Exploring ADU regulation discussion points and state practices

Accessory dwelling units (ADUs) are defined differently throughout the United States. The relevant state laws concerning ADUs vary widely. The following document examines nine states and their ADU policies: *California, *Connecticut, Maine, Montana, New Hampshire, Oregon*, Utah, Vermont, and Washington**. These states were also studied by the Mercatus Center at George Mason and the Harvard Joint Center for Housing Studies. They are currently the only states currently that have passed statewide legislation broadly allowing or requiring ADUs as a permitted use. The legislation of these nine states is similar to the legislation Virginia is considering implementing. A bill introduced during *Colorado's* 2023 legislative session would have broadly allowed ADUs where single-family homes are permitted, but it failed after the chambers failed to agree on amendments. Also in 2023, a similar bill failed in *Arizona* and a bill in *Rhode Island** first introduced in 2023 and brought back in 2024 passed the House but has yet to be considered by the Senate. Several states, including *New Jersey*, are considering ADU legislation during their ongoing 2024 legislative sessions.

This document cites state statutes and does not offer an opinion on any of the pertinent ADU regulations. The topics are listed below in alphabetical order without regard to perceived importance.

**Rhode Island* is not included in this analysis because it does not broadly permit ADUs and leaves that decision largely up to localities. Current Rhode Island law requires all localities to make ADUs a permitted use by-right for each owner-occupied single-family dwelling, provided the ADU is occupied by a family member with a disability or who is over the age of 62. Localities in Rhode Island can decide if ADUs are a permitted use except in a few circumstances. A locality can choose to permit ADUs outside of these circumstances but is not required by law to do so. The Code of Rhode Island says ADUs shall be a permitted use in any residential district with a minimum lot size of twenty thousand square feet (20,000 sq. ft.) or more, and where the proposed ADU is located within the existing footprint of the primary structure or existing secondary attached or detached structure and does not expand the footprint of the structure.

*In *Washington*, the ADU statutory requirements apply to local governments planning under Washington's Growth Management Act. It is like *Virginia's* comprehensive plan requirements. It covers most localities in *Washington*.

**Oregon's* statute applies to cities over 2,500 in population and counties of over 15,000 people in urban growth boundaries. It covers most localities in *Oregon*.

**Connecticut's* ADU legislation mandates a process that lets localities opt out of permitting ADUs with a two-thirds vote encompassing the majority from local planning commissions and legislative bodies. Localities had two years to opt out of the permitting and if they did not the provisions of the statewide statute apply. Fifty-four towns did not opt-out and are subject to the state law, and 115 opted out. Many of those that opted out set up their own regulations for the units. Most *Connecticut* towns — 67% — allow accessory dwelling units that at least partially satisfy the state law's requirements.

Application Fees: Should there be a limit what a locality may charge for an application fee?	
Application fees help localities pay for the additional resources it takes to approve and permit ADUs. Since locality structures vary widely, many ADU advocates believe setting the application fee should be a local decision.	Application fees that are set too high may be seen as deterrents to construction for homeowners on tight budgets. To combat this issue, many ADU advocates propose setting statewide limits for application fees.
What other states are doing:	
Most states studied allow localities to determine their own application fees and do not mention application fee limits in their ADU statutes.	In *Montana*, application fees may be up to $250 for each ADU.
Attached vs. Detached: Should both detached and attached ADUs be allowed?	
Many localities like to limit ADU construction to attached dwellings to preserve neighborhood density and character. Attached ADUs are seen as the more beneficial construction when considering aging in place family members. Attached ADUs are also typically more affordable to build.	When only attached ADUs are permitted, the renovations necessary to separate out those units may be costly and discourage construction. Allowing the construction of all types of ADUS encourages more ADU construction and may increase housing stock at greater rates than only permitting certain types of ADUs.
What other states are doing:	
New Hampshire law only requires localities to permit attached ADUs and gives localities the authority to require that attached ADUs include an interior door connecting the ADU to the primary unit. Localities have the authority to decide whether they want to also permit detached ADUs. *Utah* allows the by-right construction of internal ADUs, meaning attached, while localities still retain control over all regulations concerning detached ADUs. *Vermont* law requires localities to permit one attached or internal accessory dwelling unit by right, this does not apply to detached units.	*California* requires localities to permit both detached and attached ADUs. *Washington* allows attached, detached, a combination of both, and conversions of existing structures. *Oregon* allows interior, attached, or detached ADUs. *Connecticut* allows by-right ADU construction of both attached and detached units. *Maine* and *Montana* allow ADUs that are detached, attached, or conversions of an existing structure.
By-Right: Should there be a discretionary review process for ADU construction, or should it be by-right?	
In some of the states studied, the construction of an ADU requires special permitting processes, such as a conditional use permit.	Many opposed to a discretionary review process for ADUs believe they create an unnecessary barrier to ADU construction, especially ADUs which are considered small development projects. Additional permitting processes, such as those requiring conditional use permits and public hearings, add extra time and cost to getting the project approved. By-right project review and approval is done administratively, which reduces costs and time.
What other states are doing:	
New Hampshire allows municipalities the authority to allow ADUs by right, by conditional use permit, or by special exception. Permitting has been streamlined by statewide legislation but remains primarily under local jurisdiction.	*California* law forces a by-right process rather than requiring conditional use, special use, or variance permits or other discretionary processes. If localities adopt their own ordinances, they are subject to limitations.

