathways for detached ADUs to get built when many communities require deep setbacks from property lines

for the principal dwelling, leaving no room for backyard cottages. The pathways do work, but unreliably and inconsistently.

A better approach would be for the Commonwealth to set a standard that everyone can learn easily, for example, five-foot setbacks from property lines for protected use ADUs. Municipalities would retain authority to allow ADUs to be even closer to lot lines, but they could not require bigger setbacks. Other states such as Arizona and California set clear limits on municipal setbacks.

The same principles hold for lot coverage limits, height restrictions, and other requirements in local zoning. Massachusetts should set clear standards so property owners know in advance what is required and do not have to assess local standards for reasonableness.

Setbacks between buildings. Some municipalities use zoning to require setbacks between buildings on the lot, or between the primary structure and ADU. These setbacks are separate from what is required by fire or building codes. On small lots, they can make detached ADU construction impossible. Fire codes provide their own pathway for managing separation between structures. Duplicating such setbacks through zoning adds burden without benefit. The state should explicitly prohibit municipal zoning bylaws from requiring setbacks between a primary dwelling and a protected use ADU, beyond what the fire code standards require.

Parking. The statewide legalization of ADUs prohibits municipalities from requiring parking for ADUs within a half mile of bus stations and other transit stops. The state regulations interpreted "bus station" to mean, effectively, all bus stops. The half-mile radius of all bus stops and transit stations actually covers a large portion of homes in the state, probably a solid majority. Homes outside that half-mile radius tend to have larger lots that can more easily accommodate an extra on-site, off-street parking space; many already have ample parking. Local parking requirements might not now, under the current state rules, pose a significant barrier to ADU production in Massachusetts, but removing this barrier altogether may help some households.

Parking requirements can increase costs and make some projects infeasible. The process of getting the requirements waived can add time and uncertainty to a project. The requirements are particularly burdensome in situations when the residents of the ADU or principal dwelling are not drivers.

Multiple ADUs. The statute has poorly worded language regarding second or multiple ADUs on the property with a principal dwelling unit and another ADU: "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 problem with the language stems from the vague construction, "there shall be." The state regulations interpret this to mean that *local zoning shall* require a special permit for additional ADUs. However, the

ADU under construction.

statute does not say that *local zoning shall* require the special permit, only that "there shall be" a special permit. On the one hand, it seems illogical that the state would have written a rule to prohibit municipalities from allowing additional ADUs by right, when the purpose of the law is to open up local zoning restrictions to support as-of-right production. As it stood before 2025, municipalities already could allow multiple ADUs by right or by special permit. On the other hand, some legislators were concerned about the proliferation of ADUs, so the language might represent a compromise, that additional ADUs would have to be approved through a discretionary process.

An alternative interpretation of the statute, as written, is that the state is directly allowing additional ADUs by special permit, so cities and towns do not need to zone for those additional ADUs. The applicant could apply for a special permit from the municipality, under the authority of the state's permission to apply. Just as localities do not need to zone for protected use ADUs as of right, they also would not need to zone for multiple "protected use" ADUs by special permit.

The state regulations include this: "Special Permits for Multiple ADUs on the Same Lot. Notwithstanding 760 CMR 71.03(1), if a Municipality chooses to allow additional ADUs on the same Lot as a Protected use ADU in a Single-family Residential Zoning District, Zoning shall require a Special Permit for the use of land or structures for the additional ADUs." This regulation could be amended to reflect the alternative interpretation. Alternatively, the legislature could change the statutory language.

In addition, the state should promote greater production by allowing two ADUs by right on properties that have two-family houses, so there is one ADU allowed per existing dwelling unit.

Site plan review. The state Zoning Act allows municipalities to require ADUs to undergo site plan reviews. Currently, the state Zoning Act contains no definition of site plan review, no enumeration of topics it may cover, no procedural requirements limiting its scope, and no time-limits on decision-making. The state's ADU regulations, however, tell municipalities that site plan review must be clear and objective and may not impose terms or conditions inconsistent with by-right approval.

The idea that development proposals get reviewed by a board, with an opportunity for public input, seems at first like a good compromise between simple administrative approval and discretionary votes involved with special permits. Site plan review creates a forum for neighbors, planning board members, municipal staff, the property owner, and builder to review plans together and hear each other. In theory, it should not slow or stop development. However, in practice, the process can lead to delays and costly changes. Delays can represent significant costs.

