

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 Permit¹

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)

¹ 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’² 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,

² 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	
Loan Amt.	\$60,000
Loan Term	15 years
Interest	5.5%
Annual Payments (\$490.25\mo.)	\$5,883
Total Loan Cost (\$28,245 interest)	\$88,245
Median VT Rent (housingdata.org)	\$945
Annual Gross Income from Rental	\$11,340
Less Annual Mortgage Payments Equals	\$5,457
Less 30% of Gross for Taxes & Insurance (\$3,402\yr.) Equals	\$3,402
Less 20% of Gross Maintenance, Legal, Admin., & Contingency (\$2,268\yr.)	\$1,134
Annual Net Income (\$94\mo.)	\$1,134*
*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.