- If a zoning ordinance contains no provisions pertaining to accessory dwelling units, then one accessory dwelling unit shall be deemed a permitted accessory use, as a matter of right, to any single-family dwelling in the municipality, and no municipal permits or conditions shall be required other than a building permit, if necessary. *Vermont* law requires localities to have a discretionary approval process for detached ADUs, ADUs that expand an existing dwelling, and ADUs that require an expansion of parking areas. See the right column for what is permitted by-right. *Maine's* permitting of ADUs is not by-right, but they have streamlined the ADU application process by allowing municipalities to choose to bypass planning board approval. *Utah* does not require by-right permitting of ADUs. *Washington's* permitting of ADUs is not by-right, but localities are encouraged to adopt by-right policies that allow only administrative approval.	- Certain categories of ADUs must be permitted without applying any local development standards. ADUs that receive automatic approval include 1) an ADU or Junior Accessory Dwelling Unit/JADU (under 500 square feet) that is converted from an existing space in the home if the ADU has exterior access and setbacks sufficient for fire safety, and 2) An ADU under 800 square feet, 16 feet in height, with 4-foot setbacks. - California localities must have a pre-approved ADU plan. For plans to be pre-approved for use by applicants or other property owners in the future, cities must review and accept submissions for them, typically by an architect. Cities may choose to charge a fee to access the designs, and for processing, as well as for modifications required to meet property-specific requirements. - All agencies involved with reviewing those ADU plans must respond within 60 days of submission of plans. If there is no response, the application is automatically approved. *Vermont* requires localities to permit one attached or internal ADU by-right for each owner occupied single-family dwelling located outside of a flood hazard or erosion area. *Oregon* allows by-right development of ADUs in most localities and limits localities to adopting certain standards. *Connecticut's* law requires by-right approvals but allows localities to opt out of this provision with a two-thirds vote of both their planning board and legislative body. - The as of right permit application must be decided on by the locality no later than 65 days after receipt of the application. *Montana* localities must allow a minimum of one ADU by right on single-family zoned lots.
Common Interest Communities: Should CICs be exempt from ADU statutes?	
Home Owners Associations often do not want to expand or increase density. Many are concerned policy changes would lessen their authority and prevent them from maintaining neighborhood character.	Since there are a significant number of homes that exist within HOAs nationwide, exempting Home Owner Associations from ADU statutes may massively deter construction and lead to only a small number of ADUs being added to a local housing stock.
What other states are doing:	
Most state legislation studied seems to have no effect on private covenants, meaning Common Interest Communities may still prohibit or make additional rules about ADUs.	In *Washington* new CICs are prohibited from adopting covenants, conditions, and restrictions (CC&Rs) that would limit the construction of ADUs on any lot. Existing

