

Accessory Dwelling Unit (ADU) How-To

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WHAT IS AN ADU?

Vermont's Planning Act (**24 V.S.A 4412**) defines ADU to mean "one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation."

SUMMARY CHECKLIST

BACKGROUND RESEARCH

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

REGULATIONS & PERMITS

- Municipal Zoning Permit
 - Conditional Use Review
 - 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 Address
- Municipal Rental Registry

- State Construction Permit
- State Electrical & Energizing Permits
- State Plumbing Permit
- State Water/Wastewater Permit
- State Residential Building Energy Standards
- Act 250
- State Rental Housing Safety Code
- State Hazard Mitigation: Lead Paint & Asbestos
- State STR Health, Safety & Rooms Taxes

IMPLEMENTATION & OPERATION

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

SUMMARY FINDINGS

Creating an ADU is a complicated undertaking in Vermont's fragmented system of development and rental housing oversight. The individual reviews summarized above and detailed below add value for ADU builders, consumers, and the general public, but the typical homeowner attempting to add an ADU to their property may experience the numerous authorities as an uncoordinated system with uneven, redundant, or conflicting standards. Further, the operational requirements and obligations that come with providing housing or accommodation are substantial and may be intimidating to a novice landlord.

For these reasons, some housing specialists **question if ADU's are viable for affordable housing** production. Others see great promise in small, incremental, bottom-up infill development if barriers addressed. Overall, single family homeowners working full time are likely to struggle through the process. And, without home equity, financing may not be possible or result in favorable margins. Anecdotally, ADUs used as short-term rentals are reported to offer more favorable profits, helping people afford their homes and have more flexibility for different periods of life. Providing technical assistance for ADU builders and small-scale landlords as well as exploring new ways to unlock affordable financing for housing providers with less equity could boost ADU production.

DHCD's proposal to fund assistance for local regulatory reform will promote ADU alternatives, such as allowing the subdivision of smaller lots or owner-occupied duplexes -- likely to result in additional flexibility for rental units or new single-family homes.

DETAILED CHECKLIST

BACKGROUND RESEARCH

□ ADU Types

There are many great resources about ADU's online. Consider the types of ADUs that might work on the lot: internal, addition, or detached to help explain options to development professionals.

□ Water/Wastewater Service

Early in the process, it is important to identify if the ADU is or will be served by municipal water/sewer versus an on-site well/ septic. The water/wastewater service and the type of ADU can trigger different permit requirements. Knowing the status of available services and considering the different ADU types helps homeowners run scenarios that reveal important tradeoffs when talking with permitting authorities.

□ Covenants, Conditions, Deed, and Mortgage Restrictions

Even in municipalities with ADU-friendly bylaws, private agreements can restrict the construction of an ADU. These could be homeowner/condo association covenants, permit conditions, deed restrictions, easements, or even mortgage conditions (such as a 502 loan from the US Department of Agriculture). Most of this can be found in the municipal clerk's land records or by reaching out to homeowner association president or mortgage holders. If constraints are found, prospective builders will have to navigate constraints and may not be able to build an ADU.

LOCAL REGULATION & PERMITS

The municipal zoning administrator (ZA) can help identify local permits and outline the timelines to permit the ADU at the local level. Municipal development regulations include standards of review that apply to different places in town and different activities (like installing a new mailbox in the right-of-way). They also outline procedures that may allow for administrative review by the ZA or require review before a municipal panel, like the Development Review Board. ADU builders will want to get firm answers on the applicable sections of the regulations, sequencing, timelines, and fees.

□ Municipal Zoning Permit¹

Municipal land use permits (referred to here as zoning 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, lot coverage maximums, minimum parking spaces, and more. More than 80% of Vermont municipalities regulate land use. A sample from Swanton's regulations – which are typical -- is included at the end of this document. 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. In South Burlington, an 800 s.f. ADU would cost \$526² for permitting and certification. All zoning permit decisions may be appealed to the appropriate municipal panel (typically the development review board or zoning board of adjustment).

○ Conditional Use Review

If the ADU is classified as a conditional use in the municipal regulations, a conditional use [hearing](#) by the 'appropriate municipal panel' requires 15 days' notice (including adjoining property owners) and a decision within 45 days of the hearing's close. [Conditional use review](#) includes some discretionary standards, such as "character of the area". The example regulations from Swanton require conditional use review for ADUs in some districts. Review fees vary; in Rutland City, a conditional use review costs \$140. Decisions may be appealed to the Superior Court.

