

The Coalition for Local Public Health offers the following public comment on the draft accessory dwelling unit (ADU) regulations. Our coalition is comprised of seven organizations and associations (listed below) representing thousands of local health directors, board of health members, health agents, public health nurses, and other staff and volunteers. As public health professionals and officials, we are keenly aware of the great impact that housing has on public health and health outcomes. Housing is a critical social determinant of health. Without access to safe, healthy, affordable housing, our residents and communities cannot be healthy. We thus support efforts to expand housing in all areas of the state, including through the construction of ADUs. We share the administration's and the Affordable Homes Act goal of creating long-term housing to address our state's housing crisis. In that context, our comment letter suggests one revision to the proposed draft ADU regulation and flags other agency regulations that may need to be revised in order to successfully and fully implement the new law in all parts of the state.

1. **Short-term rentals should be prohibited unless (1) the property on which the ADU is built is owner-occupied or (2) a municipality takes affirmative steps to allow ADUs to be used for short-term rentals.**

Unfortunately, the Affordable Homes Act did not explicitly require that ADUs be built on owner-occupied lots, which would have privileged individual home ownership over corporate investors. We are concerned that without more guardrails, the ADU provisions of the Affordable Homes Act will lead to corporate landlords buying up single family homes in lower-income areas and adding ADUs that may or may not be used as housing for residents. As currently drafted, the proposed regulations exacerbate this concern by allowing ADUs to be used as short-term rentals by right, giving municipalities the option to opt-out of this provision and prohibit short-term rentals through amending their zoning bylaws. We strongly recommend that the final regulation be revised to flip the presumption. The regulation should prohibit ADUs from being used as short-term rentals unless (1) the property on which the ADU is built is owner-occupied or (2) the municipality affirmatively passes a new zoning law allowing for such use. This will help ensure that new ADU construction across the state will primarily be used for housing by owners and long-term renters, rather than tourist visits.

In addition to better supporting the spirit and intent of the Affordable Homes Act, this shift in the proposed regulation will save municipalities time and resources. Every community across the state is being squeezed by the housing crisis, so we anticipate that many will seek to restrict short-term rentals in ADUs. As currently drafted, the proposed ADU regulations would require each individual town and city to amend zoning laws to restrict short-term rentals. Passing zoning laws is a long and cumbersome process that requires significant municipal staff time and resources. Flipping the presumption so that only municipalities that want to allow blanket short-term rental use need to adopt new zoning laws will save time and resources.

2. **Current regulations, promulgated by other agencies, regarding water usage, septic systems, and private wells will hamper implementation and should be considered.**

The proposed ADU regulations do not address environmental impacts like water usage, well-water protection, and septic systems. While we understand that these areas are perhaps outside the scope of EOHLC regulation, we wanted to be sure that EOHLC was aware of these issues which we believe create barriers to fully and successfully implementing the Affordable Homes Act, particularly in rural areas of the state.

As with any new construction, there needs to be protection for health and environmental impacts. Such protections should be limited in scope and tailored to allow local boards of health to address real threats to health and environmental impacts without giving those who oppose growth and multifamily housing an emergency brake that can be pulled to stop development in its tracks. For instance, some Massachusetts communities have historically used zoning ordinances and intentionally not built out sewer systems to effectively limit multifamily housing development. There are real concerns about septic system capacity, impacts to water bodies, and groundwater usage, but health and environmental regulations should not unreasonably restrain efforts to add ADUs in communities throughout the Commonwealth.

We are concerned that existing Title 5 regulations, which are long overdue for an update, will create barriers to robust implementation of the new law in rural communities. For the new law to fulfill its promise in many of our state's 200 rural communities, ADUs will need to be built on a septic system. Right now, adding to septic systems is very expensive, requiring the hiring of an engineer and an installer. Title 5 was last updated in the mid 1990s. Since then, most homes have been equipped with high efficiency appliances, which use less water than appliances that would have been used when Title 5's water usage standards were adopted. It is possible, if not likely, that current septic systems have enough water to accommodate an ADU, but as currently written, Title 5 restrictions on septic systems and water usage may hinder ADU development.

Finally, as ADUs and other sorely needed housing is built in rural areas, the state must create a system to track private wells to protect the water supply. Under the current regulatory framework, there is no way to track water quality and supply as new wells are built. Right now when a property owner adds a new well on their property, there is no way to track water quality or what wells put out (gallons per minute yield). This has become more concerning as our state experiences prolonged droughts. Without comprehensive tracking of well water usage statewide, we are concerned that this will become a problem as new housing is built, creating more demands on the water supply.

We urge EOHLC to work closely with the Department of Environmental Protection, the Department of Public Health, and local boards of health to anticipate and mitigate these and other challenges that are likely to come up as you implement the Affordable Homes Act.

Sincerely,

The Massachusetts Association of Health Boards

The Massachusetts Association of Public Health Nurses

The Massachusetts Environmental Health Association

The Massachusetts Health Officers Association

The Massachusetts Large Cities Health Coalition

The Massachusetts Public Health Alliance

The Western Massachusetts Public Health Association