	CC&Rs, however, are not impacted by the new law and may remain in effect. In *California* single-family HOAs must allow development of ADUs, subject to reasonable standards.
Doors and Passageways: Should an exterior door or passageway between the ADU and the primary dwelling be required?	
Exterior doors provide separate access from the existing primary residents and both exterior doors and passageways are often seen as necessary safety precautions that provide an additional emergency exit.	Requiring passageways and exterior doors may add significant costs to ADUs and be a deterrent for ADU construction. It may also make the building process more difficult and lead to project cancellation if these requirements cannot be met.
What other states are doing	
New Hampshire law states that an interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but a municipality shall not require that it remain unlocked.	*Connecticut* localities are prohibited from requiring a passageway between the ADU and the principal dwelling and are not permitted to require an exterior door for the ADU. - Exceptions apply when required by the fire code. *California* does not allow localities to require a passageway in conjunction with the construction of an ADU.
Environmental Concerns: Special environmental considerations?	
Many of the states studied contained special regulations or allow localities to determine ADU regulations in certain areas based on environmental concerns.	
What other states are doing:	
Maine ADUs in shoreland zones must comply with existing shoreland zoning requirements and municipal shoreland zoning ordinances - except they may not prohibit ADUs in shoreland zones. - *Maine* also exempts lots within a watershed or water source that is used to provide drinking water in certain localities from their statewide ADU law. *California* requires newly constructed, non manufactured, ADUs to provide solar panels if the unit is a detached ADU. *Vermont* allows municipalities to prevent ADU construction if it is in a regulated flood hazard or fluvial erosion area. In *Washington* localities are permitted to prohibit or restrict the construction of accessory dwelling units in residential zones with a density of one dwelling unit per acre or less that are within areas designated as wetlands, fish and wildlife habitats, flood plains, or geologically hazardous areas. ADUs are also not required to be allowed on lots with critical areas, or around SeaTac airport. *Oregon* requires ADUs to comply with the Oregon Residential Specialty Code, which deals with specific environmental concerns, if the lot is in an area identified as a high wildfire hazard zone and if the locality has adopted land use regulations that ensure that: - The ADU has adequate setbacks from adjacent lands zoned for resource use; and the ADU has adequate access for firefighting equipment, safe evacuation and staged evacuation areas.	

<table>
<tr><th colspan="2">Fire Sprinklers: Should fire sprinklers be requirements be a local decision?</th></tr>
<tr><td>Requiring fire sprinklers in an ADU is often seen as a necessary safety precaution. Many builders recommend sprinklers even when they are not required in the primary dwelling. Sprinkler systems also provide construction options for the owner by providing different ways to comply with fire protection requirements.</td><td>If the main home or dwelling has fire sprinklers, sprinklers are almost always required in the ADU. However, a few states limit a locality's ability to require sprinklers if the primary dwelling does not have sprinklers. Adding sprinklers when it is not necessary in the primary ADU adds significant cost to a project and maybe a deterrent for homeowners on a tight budget. Deciding to not install sprinklers may save about $3,000 on a project.</td></tr>
<tr><th colspan="2">What other states are doing:</th></tr>
<tr><td>Most state statutes do not mention fire sprinkler requirements and do not restrict a locality's ability to require this feature.</td><td>Connecticut prevents localities from requiring the installation of fire sprinklers in an ADU if the sprinklers are not required for the principal dwelling unit or otherwise required by fire code.

California localities ban ADUS from requiring fires sprinklers if they are not required for the primary residence. The construction of an accessory dwelling unit cannot trigger a requirement for fire sprinklers to be installed in the existing primary dwelling</td></tr>
<tr><th colspan="2">Impact Fees: Should there be a limit on impact fees?</th></tr>
<tr><td>Impact fees help localities address the increased demand for services created by new development.</td><td>Many opposed to impact fees view them as holding back ADU construction. Coming up with the money for an ADU may be hard for most homeowners and impact fees may cause those owners to pass on potential ADU projects. Impact fees may be seen as especially taxing on modest, low-cost ADUs.</td></tr>
<tr><th colspan="2">What other states are doing:</th></tr>
<tr><td>Vermont allows municipalities to determine their own impact fees.

Statues in Maine, Oregon, Connecticut, New Hampshire, and Utah do not restrict localities from imposing impact fees.</td><td>Washington law says localities may not charge more than 50% of impact fees charged for the principal unit.
- Local governments may charge according to the size of the unit, fixture count, or location with the community, or completely waive fees.

California bans impact fees for ADUs less than 750 square feet and ADUs above 750 square feet must be charged proportionately in relation to the square footage of the primary dwelling.

