

# ***Agenda for the Planning Commission***

Work Session Meeting held on Thursday, April 14, 2022 ~ 5:30 PM

## **Virtual Meeting Only**

**Join Zoom Meeting**

<https://us06web.zoom.us/j/87150153625?pwd=VHBvM1BJSUY5c254K0diaElhR0hvQT09>

**Meeting ID: 871 5015 3625**

**Passcode: 823087**

Phone: 1 (929) 205-6099 US (New York – Long distance rates will apply)

1. Call to Order
2. Adjustments to the Agenda
3. Public Comment (*for something that is not on the agenda*)
4. Old Business:
  - a. Accessory Dwelling Units
5. New Business
6. Staff Updates
7. Roundtable
8. Adjourn

***Planning Commission meetings are open to the public.***

*For questions about accessibility or to request accommodation, please call (802) 477-1465.*

- (1) Non-residential space will not be located above residential space;
- (2) Walls and/or floors that separate residential and non-residential portions of the building will be sound-proofed;
- (3) Private entrance(s) to the dwelling units will be separated from the public and service entrance(s) to the non-residential portions of the building;
- (4) Impact of service and waste collection areas (noise, light, odors, etc.) on building residents will be minimized; and
- (5) Common open space, as required above, will be separated and screened from areas of the property accessible to the general public and from service areas.

**3202 Accessory Dwelling**

3202.A An accessory dwelling unit (ADU) must:

- (1) Be located within or associated with an owner-occupied, single-family dwelling;  
*Revised state law says that the wording should be "...associated with a single-family owner-occupied lot."*
- (2) Be clearly subordinate to the primary dwelling;
- (3) Share a driveway with the primary dwelling;  
*Not a state requirement, this is a City requirement that could be construed as being more restrictive*
- (4) Have provisions for independent living, including sleeping, food preparation and sanitation in accordance with [Section 3012](#);
- (5) Not exceed 900 square feet or 30% of the habitable floor area of the primary dwelling (prior to the creation of the ADU), whichever is greater;  
*This is making it more restrictive by stating the # of bedrooms would allow, statute only speaks to "more than one"*
- (6) Not have more than 2 bedrooms;  
*Our zoning states that any single family detached home must have 2 parking spaces; adding an ADU is adding a parking space. Now its up to 3. Do we remove parking minimums for residential?*
- (7) Meet the minimum parking requirements for residential uses of [Section 3104](#);  
*This is discretionary, not a state requirement; it is suggested to remove parking minimums.*
- (8) Meet the applicable dimensional standards of the zoning district; and
- (9) Meet the water supply and wastewater disposal standards of [Section 3024](#).

3202.B A lot must not have more than one accessory dwelling unit.

3202.C The landowner must reside on the property, but may live in either the primary or accessory dwelling unit.

3202.D An accessory dwelling unit will be considered an accessory use of residential property and will not require site plan approval.

3202.E An accessory dwelling unit will not be included in the calculation of residential density.

to the side or rear of the building.

- (2) Stacking lanes must be clearly signed, marked and separated from travel lanes.
- (3) Stacking lanes must not block access to service drives, parking spaces or loading areas.
- (4) Drive-through traffic must not cause congestion or other unsafe conditions within the site or on the street.
- (5) One or more designated pedestrian crossings must be provided across any stacking lane that separates parking from the building.
- (6) Stacking lanes and service areas must not be located within minimum required setbacks.
- (7) Menu boards must conform to the standards of Paragraph 3107.F(4).
- (8) Drive-through facilities must be located a sufficient distance from property lines and screened to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.

**3012 Dwelling Units**

3012.A **Applicability.** The standards of this section apply to any structure or portion of a structure used or intended to be used as a dwelling unit.

3012.B **Minimum Unit Size.** The minimum size of a dwelling unit must not be less than:

- (1) 150 square feet for a studio or efficiency unit (one open living area that includes cooking, living and sleeping quarters, as well as sanitation facilities in accordance with [Subsection 3012.C](#));
- (2) 220 square feet for a one-bedroom unit; or
- (3) 220 square feet plus an additional 70 square feet for each additional bedroom (290 sf for two-bedroom, 360 sf for three-bedroom, etc.).

3012.C **Cooking and Sanitation Facilities.** All dwelling units must have safe, functioning cooking and sanitation facilities in accordance with the following:

- (1) A dwelling unit must contain permanent bathroom facilities consisting at a minimum of a toilet, sink, and shower or bathtub. The toilet and shower or bathtub must be within a room or enclosure that is fully separated from other living spaces by walls and one or more doors.
- (2) A dwelling unit must contain permanent kitchen facilities. A kitchen must be a room or portion of a room in which there is a sink, refrigerator, and one or more appliances for heating food.

- (3) Any dwelling unit within a multi-family building containing:
  - (a) 3 or more bedrooms must have utility connections for a washing machine and clothes dryer in the unit.
  - (b) Less than 3 bedrooms must either have utility connections for a washing machine and clothes dryer within the unit or there must be a common laundry room in the building with washing machines and clothes dryers accessible to residents.

3012.D **Parking.** All dwelling units must have parking in accordance with [Section 3104](#).

3012.E **Water Supply and Wastewater Disposal.** All dwelling units must have safe, functioning water supply and wastewater disposal systems in accordance with [Section 3024](#).

3012.F **Trash Disposal.** All multi-family dwelling units must have convenient access to trash, recycling and compost storage areas in accordance with [Section 3108](#).

### 3013 Energy Generation Facilities

3013.A **Applicability.** The standards of Subsections A through D apply to energy generation facilities not exempted in [Subpart 100](#). The standards of Subsection E apply to solar electric generation facilities regulated by the Public Utilities Commission.

3013.B **Setbacks.** An energy generation apparatus must be set back a distance equal to its height or more from all property lines or the district minimum setback requirement, whichever is greater, except if it is building mounted.

3013.C **Height.** The height of an energy generation apparatus must conform to the following:

- (1) The height of ground-mounted solar energy generating apparatus must not exceed 36 feet.
- (2) The height of a ground-mounted wind energy generating apparatus must not exceed 120 feet.
- (3) An energy generating apparatus mounted on a building wall must not extend above the lowest portion of the roof.
- (4) An energy generating apparatus mounted on a building roof must not extend more than 12 feet above the roof surface.

3013.D **Removal.** A facility that has been out-of-service for more than 180 days will be considered abandoned and the owner must remove it unless he/she can demonstrate to the Zoning Administrator an intent to resume the energy generation use at a specified future time.

3013.E **Screening Requirements.** A solar electric generation facility regulated by the Public Utilities Commission must meet the screening requirements of [Subsection 3106.F](#) for utilities and service areas.

- (2) Outdoor use areas must not be located on or extend into public rights-of-way except as approved by City Council.

### 3104 Parking and Loading Areas

3104.A **Purpose.** The provisions of this section are intended to:

- (1) Ensure that development provides adequate off-street parking and loading areas to avoid congestion on surrounding streets;
- (2) Avoid creating excess parking and loading areas that result in increased flooding and land consumption, and decreased water quality and pedestrian-friendliness;
- (3) Promote greening and quality design of parking and loading areas to improve stormwater performance and enhance the character of streetscapes and property frontages in the city.

3104.B **Applicability.** All development must provide off-street parking and all nonresidential or mixed-use development must provide loading areas in accordance with this section except as specifically exempted below:

- (1) **Urban Center 1 and 2 Districts.** The following apply to off-street parking in the Urban Center 1 and 2 districts:
  - (a) There are no minimum off-street parking or loading requirements.
  - (b) The creation of new, private surface parking areas is prohibited except:
    - (i) That existing parking areas may be redesigned and relocated provided that there is no net increase in the total area devoted to surface parking on the development site (which may include multiple parcels).
  - (c) Any off-street parking or loading areas that will be provided in the Urban Center 1 and 2 districts must be sized, located and designed in accordance with the provisions of this section.
- (2) **Small Businesses.** There are no minimum parking or loading requirements for non-residential uses that occupy not more than 1,500 square feet and that are located either on a street with on-street parking or within 1,000 feet (as measured along the sidewalk) of public parking. Any off-street parking areas or loading that will be provided must be sized, located and designed in accordance with the provisions of this section.
- (3) **Natural Resource Based Uses.** There are no minimum parking or loading requirements for natural resource based uses. Any off-street parking or loading areas that will be provided must be sized, located and designed in accordance with the provisions of this section.

3104.C **Amount of Parking.** Except as exempted in Subsection (B) above, all development must provide an adequate amount of off-street parking to fully meet the needs of the proposed

use(s) in accordance with the following:

- (1) **Minimum Number of Spaces.** The minimum number of spaces will be as specified below unless the applicant submits a professionally prepared parking study establishing the amount of parking needed:
  - (a) **Residential Uses:** 2 per detached single-family dwelling. For all other dwellings, 1 per unit plus 0.2 for each bedroom in excess of one (i.e., 1.2 for a two-bedroom unit, 1.4 for a three-bedroom unit, etc.). We could remove the parking minimums: we could also state that ADU's are exempt from the minimums
  - (b) **Lodging Uses:** 1.2 per guest room.
  - (c) **Commercial Uses:** 1 per 500 square feet of gross floor area (does not include outdoor use areas).
  - (d) **Industrial Uses:** 1 per 1,000 square feet of gross floor area (does not include outdoor use areas).
  - (e) **Arts, Entertainment, Recreation, Civic and Community Uses:** 1 per 5 seats or 1 per 500 square feet of gross floor area if no seats.
- (2) **Maximum Number of Spaces.** The maximum number of parking spaces will be twice the minimum number of spaces based on the applicable ratio in Paragraph (1), above, unless the applicant submits a professionally prepared parking study establishing the amount of parking needed.
- (3) **Calculation of Number of Spaces.** The Zoning Administrator will determine which ratio in Paragraph (1), above, applies to a proposed use. When calculating the total number of spaces, any decimal will be rounded up to the nearest whole number. On lots with multiple units or uses, the number of spaces for all units and/or uses may be added together before rounding up any decimal.
- (4) **Modification of Number of Spaces.** The Development Review Board may increase or decrease the amount of off-street parking required if:
  - (a) The applicant submits a parking study prepared by a qualified professional demonstrating the amount of parking that will be needed;
  - (b) The applicant meets the requirements for shared parking in Subsection (D) below; or
  - (c) The applicant demonstrates that there is adequate on-street or public parking available within 1,000 feet (as measured along the sidewalk) of the proposed development to meet all or a portion of the demand.

3104.D **Shared or Off-Site Parking.** The Development Review Board may approve a cooperative parking plan to allow parking to be shared by two or more uses and/or to be provided off-site in accordance with the following:

**3023 Utility Facilities**

- 3023.A **Applicability.** The standards of this section apply to utility facilities not exempted in [Subpart 110](#).
- 3023.B **District Standards.** Minimum lot size and frontage requirements will not apply to lots housing utility facilities.
- 3023.C **Site Security.** Utility facilities must be designed and maintained to prevent unauthorized access and protect public safety.
- 3023.D **Screening Requirements.** A site housing a utility facility must meet the screening requirements of [Subsection 3106.F](#) for utilities and service areas.

**3024 Water Supply and Wastewater Disposal**

- 3024.A All proposed development requiring a zoning permit under this ordinance must conform to applicable city ordinances and specifications and state regulations regarding the provision of potable water and disposal of wastewater.