The legislature should adopt the Healey-Driscoll administration's proposal to set standards for site plan review. The state should also continue to monitor the use of site plan review and consider rolling back local authority to conduct site plan reviews if the reviews become too burdensome for ADU development. Individual single-family homes that get developed typically do not go through site plan review.

Condos. The Zoning Act does not prohibit condoization of protected use ADUs, meaning they can be separately owned as distinct legal units from the principal dwelling. The state regulations are silent about condoization. The administration's Frequently Asked Questions refer people to the Attorney General Office's Georgetown Accessory Dwelling Unit Decision of June 16, 2025.[31] The decision explains that zoning law is supposed to regulate how land is used, but not who owns it. Courts have struck down, for example, a ban on converting apartments to condominiums because condos and rentals use land the same way, the only difference is ownership. Georgetown's ADU bylaw says an ADU cannot be in "separate ownership" from the main house. On its face, that looks like a rule about ownership—which could be deemed illegal under zoning law. The AG's office, though, concluded that Georgetown's local rule against condoization might actually be about *use*. The purpose of the rule is to ensure the ADU stays an accessory use to the primary dwelling rather than becoming a fully independent property. However, local rules preventing condoization of ADUs have not been tested in court.

In other words, municipalities may prohibit separate ownership between the principal dwelling and ADU, although at some point this could be challenged in court, with unknown outcomes.

From a practical perspective, the purpose of production argues against prohibitions on condoization like Georgetown adopted. Condoization can support development of ADUs as A) some property owners would prefer it and B) for some property owners, the financial equation will favor sale over rental. That would be a reason to restrict explicitly local authority to prevent condoization.

Short-term rentals. The statute and regulations specify that municipalities are allowed to restrict the use of ADUs as short-term rentals. The regulations specify that municipalities may restrict or ban ADU rentals of 31 days or fewer but may not restrict rentals of 32 days or more. It is worth noting and considering that some homeowners appreciate the flexibility of using their ADUs as short-term rentals, for example renting to students during the school year (which would not be considered short-term rental) and doing short-term rentals in the summer, or hosting relatives in the summer who fly south for the winter, and hosting short-term rentals in the winter. Or one homeowner reported that she was not sure what the timing would be for her parents to move into the ADU, and having flexibility for her to rent it with short-term leases would help the financial and logistical puzzle fit together. Flexibility will make more projects feasible. On the other hand, there is understandable concern, especially in some places, that ADUs will serve more tourists than people who need full-time residences.

Remaining Barriers: **Building Codes**

While the Affordable Homes Act addressed zoning as the primary obstacle to ADU production, it left the building code untouched. As noted in the statutory and regulatory framework above, state health and safety laws including the building code continue to apply to protected use ADUs in full. It is not inherently problematic that requirements of the Massachusetts State Building Code (780 CMR) affect the cost and complexity of ADU development, and in some cases render projects economically infeasible—as the code has a job to do protecting safety, welfare, structural integrity, energy efficiency, and accessibility. The question is where the requirements might be adapted to make more projects feasible, without compromising the purposes of the code. The case also raises questions of risk assessment and tolerance.

The code is administered by the Board of Building Regulations and Standards (BBRS), which is made up of 15 members appointed by the Governor. Board members receive modest stipends to support their service. Staff support for the board is light considering that they are responsible for highly technical code documents affecting billions of dollars in construction activity statewide.

This report identifies areas for review in the code. Homeowners, architects, building inspectors, and builders have identified these issues as cost-drivers or barriers to ADU production. It is not that all cost-drivers and barriers should be removed. Not every property needs to have an ADU and not every property owner will be able to make a project work. Projects should be able to meet reasonable standards to move forward. But ideally a review can find areas for reform that can reduce costs and barriers while keeping buildings safe and accessible.

BUILDING CODES RECOMMENDATION

Undertake an ADU-focused code review with the goal of reducing the costs and barriers to ADU development. Include allocation of funding for appropriate staffing of the review. Raise the threshold for application of the commercial code so that more ADU projects will be handled under the residential code.