Montana localities are not allowed to impose impact fees on the construction of an ADU.</td></tr>
<tr><th colspan="2">Illegal ADUs: Should previously existing ADUs be permitted?</th></tr>
<tr><td>Unpermitted ADUs may be dangerous since there is no way of knowing if they are up to code. Additionally, many believe a legalization process would be unfair to homeowners who went through the necessary steps to obtain project approval before construction.</td><td>In many areas, the number of unpermitted ADUs is greater than the permitted ADUs. Instead of having homeowners remove those units, many ADU advocates believe states should develop a process to legalize those units and prevent the destruction of housing inventory.</td></tr>
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<tr><th colspan="2">What other states are doing:</th></tr>
<tr><td>Most of the states studied do not contain any specific legislative measures to permit illegal ADUs.</td><td>In California a locality must delay code enforcement on an unpermitted ADU to allow it to be legalized</td></tr>
<tr><th colspan="2">Neighborhood Aesthetics: Should ADUs match the existing neighborhood aesthetics?</th></tr>
<tr><td>Design standards may ensure ADUs are compatible with the primary residence through features like architectural style, roof pitch, and building materials. Sometimes standards are used to preserve privacy between the ADU and the neighboring properties.</td><td>ADU design standards may increase project costs by lengthening the time needed for local review and requiring unnecessary design elements.</td></tr>
<tr><th colspan="2">What other states are doing:</th></tr>
<tr><td>In Utah, localities may require ADUs to be designed in a manner that does not change the appearance of the primary single-family dwelling.

New Hampshire allows localities to require that the design of an ADU fit with the neighborhood and maintain the look of a single-family home.</td><td>Washington law does not allow localities to impose aesthetic requirements or design review requirements for ADUs that are more restrictive than those for principal units.
- No design review process may include more than one public meeting.

Oregon mandates that any design standards required of ADUs must be clear and objective and not contain words like “compatible,” or “character.”
- Historic districts are exempt and must follow historic district regulations.

Montana does not allow localities to require that an ADU match the exterior design, roof pitch, or finishing materials of the single family dwelling.</td></tr>
<tr><th colspan="2">Number of ADUs: Should there be a limit to the amount of ADUs that maybe added on a property?</th></tr>
<tr><td>Allowing localities to limit ADUS or imposing statewide ADU limits on the same property helps ensure there is enough capacity for local services and utilities. Additionally, too many ADUs may alter the character of a property. No limits on the amount of ADUs on one property may encourage outside investment as investors might want to fill a property with as many ADUs as possible to maximize earning potential.</td><td>Only permitting one or two ADUs maybe seen as limiting the amount of value an owner may add to their own property. Additionally, creating more ADUs leads to an increase in local housing stock.</td></tr>
<tr><th colspan="2">What other states are doing:</th></tr>
<tr><td>California allows homeowners to add up to two additional units – one ADU and one Junior Accessory Dwelling Unit (no more than 500 square feet) on any residential lot.

New Hampshire allows localities to limit ADU construction to one per home.

Maine allows localities to decide a limit beyond one ADU. The language says, “a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit…”</td><td>In Washington, a locality must allow at least two accessory dwelling units on all lots that are in all zoning districts within an urban growth area that allow for single-family homes in the following configurations:
▪ (i) One attached accessory dwelling unit and one detached accessory dwelling unit;
▪ (ii) Two attached accessory dwelling units; or
▪ (iii) Two detached accessory dwelling units, which may be comprised of either one or two detached structures