○ Design and Historic Preservation Review

In municipalities with regulations governing building design, properties may be in special overlay districts that guide compatible neighborhood design and character. ADUs built in these districts will typically be reviewed by an advisory design review committee to evaluate construction materials and configurations prior to an approval by the ZA or appropriate municipal panel. Woodstock has a design review overlay districts and provides [this](#) design review worksheet for projects in the village, with fees starting at \$50.

○ Flood Hazard and River Corridor Regulations

Local bylaws regulating flood hazard and river corridor overlay districts strive to maintain the ecological functions of waterways and prevent loss of property and life. Although a flood-safe ADU may be allowed in limited circumstances, most new structures are prohibited in these areas. Certain allowable projects could require a hydraulic analysis by an engineer.

¹ Vermont's fair and affordable housing law in the Planning Act ensures that local zoning cannot exclude one ADU outside flood hazard areas that meets the following: 1) property has wastewater capacity, 2) unit does not exceed 30% of the floor area of the single-family dwelling, and 3) applicable dimensional and parking bylaw requirements are met (24 V.S.A. 4412(1)(E)). The municipality may be more permissive than this, if it chooses. The municipality may also apply a conditional use review if it results in: 1) a new accessory structure, 2) an increase in the height or floor area of the existing dwelling, or 3) an increase in the dimensions of the parking areas. This means that the application would have to undergo hearing by the appropriate municipal panel and could not be reviewed administratively by the zoning administrator. Conditional use review requires additional notice than is required of an administrative zoning permit.

² All fee references are pulled from posted schedules; officials were not consulted for accuracy.

LOCAL REGULATION & PERMITS

- **Certification of Permit**
If the municipal regulations require a certification of the permitted development, 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. Certification in Brattleboro costs \$25 for a 1-2 family residence.
- **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 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](#), not by the municipality.
- **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 in Charlotte or Colchester ([delegated communities](#)), this will also require a State water/wastewater permit (see below). Fees can be substantial and may require bonding to ensure property installation. In Rutland City a new connection is \$30 and requires a bond of \$970. In Milton, the connection fee is \$1,670 per bedroom, plus gallons per day allocations.
- **Municipal Building/Electrical/Plumbing Code Permit**
10 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. In Barre City, an 800 s.f. ADU building permit would cost \$160.
- **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 but tend to cost about \$2,000. An 800 s.f. ADU in Burlington would have a \$2,132 impact fee.
- **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. Increases tend to be less for internal conversions and more for additions and detached ADUs. ADU builders can talk to the local assessor to understand how an ADU might affect the property tax bill.
- **E-911 Address**
The local ZA is typically the E-911 coordinator responsible for assigning an address for the postal service, utilities (Power, Telecomm., & Gas), and emergency service providers. In some cases, ADU builders will need an address to set up new utility accounts/services, so asking what the address will be can be helpful. Units may no longer be ½ numbers in Vermont.
- **Municipal Rental Registry**
Once built, some municipalities may require registration of a short or long-term rental of an ADU. Barre City charges \$50 per long-term rental unit registration, Burlington charges \$110.

STATE REGULATION & PERMITS

For State permits, there is no one-stop shop to interface with regulating State agencies, but DEC fills the gap best by supporting [State Permit Specialists](#) to flag potential permitting authorities. If the project has enough complexity, DEC may complete a Project Review Sheet (PRS) with links to [information sheets](#) that guides ADU builders through the process. Note that all municipal zoning permits are required to contain a statement directing applicants to a VT Dept. of Env. 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." For instance, ADU construction near an airport could require a Federal Aviation Administration Filing. A PRS for an ADU will require fewer than five permits and reference 10+ [information sheets](#) to guide the project. Below are the most common permits, but environmental permits may be triggered for things like lakeshore and wetland development.

STATE REGULATION & PERMITS

○ [Construction Permit: Fire Prevention & New Buildings](#)

In municipalities without a recognized code (10), ADUs that the Division of Fire Safety considers a ‘public building’³ will need a construction permit. Although the State code is publicly available, it includes references to a propriety code not publicly available. Without a building code professional, ADU builders rely on the Division of Fire Safety to tell them what must be done. The Division publishes [code information sheets](#) for things like short-term rentals, but there is no equivalent checklist for ADUs. 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 S journeyman must submit the work notice to Fire Safety. Fees vary based on the size of the installation, but most would appear to be under **\$150**. 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, but most would appear to be under **\$150**.