2116 Dimensional Table

USE & DEFINITION	UC-1	UC-2	UC-3	MU-1	MU-2	MU-3	R-16	R-12	R-8	R-4	GB	IN	CIV	CON
<b>LOTS</b>														
<b>Minimum lot size</b> Inclusive of all land within the property boundaries, but excluding any land within a street right-of-way.	2,000 sf	3,000 sf	3,000 sf	4,000 sf	4,000 sf	10,800 sf	4,000 sf	4,000 sf	5,400 sf	10,800 sf	10,000 sf	20,000 sf	20,000 sf	40,000 sf
<b>Minimum lot frontage</b> On a maintained public or private street, excluding any frontage on limited access highways, or Class 4 roads or unimproved rights-of-way.	15 ft	30 ft	45 ft	30 ft	30 ft	60 ft	30 ft	30 ft	45 ft	60 ft	60 ft	90 ft	90 ft	180 ft
<b>Maximum lot coverage</b> Total amount of impervious surface as a percentage of total lot area.	100%	90%	80%	80%	80%	50%	80%	70%	60%	50%	80%	80%	40%	20%
<b>SETBACKS</b>														
<b>Minimum front setback</b> Measured from the edge of the street right-of-way, or if no right-of-way from the front lot line. For accessory structures, also see <a href="#">Section 3005</a> .	0 ft	0 ft	8 ft	8 ft	8 ft	12 ft	8 ft	12 ft	16 ft	16 ft	12 ft	16 ft	20 ft	40 ft
<b>Minimum side setback</b> Measured from the side lot lines. For accessory structures, also see <a href="#">Section 3005</a> .	0 ft	8 ft	8 ft	8 ft	8 ft	12 ft	8 ft	8 ft	12 ft	16 ft	12 ft	16 ft	20 ft	40 ft
<b>Minimum rear setback</b> Measured from the rear lot line. For accessory structures, also see <a href="#">Section 3005</a> .	0 ft	8 ft	8 ft	12 ft	12 ft	16 ft	12 ft	16 ft	16 ft	16 ft	12 ft	16 ft	20 ft	40 ft
<b>BUILDINGS</b>														
<b>Build-to-line</b> Measured as a line drawn the specified distance from and parallel to the street right-of-way.	8 ft	16 ft	24 ft	24 ft	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>Minimum build-to-line coverage</b> Percentage of the build-to-line that must be covered by a principal building.	80%	65%	50%	50%	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>Minimum principal building height</b> Measured from the average finished grade at the base of a principal building to the eaves or the roof deck if roof is flat.	18 ft	18 ft	18 ft	18 ft	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>Maximum structure height</b> Measured from the average finished grade at the base of the structure to the highest point of the structure, excluding architectural and roof-top elements listed in Paragraph 2005.G(3). For accessory structures, also see <a href="#">Section 3005</a> .	72 ft	60 ft	48 ft	36 ft	36 ft	36 ft	36 ft	36 ft	36 ft	36 ft	48 ft	48 ft	36 ft	30 ft
<b>DENSITY</b>														
<b>Maximum residential density</b> Measured as number of dwelling units per square foot of total lot area, except that accessory dwellings in accordance with <a href="#">Section 3202</a> will not be included.	no maximum	1 du per 1,200 sf	1 du per 1,800 sf	1 du per 2,100 sf	1 du per 2,700 sf	1 du per 10,800 sf	1 du per 2,700 sf	1 du per 3,600 sf	1 du per 5,400 sf	1 du per 10,800 sf	1 du per 2,100 sf	n/a	n/a	n/a



# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4412)

#### § 4412. Required provisions and prohibited effects

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

(C) No bylaw shall have the effect of excluding mobile home parks, as defined in 10 V.S.A. chapter 153, from the municipality.

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to a single-family dwelling on an owner-occupied lot. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling unit means a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units; or

(ii) a bylaw that regulates short-term rental units distinctly from residential rental units.

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot not served by and able to connect to municipal sewer and water service if either of the following applies:

(i) the lot is less than one-eighth acre in area; or

(ii) the lot has a width or depth dimension of less than 40 feet.

(B) The bylaw may provide that if an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:

(i) The lots are conveyed in their preexisting, nonconforming configuration.

(ii) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.

(iii) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.

(iv) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

(C) Nothing in this subdivision (2) shall be construed to prohibit a bylaw that is less restrictive of development of existing small lots.

(3) Required frontage on, or access to, public roads, class 4 town highways, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

# ACCESSORY DWELLING UNITS

*Brave, lovable & legal small homes on lots with a principal single-household dwelling*



Jacob Hemmerick, AICP

Vermont Department of Housing and Community Development

Vermont League of Cities and Towns Planning & Zoning Forum

August 12, 2021

# SPEAKER

**Jacob Hemmerick**, AICP  
Planning & Policy Manager  
Vermont Department of Housing &  
Community Development

**Community Planning +  
Revitalization Division**

*We provide tools, training,  
grants, and incentives for local  
leaders to plan and implement  
projects that support thriving,  
prosperous communities.*

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Quarterly** for CP+R Opportunities



# TODAY'S AUDIENCE

## Registration survey results:

- **Role.** Mix of zoning administrators, planning commissioners, selectboard members, and staff planners
- **Subject familiarity.** Balance between those with no, low, medium and high familiar with accessory dwelling unit (ADU) statutory allowances
- **ADU Permitting Volume.** Registrants' communities are generally permitting fewer than five ADUs a year. Many unsure.



## Registration survey:

### Mix of short-term rental market pressures in audience communities

In your community, how likely are ADUs to be used as short-term rentals/lodging vs. year-round housing? [check all that apply]

#### [More Details](#)

- Less likely, we regulate short-term rentals separately
  - Less likely, short-term rentals are in low demand in my community
  - More likely, short-term rental are in high demand in my community
  - More likely, we do not regulate short-term rentals separately
  - Other
- 2



Pre-Registration Survey Results

# TODAY'S AUDIENCE

What do you hope this session on ADUs will address?

- *Learn more about ADUs to encourage use to **provide more affordable housing** in community.*
- *I'd like to know **what's changed...***
- *Make sure I **apply the law correctly***
- *How we can best update zoning bylaws regarding ADUs to **help with the rental housing crunch** in our area*
- *Understand **best practices in pro-active local outreach & permitting for ADUs.***
- *We are in the process of updating our zoning regulations, so I'm hoping to **incorporate the latest ADU requirements** into our regulations.*

# OVERVIEW

This session will cover different types of Accessory Dwelling Units and how recent changes to Vermont's Planning Act affect how municipalities can regulate them.

We will also share stories and best practices about how ADUs can help achieve community housing goals.

**Disclaimer:** I am not an attorney, and this is not legal advice. Refer to the good counsel of the attorneys at MAC or your municipal attorney.





# BRAVE LITTLE HOMES

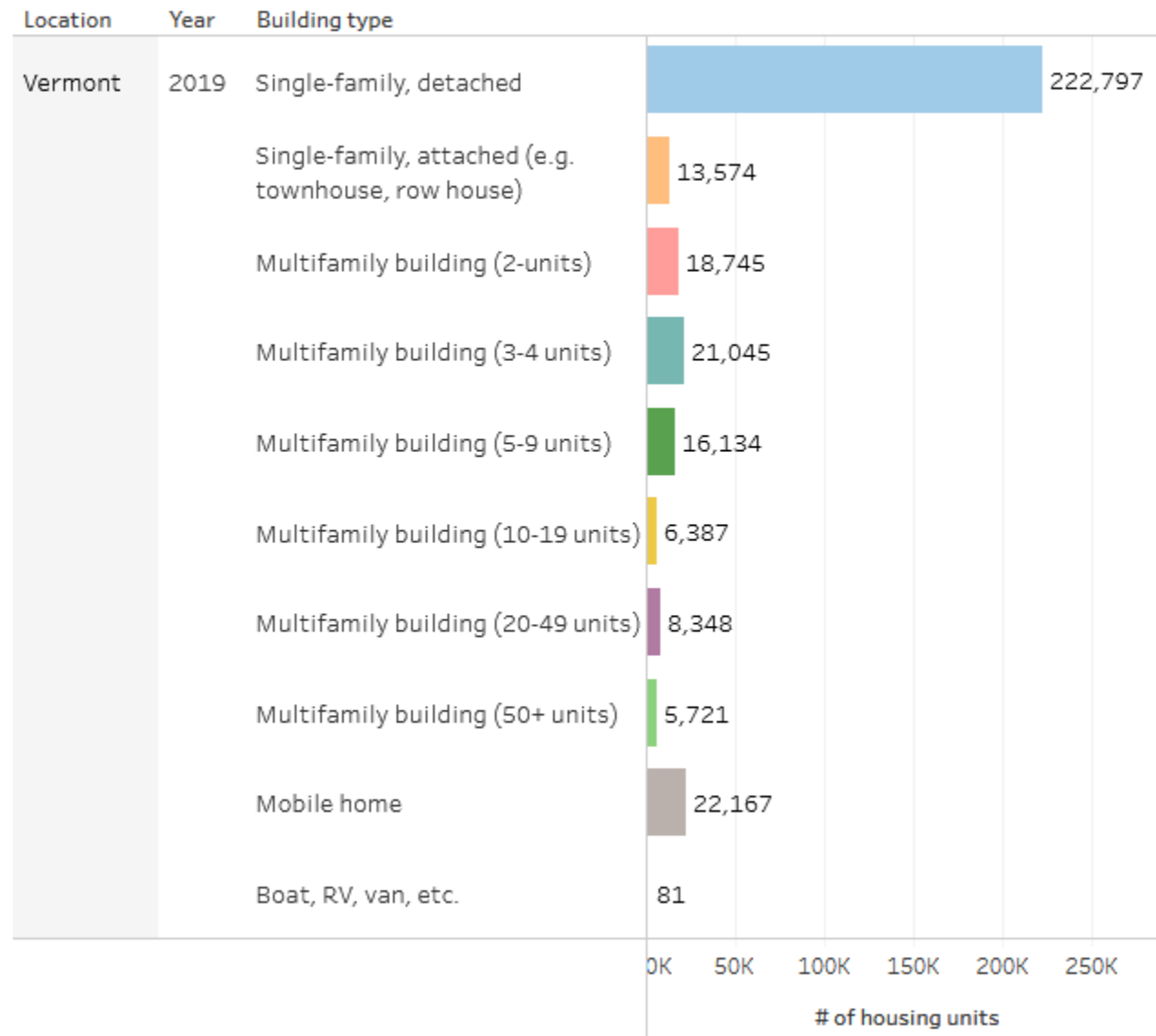
Accessory dwelling units are allowed **small homes** or apartments developed by resident homeowners as a second dwelling **on a lot with a principal single-household dwelling**.

These homes **receive special treatment by Vermont's Planning Act**, expanded in 2020.



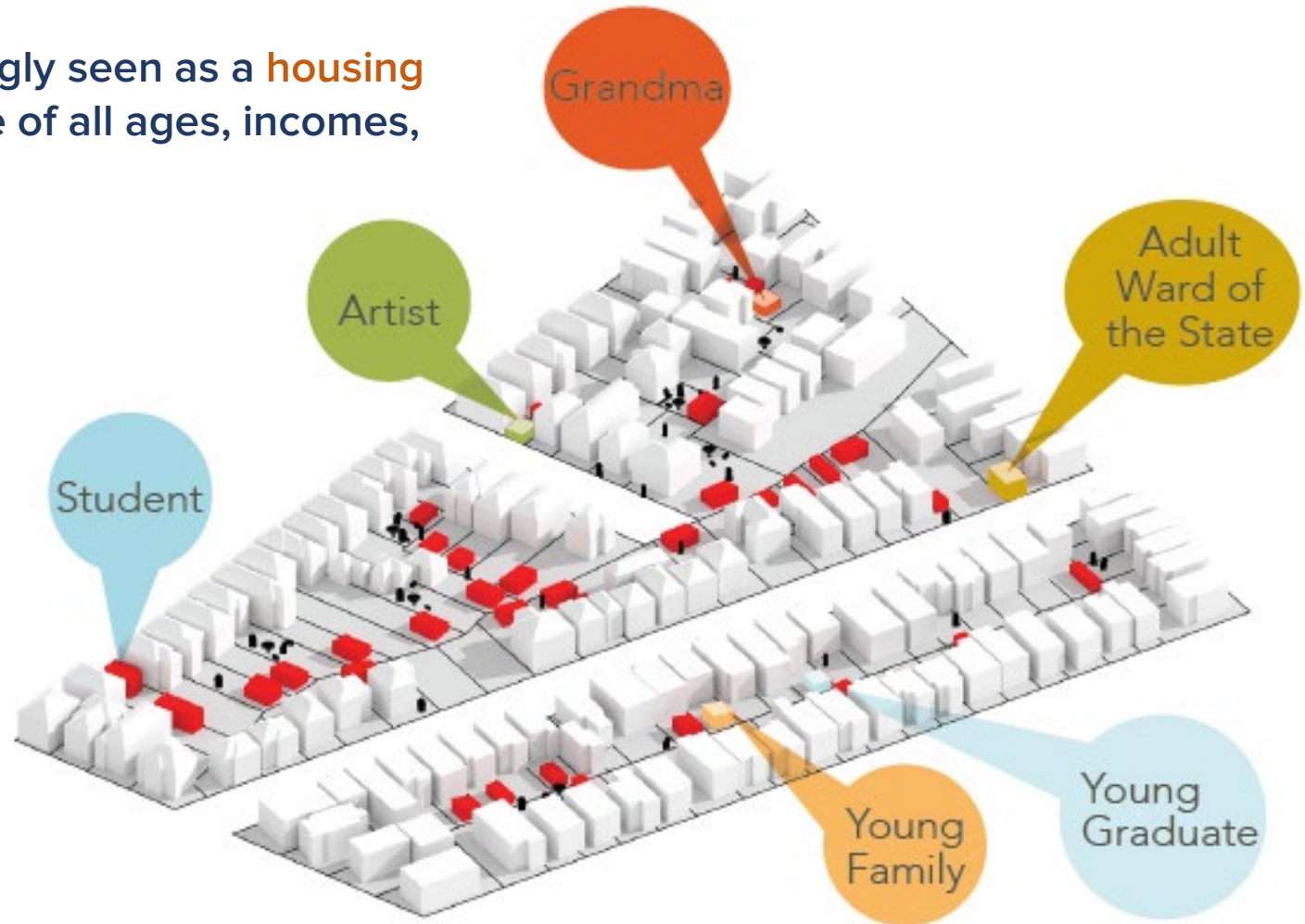
# BRAVE LITTLE HOMES

## Residential building type estimates



# BRAVE LITTLE HOMES

They are increasingly seen as a **housing solution** for people of all ages, incomes, and life stage