Oregon law requires cities and counties to allow at least one ADU but encourages them to consider allowing two. There is no statewide maximum number of ADUs.</td></tr>
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Washington allows cities and counties to impose a limit of two accessory dwelling units in addition to the principal unit on a residential lot of 2,000 square feet or less	
Occupancy: Should there be restrictions on who may live in the ADU?	
Restricting ADU occupancy to things like familial relation and age ensures ADUs are used for the purpose of aging in place or supporting a family member in need. Removing these restrictions may lead to changes in neighborhood character and capacity as a larger number of ADUs are constructed.	Those opposed to occupancy restrictions of ADUs believe these types of requirements significantly reduce the number of ADUs constructed. The restrictions may prevent a homeowner from maximizing the amount of rental income generated from their unit and lead to less ADU interest overall. Additionally, these restrictions are difficult to enforce as monitoring and confirming aspects like familiar relationship maybe challenging.
What other states are doing:	
Although *Rhode Island* is not one of the 9 states studied that broadly allows ADUs, it is important to note that current *Rhode Island* law requires all localities to permit one ADU by-right for each owner-occupied single-family dwelling, provided the ADU is occupied by a family member with a disability or who is over the age of 62.	*Connecticut* localities are prohibited from requiring familial, marital, or employment relationship between occupants of the principal dwelling and accessory apartment. Additionally, there maybe no minimum age requirements. In *New Hampshire* a municipality may not require a familial relationship between the occupants of an ADU and the occupants of a principal dwelling unit. *Montana* localities are not permitted to require a familial, marital, or employment relationship between the occupants of the single-family dwelling and the occupants of the accessory dwelling unit.
Owner Occupancy: Should Owner Occupancy be required?	
Many cities and towns argue that owner-occupancy requirements prohibit absentee landlords and renters from causing blight because owners are more likely to take good care of their property. Additionally, they may prevent out of town investors from purchasing an excess of the affordable housing stock.	Many opposed to owner occupancy requirements claim these requirements prevent property owners from developing repeat expertise in building ADUs across multiple properties to add to existing housing stock, and that makes lenders less likely to finance ADUs. Proponents of owner occupancy requirement bans say this helps landlords and investors build ADUs on their rental/investment properties to provide more housing opportunities.
What other states are doing:	
In *New Hampshire*, localities may choose to require the property owner to live in at least one of the units on the property. Localities may also come up with their own methods of enforcement to ensure owner-occupancy. In *Utah* the decision to require owner occupancy is also determined at the local level. Many localities have applicants for internal ADUs sign and record an affidavit declaring that the owner will live in either the primary or ADU unit as their primary residence for at least 6 months out of the year.	*California* and *Washington* ban owner-occupancy requirements for lots with ADUs. *Oregon* also bans owner-occupancy requirements.

Vermont prevents localities from banning ADUs that are located on a single family **and** owner-occupied lot. The property owner must choose either the ADU or the primary dwelling to occupy.	
Parking: Should additional parking requirements to accommodate ADU occupants be a local decision?	
According to a November 2021 *Virginia* DHCD report to the Accessory Dwelling Unit Stakeholders Advisory Group, all private and public sector stakeholders who described challenges with increasing the number of ADUs reported parking density as a major concern. It is a source of political conflict nationwide. Residents often raise issues including increased traffic and scarce parking.	ADU advocates and developers often argue that this requirement is a significant barrier to ADU construction. Advocates opposed to parking requirements claim allowing additional cars is bad for the climate and may lead to costs that make constructing an ADU prohibitively expensive. Experts estimate parking spaces typically cost between $4,000 and $10,000 per spot. Additionally, physical constraints such as lot placement, lack of alley access, trees, slopes, and more may lead to an inability to fit the parking requirements. Lastly, one of the cheapest forms of ADU construction is garage conversions and some ADU proponents say parking quotas often thwart this type of project.
What other states are doing:	
In *New Hampshire*, towns and cities may create parking requirements. *California* allows localities to require one parking space per ADU or per bedroom, whichever is less. However, there are a lot of exceptions that prevent requiring additional parking (outlined in right panel) - Parking spaces may be tandem on a driveway. - Off-street parking is allowed in setbacks or through tandem parking, except where topography and safety issues make it unfeasible. *Utah* allows municipalities to require an ADU to include additional on-site parking space, except in areas where a municipality's land use ordinance requires four off-street parking spaces. - Unlike *California*, *Utah* allows localities to require a parking space be replaced if it is within a garage or carport and has been removed to due construction of an ADU. *Washington* localities are not subject to parking restrictions if a local government submits to the department an empirical study prepared by a credentialed transportation or land use planning expert. The study must clearly demonstrate, and the department must find and certify, that the application of the parking limitations of (a) of this subsection for accessory dwelling units will be significantly less safe for vehicle drivers or passengers, pedestrians, or	*California* Code parking requirement restrictions: *California* does not allow localities to impose parking standards if 1) the ADU is located within ½ a mile of public transit, 2) if the ADU is in a historic district, 3) if the ADU is part of an existing primary structure or an accessory structure, 4) when there is a car share vehicle located within one block of the ADU, 5) when an ADU permit application for an ADU is submitted with an application to create a new single or multifamily dwelling on the same lot, 6) or when on-street parking permits are required but not issued to ADU occupants - If a garage, carport, or covered parking structure is demolished as part of the ADU, a homeowner does not have to replace that parking. *Maine's* ADU statute says ADUs may not be subject to any additional parking requirements beyond the requirements of the single-family dwelling unit. *Vermont* localities have the authority to set parking standards, but a locality can not require an ADU to have more than one parking space per bedroom. *Washington* prohibits a locality from requiring parking in these circumstances: - *Washington* does not allow localities to require off-street parking as a condition of permitting

bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. - The department must develop guidance to assist cities and counties on items to include in the study; or to portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.	development of ADUs within one-half mile walking distance of a major transit stop. - *Washington* localities cannot require more than one off-street parking space per unit as a condition of permitting development of accessory dwelling units on lots smaller than 6,000 square feet before any zero lot line subdivisions or lot splits. - Require more than two off-street parking spaces per unit as 35 a condition of permitting development of accessory dwelling units on 36 lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits. *Oregon* does not allow localities to impose off-street parking requirements. - There is an exception for ADUs that are used as vacation rentals. Vacation rentals may be mandated to provide off-street parking requirements. *Montana* does not allow localities to require additional parking or require fees in lieu of additional parking.
Separate Systems: Consideration of water, sewage, and septic systems	
These systems are often based on total household size and capacity may be a concern when supporting additional ADU occupants**.** Homeowners who want to rent out their ADUs may want to separate the ADU monthly sewer, water, and other fees**.**	Requiring separate sewage or water connections may raise the entry barrier for homeowners looking to construct ADUs. Separate connection requirements maybe financially prohibitive.
What other states are doing:	
In *Maine*, the owner of an ADU must provide written verification to the municipality that the ADU is connected to adequate water and wastewater services before the municipality may certify the ADU for occupancy. Written verification must include: A. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling unit and proof of payment for the connection to the sewer system; B. If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater	*Oregon* law states that ADUs are not required to establish separate sewage or water connections, but that decision is up to localities. In *Connecticut* a municipality, special district, sewer or water authority shall not consider an accessory apartment to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless such accessory apartment was constructed with a new single-family dwelling on the same lot. - *Connecticut* localities may impose additional requirements where a well or private sewage system is being used but are not allowed to unreasonably withhold approval for an ADU based on those circumstances.

disposal rules adopted under Title 22, section 42; [PL 2021, c. 672, §6 (NEW).] C. If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and [PL 2021, c. 672, §6 (NEW).] D. If an accessory dwelling unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use. *Washington* allows localities to prohibit the construction of accessory dwelling units on lots that are not connected to or served by public sewers. *California* allows localities to designate areas where ADUs are permitted based on the adequacy of water and sewer services. Additionally, a local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.	
Separate Sale of ADU: Should the sale of an ADU separate from the primary dwelling be allowed?	
Selling an ADU separately from a home gives the homeowner extra money, potentially giving seniors who own a home an opportunity to make extra cash. Additionally, many believe the ADU will sell for a lot less than a full house, allowing more people the opportunity to buy a home.	A main concern of allowing the separate sale of an ADU is that it encourages outside developers to buy homes, build multiple ADUs, and then sell them. Selling an ADU separately from the primary dwelling may risk affordability in some areas. For example, a small study using a limited sample in *Seattle* in March 2023 found that although the median cost of a detached ADU was about $230,000, the ADU median sale price was around $732,000.
What other states are doing:	
Maine allows subdivision if it meets their existing subdivision requirements and is often then subject to additional municipal approval. *Washington* allows the sale of ADUs as independent units. In *California*, homeowners separately selling ADUs under AB 1033 need to notify local utilities of the creation and separate conveyance of the ADU. Moreover, they will have to form HOAs to manage the exterior and shared spaces of	*New Hampshire* prohibits condominium conveyance of any ADU separate from the principal dwelling unless allowed by the locality. *Oregon* does not allow the subdivision of the ADU from the principal dwelling.