Residential to commercial code threshold. Massachusetts building code is divided into two tracks. The residential code applies to detached one- and two-family dwellings and townhouses; the commercial code applies to all other buildings. The residential code is based on the International Residential Code (IRC); the commercial code is based on the International Building Code (IBC). The IBC has more demanding requirements than IRC for things like sprinklers, fire separations, egress systems, accessibility, and structural elements. Addition of an ADU sometimes brings a building across the threshold to the more demanding codes.

There is no ADU-specific building code category. Under the building code, an ADU will be considered a dwelling unit as any other.[32] The building code does not distinguish between a single-family home with an ADU in the basement and a two-family home; per the building code, a single-family home with a detached ADU in the backyard is two single-family homes.

When a single-family house gains a basement ADU, the building stays within the residential code/IRC. It does not cross into IBC requirements. The addition of an ADU to a two-family house might make it cross over to the more demanding requirements, at significant cost. A homeowner who thinks finishing a basement to create a rental unit will be a small project may find the project triggers the commercial code, meaning potential sprinkler installation, egress upgrades, and other improvements to the building. Whether those upgrades are actually required depends on the specific condition of the existing structure and how the analysis comes out. The cost and complexity of this is a real barrier. Raising the threshold for commercial code to more units, or projects meeting certain size standards, would let more owners of two-family houses add ADUs. The addition of an ADU to a two-family house should retain the applicability of the IRC code.

Fire separation requirements. Adding an ADU to an existing structure typically triggers requirements for fire-rated separation between dwelling units. For existing homes, meeting the standards can require substantial work.

Sprinkler requirements. Sprinkler requirements are among the most costly and unpredictable building code barriers to ADU development. The cost of sprinklers makes many projects infeasible. Property owners considering whether sprinklers will be required for their ADU projects may have a hard time finding a straightforward answer. If a project changes the building's classification to multifamily under the building code (a shift from IRC to IBC code application), sprinkler installation may become mandatory throughout the structure.

Egress requirements. Egress is another area where building code requirements interact with ADU construction in ways that can be expensive. ADUs must have a separate entrance, either directly from the outside or through a shared egress corridor, sufficient to meet building code standards. For interior conversions, most typically in basements, creating egress openings or reconfiguring stairways can be technically challenging and expensive. Bedroom windows in the ADU must also meet emergency escape and rescue opening requirements, which may require enlarging existing openings.

Ceiling height. Ceiling height requirements can be a barrier for basement ADUs. Many basements in Massachusetts fall short of the required minimums. Bringing ceiling heights into compliance can involve excavating and lowering the basement floor, an expensive undertaking that can compromise foundation integrity.

Definition of attached ADUs. Per building codes, connections or attachments between structures—to be considered a single building—involve structural and thermal integration, meaning conditioned and enclosed spaces. A covered walkway connecting the principal structure to the ADU would not count as attachment. Definitionally, it makes sense to call structures attached when there is continuity of the thermal and structural envelope. However, the regulatory requirements to attach in this way drive up costs without clear benefits. A foundation, walls, and heat in the connection space do not improve fire safety or structural integrity of residential buildings. Defining attachment for ADUs more generously, allowing simple connections, would reduce the cost of producing ADUs and provide greater flexibility for site planning, in the face the many varied regulations that various configurations, including questions of attachment, trigger.

Remaining Barriers: **Fire Codes**

Much of the relevant "fire code" for ADU construction is part of the building code, but the state does have separate fire codes as well. While building departments enforce the building code, local fire departments administer the fire codes locally, with the state Department of Fire Services and the State Fire Marshal providing oversight, technical support, and guidance. The depth of technical expertise about fire safety in residential construction varies significantly across local fire departments. There is also no statewide guidance specifically about how the fire code applies to ADUs. Without such guidance, local officials are left to apply the general codes to a building type for which the code was not specifically designed. The results are inconsistent. Interpretations of the same requirements vary across communities. The variation affects the timeline, predictability, and cost of ADU permitting.

