



Accessory Dwelling Units (ADUs):

Presentation of Policy Brief, Literature Review, and Exploration of Regulations in State Laws Concerning ADUs

Definitions:

Accessory Dwelling Unit vs. Affordable Dwelling Unit

Clearing up confusion: An accessory dwelling unit does not have to be affordable; it is a smaller housing unit that is an accessory to a primary single-family dwelling unit. An affordable dwelling unit is a unit of affordable housing.

ADU in this discussion is used as an acronym for accessory dwelling unit. An accessory dwelling unit is an accessory to a single-family primary dwelling unit on the same property. They can be **attached, internal or detached** to the primary dwelling unit and are most often considered a separate living space. An accessory dwelling unit does not have to be affordable.

- States that have passed legislation broadly allowing ADUs have not included any required affordability parameters or definitions within their ADU code sections.

According to the Code of Virginia, "Affordable" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than 30 percent of their gross income for gross housing costs, including utilities.

In SB 305, ADU is defined as an independent dwelling unit on a residential dwelling lot with its own living, bathroom, and kitchen space.

Literature and Existing Research Review

Evidence Shows ADUs Increase Housing Stock in Neighborhoods with Fewer Rental Options but are Not Necessarily Affordable. ADUs have Not Been Proven to Rent at Below-Market Rates or be Affordable for Households at or Below AMI.

- ADUs increase housing stock in areas more commonly limited to single-family zoning and provide more affordable rental options in those areas compared to renting a traditional single-family home but are not typically a lower-cost alternative to other types of rental units nearby.
- Many believe increasing stock may eventually lead to more affordable homes as higher inventory decreases market competition. ADU regulations are too new to properly study this type of impact on long-term market affordability.
- The Virginia Department of Housing and Community Development (DHCD) published a report in 2021 and found there is a lack evidence to support the claim that ADUs increase the stock of *affordable* housing to low-income households, meaning households below AMI.
- Case Study: Los Angeles is broadly considered an ADU success story in terms of the large number of ADUs constructed after California changed their statewide law in 2017. While more housing was produced, a study from UCLA concluded that rental rates for ADUs are higher on average than other rental housing options across the city.

Literature and Existing Research Review

The Rental Cost of an ADU is Unpredictable but Most Determined by Relationship with the Tenant, Location, and Size of the ADU. Affordable Rent is Mostly Provided to Acquaintances and Family Members.

- Research suggests that the key determinant of rental price is the relationship between tenant and owner.
- Existing law does not require an ADU to be affordable or set any pricing guidelines. Determining rental price is left up to individual owners.
- Much of the literature finds that ADUs can provide affordable housing when rented to acquaintances and family members, but that same affordability does not commonly exist outside those circumstances.
- The rental price of an ADU is determined by the owner of the property usually by taking factors such as location, square footage, and familiarity with the tenant into account.

Literature and Existing Research Review

Many Localities and Research Groups Find Additional Intervention May Be Necessary to Generate Affordable ADUs

- The Brookings Institute suggests that newly built ADUs will require substantial subsidies for renters making less than 80% of area medium income. The Institute has promoted policy suggestions for “affordable ADUs,” such as rental subsidies, and voucher programs targeted to older adults.
- The report published by the Virginia DHCD identified several local programs in other states that seek to encourage and preserve the affordability of ADUs for households making below the area median income.
- Programs and imposed covenants concerning ADU affordability are rare.
- One of the strongest selling points of constructing ADUs, generating income for the homeowner, is a challenge when it comes to owners accepting the restrictions that often come with housing subsidies
- Statewide examples: California \$100 million grant program for low-and moderate-income households. Vermont created a grant program that allows up to \$50,000 for the creation of Accessory Dwelling Units.

Literature and Existing Research Review

There is Limited Research Finding ADUs Rent at Below-Market Rates

- A review of the literature provided one example where ADUs were found to be rented at below-market rates. A survey conducted in 2017 by the Turner Center at UC Berkeley stated that 58% of ADUs surveyed in Portland, Seattle, and Vancouver rented for below market-rates, with 40% of those units occupied by family or friends. The same study found that affordability varied significantly by locality.
- This study somewhat contradicts several surveys and studies pointing to ADUs not directly adding to the supply of below-market rate rental housing, but its existence supports the idea that ADU pricing is often unpredictable.