*WHO LIVES IN AN ADU?*

# BRAVE LITTLE HOMES



**Live closer to family  
and friends**



**Age in place**  
Caretaking / Caregiving



**Have a smaller home  
to downsize to**



**Generate rental  
income**



Increased home value/grand list value



**Have options!**

# STATE OF HOUSING: A CRISIS

Households by housing costs as a percentage of household income

Select a view to display:  % of all households  Households

Cost burden level  
 Paying 30-49% income  
 Paying 50% income or more



**34%**  
**overall**

**51%** of  
**renters**

Source:  
U.S. Census Bureau: American Community Survey 5-year estimates (Table B25070, B25091)

# STATE OF HOUSING: A CRISIS



**Our first Key understanding – our region’s housing problem is a crisis.**

**Our second Key understanding – this is not just a private problem with a private solution.**

**Our third Key understanding – it is a tough problem that requires many different solutions in tandem that are fit to each place and its people.**

**Our fourth Key understanding – new solutions and approaches are needed.**

**Our fifth Key understanding – solving housing needs must also solve other problems.**

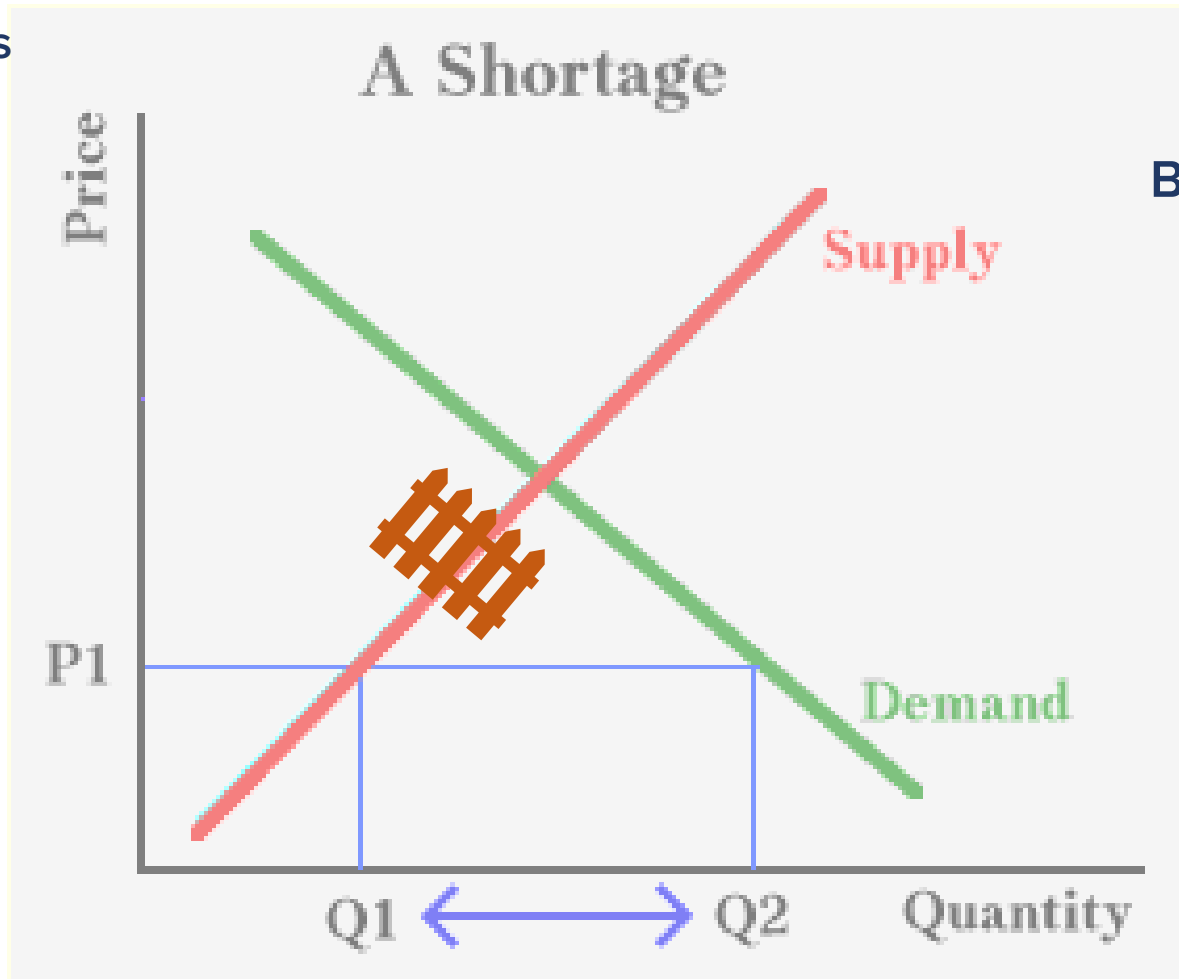
# STATE OF HOUSING: A MISMATCH

## DEMAND

Demographics  
Jobs  
Remote Jobs  
Wages  
Savings  
Preferences  
Financing

## SUPPLY

Zoning Bylaws  
Infrastructure  
Labor  
Material  
Builder Financing



# STATE OF HOUSING: ZONING BYLAWS



\$ BIG LOTS | WIDE STREETS | LARGE SINGLE HOMES | SINGLE-USE NEIGHBORHOODS \$



# STATE OF HOUSING



**ADU:** an affordable and flexible housing option that can help meet the growing needs of Vermont

# STATE OF HOUSING: QUIZ

What percent of Vermont households have two or fewer people?

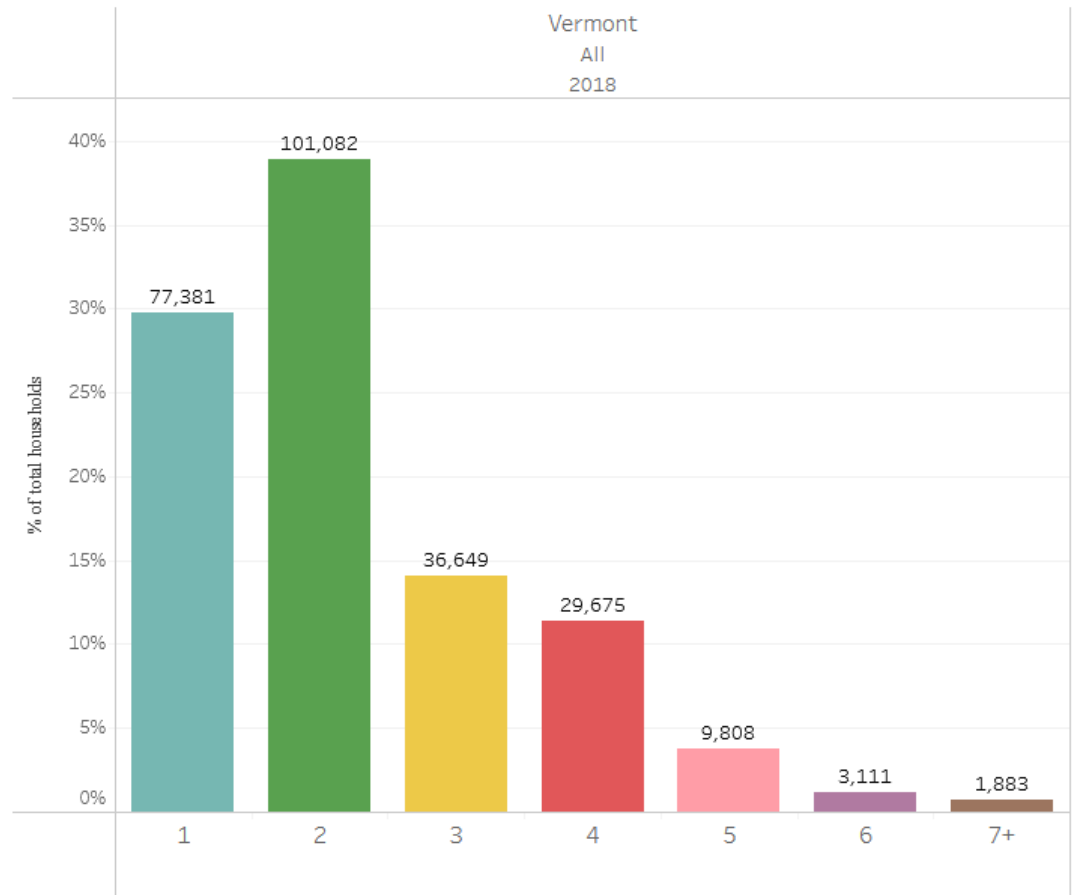
- A. 33%
- B. 48%
- C. 81%
- D. 22%
- E. 69%

# STATE OF HOUSING: QUIZ

What percent of VT households have two or fewer people?

69%

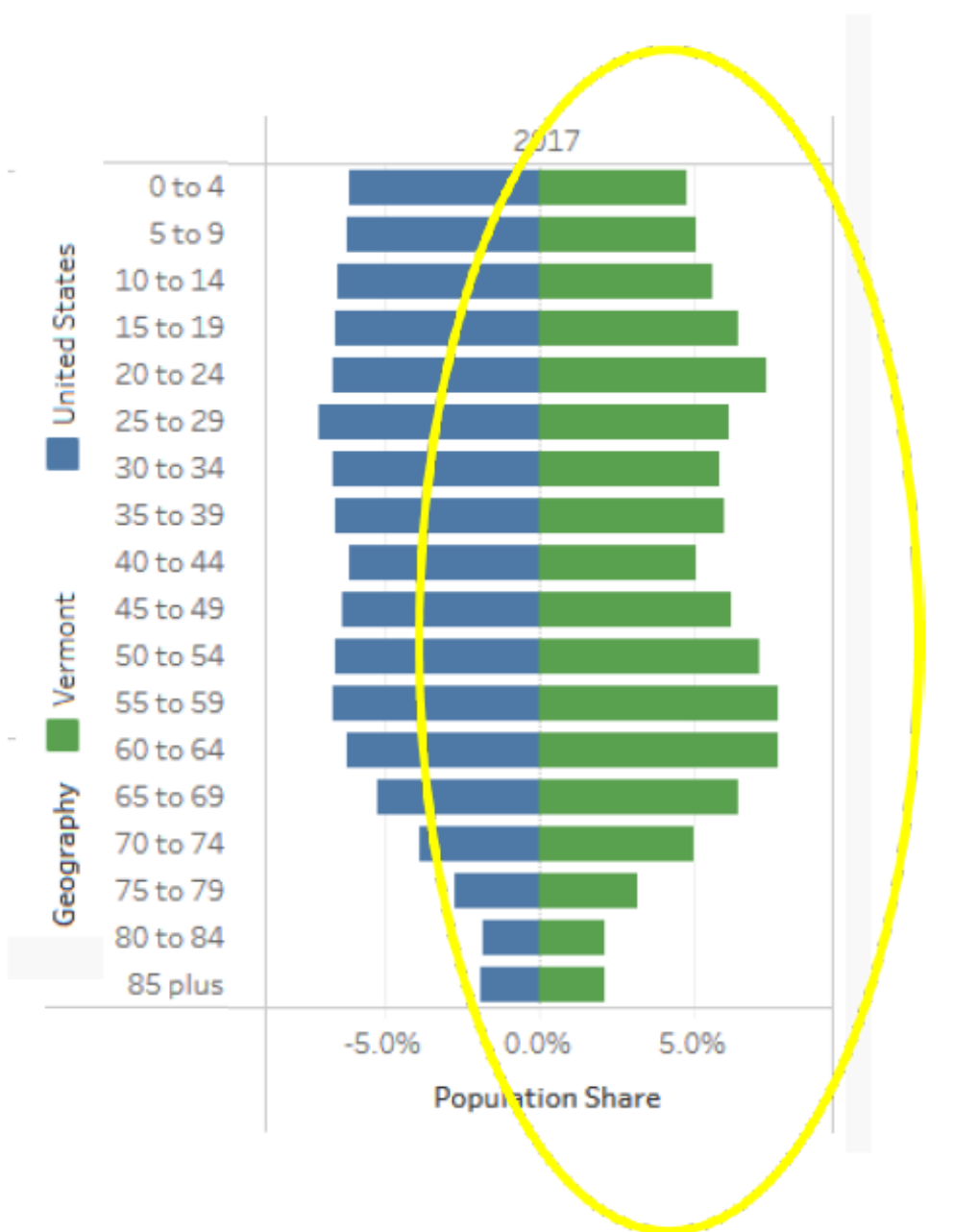
Estimated households by number of people