FIRE CODES RECOMMENDATION

Develop and publish statewide guidance specifically addressing fire code requirements for ADUs. This guidance should be written for a general audience—accessible to property owners, builders, and local officials alike—and should address the following issues, among others:

- How the fire code applies to internal, attached, and detached ADUs in different configurations, including ADUs added to single-family homes, two-family homes, and multifamily buildings.
- Fire apparatus access standards for detached backyard ADUs, including a clear statement of when standard residential driveways satisfy access requirements, what modifications can qualify a driveway for compliance, and what alternative compliance pathways are available.
- Sprinkler requirements, consolidating in one place the applicable state statutory and regulatory provisions, as well as information about provisions localities adopt, and explaining how they interact. The guidance should specify which sprinkler system standards are appropriate for different structure configurations and scenarios.
- Egress requirements for basement and attic ADU conversions.

Fire apparatus access. Buildings need to be accessible to fire trucks and firefighters. The state has several standards of accessibility and pathways to compliance when the standards are exceeded. Requirements include maximum allowed distances of the front door and all parts of the exterior walls to a fire access road that meets certain standards. For construction of a detached ADU located at the rear of a residential lot, these requirements can pose barriers. Some fire officials accept a standard residential driveway with minor modifications as compliant. Others insist on other conditions, such as a buildout of a fully compliant fire access road on the property or installation of sprinklers, either of which may make a project too expensive or plainly infeasible. A standard residential driveway is typically 10–12 feet wide; fire apparatus access road standards generally require a minimum of 20 feet of unobstructed width. Property owners may invest in site engineering and design before they learn that the fire officials' interpretation of the code will make the project impossible.

Remaining Barriers: **Energy Codes**

Massachusetts has energy codes to reduce energy consumption, lower utility costs, protect the environment and public health, and protect consumers. Properly insulated, ventilated, and efficient ADUs produce lower utility bills for tenants and contribute to the state's climate goals. The purposes are important, but the system of codes is complicated and may undermine projects that have the alternative environmental benefits of using existing structures for new homes.

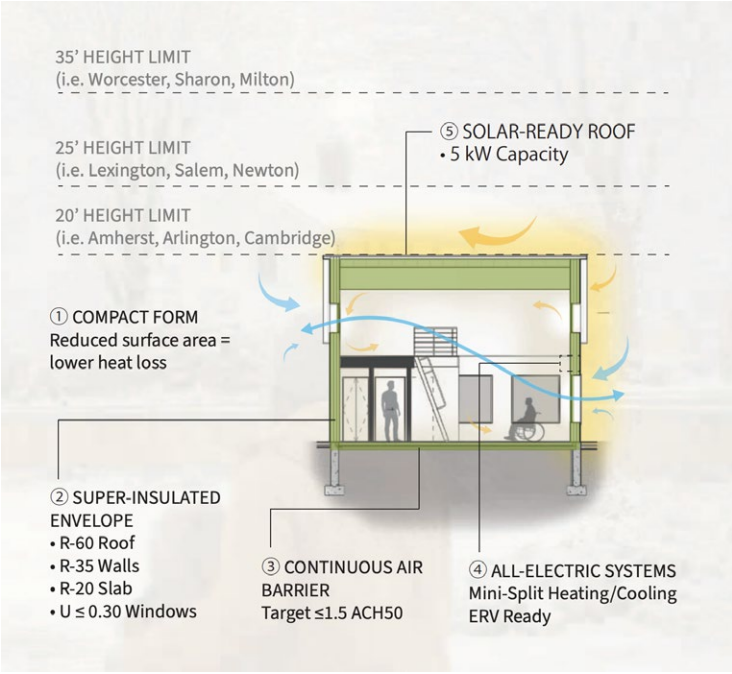
There are three different types of energy codes. First, the state building code includes energy codes that apply to all 351 cities and towns. Second, more than 300 cities and towns have adopted the Massachusetts Stretch Energy Code, which is separate from the building code. Third, almost 60 cities and towns have opted into yet another energy code called the Specialized Stretch Energy Code.

One issue that arises is uncertainty about when an entire structure must be brought into compliance with current energy standards, or only the renovated portion. For an existing structure, requirements for insulation, air sealing, and mechanical systems can be technically difficult and expensive. If a homeowner skips creating an ADU due to these costs, the space may remain energy-inefficient, and new homes may be built elsewhere to accommodate the residents, leading to greater net carbon emissions. There is inherent conservation of carbon in building new dwellings within existing structures.