○ [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. This can add more than a **\$1,000** to the permit fee, which starts at **\$306** for an on-site system.

○ [Residential Building Energy Standards](#)

ADU builders are subject to the States’ residential building energy standards and must affix a [residential building energy standards 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, the ZA must verify that the certificate has been recorded in the land records prior to issuing a zoning permit certification. RBES standards are accessible [here](#) and outline detailed thermal calculations and standards. General contracting is not a licensed profession in VT, but efficiency Vermont provides a list of qualified contractors in high demand. State DPS estimates 72% compliance for new construction and ‘significant barriers’ to compliance for updates to existing buildings. 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 Act 250 permits is 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 (DPS Rulemaking Filings).

□ [Rental Housing Safety Code](#)

12 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 things like this: does each dwelling unit have two separate ways out, are kitchen countertops non-absorbent, and are stairway handrails securely mounted?

³ 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 if ADUs are public buildings.]

STATE REGULATION & PERMITS

□ Hazard Mitigation: Lead Paint & Asbestos

Most older houses will have 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](#).

□ 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 similar to tenant-occupied units. The Division of Fire Safety has developed this [checklist](#), which includes things like inspected heating systems, grounded outlets in wet rooms, and hard-wired smoke and CO alarms. Some municipalities may define a short-term rental as a land use altogether distinct from that of an ADU or require short-term rental registration. To use an ADU as a short-term rental in Woodstock, the fee is \$100 per guest room, plus \$0.20 per s.f.

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's common to revisit a design following cost estimates to look for cost savings.

□ Construction Cost Estimates

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

□ Lender Financing

It is common that lenders won't appraise for the potential increase in value, so unless equity is available in the principal single-family dwelling, obtaining financing for an accessory dwelling unit is very difficult – even with good credit. The most common way to finance construction is with a home equity line of credit (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, but no statewide program exists. VSHA is currently running a pilot ADU program in Montpelier. The rollout has revealed unexpected Federal requirements that limit the pool of potential homeowners and eligible ADU configurations.

| EXAMPLE FINANCING SCENARIO | |
|--|----------|
| Loan Amt. | \$60,000 |
| Loan Term | 15 years |
| Interest | 5.5% |
| Annual Payments (\$490.25) | \$5,883 |
| Total Loan Cost (\$28,245.01 interest) | \$88,245 |
| Median VT Rent (housingdata.org) | \$945 |
| Annual Gross Income | \$11,340 |
| Less Annual Mortgage Payments | \$5,457 |
| Less 30% for Taxes & Insurance (\$3,402) | \$3,402 |
| Less 20% for Maintenance, Legal, Admin., & Contingency (\$2,268) | \$1,134 |
| Annual Net Income (\$94/month) | \$1,134 |

□ Utilities

If the ADU can or will be separately metered for things like water/sewer, telecommunication, or power, 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. Contractor is not a licensed profession in Vermont, so due diligence and a basic contract protects ADU builders from risk.

IMPLEMENTATION & OPERATION

□ Homeowner Insurance

Homeowner insurance policies can vary widely and may need to be updated with an increase in value and new use.

□ Budgeting, Accounting & Income Tax Obligations

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

□ Landlord/Tenant Legal Obligations

New ADU operators have many responsibilities as a housing or accommodation provider. The Dept. 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.

EXAMPLE OF TYPICAL MUNICIPAL ADU REGULATION

Swanton's [Regulations](#) codify the statutory floor included in statute and apply conditional use review in some districts. DHCD finds that this is typical regulatory language in municipal bylaws.

(A) The Administrative Officer may permit one accessory dwelling unit to a single-family dwelling provided it meets the requirements of this section. An accessory dwelling unit shall be defined as efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, 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 the following:

(1) the property has sufficient wastewater capacity,

(2) the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.

(3) applicable setback, coverage and parking requirements specified in these regulations are met.

Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one of more of the following is involved:

(1) A new accessory structure, constructed after the enactment of these bylaws.

(2) An increase in height or floor area of the existing dwelling, or

(3) An increase in the dimensions of the parking areas.

District Example: Swanton's Moderate Density Residential District classifies accessory dwelling units as a conditional use. Conditional use review requires 15 days' notice prior to a hearing and requires a decision within 45 days of the hearing's close. The zoning district allows no more than 15% of the lot to be covered in buildings; front setbacks are 75', side setbacks are 30', and rear setbacks are 50'. The district allows minimum lot sizes for 1 acre (e.g. a lot of 200' x 200'). 1 parking space is required per accessory dwelling unit.