Source:

U.S. Census Bureau: American Community Survey 5-year estimates (Table B25009)

# STATE OF HOUSING: DEMOGRAPHICS

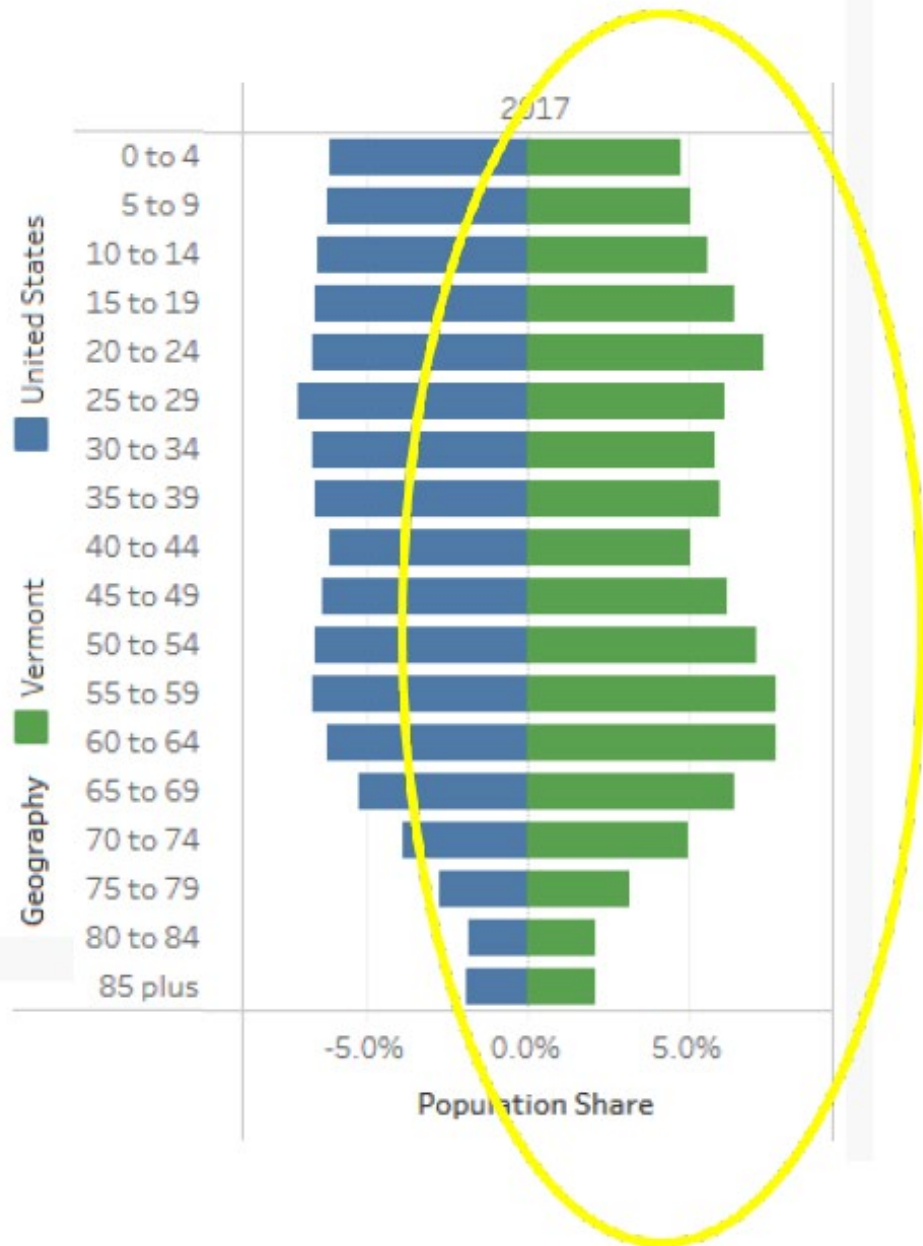


Median Age

**VT: 43**

**USA: 38**

# STATE OF HOUSING: DEMOGRAPHICS



# BRAVE LITTLE HOMES

## § 4382. The plan for a municipality

- (a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:
- (b)(10) A housing element that shall include a recommended program for addressing low and moderate income persons' housing needs as identified by the regional planning commission pursuant to subdivision 4348a(a)(9) of this title. The program should account for permitted accessory dwelling units, as defined in subdivision 4412(1)(E) of this title, which provide affordable housing.



# TYPES OF ADUs

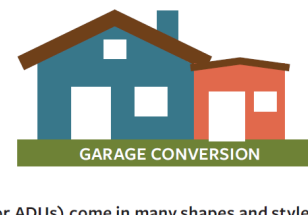
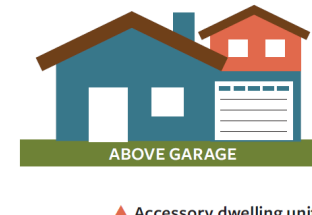
Credit: Presentation by Andy Simone & Ruby Perry | An ADU Success in Burlington | 9.22.2018 | via HomeShare VT

## ATTACHED

- Internal Conversion
  - Attic
  - Basement
  - Portion of home
- Addition

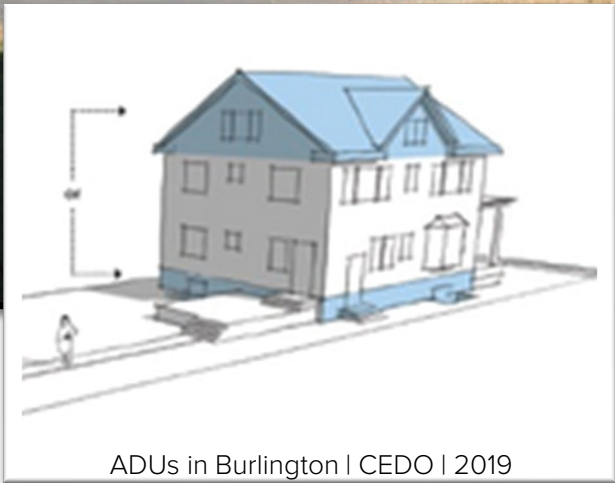
## DETACHED

- Outbuilding Conversion
  - Carriage Barns
  - Garages
- New Builds
- Modular
- Manufactured
- 'Tiny' Homes



# TYPES OF ADUs

## ATTACHED: Internal Conversion



Jacob Hemmerick



# TYPES OF ADUs

## ATTACHED: Home Addition

ADUs in Burlington | City of Burlington CEDO | 2019



HOME + DESIGN + REAL ESTATE

JUNE 15, 2021

Tyler Maas



### Two Burlington Residents Talk Accessory Dwelling Units, Pros and Cons

By AMY LILLY



Carol Stenberg at her ADU on Brierwood Lane in Burlington

LUKE AWTRY



Seven Days

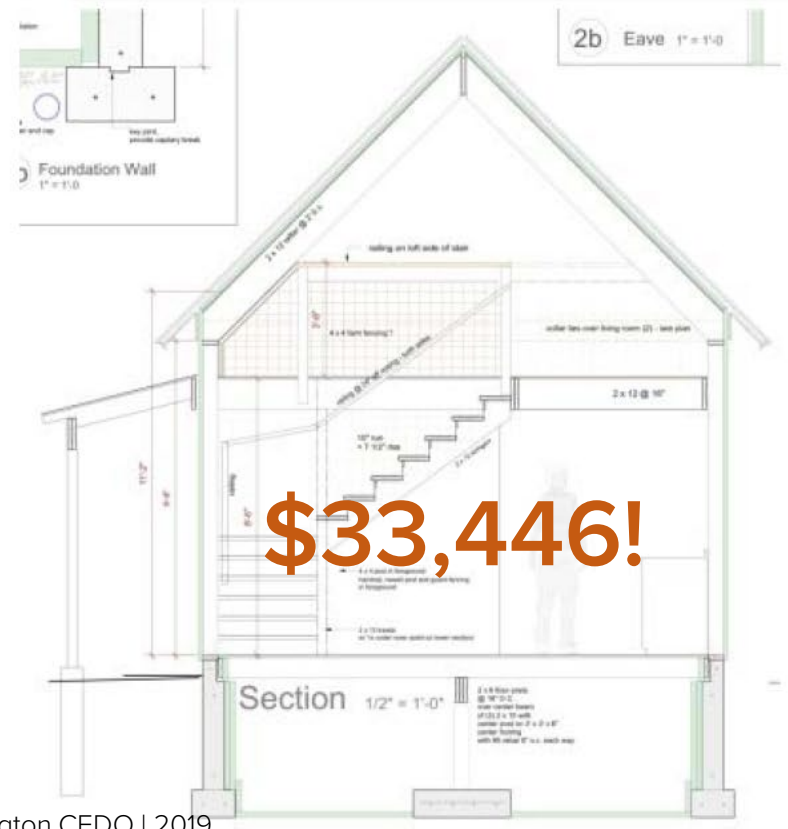
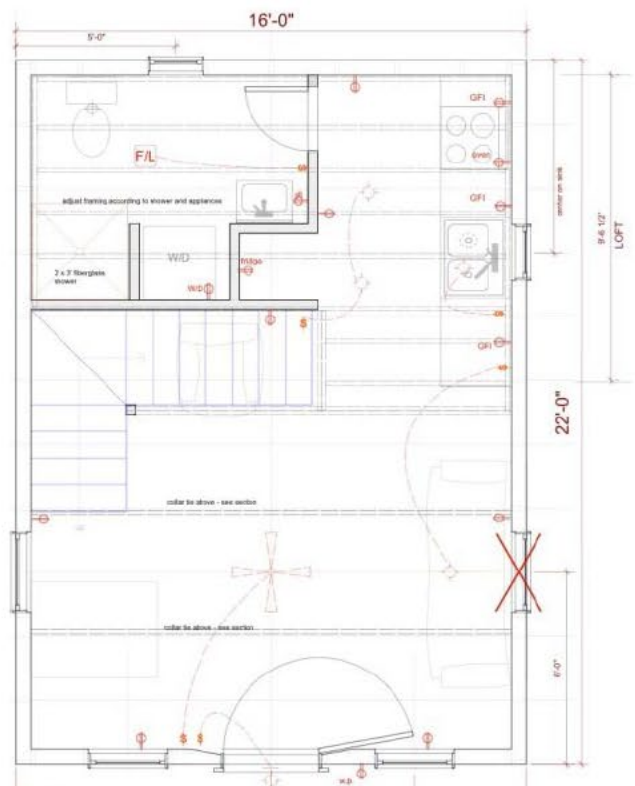
# TYPES OF ADUs

## DETACHED : Outbuilding Conversion



# TYPES OF ADUs

## DETACHED: New Builds



# TYPES OF ADUs

## DETACHED: **Modular**



# TYPES OF ADUs

## DETACHED: **Manufactured & Tiny Homes**



# LOVABLE LITTLE HOMES



<https://accessorydwellings.org/>  
City of Santa Cruz ADU Guide

City of Seattle ADU Guide | Place Architects PLLC

## 24 V.S.A. 4412

### Required provisions and prohibited effects for municipal bylaws

**Establishes a statewide minimum.**

[PRINT](#)

## The Vermont Statutes Online

### Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4412)

#### § 4412. Required provisions and prohibited effects

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

# THE ACT: A STATEWIDE MINIMUM, MODIFIED IN 2020

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### **Subchapter 007 : Bylaws**

**(Cite as: 24 V.S.A. § 4412)**

#### **§ 4412. Required provisions and prohibited effects**

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to ~~an owner-occupied~~ a single-family dwelling ~~on an owner-occupied lot~~. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling unit means ~~an efficiency or one-bedroom apartment~~ a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

The property has sufficient wastewater capacity.