The Specialized Stretch Energy Code is important for meeting climate goals. It can also cause delays and added expenses. When the electrical load created by an all-electric ADU exceeds existing service capacity, a homeowner might have to upgrade service, which can involve expensive electrical work. Getting HERS ratings has also caused delays for some projects. The Specialized Stretch Energy Code requires new homes to be designed A) for net zero carbon emissions including pre-wiring all appliances for electrification, or B) for all-electric energy sources, or C) for a mix of electric and fossil fuel energy sources, but with pre-wiring for electrification and installation of solar panels where feasible.

ENERGY CODES RECOMMENDATION

Develop ADU-specific guidance clarifying how the codes apply to different ADU types. Evaluate whether provisions should be amended to create an ADU-specific compliance pathway that achieves meaningful energy efficiency improvements while being practical for small-scale conversion projects.



The 20-Foot House by Studio Den Den for the MA ADU Design Challenge

Remaining Barriers: **Septic System Codes**

An ADU adds occupants, occupants generate wastewater, and wastewater must be treated. For properties not served by sewers, septic systems need to be engineered to handle the wastewater. The Commonwealth regulates the siting, construction, inspection, upgrade, and maintenance of on-site subsurface sewage disposal systems through Title 5, or 310 CMR 15.000 of the State Environmental Code. Well over 100 cities and towns have adopted their own septic system standards that exceed the state standards, creating significant variation in standards from community to community. The local requirements add time, cost, and risk to projects.

SEPTIC SYSTEM CODES RECOMMENDATION

Exempt ADUs from local septic system regulations that exceed Title 5, or update Title 5 to standardize septic system requirements statewide for all types of residential projects, prohibiting communities from adopting regulations that go beyond the state standards.

Septic systems typically consist of an underground septic tank, distribution box, and soil absorption system. When septic systems are not properly sited, designed, or maintained, they can be major contributors to pollution in rivers, coastal waters, groundwater, and surface water.

Under Title 5, the capacity of a septic system is measured in design flow, expressed in gallons per day. The requisite design flow is calculated primarily by bedroom count, with the standard Title 5 assumption being 110 gallons per day per bedroom. Adding an ADU with one or two bedrooms adds 110 to 220 gallons per day to the calculated design flow of the property. When a proposed ADU would push a property's design flow beyond what the existing system can handle, the property owner must upgrade the existing system, install a new system, or not add an ADU.

An ADU can have its own septic system, separate from the primary dwelling. In this case, the system needs to meet typical standards, such as for a single-family house. If the ADU will share a septic system with the primary dwelling, then the system needs to have a multi-compartment tank or two tanks in a series, in addition to a design flow that works for the total number of bedrooms combined in the two dwelling units.[33]

Title 5 grants local boards of health the authority to enact more stringent regulations. Many of them have. In a 2004 survey of 187 cities and towns in eastern Massachusetts, 109 municipalities had adopted their own septic system requirements exceeding the state standards. Massachusetts Department of Environmental Protection (DEP) has created a guidance document for septic system rules applicable to ADUs.[34] The guidance cannot capture the range of local requirements. The additional layer of local septic regulations makes the situation significantly more complex and costly in many communities.

Common examples include:

- Some boards of health require **design flows above the Title 5 standard** of 110 gallons per bedroom per day.
- Title 5 specifies minimum distances between system components and property lines, wells, wetlands, and other features. Local boards of health frequently require **greater setbacks than the state minimums.**
- Some boards of health restrict or **prohibit shared septic systems** that serve more than one dwelling unit on a property.
- Some boards of health impose **local requirements for minimum depths to groundwater** or bedrock that exceed the Title 5 standards, limiting the area of a lot that can support a leach field.
- Some boards of health set **lower maximum percolation rates** that qualify land for a septic disposal, relative to state standards. Title 5 requires a maximum percolation rate of 60 minutes per inch, the rate it takes one inch of water to drain from a hole dug at the site of installation. If soil is impermeable, the effluent will not percolate effectively through the soil, and a pond of inadequately filtered effluent will remain in the yard. Some communities set the maximum at 20, 25, or 30 minutes per inch.

The state should pull back local authority to adopt septic system regulations beyond Title 5.