the property, like the arrangements seen in condominium complexes. In California, this means that based on local approval, homeowners are allowed to sell one or more ADUs separately a**s** condominiums from their primary residence. The law authorizes (but does not require) local agencies to adopt local ordinances allowing ADUs to be sold as condominiums separately from the primary dwelling with approval from the California Department of Real Estate. Local governments need to opt in to the ADU-as-condominium approach. This law was enacted in 2024 and local governments have been hesitant to adopt this policy. - Each individual housing unit will have its own property tax. - The process involves legally detaching the ADU from the main house and drafting a condo declaration that outlines specific rules. - Properties must have separate utility meters for gas, electricity, and water services. - Properties would be required to form an HOA to assess costs for maintenance of shared spaces. -	
Setbacks: Should setback requirements be determined locally?	
Setbacks ensure there is enough space between houses and property lines for things like emergency and maintenance vehicles to get through to provide necessary services. Setbacks also promote natural ventilation and better sound separation from busy streets. Additionally, setback rules help ensure buildings don't impact each other in the event of a natural disaster. The main purpose of ADU setbacks is emergency preparedness.	If required setbacks are too onerous, it may limit the number of buildable lots in urban areas with high housing demand. It is often not possible to meet ADU setbacks that are greater than the primary dwelling requirements where smaller units are needed, like in cities**.**
What other states are doing:	
In *Maine* the setbacks are determined locally. - The attached ADUs must match the setback requirements of the single-family dwelling. *Vermont* requires ADUs to conform to local setback standards.	*California* requires a 4-foot side and rear setback for new ADU constructions but does not allow these setback requirements to prevent building ADUs less than 800 square feet. - Local jurisdictions may no longer deny an ADU application if it encroaches into a front setback because there is not enough space elsewhere on the property to build an 800 sq ft ADU. This allows homeowners with very little backyard space to still be able to construct an ADU. In *Washington* localities are not allowed to impose setback requirements that are more restrictive than those for the principal units. - Localities must also allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley, unless the locality routinely plows snow on the public alley. - *Washington* law also bans localities from preventing converting ADUs from existing

	structures even if they violate the current code requirements for setbacks or lot coverages. *Montana* localities may not set maximum building heights, minimum setback requirements, minimum lot sizes, maximum lot coverages, or minimum building frontages for accessory dwelling units that are more restrictive than those for single-family dwellings.
Short-Term Rentals: Should there be restrictions on short term rentals of ADUs?	
Renting out an ADU as a short-term rental does not provide the same benefits as renting as a long-term housing unit. Long term rentals have the dual benefit of providing a positive income stream to a homeowner while adding to a locality's housing stock. One study in *Seattle* found that ADUs being used as short-term rentals made up 11% of the short-term rental stock, representing 418 units that are not contributing to that city's long-term housing supply.	One commonly cited reason against restricting short-term rental of ADUs is that enforcing these rules is often challenging. Additionally, bans on short-term rentals affect the income of the homeowner.

What other states are doing:

Every state studied gives localities the ability to restrict the use of ADUs for short term rentals.

In *Utah* internal ADUs may be rented for any period beyond 30 days and localities have the authority to prohibit the offering of a rental of an internal ADU for less than 30 days.

- Localities may require a permit for rentals.

California allows local governments to require a property be used for rentals of terms no longer than 30 days. Vacation rentals also may not be permitted.

Vermont allows localities to regulate short term rentals.

Washington law does not prevent localities from restricting the use of ADUs for short term rentals, localities may decide for themselves.

Connecticut localities may prohibit the use of ADUs for short-term rentals or vacation stays.

Oregon allows localities to regulate vacation rentals of ADUs.

Maine localities have the authority to regulate rentals.

New Hampshire localities have the authority to regulate short term rentals.

Montana law states that an ADU must be allowed to be used as rental housing but does not prohibit a locality from regulating short term rentals.

Size: What should be the minimum/maximum size of ADUs? Should there be a required lot size?

All state statutes study contains size regulations for ADUs. *Maine* and *Oregon* give localities the broadest authority by allowing localities to set maximum sizes themselves.

What other states are doing:

California law generally allows ADU to be built up to 800 square feet and 16 feet high. However, variations exist based on the type of ADU and location within the state.

- *California* law permits up to 1,200 square feet for detached ADUs on most residential properties. Attached ADUs are not permitted to exceed 50% of the existing primary dwelling in most circumstances.

Localities in *California* are not allowed to impose maximum square footage requirements for any ADU that is less than 850 square feet and 1,000 square feet for an ADU with more than one bedroom. Localities are also not allowed to impose height requirements less than 16 feet.

- Detached ADUs may be up to 18 ft high if the property is located within a half-mile of a major transit stop or a high-quality transit corridor or is located on a property with a multistory multifamily dwelling.
- Attached ADUs may be up to 25 ft high or as high as the main house, whichever is lower.

In *Utah*, a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing the size of the internal accessory dwelling unit in relation to the primary dwelling.

- *Utah* allows localities to prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size.