The unit does not exceed 30 percent of the total habitable floorarea of the single-family ~~dwelling~~ or 900 square feet, whichever is greater. Applicable setback, coverage, and parking requirements specified in the bylaws are met.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

a bylaw that is less restrictive of accessory dwelling units; or

a bylaw ~~that requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit: a new accessory structure; an increase in the height or floor area of the existing dwelling; or an increase in the dimensions of the parking areas~~ regulates short-term rental units distinctly from residential rental units.



# THE ACT: RECENT UPDATES

## Summary of 2020 Changes Act 179 | Senate Bill 237

- ✓ Continues to allow accessory dwelling units (ADUs) as a permitted use



# THE ACT: RECENT UPDATES

## Summary of 2020 Changes Act 179 | Senate Bill 237

- ✓ Continues to allow accessory dwelling units (ADUs) as a permitted use
- ✓ On owner-occupied lots with a single-family/household dwelling – allowing the owner to live in the principal or accessory dwelling



# THE ACT: RECENT UPDATES

## Summary of 2020 Changes Act 179 | Senate Bill 237

- ✓ Continues to allow accessory dwelling units (ADUs) as a permitted use
- ✓ On owner-occupied lots with a single-family/household dwelling -- allowing the owner to live in the principal or accessory dwelling
- ✓ To have more than one bedroom and be as large as 900 s.f. or 30% of the floor area of the principal dwelling (whichever is greater), and



# THE ACT: RECENT UPDATES

## Summary of 2020 Changes Act 179 | Senate Bill 237

- ✓ Continues to allow accessory dwelling units (ADUs) as a permitted use
- ✓ On owner-occupied lots with a single-family/household dwelling -- allowing the owner to live in the principal or accessory dwelling
- ✓ To have more than one bedroom and be as large as 900 s.f. or 30% of the floor area of the principal dwelling (whichever is greater), and
- ✓ **A municipality may continue to be more permissive than this statutory minimum, subject the ADU to the same controls that apply to a single-family dwelling, and regulate it distinctly from a short-term rental.**



**Which of the following cannot be required in a local bylaw?**

1. A limit on the number of bedrooms for units that can obtain a wastewater permit
2. A limit on the size of an ADU less than 900 square feet for principal single-household dwellings greater than 3,000 square feet.
3. A limit on the size of an ADU more than 900 square feet for homes larger than 3,000 square feet

# LOCAL BYLAWS: QUIZ

Which of the following cannot be required in a local bylaw?

1. A limit on the number of bedrooms for units that can obtain a wastewater permit
2. Limiting the size of an ADU to less 900 square feet for principal single-household dwellings greater than 3,000 square feet  
(900 s.f. rule)
3. Limiting the size of an ADU more than 900 square feet for homes larger than 3,000 square feet  
(30% rule |  $3,000 * .3 = 900$ )
4. All of the above

# LOCAL BYLAWS: UPDATED EXAMPLE

## Exemptions & Limitations

### Accessory Dwellings

**In accordance with 24 V.S.A. 4412(1)(E)**, a landowner must obtain a zoning permit for one accessory dwelling unit (ADU) within or associated with any owner-occupied, single-family dwelling.

The zoning administrator may permit an accessory dwelling units that meets all the following:

- The ADU must be clearly subordinate to the primary dwelling and must have facilities and provisions for independent living, including sleeping, food preparation and sanitation.
- **The ADU must not exceed 900 square feet or 30% of the total habitable floor area of the primary dwelling (prior to creation of the ADU), whichever is greater.**
- The ADU must meet applicable dimensional standards for the zoning district and parking requirements for residential uses.
- The applicant must obtain a town or state water/wastewater permit demonstrating adequate provision of potable water supply and wastewater services for the ADU.
- The landowner must reside on the property but may live in either the primary dwelling or the ADU.
- The landowner complies with all applicable state requirements.

*The* **MEN** *of*  
**MAPLE CORNER**



*2003 Calendar*



## Going beyond the minimum:

- Reduce on-site **parking** requirements

## ACCESSORY DWELLING UNITS

### Occupancy

Accessory dwelling regulations should not require the owner to occupy the primary building on the same lot.

### Adjust to Context

While this language recommends specific proportional percentages, these should be adjusted to the context using the Character Survey below, and could be further modified by:

1) Allowing waivers or a range of proportional percentages for constrained circumstances where the principal building or lot, limits compliance with these proportions.

2) Allowing pre-existing buildings, such as carriage houses and garages, to be converted to an accessory dwelling even if they do not meet these proportion limits.

- A. One accessory dwelling is allowed for each single-family dwelling provided these requirements are followed.**
1. The accessory dwelling must be located on the same lot or lots as the single-family dwelling.
  2. The accessory dwelling may be located within the single-family dwelling, or may be attached to it or may be in a detached structure.
  3. An accessory dwelling in a detached structure other than a pre-existing building such as a carriage house or garage must meet these additional requirements:
    - a. The facade of the accessory dwelling must be at least 20 feet further from the street than the facade of the single-family dwelling.
    - b. The width of the accessory dwelling parallel to the street may not exceed 60% of the width of the single-family dwelling to provide for walkable streetscapes where active facades address sidewalks and parking and loading are located behind buildings;
    - c. The height to the eave of the accessory dwelling may not exceed 80% of the height to the eave of the single-family dwelling.
  4. Additional parking spaces are not required for an accessory dwelling.



ADUs can accompany a variety of principal buildings, as here in the carriage house above a garage in Corinth, Image credit: Richard Amore

## Going beyond the minimum:

- Reduce on-site **parking** requirements
- Allow **pre-existing buildings** (like large carriage barns and garages) be converted to an ADU even if they don't meet floor area limits

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- Reduce **setbacks** for detached ADUs

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## Going beyond the minimum:

- Reduce on-site **parking** requirements
- Allow **administrative approval** for all ADUs
- Allow **pre-existing buildings** (like large carriage barns and garages) be converted to an ADU even if they don't meet floor area limits
- Reduce **setbacks** for detached ADUs
- Allow **multiple ADUs**

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# LOCAL BYLAWS: SHORT-TERM RENTALS

- STRs occur in many different dwelling units, not only ADUs.
- Department of Public Safety publishes checklists covering fire safety, general safety health, and financial (tax) obligations, operators. : [Short Term Rental Checklist](#) & [Short Term Rental Safety Considerations](#)
- Areas of municipal regulations vary greatly (consult your attorney):
  - Definition: defined distinctly from other lodging uses (e.g. Inn)
  - Use: principal or accessory
  - Owner/Manager Residency
  - Nuisances: noise, hour of outdoor use, solid waste management, events, parking in unauthorized places
  - Occupancy: maximum number of people per sleeping room
  - Signage
  - Duration of Tenancy: maximum stays
  - Frequency: maximum rented days in a week, month, year
  - Reviews: exemptions, permits, conditional use
  - Geography: district-specific regulations
  - Density: within a development or building
  - Communications: rules and regulations / emergency contacts
  - Training, registration, licensures & revocation upon substantiated complaints
  - Compliance with State permitting

# LOCAL BYLAWS: SHORT-TERM RENTALS

https://outside.vermont.gov/agency/ACCD/bylaws/Bylaws and Plans Approved/Forms/Group by Municipality.aspx

Department ... Planning Atlas ACCD Intranet Geodata Portal Vermont Laws VT Online Directory Sharepoint https://www.cnu.org/... Slack | Files | VT COVI... COVID19-Taskforce - ... Files - OneDrive

BROWSE

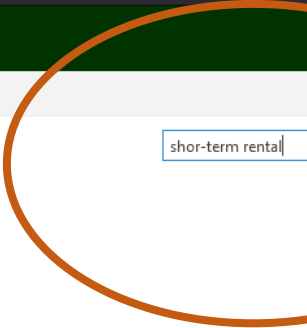
## Municipal Plans & Bylaws ⓘ

Group by Municipality All Documents Plans & Bylaws home view ... Find a file 🔍

✓ Name Adoption Date RPC Date of Public Hearing Number of Likes

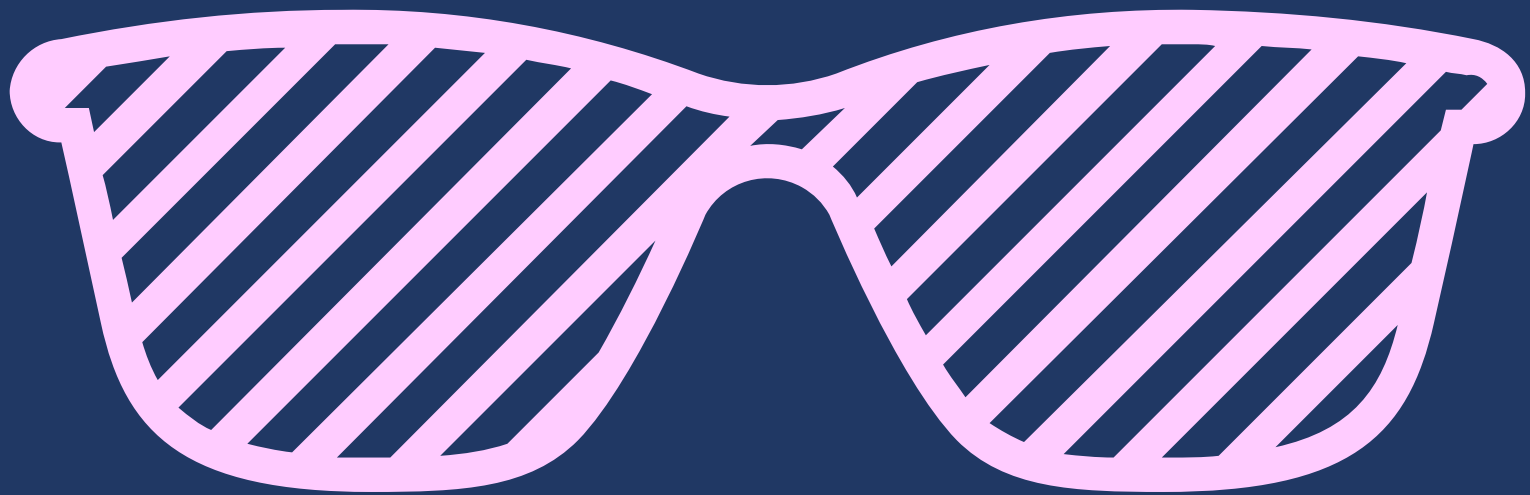
- Municipality : (4)
- Municipality : ADDISON (3)
- Municipality : ALBANY (1)
- Municipality : ALBURGH (5)
- Municipality : ANDOVER (5)
- Municipality : ARLINGTON (6)
- Municipality : ATHENS (2)
- Municipality : BAKERSFIELD (6)
- Municipality : BALTIMORE (4)
- Municipality : BARNARD (3)
- Municipality : BARNET (9)
- Municipality : BARRE CITY (6)
- Municipality : BARRE TOWN (8)
- Municipality : BARTON (3)

A Vermont Government Website



[Vermont Municipal Plan & Bylaw Database](#)

