



Dover Amendment Protection of Accessory Dwelling Units

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REBA Land Use Conference
May 12, 2025

222,000 new homes must be built over the next decade to fix housing shortage, state says

The figure crystallizes the severity of the state's housing problem and puts a number to a shortage that is warping the lives of everyday people.

[Andrew Brinker](#) • Updated February 6th, 2025, 9:19 PM





ADUs as a Protected Land Use

Sections 7 and 8 of the Affordable Homes Act of 2024:

- Add “Accessory Dwelling Units” to the list of uses protected by the Dover Amendment, G.L. c. 40A, s. 3 (effective February 2, 2025)
- Define the kinds of ADUs protected by the Dover Amendment and the types of regulations municipalities may impose on them
- Authorize EOHLC to promulgate regulations to administer the statute



ADU Regulations (760 C.M.R. 71.00)

- Define statutory terms
- Clarify the “reasonable regulation” of ADUs by
 - Enumerating local rules that cannot be applied to protected ADUs
 - Summarizing reasonableness test from Dover Amendment case law
- Authorize cities and towns to adopt rules that are more permissive of ADUs than the statute



Protected Use ADUs

Local zoning must allow the use of land or structures in a single-family residential zoning district for *one* accessory dwelling unit that:

- Is either attached to or detached from a principal dwelling;
- Has a separate entrance; and
- Measures less than 900 sq. ft. or 50% of the gross floor area of the principal dwelling, whichever is smaller.

A Protected Use ADU is allowed in any zoning district where single-family homes are a permitted *or allowable* use, regardless of whether the ADU is accessory to a single-family dwelling.



Protected Use ADUs as an As-Of-Right Use

- No special permit/discretionary zoning approval required*
- Dover Amendment: local regulation cannot nullify or excessively burden the use

*An objective, non-discretionary “special permit” can be required in floodplain/aquifer protection overlay district in some situations



General Limitation on Regulation of Protected Use ADUs — 760 CMR 72.03(3)

A local zoning rule cannot be applied to a Protected Use ADU unless:

- It advances a legitimate municipal zoning goal, both in general and as applied to the particular ADU; and
- Application of the rule will not either:
 - Nullify the use, or
 - Diminish, detract from, or excessively increase the costs of the ADU without sufficient municipal justification



Local Regulation of Protected Use ADUs

Specific Rules

Municipalities CAN:

- Ban or limit short-term rentals (<31 days)
- Require one extra parking spot unless the ADU is within .5 miles of a transit station (fixed infrastructure or regular stops)
- Impose zoning rules that appreciably advance legitimate municipal interests, so long as they do not nullify or unduly burden the use
- Apply state health, safety, and environmental laws
- **Adopt ADU rules that are more permissive than the statute requires**



Local Regulation of Protected Use ADUs

Specific Rules

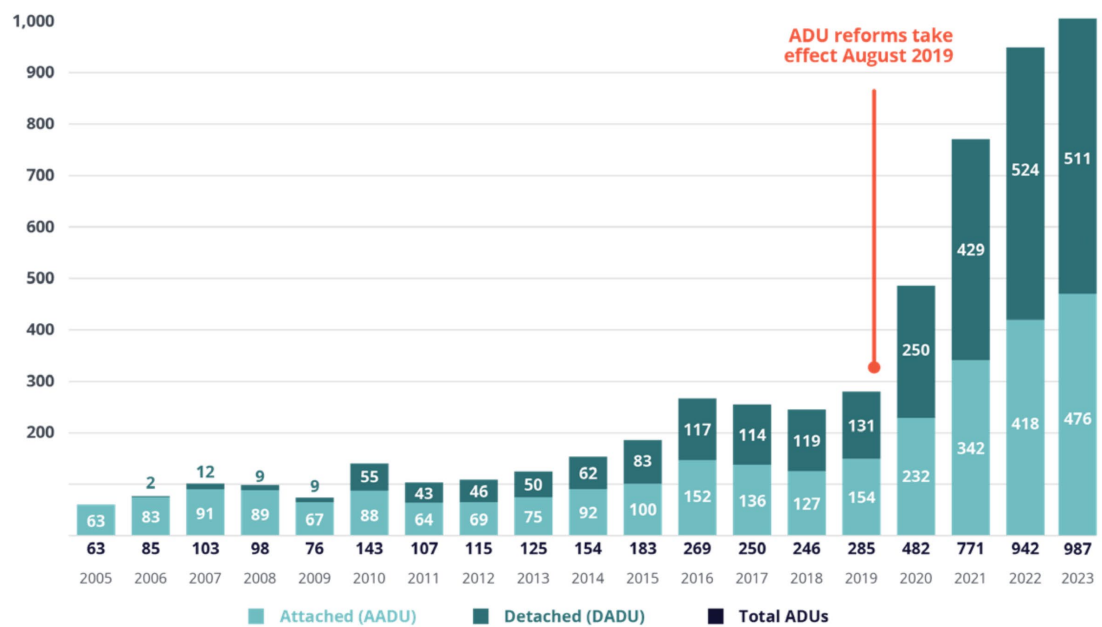
Municipalities CANNOT:

- Require owner-occupancy of ADU or principal dwelling
- Restrict who may live in or rent an ADU (except STRs)
- Ban modular ADUs
- Apply local health/safety/environmental standards that exceed state standards in most cases
- Impose design standards not imposed on single-family homes
- Impose dimensional requirements that are unduly burdensome or more restrictive than those imposed on principal dwelling or single-family dwellings or accessory structures in the district

**And now for
the fun part!**



Figure 3: ADUs Permitted Since 2005



Seattle

California

What Has ADU Legalization Accomplished

The permitting data from the past eight years is unambiguous: ADU legalization triggered a building boom. According to permitting data compiled by HCD:

- The number of ADUs permitted each year in California increased by **15, 334% between 2016 and 2022**, collectively resulting in **83, 865 ADUs permitted**.
- Other than 2020—a year beset by the COVID-19 pandemic—**ADU permitting has increased by 42 to 76% every year since 2016**. There is little reason to believe that this growth in permitting will slow down any time soon.
- **As of 2022, 19% of all housing units produced in California—or nearly one in five homes— is an ADU.**



ADU Law Implementation

- Municipalities are aligning by-laws with state law
 - EOHLC has published a model zoning by-law and FAQs (<https://www.mass.gov/info-details/accessory-dwelling-units>)
 - The AG's Municipal Law Unit reviews town by-law changes for compliance with state law; decisions are publicly available and full-text searchable on the MLU website (<https://www.mass.gov/municipal-law-review>)
- In the meantime, effective February 2, 2025, *municipalities cannot apply local zoning rules that conflict with the state law*

Opportunities and concerns:

- Financing
- New ADU construction industry/“gold rush” pressures
- Homeowners as first-time landlords
- One law for 351 cities and towns...

[ADUniverse](#)[Step-by-Step Guide](#)[Pre-approved DADUs](#)[Property Search](#)[ADU Rules](#)[Data](#)[Annual Reports ▾](#)

Pre-approved plans

This gallery showcases DADU designs have been pre-approved by the Seattle Department of Construction and Inspections (SDCI). Scroll through the gallery, view images of the design, and connect with its designer to use the plan.

Note: the City makes no guarantees, representations, or warranty with respect to the DADU design or construction plans, including their quality, safety, compliance with building codes or state or federal laws, or suitability for a homeowner's property. Homeowners using a pre-approved plan rely solely upon the designer, architect, or contractor for any representations, warranties, assurances with respect to the DADU design and construction plans.



CAST Architecture

Cedar Cottage

467 SQUARE FEET • 1-2 BED • 1 BATH

At only 467 square feet of interior floor area, the Cedar Cottage is an extremely efficient footprint that provides well daylit space for living, necessary storage, flexibility on many sites, including sloped ones, covered outdoor porch space plus easy expandability for families or roommates as a two-bedroom model.

[View](#)[Contact Designer](#)

Fivedot Architects

Schooner

1,000 SQUARE FEET • 2 BED • 2 BATH

This family-friendly, 1,000-square-foot, two-bedroom, low-cost DADU can provide housing for a family of four or more. This design can easily be mirrored or rotated to work on a variety of sites and is easily adaptable to sloping sites as well.

[View](#)[Contact Designer](#)

Ahouse Studio

The Family

808-964 SQUARE FEET • 2-3 BED • 2 BATH

“The Family” has a flexible plan layout that fits up to three bedrooms, serving a variety of family sizes and needs. This two-story design is just under the maximum allowable square footage for a backyard cottage in Seattle, and may be built on lots starting at 30'-0" wide.

[View](#)[Contact Designer](#)



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