Remaining Barriers: **Wetlands Regulations**

The Wetlands Protection Act protects a broad set of environmental resource areas. Construction within these resource areas, or within buffer zones extending up to 100 feet from their boundaries, requires a permit from the local conservation commission. Given that residential land covers roughly a third of all land area in Massachusetts,[35] and that a substantial portion of residential lots fall within 100 feet of a wetland boundary, this review requirement touches a significant share of potential ADU sites and affects a lot of wetlands.

Conservation commissions play a vital role in protecting wetlands resources. Wetlands provide flood storage, biodiversity habitat, and water quality benefits that are not always visible or intuitive to homeowners. The motivation to fill a buggy, wet corner of a backyard is understandable, but the cumulative effect of such losses is significant. Commission review serves an important function of educating property owners about the need for wetlands protection and guiding development to minimize impacts. As one conservation commission FAQ memorably phrased a frequently asked question, "Why can't I fill the little swamp in the backyard?" Conservation commissions exist because of questions like this.

The primary challenge for ADU production is not the existence of wetlands review, but the fragmentation and variability of the standards applied. The 2004 survey of 187 cities and towns in eastern Massachusetts found that 131 municipalities had adopted local wetlands bylaws or ordinances that go beyond the state's standards. These local enhancements commonly include added protections for land subject to flooding, isolated vegetated wetlands, and vernal pools, as well as "no disturbance" and "no-build" zones that extend the effective buffer beyond the state's standard. The result is that the regulatory landscape varies substantially from town to town, so an ADU project feasible under state standards in one community may be blocked by local ordinance in the next.

This patchwork creates several problems for ADU production. Builders cannot rely on a consistent set of rules across communities. The cost and time of navigating commission review can be significant relative to the scale of an ADU project. For projects on lots with wetlands, this layer of review adds unpredictability on top of the zoning, building, and septic uncertainties that already burden ADU development.

Greater standardization would not mean weakening environmental protection—it would mean ensuring that the protections in place are grounded in current science, applied consistently, and not used as an indirect mechanism to obstruct housing development.

WETLANDS REGULATION RECOMMENDATION

The state should undertake a review of local wetlands bylaws and ordinances, assess the scientific basis and practical effect of common local enhancements, and use that review as the basis for strengthening and standardizing the state's wetlands standards—and simultaneously remove local authority to adopt additional wetlands protection requirements.

Remaining Barriers: **Stormwater Requirements**

Stormwater regulation presents complex and unpredictable barriers to ADU production in Massachusetts. Unlike septic systems, which operate under a unified state framework in Title 5, stormwater management is governed by an overlapping patchwork of federal permits, state wetlands regulations, and local bylaws and ordinances. For a property owner trying to understand what is required before breaking ground on an ADU, the regulatory picture can be hard to read.

The sources of stormwater regulation stack on top of one another. Federal law, through the Clean Water Act, requires more than 200 Massachusetts municipalities that operate municipal stormwater sewer systems to manage stormwater flows in their communities. These federal requirements operate through permits called Municipal Separate Storm Sewer System (MS4). The state's Wetlands Protection Act and its implementing regulations also address stormwater, particularly where runoff may affect wetland resource areas. On top of these, many municipalities have enacted their own stormwater bylaws or ordinances, floodplain overlay zoning, and local wetlands bylaws—each with its own purposes, thresholds, standards, and review procedures.

Adding an ADU may mean adding impervious surface—the footprint of the building, plus any new driveway, walkway, or patio associated with it. When that new impervious surface crosses a local threshold, stormwater permitting may kick in, requiring the property owner to hire an engineer, conduct soil testing, and design an on-site infiltration system or rain garden capable of managing runoff. The engineering work itself is costly, but a property owner typically cannot know what a stormwater system will cost, or even whether it is feasible, until after significant engineering expenditures have already been made.

In dense, heavily paved communities like Watertown, site-specific stormwater engineering may be frequently warranted, albeit expensive. In more suburban or rural settings, where lots are larger and much of the land is still permeable, the same engineering requirements impose costs without commensurate environmental benefit. Some municipalities have recognized this and built exemptions into their stormwater bylaws—allowing projects to proceed without full stormwater engineering if certain thresholds are surpassed or not surpassed. But the exemptions exist only where local governments have chosen to create them, leaving property owners in other communities without a predictable pathway to a simple, low-cost approval.