# LOCAL BYLAW MODERNIZATION



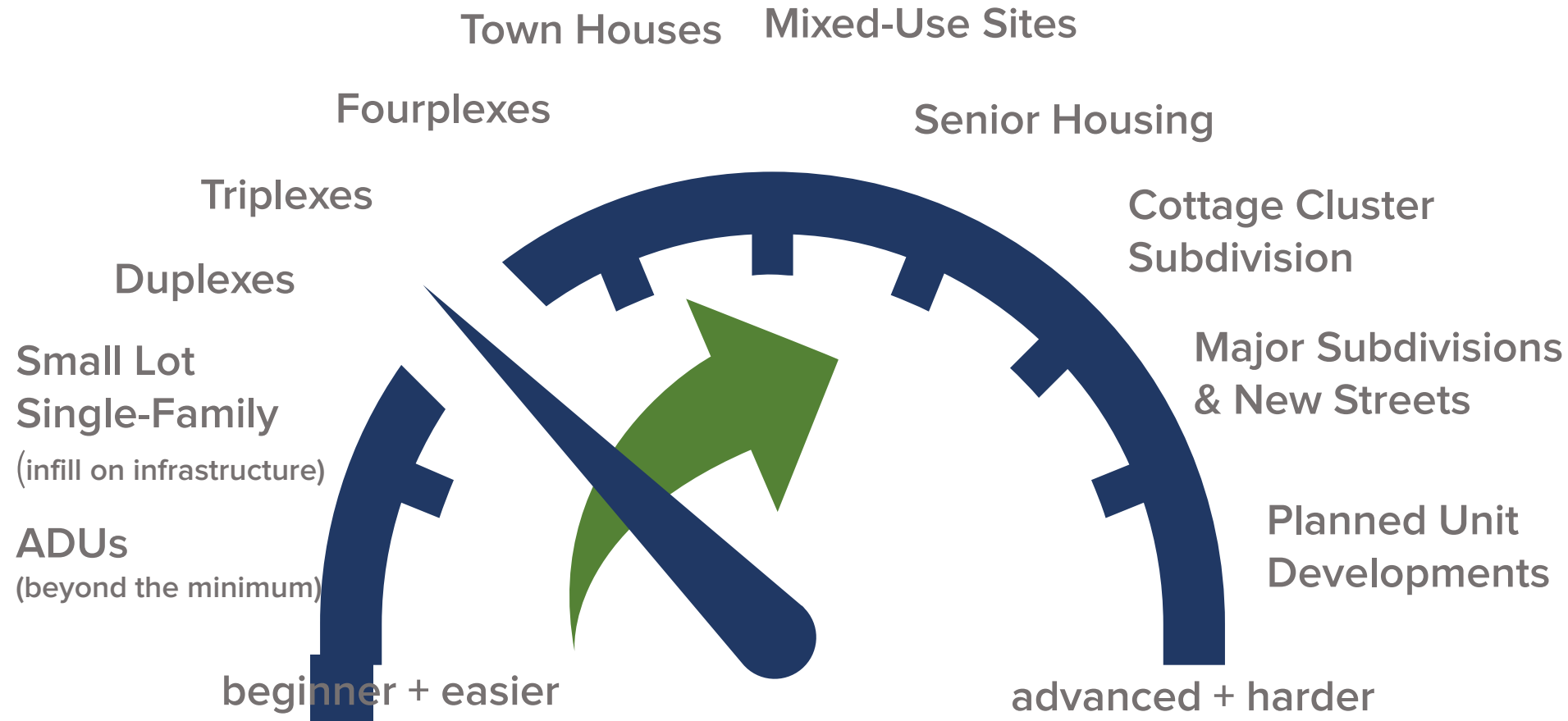


## Other opportunities for bylaw modernization to allow badly needed homes in Vermont

Accessory Dwelling Units



# LOCAL BYLAW MODERNIZATION



## Bylaw Modernization for Housing

**ADUs**  
(at the statutory minimum)

## Which policy problems are more wicked?

- Parking management issues
- Concerns about 'density'
- Loss of lawns
- Landscaping to maintain privacy
- Inadequate housing supply
- Homelessness
- Severely cost burdened households struggling to get ahead
- Substandard housing
- Deferred maintenance
- Vacant residences
- Declining population
- Declining grand list

## HOUSING TYPES

### Triplex

Newly-constructed structures that are more grand in scale, or converted existing larger residences, may easily accommodate three households within a single building. Vermont has a rich collection of historic mansions that have been subdivided to provide multiple homes while maintaining the historic character of the neighborhood, and the type can add much-needed additional housing to a community with an abundance of homes larger than what the market is demanding.



### Four-plex

Buildings in the scale of larger residences may even be able to accommodate up to four individual households. Keeping the building height and massing consistent with the historic mansions common in Vermont maintains a character appropriate to the surrounding neighborhood while providing multiple smaller individual units.



### Townhouse

Small- to medium-sized dwellings, townhouses typically consist of two to eight (usually) attached single-family homes placed side by side. While not a common historic type in Vermont, the popularity of townhouses in new development underscores a market demand for this type of attached housing. With appropriate detailing in character with the materials of homes in surrounding neighborhoods, the type can provide multiple smaller units on smaller parcels of land.



### Cottage Court

A series of small, detached structures, cottage courts provide multiple units arranged to define a shared court that is typically perpendicular to the street. Vermont towns often include small historic cottages scattered across neighborhoods, and introduction of this type would reflect the scale of those dwellings in a compact and concentrated way.



ENABLING BETTER PLACES:  
A ZONING GUIDE FOR  
VERMONT NEIGHBORHOODS

# FUNDING ASSISTANCE

- Flexible planning & implementation funding for 30+ years
- \$450,000 to award
- Deadline to apply is Nov. 1
- Regionally allocated
- Max. grant amounts:
  - \$22,000 for one town
  - \$35,000 for multi-town
- 10% local cash match
- 18 months to complete
- More information [here](#).

FY22 Information Webinar  
Wednesday, August 18, 2021  
2 to 3 PM

Register Online

<https://register.gotowebinar.com/register/7650325356712590606>

## FY2022 Municipal Planning Grant Program Description



Walkable Middlesex Village Study  
MPG-funded project and Vermont Planners Association 2021 Plan of the Year

Community Planning + Revitalization  
Vermont Department of Housing and Community Development  
June 2021

## FY2022 Bylaw Modernization Grants

### Program Description and Guide

Special one-time funding to update bylaws, implement Zoning for Great Neighborhoods, and expand choice and opportunity for homes in pedestrian-oriented neighborhoods

- Special one-time funding for bylaw updates to expand opportunity & choice of homes available in and around Vermont's centers.
- \$500,000 to award
- The program will be announced, and information will be posted [here](#) in the coming weeks.



Bristol Village Cohousing Development

# HELPFUL RESOURCES

- [HousingData.org | Housing Toolbox](#)
- [HomeShare Vermont](#)
- [City of Burlington | ADU Page](#)
- [Brattleboro Area Affordable Housing | Apartments in Homes Page](#)
- [VT DHCD | ADU Checklist](#)
- [AARP | All About ADU Page](#)
- [American Planning Association | ADU Resource Page](#)



# THANK YOU

Jacob.Hemmerick@vermont.gov

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Jacob Hemmerick, AICP

Vermont Department of Housing and Community Development

Vermont League of Cities and Towns Planning & Zoning Forum

August 12, 2021



# Accessory Dwelling Unit (ADU)

## How-To Checklist

Vermont Department of Housing & Community Development

August 2021

### WHAT IS AN ADU?

Vermont's Planning Act (24 V.S.A 4412) defines ADU to mean “a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation”.

### CHECKLIST SUMMARY

#### BACKGROUND RESEARCH

---

- Different Types of ADU
- Water/Wastewater Service
- Private Covenants, Deed & Mortgage Restrictions

#### REGULATIONS & PERMITS

---

- Municipal Zoning Permit
  - Design & Historic Preservation Review
  - Flood Hazard & River Corridor
  - Certification of Permit
  - Manufactured Housing Installation Form
- Municipal Highway Access Permit
- Municipal Water/Sewer Permit
- Municipal Building/Electrical/Plumbing Permit
- Municipal Impact Fees
- Municipal Assessment & Property Taxation
- E-911 Addressing
- Municipal Rental Registry
- State Construction Permit

- State Electrical & Energizing Permits
- State Plumbing Permit
- State Water/Wastewater Permit
- State Residential Building Energy Standards
- Act 250 Environmental Review
- State Rental Housing Safety Code
- State Hazard Mitigation: Lead Paint & Asbestos
- State Short-term Rental Regulations

#### IMPLEMENTATION & OPERATION

---

- Design
- Cost Estimates
- Lender Financing
- Utilities
- Contracting & Construction
- Homeowner Insurance
- Budgeting, Accounting & Income Tax Obligations
- Landlord/Tenant Legal Obligations

ADUs can help address the acute need for smaller and more affordable homes in Vermont and can help families navigate changing housing and financial needs. This checklist summarized above and detailed below identifies items you may need for creating an ADU. The permits and steps all have important functions but taken as a whole, can make the process a time-intensive and difficult undertaking.

If you are a homeowner or builder interested in building an ADU, this checklist is designed to serve as a helpful guide on the steps and obligations required for creating and managing an ADU.

If you are a government official, housing advocate or have other interests in promoting ADUs, the checklist highlights some of the areas where permitting reform and technical assistance can be applied to ease the path for ADUs and other types of in-fill housing.

## DETAILED CHECKLIST

### BACKGROUND RESEARCH

#### ADU Types

Research the many great resources about ADUs online. Consider the types of ADUs that might work on your lot: internal (within the existing building envelope), an addition, or a detached structure and discuss them with your designer and tradespeople (builders, electricians, plumbers, etc.). Note that some municipalities like [Burlington](#), [Brattleboro](#) and [Montpelier](#), provide helpful resources for creating ADUs.

#### Water/Wastewater Service

Early in the process, identify if the ADU is or will be served by municipal water/sewer versus an on-site well and septic system. The water/wastewater service and the type of ADU can trigger different permit requirements. Knowing the status and capacity of available services and considering the different ADU types helps you prepare for conversations with designers, builders and permitting authorities.

#### Covenants, Conditions, Deed, and Mortgage Restrictions

Even in municipalities with ADU-friendly zoning bylaws, private agreements can restrict the construction of an ADU. These could be homeowner/condo association (HOA) covenants, municipal or state permit conditions, deed restrictions, easements, or even mortgage conditions (such as a 502 loan from the US Department of Agriculture). Deed restrictions and covenants established after January 1, 2021, however, can no longer include such restrictions (per Act 4 of 2021). Most of this information is available in the municipal clerk's land records or by reaching out to an HOA president or the mortgage holders.

### LOCAL REGULATION & PERMITS

The municipal zoning administrator (ZA) can help identify local permits and help estimate the time needed to permit the ADU in the municipality. Municipal development regulations (often called zoning bylaws) establish rules that apply to different places in town and to different activities, and outline procedures for municipal review of a proposed ADU. That review could be an 'administrative review' by the ZA or before a municipal panel, like the Development Review Board. Ask the ZA to point out all the applicable sections of the regulations, including any review standards, sequencing, timelines, and fees. In municipalities with zoning regulations, the following approvals are common.

#### Zoning Permit<sup>1</sup>

Municipal land use permits (referred to here as 'zoning permits' and sometimes called 'building permits') typically evaluate compliance with development standards within a zoning district or for a use. Standards may include setbacks from property boundaries, height limits, square footage of an ADU, how much of a lot can be covered by buildings and pavement, minimum parking spaces, and more. More than 80% of Vermont municipalities regulate land use. Most municipalities post their zoning bylaws or development regulations online. Administrative permits (permits that can be reviewed by the ZA) must be issued within 30 days and have a 15 days' notice and appeal period. Review fees vary (24 VSA 4449). All administrative zoning permit decisions may be appealed to the appropriate municipal panel by the permit applicant or adjoining property owners and other interested people (which is typically the development review board or zoning board of adjustment).