Literature and Existing Research Review

ADUs Generate Wealth for the Homeowner but are Commonly Built in More Affluent Communities with More Financing Options Compared to Low- or Moderate-Income Communities

Research Points to ADU Construction Being Concentrated in More Affluent Communities while ADU Generated Wealth Building Among Lower-Incomes is Rare.

- While constructing an ADU might be out of reach for households not in a high-income bracket, research supports the conclusion that ADUs are increasing housing stock in neighborhoods zoned exclusively for single-family homes.
- According to the National Association of Realtors, properties in the largest metros with ADUs are priced an average of 35% higher than homes without one. This demonstrates an ADUs ability to generate wealth for participating households and promotes ADUs as a potential investment choice.
- Turner Center research concluded that ADUs are generally built in affluent communities and surmised that ADUs are not accomplishing the goal of building wealth and equity as well as policymakers intended.
- ADUs as a function for generating equity and wealth for low-or moderate- income communities is not supported by the breadth of current research.
- Financing options are typically more available to higher-income households.
- Research points to ADUs being financed mostly by cash savings or existing home equity. Households with higher incomes and home values are more able to take advantage of their home's equity to finance an ADU. A homeowner can't obtain a mortgage for an ADU like those for single-family homes.
- Virginia DCHD concluded while ADUs can bring additional income to homeowners, building an ADU has higher financial barriers compared to building a typical family home.
- The current market lacks lending products specifically designed for ADUs.

Literature and Existing Research Review

ADUs are Commonly Built in Job-Rich Areas and in More Affluent Communities with More Financing Options Compared to Low- or Moderate-Income Communities

Where ADUs Are Built - Examples from California

- San Francisco has allowed ADUs since 2014, however data reported by the San Francisco chronicle found that the 622 units built from 2014-2022 were in the city's wealthier neighborhoods
- A Turner Center study on the results of California's ADU policy showed that ADUs are more likely to be built in coastal counties in job-rich areas
- A UCLA study found that ADUs in Los Angeles (LA) were more likely to be built close to commercial districts, light rail stations, and educational institutions rather than LA's higher-income areas.

The Cost of Building an ADU Depends on a Variety of Factors, but Can be Several Hundred Thousand Dollars

- The cost of building an ADU ranges from around \$120,000 to over \$400,000 depending on factors like square footage and whether an ADU is attached or detached
- According to the National Association of Realtors, the average cost of an ADU is \$180,000 but can be much higher depending on where you live.
- Typically, constructing an attached ADU, like converting a garage, costs less than a detached ADU.

Literature and Existing Research Review

ADUs Can Be Used for a Variety of Purposes Outside of Housing, but Most are Used to Provide Housing

- Research shows most ADUs are used for housing across all incomes, but higher incomes are less likely to use ADUs to provide housing than other income brackets.
- A UCLA survey of Los Angeles homeowners who constructed a permitted ADU on their property found that 67% of ADU owners use their ADUs for housing.
 - That percentage changes for those in the top household income category. The survey found that a third of households making over \$150,000 use an ADU as a non-residential extension of their primary dwelling.
- Creating housing for family members is a commonly given motivation for constructing an ADU, but research shows additional income is the most substantial motivation for building ADUs.
- UCLA found that for participants who do not use their ADU as a residence for strangers or housing in general, the most common reason provided was that they do not want to share a space with strangers.
 - Reluctancy to house strangers may prevent ADUs from joining the rental market once vacated by a friend or family member.

Literature and Existing Research Review

Additional ADU Discussion Topics

ADUs Have Less of a Negative Environmental Impact Compared to Standard Single-Family Homes

- Depending on the size of ADUs, which typically range between 600 and 1,200 square feet, they are less likely to have large environmental footprints.
- Sightline reporting stated that only 3% of new single-family homes have been under 1,000 square feet since 1956, making smaller homes, which have less of an environmental impact, scarce.
- Research provided by the National Association of Home Builders found that previous long-held resistance to smaller lot sizes is being reconsidered.

Insurance requirements could serve as an additional cost barrier to using a detached ADU to provide housing to a non-family member

- The Insurance Information Institute estimates that a landlord insurance policy costs around 25% more than a standard homeowners policy for the same type of unit.
- Detached ADUs typically cost more than internal or attached ADUs, and this added insurance could further impact a household's budget and serve as an additional cost barrier to entry.

Results of Statewide ADU Permitting – ADU Construction Increases in States with Laws Broadly Permitting ADUs, but Results Vary Across Localities

California's 2017 ADU reform boosted permit applications in several cities.