The state should act to standardize stormwater requirements for ADU development and reduce the burden of pre-engineering uncertainty. The legislature should enact a stormwater statute for ADUs that establishes uniform standards statewide and limits local authority to impose requirements beyond those standards. MassDEP should establish a presumptive soil drainage capacity applicable to ADU projects in residential settings—a baseline assumption about how well a typical residential lot manages runoff—that eliminates the need for pre-construction soil analysis as a condition of permitting. Property owners would retain the option to conduct a soil analysis if site conditions appear more favorable than the presumptive standard assumes, and could use those results to qualify for a reduced stormwater system. This approach preserves the ability to tailor solutions to site conditions while removing the requirement to incur engineering costs before knowing whether a project is viable.

The regulations should also define a threshold lot size and proportion of impervious surface below which ADU projects are exempt from full stormwater engineering requirements, absent proximity to wetlands, waterways, or other sensitive areas. The exemption approach that several municipalities have already adopted provides a workable model for a statewide standard. On large lots with substantial permeable area, the marginal runoff from a small ADU footprint does not justify the cost and delay of a full engineering process. Reserving that process for sites where runoff genuinely poses a risk—near streams, wetlands, or in watersheds with documented flooding problems—would focus regulatory effort where it matters most.

These suggestions come at a moment when the broader stormwater and wetlands regulatory framework is already under review. MassDEP is in the process of revising its Wetlands Regulations and Stormwater Handbook, with final regulations expected in 2026. The Unlocking Housing Production Commission has flagged the risk that new stormwater regulations could impose costs that make housing development infeasible, and has recommended that the Stormwater Handbook continue to function as guidance rather than strict mandate, preserving the flexibility that has allowed it to work effectively across a wide range of real-world conditions.[36] The ADU-specific reforms recommended here are consistent with that broader direction and should be incorporated into the regulatory revision process now underway.

STORMWATER REGULATION RECOMMENDATION

Standardize stormwater requirements for ADUs at the state level, creating exemptions and presumed soil drainage capacities.

Remaining Barriers: **Utilities Connections Rules**

Utility connections including water, sewer, electricity, and gas are a recurring source of confusion, cost, and delay in ADU permitting. The rules vary across communities. The state ADU regulations prohibit municipalities from requiring separate utility connections as a condition of ADU approval, except if required by utilities, by certain boards or commissions, or by court order. The prohibition regards municipalities acting in their zoning and permitting capacity (including board of health approval), not utilities or other regulatory bodies. The rules from utilities, building inspectors, and health boards are not consolidated anywhere. Condoization of an ADU may pose added costs related to utilities hookups.

UTILITIES RULES RECOMMENDATION

Consolidate utilities connection rules into a centralized guide.

ADU Policy in Boston

The Affordable Homes Act legalized ADUs by right statewide by amending the state Zoning Act, which does not apply to Boston. Boston has been charting its own ADU policy through its own zoning process, and significantly has lagged the rest of the state.

The City now allows ADUs as-of-right in most residential neighborhoods, but the units must be contained within existing buildings, the properties must be owner-occupied, and other restrictions have been holding back production. Boston only allows detached ADUs as-of-right in Mattapan. In Boston, property owners can apply to the Zoning Board of Appeals for variances to build ADUs that are not explicitly allowed by standards set out in the zoning. Boston's variance process is discretionary and uncertain. Fire apparatus access standards, sprinkler requirements, and building code requirements have made it challenging or impossible for many of Boston's old buildings to accommodate ADUs.

Despite all of these limits, Boston permitted 44 ADUs in 2025, the most of any Massachusetts municipality. At the same time, as a percent of existing homes in the municipality, Boston looks less successful permitting ADUs than many other communities. According to a recent Pioneer Institute report, over the last six years, the City of Los Angeles permitted nearly 22 times as many ADUs per capita as Boston did.[37]

Boston had no formal ADU zoning until 2017. Before that, property owners either added ADUs without permits or gained variances. In 2017, Boston launched an ADU pilot initiative that lasted 18 months, legalizing ADUs in East Boston, Jamaica Plain, and Mattapan. The pilot allowed ADUs as-of-right, in owner occupied buildings that have three or fewer dwelling units. The ADUs had to be created entirely within existing buildings' footprints. The pilot program received 50 applications. Of those, 12 applications resulted in permits. Ultimately, only two ADUs were constructed under the pilot.