Maine allows municipalities to set maximum sizes for ADUs.

- ADUs must meet a minimum size of 190 square feet.

Oregon allows most localities to set size regulations for ADUs but does provide recommended language that says ADUs shall not exceed 900 square feet of floor area, or 75-85% of the primary dwelling's floor area, whichever is smaller. A law passed in 2021 applying to ADUs in rural residential zones set lot sizes at no more than 900 square feet.

Connecticut localities are permitted to set a maximum floor area for an ADU if it is not less than 30% of the area of the principal dwelling or 1,000 square feet, whichever is less.

New Hampshire law prohibits localities from restricting size to less than 750 square feet but are permitted to establish minimum and maximum ADU sizes within that requirement.

Vermont municipalities must allow an ADU if the ADU equals no more than 30% of the total habitable square footage of the house or 900 square feet, whichever is greater.

Washington localities cannot establish a maximum gross floor area for an ADU that is less than 1,000 square feet. Additionally, a city or county may not establish roof height limits less than 24 feet unless the height limitation on the principal unit is less than 24 feet.

Montana requires localities to set a maximum gross floor area for accessory dwelling units that is the lesser of 1,000 square feet or the 75% of the gross floor area of the single-family dwelling.

Utilities: Should localities decide if separate utility connection is required?	
Separate utility connections allow localities and service providers to ensure there is adequate capacity for utilities that do not overwhelm the existing systems.	Development codes that require ADUs to have separate sewer and water connections create barriers to building ADUs. In some cases, a property owner may want to provide separate connections, but in other cases doing so may be prohibitively expensive.
What other states are doing:	
Utah law says localities may prohibit the installation of a separate utility meter for an ADU.	In *California* where ADUs are being created within an existing structure (primary or accessory), new or separate utility connections and fees (connection and capacity) are not required. *Connecticut* prohibits localities from requiring separate billing of utilities otherwise connected to, or used by, the principal dwelling. Additionally, localities cannot require the installation of a new separate utility connection.

Additional Notes on State ADU Action

Rhode Island:

Current *Rhode Island* law requires all localities to make ADUs a permitted use **by-right** for each owner-occupied single-family dwelling, provided the ADU is occupied by a family member with a disability or who is over the age of 62.

Localities in Rhode Island generally can decide if ADUs are a permitted use except in a few circumstances. A locality can choose to permit ADUs outside of these circumstances but is not required by law to do so. The Code of Rhode Island says ADUs shall be a permitted use in any residential district with a minimum lot size of twenty thousand square feet (20,000 sq. ft.) or more, **and** where the proposed ADU is located within the existing footprint of the primary structure or existing secondary attached or detached structure and does not expand the footprint of the structure.

Rhode Island chapter 45-24 does not grant by-right construction of ADUs, but it does have statewide guidelines for any localities that choose to permit ADUs. More specifically, a municipality that permits ADUs shall not:

(1) Restrict tenants based on familial relationship or age unless such restriction is necessary to comply with the terms of the federal subsidy related to affordability;
(2) Charge unique or unreasonable application fees for the creation of an ADU;
(3) Require infrastructure improvements, including, but not limited to, separate water or sewer service lines or expanded septic system capacity,; provided, however, municipalities may require modification required for compliance under state law or regulation;
(4) Discriminate against populations protected under state and federal fair housing laws;
(5) Impose unreasonable dimensional requirements on ADUs that effectively preclude their development or utilization;
(6) Require a larger minimum lot size for a property with an ADU over that required for a property without an ADU in the same zone;
(7) Require more than one parking space beyond what is already required for the primary use; or
(8) Limit ADUs to lots with preexisting homes; provided, a municipality shall allow ADUs as part of applications for new primary dwelling units or subdivisions.

A bill introduced in *Rhode Island's* 2024 session is being considered for passage. It has passed the House. Session is set to end June 30th, 2024. The bill aims to allow ADUs by-right in the following circumstances:

1) on a lot with a total area of 20,000 square feet or more for which the primary use is residential or;
2) where the proposed ADU is located within the existing footprint of the primary structure or existing accessory attached or detached structure and does not expand the footprint of the structure;
3) or on an owner-occupied property as reasonable accommodation for family members with disabilities.

The bill also included a variety of regulations removing other aspects local authority from the ADU construction and permitting process. If passed, this document will be updated to include Rhode Island's legislative provisions concerning ADU construction.