City	2015	2016	2017
Los Angeles	299	257	3,818
Long Beach	0	1	42
Oakland	33	99	247
Sacramento	17	28	34
San Diego	16	17	64
San Francisco*	41	384	593
San Jose	28	45	166

Source: Turner Center for Housing Innovation and City of Los Angeles

*San Francisco data through Q3 2017



The figure demonstrates how different cities permitted ADUs at different rates after California's 2017 legislation was enacted.



Across the country, it appears the number of ADUs constructed increased in states and localities that have implemented legislation or ordinances broadly permitting ADU construction compared to years prior to enacting those changes.



The results of broad statewide ADU permitting is varied throughout localities, suggesting that local factors separate from permitting may be significant determinants in ADU construction rates.



The National Association of Home Builders reported that during the first quarter of 2019 across the U.S., 20% of home renovation projects included converting an existing space to an ADU.



There has been little detailed *statewide* data or analysis conducted for or by states that have implemented statewide legislation, other than in California.



A study on the results of California's ADU policy published by the Office of Policy Development and Research (PD&R) of the U.S. Department of Housing Urban Development concluded that ADU permitting rates vary widely by region and will likely have different effects across a state when implemented.

Exploring Statewide ADU Regulation

Accessory dwelling units (ADUs) are defined differently throughout the United States. The relevant state laws concerning ADUs vary widely.

- Nine states have passed statewide legislation broadly allowing or requiring ADUs as a permitted use: **California** (enacted 2017, updated 2024), **Connecticut** (enacted 2021), **Maine** (enacted 2023), **Montana** (enacted 2024), **New Hampshire** (enacted 2024), **Oregon** (enacted 2019), **Utah** (enacted 2023), **Vermont** (enacted 2020), and **Washington** (enacted 2023).
- These states were also identified and studied by the Mercatus Center at George Mason and the Harvard Joint Center for Housing Studies.
- Several other states including Rhode Island, New Jersey, and Arizona are considering ADU legislation during their pending 2024 legislative sessions. VHC ADU research will be updated to include any passed legislation.
- In 2023 bills in Colorado, Arizona, and Rhode Island failed to pass.

Exploring Statewide ADU Regulation

By-Right Permitting: Should there be a Discretionary Review Process for ADU Construction, or Should it be By-Right?

California, Vermont*, Oregon, and Connecticut each have some form of by-right permitting for ADU construction.

New Hampshire, Vermont*, Maine, Utah, and Washington do not require by-right permitting of ADUs. New Hampshire, Maine, Utah, and Washington allow localities the authority to decide ADU permitting processes.

- * 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. A discretionary review process is required for detached ADUs, ADUs that expand an existing dwelling, and ADUs that require an expansion of parking areas.
- 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.

Exploring Statewide ADU Regulation

Environmental Concerns: Should there be Special Environmental Considerations or Prohibitions?

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 airports.

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.

Exploring Statewide ADU Regulation

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 too much of the affordable housing stock.

New Hampshire and Utah allow localities to determine owner-occupancy at the local level.

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.

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

California, Oregon, and Washington ban owner occupancy requirements

Exploring Statewide ADU Regulation

Size: What Should be the Minimum/Maximum Size of ADUs? Should there be Lot Size Requirements?

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

- 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.
- *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;
- *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.
- Maine allows municipalities to set maximum sizes for ADUs but ADUs must be a minimum 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
- 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.
- Washington localities cannot establish a maximum gross floor area for an ADU that is less than 1,000 square feet.
 - 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.
- 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.
- 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

Exploring Statewide ADU Regulation

Short-Term Rentals: Should there be Restrictions on Short Term Rentals of ADUs?

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

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, the ADU will most likely sell for a lot less than a full house, allowing more people the opportunity to buy a home.

- California, Maine, and Washington allow the sale of ADUs as independent units
 - California localities need to opt-in to an ADU-as –Condominium approach. California ADUs being sold separately need to notify localities of the creation of a separate conveyance and form HOAs similar to condominium complexes

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.

- New Hampshire and Oregon do not allow for the separate sale of ADUs

Exploring Statewide ADU Regulation

Additional studied state regulations include:

- Application Fees
- Types of ADUs allowed
- Parking
- CIC Exemptions
- Doors and Passageways
- Fire Sprinklers
- Impact Fees
- Neighborhood Aesthetics
- Number of ADUs
- Occupancy Restrictions
- Separate Water, Sewer, and Septic Systems
- Setbacks
- Utilities

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