In 2019, the City legalized ADUs in most residential neighborhoods. Again, ADUs had to be within the envelope of existing buildings, with no exterior expansion. The properties had to be owner-occupied, with three or fewer dwelling units. The city launched a loan program to help income-eligible homeowners add ADUs.

In 2024, the City amended its zoning to allow internal, attached, and detached ADUs, as-of-right with owner occupancy, in Mattapan. Property owners could add one non-detached and one detached ADU per lot. Detached ADUs are capped at 900 square feet of floor area or the size of the footprint of the primary structure, whichever is smaller. They must be at least five feet from any other building.

The City has published an ADU Guidebook featuring designs tailored to Boston's neighborhoods, and a guidance document about how the fire code applies to ADUs.[38] The progression from the three-neighborhood pilot to citywide as-of-right internal ADUs to Mattapan's expanded by right framework represent iterative progress. The City's investment in guidance, financial assistance, design resources, and outreach reflects that it is considering ADUs as an important opportunity.

Regulatory barriers remain in Boston, and further liberalizing of Boston's ADU policies is needed. In particular, zoning should be revised to allow detached, internal, and attached ADUs citywide as-of-right, in conforming and non-conforming (with zoning) structures, with no requirements for owner-occupancy. Owner occupancy requirements impact the ability of property owners to finance new ADU construction or the purchase of homes with an ADU, because owners sometimes move out without selling, a situation that poses a risk for lenders, as a property that seems to have two units could only be utilized as a single unit under that circumstance. This is why the state legislature prohibited owner-occupancy restrictions in the rest of the state. Also, the size allowed for the ADUs should not be made dependent on the size of the principal dwelling, in Boston or statewide.

Conclusion

Accessory dwelling units have long been considered the "low hanging fruit" of zoning reform. They garner popular support from homeowners and renters alike. The local enabling regulations can be relatively straightforward to compose; for example, allowing the use, making it as-of-right, and setting dimensional standards such as maximum floor area and minimum setbacks from property lines. ADU legalization has also been a priority for pro-housing advocates, state officials, and planners for 50 years.

This is what makes ADUs such an important case study of housing regulation in Massachusetts. After 50 years of advocacy, less than half of Massachusetts municipalities allowed homeowners to add ADUs and rent them out. And "allowing" them meant highly restricting them. Another 50 years of advocacy would not have achieved what the Commonwealth did at once legalizing them by amending the state Zoning Act. If community-by-community rezoning failed to deliver ADUs, it is also unlikely to work for other types of needed housing in the state. Certainly not on the urgent timeline that the current housing crisis requires.

ADUs also make an important case study of "missing middle" housing, along with two-family homes, triplexes, townhouses, small multifamily buildings, and top-of-shop homes. These are all small projects for builders. Developers of large subdivisions or major complexes can achieve some economy of scale within a single project. For developers of missing middle housing to benefit from an economy of scale, they have to undertake many projects, across jurisdictional lines. The ADU case study has shown just how challenging this is.

In sum, the ADU legalization case study demonstrates that state-level legalization of housing via amendments to the Zoning Act not only work, but work quickly. At the same time, zoning reform, while necessary, is not sufficient. The regulatory system governing housing development remains complex, fragmented, and difficult to navigate. Requirements related to building codes, fire safety, septic systems, wetlands, stormwater, and local administrative practices continue to impose costs, delays, and uncertainty that suppress housing production. The system has not been designed to support small-scale, distributed housing development at scale.

The lesson is not that regulation should be weakened, but that it should be better designed. Health, safety, and environmental protections are essential public purposes, and they can coexist with a more abundant housing supply. Achieving both goals requires a shift from a highly fragmented, locally variable system to one that is clearer, more consistent, and more predictable. State leadership is essential in this effort—to refine zoning standards, standardize requirements across regulatory domains, and build the institutional capacity needed to administer them effectively.

The recommendations in this report include refining state-level standards to remove unnecessary barriers, standardizing rules and procedures across municipalities, regionalizing aspects of permitting and enforcement, and boosting cross-departmental coordination. Together, these changes would reduce uncertainty for property owners, enable builders to operate more efficiently across jurisdictions, and allow the ADU market to grow. The same reforms can support development of additional types of small-scale residential development.

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