#### Conditional Use Review

If the principal single-family dwelling is classified as a conditional use in the municipal bylaws/regulations district, the ADU could be subject to a conditional use [hearing](#) by the 'appropriate municipal panel', like a Development Review Board. A hearing requires 15 days' notice (including adjoining property owners)

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<sup>1</sup> Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality: (1) Equal treatment of housing and required provisions for affordable housing. (E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to a single-family dwelling on an owner-occupied lot. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling unit means a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following: (i) The property has sufficient wastewater capacity. (ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater. (F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit: (i) a bylaw that is less restrictive of accessory dwelling units; or (ii) a bylaw that regulates short-term rental units distinctly from residential rental units.

and a decision within 45 days of the hearing's close. [Conditional use review](#) includes some discretionary standards, such as "character of the area". Review fees vary.

#### **Design and Historic Preservation Review**

Some properties may be in special overlay districts that guide compatible neighborhood design and character in municipalities with bylaws regulating building design. ADUs built in these districts will typically be reviewed by an advisory design review committee to evaluate construction materials and design plans prior to an approval by the ZA or appropriate municipal panel.

#### **Flood Hazard and River Corridor Regulations**

Local bylaws regulating development in flood hazard and river corridor districts strive to maintain the ecosystem services and ecological functions of waterways and prevent loss of property and life. A flood-safe ADU might be allowed in limited circumstances, but most new structures are prohibited in these areas. A hydraulic analysis by an engineer may be required if the ADU is allowed.

#### **Certification of Permit**

If the municipal regulations require a certification of occupancy or compliance verifying that permitted development matches what was built, the applicant applies for inspection upon project completion. The administrative officer has 30 days to act on the application. Review fees vary. Certifications can be appealed to the appropriate municipal panel.

#### **Manufactured Housing Installation Form**

If the municipality requires a zoning permit certification and the ADU is a manufactured home, then a [HUD 309 Form](#) must be provided to the zoning administrator for certification to verify that it has been properly installed.

#### **Municipal Highway/Driveway Access Permit**

If the project involves a new or expanded driveway curb cut or work within the right-of-way for utilities, a municipal highway access permit and inspection may be required. Fees, requirements, and timelines vary by local ordinance and custom (but are often integrated into the zoning permit review). State highway curb cuts are regulated under the State's [1111 permit](#).

#### **Municipal Water/Sewer Permit**

If the project involves new or changed service to municipal water and sewer, a municipal water/wastewater permit and inspection may be required. Fees, requirements, and timelines vary by local ordinance and custom (but are often integrated into the zoning permit review). Unless the project is located within a [delegated community](#), this will also require a State water/wastewater permit (see below). Fees can be substantial and may require bonding to ensure proper installation.

#### **Municipal Building/Electrical/Plumbing Code Permit**

Ten municipalities in Vermont have cooperative inspection agreements with the [VT Div. of Fire Safety](#) and administer local construction codes for building, fire safety, electrical, plumbing, and structural compliance locally. These local codes must meet statewide baseline standards but allow municipalities to adopt higher standards, as well as collect fees and conduct administration. Review & inspection fees vary.

#### **Municipal Impact Fees**

If the municipality assesses an impact fee to support capital improvements affected by the development, a fee may be due at the time of municipal zoning permit application or certification. Fees can vary by size and type.

#### **Municipal Assessment & Property Taxation**

Zoning permits must be copied to assessors/listers so the grand list can reflect any value impacts from the improvements. ADU assessment practices may vary by municipality based on comparable properties. Increases are reported to be less for internal conversions and more for additions and detached ADUs. Talk to the local assessor to understand how an ADU might affect the property tax bill.

#### **Emergency-911 Address**

The local ZA is typically the appointed E-911 coordinator responsible for assigning an address used by the postal service, utilities (Power, Telecomm., & Gas), and emergency service providers. In some cases, you will need an address to set up new utility accounts/services, so asking what the address can be helpful. Units cannot be half numbers in Vermont.

## ❑ **Municipal Rental Registry**

Once built, some municipalities may require registration of a short- (like an AirBnB) or long-term rental of an ADU, applying local short-term rental or rental housing regulations. Consult with your municipality.

## **STATE REGULATION & PERMITS**

For State permits, there is no one-stop shop to interface with regulating State agencies, but the Dept. of Environmental Conservation (DEC) does support [State Permit Specialists](#) to flag potential permitting requirements across government agencies. If the project has enough complexity, a DEC permit specialist may complete a Project Review Sheet (PRS) with links to [information sheets](#) that can guide you through the process.

A PRS for an ADU typically requires five permits and references more than 10 [information sheets](#) to guide the project. Below are the most common permits, but other environmental permits may be triggered, such as when an ADU is located near a lakeshore or wetland.

Note that all municipal zoning permits are required to contain a statement directing applicants to a VT Dept. of Environmental Conservation Permit Specialist. They typically state this: *“State and federal regulations may apply, may be more or less restrictive than municipal bylaws, and may affect this project; it is the applicant’s responsibility to obtain all required state and federal permits; call the State’s permit specialist at 802-XXX-XXX with any questions.”*

## ❑ **Construction Permit: Fire Prevention & New Buildings**

In municipalities without a recognized code (ten municipalities have local codes), ADUs that the Division of Fire Safety (DFS) considers a ‘public building’<sup>2</sup> will need a construction permit. The State code is publicly available, and includes references to a propriety code not publicly available. Without a building code professional, ADU builders rely on the DFS guidance. The Division publishes [code information sheets](#) on topics like short-term rentals. Although there is no stand-alone checklist for an ADU, rental property guidance would mostly apply. ADU builders will need construction plans and application fees start at \$50. 90% of applications are reviewed in 30 days. The State’s code does not require a unit to have its own heating source and thermostat, but locally administered State rental health codes do require adequate heat.

## ❑ **Electrical & Energizing Permits**

ADUs that the Division of Fire Safety considers a ‘public building’ will need an electrical permit. Energizing permits are also required before the electric utility energizes the new service in an ADU. Electrician is a licensed profession in Vermont and a master electrician or journeyman must submit the work notice to Fire Safety. Fees vary based on the size of the installation. The statewide code requires that the units have access to a breaker panel, but it does not have to be a separate service for the ADU.

## ❑ **Plumbing Permit**

ADUs that the Division of Fire Safety considers a ‘public building’ and any private residence connected to public water and sewer will require a plumbing permit. Plumber is a licensed profession in Vermont. Fees are based on size of installation.

## ❑ **State Water/Wastewater Permit**

Requirements vary for internal, addition, or detached ADUs connected to municipal services or site-based systems. For instance, a detached ADU would require a water/wastewater permit, while an internal or attached ADU using the existing water and sewer service may be eligible for a permit exemption if the pipes are big enough. This State permit requires a licensed designer or engineer to prepare a certification. Local permit pricing varies widely based on the pricing model needed to operate the local water/sewer system enterprise.

## ❑ **Residential Building Energy Standards**

ADU builders are subject to the States’ residential building energy standards and must affix a [residential building energy standards \(RBES\) compliance form](#) in the home. The certifying person (typically a contractor) must provide a copy to the Department of Public Service and file a copy in the town land records for \$10. There is an exemption for limited historic properties and owner/builders, but the owner-builder still requires evaluation of compliance and disclosure of non-compliance upon sale. If the municipality requires zoning permit certification,

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<sup>2</sup> Title 20: Internal Security and Public Safety, Chapter 173: Prevention and Investigation of Fires: Subchapter 2: Fire Safety Division, Section 2730: Definitions: (a) As used in this subchapter [...] (b) The term “public building” does not include (4) A single family residence with an accessory dwelling unit as permitted under 24 V.S.A. 4406(4)(D). [24 V.S.A 4406 has been deleted, leaving Fire Safety to make determinations on whether ADUs are public buildings.]

the ZA must verify that the certificate has been recorded in the land records prior to issuing a zoning permit certification. RBES standards are provided [here](#) and outline detailed thermal calculations and standards. Efficiency Vermont provides a list of qualified contractors in high demand. Non-compliance would allow a homeowner to seek damages in court from contractors or prior homeowners within six years of occupancy or the filing of the form. The 2019 update to the 2015 code, effective in September, is estimated to add \$5,031 to an average housing unit, with a 9.4-year payback (DPS Rulemaking Filings).

#### □ **Act 250**

Although the percentage of single-family homes subject to an Act 250 permit is very low, if the single-family home is in a development or subdivision permitted under Act 250 and the [District Coordinator](#) finds that there's a material change to the permitted project, the ADU would require an Act 250 permit amendment. Other jurisdictional triggers may apply. If no-one requests a hearing, this would likely be processed as a minor amendment. An 800 s.f. project valued at \$50,000 would have a \$370 permit fee, plus any necessary exhibit preparation. Projects subject to Act 250 are sometimes subject to higher standards, like the new energy *stretch code*. The 2019 update to the 2015 code, effective in September, is estimated to add \$10,037 to an average housing unit, with a 13.7-year payback (Department of Public Safety Rulemaking Filings).

#### □ **Rental Housing Safety Code**

Twelve municipalities have minimum standards for rental housing, and the Vermont [rental housing code](#) outlines a baseline statewide standard for every town, administered by local health officers. These standards often relate to sewage, lead, water quality, air quality, mold, and infestations. The Vermont Department of Health's [rental housing inspection checklist](#) for municipal health officers is the most helpful list of requirements for prospective landlords. The list includes items asking things like: does each dwelling unit have two separate ways out, are kitchen countertops non-absorbent, and are stairway handrails securely mounted?

#### □ **Hazard Mitigation: Lead Paint & Asbestos**

Most older homes will contain hazards that renovators must anticipate. Prior to a renovation, an ADU builder [must inspect](#) for asbestos-containing materials with a certified asbestos inspector, listed on the [Dept. of Health's website](#), and notify the Department 10 days before abatement. Similarly, lead-based abatement activities require notice and a \$50 fee. Rental units built before 1978 must also file an [essential maintenance practices](#) filing with the Dept. of Health. Abatement measures can cost several thousand dollars. The Vermont Housing and Conservation Board offers financial and technical assistance for [Healthy & Lead-Safe Homes](#).

#### □ **Short-Term Rental Safety, Health, and Income Tax Obligations**

ADU builders interested in offering their unit as a short-term rental in municipalities and developments that allow this must meet State standards that are like those for tenant-occupied units. The Division of Fire Safety has developed this [checklist](#), which includes items like inspected heating systems, grounded outlets in wet rooms, and hard-wired smoke and carbon monoxide alarms. Some municipalities define a short-term rental as a land use distinct from that of an ADU or require short-term rental registration. Act 179 of 2020 stated that municipalities may regulate short-term rental units distinctly from residential units.

### **IMPLEMENTATION & OPERATION**

#### □ **Design**

With regulatory constraints known, now is the time to sketch out a design that best complies with the regulations and meets your needs. For some projects and permits, a conceptual drawing will do. More complex projects may need an architect. It is common to revisit a design following a builder's cost estimates, to look for cost savings. Working with a design-build firm can sometimes reduce design fees.

#### □ **Construction Cost Estimates**

The least expensive ADU is typically an internal conversion within the existing building envelope. Bathrooms, kitchens, and Heating Ventilation Air Conditioning (HVAC) represent the most significant costs for internal conversions, but site work and wastewater can also add significant costs (especially if additional parking or an expanded septic system is necessary). Internal ADU's usually cost between \$30k and \$60k, while new backyard cottages and additions can cost between \$100-200k (Vermont State Housing Authority, VSHA). Contractors in many parts of Vermont are in high demand, which is adding cost, duration, and availability constraints for customized ADU projects, especially projects targeted for affordability.

## ❑ Lender Financing

Lenders typically will not appraise for the potential increase in value that an ADU may provide, so unless borrowers have cash or equity, obtaining financing for an accessory dwelling unit is difficult – even with excellent credit history. The most common way to finance construction is with a home equity line of credit (HELOC), running around 3% to 6% interest. Construction loans based on a debt-to-income ratio may also be possible and tend to have higher interest rates. Some places in Vermont have special programs to support ADU production; no statewide program exists. Pilot programs have occurred in Brattleboro, Montpelier, offering many good insights – including Federal requirements that limit the pool of potential homeowners and eligible ADU configurations.

