



Commonwealth of Massachusetts

EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus Jr., Secretary

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Executive Office of Housing and Livable Communities **Seasonal Communities Guidance**

The Executive Office of Housing and Livable Communities is issuing this guidance pursuant to *St. 2024, c. 150, §§ 5, 136* (the Affordable Homes Act) and M.G.L. c. 23B, §32 (Seasonal Communities Statute). EOHLC is issuing this guidance to provide more information about the Seasonable Communities Statute. EOHLC will continue to update this guidance during the development of the Seasonal Communities Program.

What is a Seasonal Community?

The Seasonal Communities designation was created as part of the Affordable Homes Act, signed into law by Governor Maura Healey on Aug. 6, 2024. The Seasonal Communities designation is designed to recognize Massachusetts communities that experience substantial seasonal variation in housing demand, visitors, and employment and to create distinctive tools to address their unique housing needs. The law also established a Seasonal Communities Advisory Council.

The Affordable Homes Act lists several communities that will receive the Seasonal Communities designation automatically. These communities include:

- All municipalities in the counties of Dukes and Nantucket;
- All municipalities with over 35% seasonal housing units in Barnstable county; and
- All municipalities with more than 40% seasonal housing units in Berkshire county.

The law also lists criteria for EOHLC to consider in order to designate additional communities as Seasonal Communities. These criteria include:

- High rates of short-term rentals in relation to the overall housing inventory;
- Significant population increases in seasonal visitors;
- Excessive disparities between the area median income and the income required to purchase the municipality's median home price;
- Percentage of housing stock that is used for seasonal, occasional or recreational use or is otherwise not used as a primary residence by the property's owner; and
- High variations in the average monthly variation of employment in the sector over the full year, in relation to the municipality's minimum employment threshold.

What can and must a Seasonal Community do?

The lists below are intended to provide a broad overview of the Seasonal Communities Statute.

Some of the tools under the Seasonal Communities Statute include the ability for Seasonal Communities to:

- Acquire “year-round housing” occupancy restrictions. The Seasonal Communities Statute defines “year-round housing” as housing for occupancy by persons or families who occupy either rental or other housing as their principal residence for not less than 10 months a year;
- Acquire and develop housing with a preference for housing seasonal community public employees that are necessary to the health and safety of maintaining a year-round community, including teachers, public works employees, public safety employees, first responders, town administrators and other employees essential for municipal operations who are members of a specified group under a federal or state program or policy that supports housing for such a specified group;
- Establish a Year-Round Housing Trust Fund, individually or with other seasonal communities, to create and preserve affordable and attainable housing for year-round residents pursuant to regulations to be promulgated by EOHLC;
- Create or preserve year-round housing for individuals who produce or support artistic and literary activities;
- Allow seasonal communities to develop a comprehensive housing needs assessment;
- Increase the property tax exemption for homes that are the owners’ primary residence

Seasonal Communities are required to:

- Adopt by-laws or zoning ordinances to permit undersized lots to be used for the creation of attainable year-round housing on lots that: (i) Are located in a zoning district that allows for single-family residential use, (ii) Comply with municipal floor area ratio by-laws and ordinances and (iii) Comply with all laws governing wastewater and sewer systems. Any residential housing built upon an undersized lot shall not be used as a seasonal home or short-term rental of less than 6 months and shall be used as year-round housing.
- Adopt by-laws or zoning ordinances to permit the construction of tiny houses to be used as year-round housing; A “tiny house” is defined as “a detached structure containing a dwelling unit containing 400 square feet or less in floor area, excluding lofts.” Tiny houses must meet state and local building code requirements and all movable tiny houses must be registered with the Registry of Motor Vehicles.

Under the Affordable Homes Act, a Seasonal Community may apply to EOHLC for a waiver from any requirements and EOHLC may grant consider whether Seasonal Community requirements can be carried out by existing town staff or a regional staff person performing equivalent duties.

What is the Seasonal Communities Advisory Council?

The Affordable Homes Act requires EOHLC to convene the Seasonal Communities Advisory Council.

The Advisory Council has the following duties:

- Pursuant to G.L. c. 23B, §32(a), EOHLC shall consult the Council when determining income thresholds for the purpose of defining “attainable housing”, which is defined under the Seasonal Communities Statute as housing that is affordable to year-round residents of seasonal communities.

- Pursuant to G.L. c. 23B, § 32(b), EOHLC shall consult the Council when reviewing municipalities under consideration for a seasonal communities designation by the Secretary of EOHLC.
- Pursuant to G.L. c. 23B, §32(c), the Council shall:
 - Offer expertise on issues pertaining to municipal government, the hospitality industry, the tourism industry, housing law and housing development and finance in seasonal communities; and
 - Provide advice and recommendations to EOHLC regarding policies or programs necessary to serve the distinct needs of seasonal communities, including but not limited to, accessing specialized or general application grant programs and best practices on incentivizing the production of attainable year-round housing in seasonal communities.
 - Submit an annual report of its recommendations to EOHLC and the clerks of the house of representatives and the senate and the joint committee on housing not later than December 31st.
- Pursuant to G.L. c. 23B, §32(d), the Council shall be consulted in the promulgation of regulations by EOHLC pertaining to the membership, powers and duties of Year-Round Housing Trust Funds which may be established by seasonal communities for the creation and preservation of affordable and attainable housing in seasonal communities for the benefit of year-round residents.

Who is on the Seasonal Communities Advisory Council?

Pursuant to G.L. c. 23B, § 32(c), the Council shall consist of the following members (each a “Member”):

- (i) The Secretary of EOHLC, or their designee, who shall serve as chair.
- (ii) Three (3) Members to be appointed as follows:
 - a. 1 member of the senate appointed by the senate president, who represents a district in which at least 1 municipality is designated as a seasonal community;
 - b. 1 member of the house of representatives appointed by the speaker of the house of representatives, who represents a district in which at least 1 municipality is designated as a seasonal community; and
 - c. 1 person appointed by the Massachusetts Municipal Association, Inc.;
- (iii) Members appointed by the Secretary of EOHLC:
 - a. 1 person who shall be a representative of the developer community and is a resident of a municipality designated as a seasonal community;
 - b. 1 person who shall be a licensed real estate agent with the board of registration of real estate brokers and salespersons and is a resident of a municipality designated as a seasonal community;
 - c. 1 person to represent each regional planning agency whose jurisdiction encompasses at least 1 municipality designated as a seasonal community;
 - d. 1 licensed attorney who practices in the area of land use and who is a resident of a

- municipality designated as a seasonal community; and
 - e. 1 person who shall be a representative of the lending and banking community and who is a resident of a municipality designated as a seasonal community.
- (iv) The Secretary of EOHLC may appoint additional Members with knowledge and with expertise in land use law, fair housing law, municipal law and operations or the housing needs of seasonal communities.