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Accessory Dwelling Units (ADUs) - FAQs

Frequently Asked Questions (FAQs)

Below are initial FAQs that have been prepared for informational purposes. We will continue to develop this list as more questions arise. If you have a question, please contact us at

EOHLCADUHomes@Mass.gov (mailto:EOHLCADUHomes@Mass.gov).

Updated: September 10, 2024

What changes were made to the definition of ADU?

The definition of "Accessory Dwelling Unit" under [Section 1A of Chapter 40A of the General Laws](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section1A) (https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section1A) was amended to clarify that the maximum size of an ADU can be no more than ½ of the gross floor area of the principal dwelling, or 900 sq. feet, whichever is smaller. The definition was also amended to remove explicit statutory authority for municipalities to impose owner-occupancy requirements and prohibits municipalities from unreasonably restricting the creation or rental of an ADU that is not being used as a short-term rental, as that term is defined in the room occupancy excise laws ([Section 1 of Chapter 64G of the General Laws](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter64G/Section1) (/info-details/mass-general-laws-c64g-ss-1)).

When do the revisions in MGL c. 40A Sections 1A and 3 related to ADUs take effect?

The change to [Section 3 of Chapter 40A](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3) (https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3) of the General Laws is effective Sunday, February 2, 2025, which is 180 days from the effective date of the Affordable Homes Act.

What happens if my town's zoning is not consistent with MGL c. 40A

Section 3 after February 2, 2025?

After Sunday, February 2, 2025, zoning provisions that are inconsistent with [MGL c. 40A Section 3](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3) (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3>) may be unenforceable. An application for an ADU in a single-family zoning district that is consistent with MGL 40A definition and requirements should be accepted and acted on consistent with state statute. Municipalities are encouraged to review their zoning and identify provisions that are not consistent with the law.

If my community is amending zoning to add the revised definition and process to allow ADUs as of right in single-family zoning districts, does it qualify for a simple majority to approve zoning at our legislative body or 2/3 super majority?

Amending zoning to allow for ADUs as of right under Chapter 40A is a simple majority vote. Please consult with your town counsel or city/town solicitor for their legal advice. You can find Guidance on voting thresholds for zoning here: [Voting Threshold Guidance | Mass.gov](https://www.mass.gov/info-details/voting-threshold-guidance) ([/info-details/voting-threshold-guidance](https://www.mass.gov/info-details/voting-threshold-guidance))

Is there a requirement for EOHLC to review and approve our ADU zoning?

No, the statute does not require EOHLC to review or approve ADU zoning.

RELATED

[MGL c. 40A Section 1A](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section1A) (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section1A>)

[MGL c. 40A Section 3](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3) (<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A/Section3>)



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