EXAMPLE FINANCING SCENARIO	
<b>Loan Amt.</b>	<b>\$60,000</b>
<b>Loan Term</b>	<b>15 years</b>
<b>Interest</b>	<b>5.5%</b>
<b>Annual Payments (\$490.25\mo.)</b>	\$5,883
<b>Total Loan Cost (\$28,245 interest)</b>	\$88,245
<b>Median VT Rent (housingdata.org)</b>	\$945
<b>Annual Gross Income from Rental</b>	\$11,340
<b>Less Annual Mortgage Payments Equals</b>	\$5,457
<b>Less 30% of Gross for Taxes &amp; Insurance (\$3,402\yr.) Equals</b>	\$3,402
<b>Less 20% of Gross Maintenance, Legal, Admin., &amp; Contingency (\$2,268\yr.)</b>	\$1,134
<b>Annual Net Income (\$94\mo.)</b>	<b>\$1,134*</b>
*Longer loan terms and lower tax, insurance, and maintenance costs may improve income.	

## ❑ Utilities

If the ADU can or will be separately metered for things like water/sewer, natural gas, fuel, telecommunication, or electricity, or solid waste removal, ADU builders/contractors will need to coordinate with the utility companies to set up metering and service.

## ❑ Contracting and Permits

Some contractors will take on the responsibilities of permitting, and certain permits require the licensed tradesperson's signature. Sequencing everything to meet lenders, contractors, and permitting authorities' schedules can be complicated, and some permits can expire if no action is taken within a certain period. Having a timeline sketched out with allowances for things to not go as planned will help builders deal with the unexpected. Due diligence and a basic contract can protect ADU builders from risk.

## ❑ Homeowner Insurance

Homeowner insurance policies can vary widely and may need to be updated for the potential increase in value.

## ❑ Budgeting, Accounting & Income Tax Obligations

Income from an ADU rental is generally taxable and can be eligible for certain deductions. Talking with an accountant with expertise supporting small-scale landlords can help optimize the business of owning an ADU. ADU operators will want to factor in maintenance and operational costs.

## ❑ Landlord/Tenant Legal Obligations

New ADU operators have many responsibilities as a housing or accommodation provider. The Department of Housing & Community Development has an [information page](#) that highlights responsibilities related to rental housing: from judicial proceedings for eviction to tax department filings for landlord certificates and rental rebates. Housing providers must also follow fair housing and anti-discrimination law. DHCD offers [guidance](#) to comply with the law, and the [Vermont Landlord Association](#) provides public and member resources, including legal forms and leases to support good landlord/tenant relations. Honoring rights and limiting liability exposure can save time, money, and heartache.

## Janet Shatney

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**From:** Thomas J. Lauzon <tlauzon@salvadorandbabic.com>  
**Sent:** Wednesday, March 30, 2022 8:01 PM  
**To:** Amanda Gustin; Becky Wigg; David Sichel; Jackie Calder; Michael Hellein  
**Cc:** Janet Shatney; Steven Mackenzie  
**Subject:** Moving Forward

All,

David and Jackie, I want to thank you in particular for your leadership and guidance. Your historical perspective, demeanor and steady hands matter. Probably more than you'll ever know. Keep up your good work and don't ever be concerned about speaking up and setting the commission straight. In a world of personal agendas, I know I can count on you to do what's right for Barre.

Janet, thank you for your kind, thoughtful and competent support. You are - without a doubt - the glue that holds the commission together. You're patient, on point and incredibly talented. Barre is better because of you. I've got your back. If there's any doubt, just ask.

The work that all of you are going to do for the next three months will affect our city for decades. Above all, that work must be for everyone. Not for the few, not for today and certainly not for political or personal agendas. For tomorrow. I'll be watching. Not a threat. A promise.

I've cared for and advocated for this city for decades. I'm not about to stop now. It's in my DNA.

From time to time, I'll stop by. Because boring meetings beg excitement and we all deserve a little of that. Until then, let's work together and get it done. Respect each other, leave your personal shit at the door and get it done.

Best,

Thom

--

Thomas J. Lauzon, CPA

Salvador and Babic, P.C.

240 South Main St.

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Barre, VT 05641

Tel 802.476.8673 ext. 103

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## **Staff Updates**

**Week of March 25, 2022:**

### **3. DEPARTMENT OF PERMITTING, PLANNING AND ASSESSING:**

#### **Planning – Janet – the highlights (Monday through Friday):**

- Created Special Energy Committee Special Meeting agenda for Saturday, March 26, and circulated, sent to Jody for posting;
- Prepared and circulated Planning Commission agenda for Thursday night's meeting on March 24;
- Attended internal parking group meeting Monday morning;
- Corrected Permit Administrator Job Ad spelling and other needs, and fixed the posting on the website;
- Attended Planning Commission meeting Thursday evening;
- Attended CVRPC Brownfields Committee meeting Monday evening;
- Permit Administrator work: see below;
- Assessor work: see below;
- Answering questions, phone calls, assisted fellow staff, timesheets, this weekly report write-up, etc.

#### **Permitting – Janet – the highlights (Monday through Friday):**

- Issued 4 electrical permits this week;
- Issued 1 building permit this week;
- Issued 1 zoning permit this week;
- Working with Lajeunesse Construction on multiple projects at the RK Miles site as well as the Aubuchon's site, getting them ready for permitting;
- Performed site visit and took pictures in preparation for an upcoming permitting event;
- Noticed the Times Argus for the DRB hearing date and agenda for April 7 meeting;
- Sent out the abutter notices and applicant/property owner notices for the DRB hearing;
- Many phone calls, site visits, email responses regarding permitting;
- Copies files and emailed copies to attorneys, researchers, etc.

#### **Assessing Clerk – Kathryn (Monday through Friday):**

- Regular office tasks: permit copies into databases, address changes, mapping updates and sending information to our GIS company from maps filed in the clerk's office; filing, checking Grand List items, Street numbers, corrections, e-mail messages, phone calls, etc.;
- Processed 10 property transfer returns this week for input into all systems;
- Sent out 8 map copies and 15 lister cards for those requesting them;
- Downloaded 223 homestead filings for grand list for tax billing – year to date total is 726;
- Have input 144 of 182 sales currently on the list, into the VTPIE software (replacing the NEMRC Grand List module) for the sales study, mapping connection, homestead filing, etc.;

- Culled out 10 years of Property Transfer returns in our file cabinets in our office (2001 to 2010) to be put in boxes and stored in the downstairs Clerk vault with other year's returns.

**Interim Assessor-Janet – the highlights (Monday through Friday):**

- Still preparing annual certification for Council signature that there is no outstanding litigation for assessments, hoping to get on Council packet for next time;
- Department Director continuously checking assessor email and phone inquiries;
- Department Director also sending out lister cards upon inquiry.

**Week of April 1:**

**3. DEPARTMENT OF PERMITTING, PLANNING AND ASSESSING:**

**Planning – Janet – the highlights (Monday through Friday):**

- Out sick most of week;
- Participated in agenda-setting meeting with Planning Commission Chair for April 14<sup>th</sup> meeting;
- Participated in ARPA Registration meeting with City Manager and Finance Director;
- Permit Administrator work: see below;
- Assessor work: see below;
- Answering questions, phone calls, assisted fellow staff, timesheets, this weekly report write-up, etc.

**Permitting – Janet – the highlights (Monday through Friday):**

- Issued 5 electrical permits this week;
- Prepared the DRB packets and sent to the members for next week's hearing;
- Completed filing of permits once recorded copies were returned from Clerk's office;
- Assisted multiple inquires this week at the counter;
- Many phone calls, site visits, email responses regarding permitting;
- Copies files and emailed copies to attorneys, researchers, etc.

**Assessing Clerk – Kathryn (Monday through Friday):**

- Regular office tasks: permit copies into databases, address changes, mapping updates and sending information to our GIS company from maps filed in the clerk's office; filing, checking Grand List items, Street numbers, corrections, e-mail messages, phone calls, etc.;
- Processed 11 property transfer returns this week for input into all systems;
- Sent out 6 map copies and 15 lister cards for those requesting them;
- Downloaded 122 homestead filings for grand list for tax billing – year to date total is 848;
- Have input and verified 160 of 182 sales currently on the list, into the VTPIE software (replacing the NEMRC Grand List module) for the sales study, mapping connection, homestead filing, etc.

**Interim Assessor-Janet – the highlights (Monday through Friday):**

- Still preparing annual certification for Council signature that there is no outstanding litigation for assessments, hoping to get on Council packet soon
- Department Director continuously checking assessor email and phone inquiries;
- Department Director also sending out lister cards upon inquiry.

**Week of April 8:**

**3. DEPARTMENT OF PERMITTING, PLANNING AND ASSESSING:**

**Planning – Janet – the highlights (Monday through Friday):**

- Reviewed all the weekend emails received;
- Completed the month of March cash receipts true-up from report out of Clerk's office of permits, time of sales, registrations, etc.;
- Participated in the bi-weekly BADC meeting with Executive Director and City Manager;
- Attended the CVRPC Executive Committee meeting Monday night;
- Department Head meeting Tuesday morning;
- Participated in the Pearl Street Ped-Way internal meeting regarding usage;
- Attended the Capital Planning Forum on Thursday and Friday mornings;
- Prepared agenda for Planning Commission meeting next Thursday and got to Jody for posting;
- Permit Administrator work: see below;
- Assessor work: see below;
- Answering questions, phone calls, assisted fellow staff, timesheets, this weekly report write-up, etc.

**Permitting – Janet – the highlights (Monday through Friday):**

- Created a Vacant Building “how-to-run-the-report” document for Code Enforcement from their software;
- Met with the DRB Chair as a pre-planning measure and preparation for Thursday's hearing;
- Met with the City Manager regarding the Domino's signage;
- Completed filing of permits once recorded copies were returned from Clerk's office;
- Sent out reminder email to DRB members in case USPS had not delivered their packet yet;
- Updated both the zoning software and the Code Enforcement software with the March 2022 property transfer names and addresses;
- Worked on cleaning permitadmin space and getting the computer up and running again most of the day Tuesday;
- Heather worked  $\frac{3}{4}$  day Wednesday and all day Thursday on preparing the FY23 Rental Registration list in first week assisting me;

- Submitted flood hazard applications to the State of Vermont Floodplain Manager as required by rule for review and comment prior to my issuing any flood hazard permits;
- Spent time on phone and email with both City Attorney and VLCT Staff Attorney regarding process for decisions if written erroneously and how could be corrected;
- Sent a copy of 6 months of building permits issued for the City of Barre to a sales representative at RK Miles;
- Issued 1 vacant building registration renewal;
- Issued 3 building permits;
- Issued 1 electrical permit;
- Issued 5 zoning permits;
- Issued 4 flood hazard permits;
- Hosted the DRB meeting Thursday night – Conditional Use request for a fence to be 8 feet high was approved;
- Completed the minutes from the DRB hearing and drafted the Decision for review by the board members next week;
- Assisted multiple inquires this week at the counter;
- Many phone calls, site visits, email responses regarding permitting;
- Copies files and emailed copies to attorneys, researchers, etc.

**Assessing Clerk – Kathryn (Monday through Friday):**

- Regular office tasks: permit copies into databases, address changes, mapping updates and sending information to our GIS company from maps filed in the clerk’s office; filing, checking Grand List items, Street numbers, corrections, e-mail messages, phone calls, etc.;
- Processed 7 property transfer returns this week for input into all systems;
- Sent out 2 map copies and 18 lister cards for those requesting them;
- Downloaded 124 homestead filings for grand list for tax billing – year to date total is 968;
- Have input and verified 193 of 226 sales currently on the list (state added more this week), into the VTPIE software (replacing the NEMRC Grand List module) for the sales study, mapping connection, homestead filing, etc.;
- Continue working on discrepancies between the in-house assessing software named ProVal and the widely used NEMRC grand list module;
- Received copies of 4 months of death records to update all records and tax bills;
- Distributed the March 2022 Property Transfer list to all departments for updating records.

**Interim Assessor-Janet – the highlights (Monday through Friday):**

- Posted the final Property sales report on the Assessing website (year runs April 2 to April 1) from receipt of March 2022 property sales. Preliminary results of year-end sales are 258, as compared to 182 in 2021;
- Met with District Supervisor regarding increasing the grand list for solar and cell tower owners in the City;
- Completed Dept. of Taxes form RA-308 and included a copy of the signed contract from New England Municipal Consultants for our reappraisal – this form notifies the State Dept.

of Taxes Property Value and Review that we are going to complete a total reappraisal of the properties in the City of Barre with an end date of 2025;

- Department Director continuously checking assessor email and phone inquiries;
- Department Director also sending out lister cards upon inquiry.