

ADU's in Burlington – Zoning Considerations Q&A

Based on questions received at Homeshare Vermont's ADU Workshop on September 22, 2018

1. What are the zoning considerations for building an ADU in Burlington?

- Accessory Dwelling Units are permitted on properties with a single-family home in Residential Low and Medium Density residential districts, and the Institutional Zone (RL, RL-W, RM, RM-W, and I)
- An owner must live on the property, and may occupy either the principal or accessory dwelling
- The ADU size can be up to 30% of all habitable floor area of the primary and accessory dwelling
- Occupancy of the ADU is limited to 1 bedroom and 2 adults and their minor children
- One additional parking space on the site is required for the ADU. Off-site parking for the ADU is not permitted.
- The property has sufficient wastewater capacity as certified by the Department of Public Works
- Must meet all underlying requirements of the zoning district (height, setbacks, lot coverage, etc)
- Regardless of what type of ADU being constructed a zoning permit is required, and is a prerequisite to other permits (i.e. building permit, electrical, plumbing, rental, etc)
- Applications for ADU's which create new habitable area, include an ADU within a new structure, or include the expansion of a property's parking area to provide the required space will be reviewed by the Development Review Board

2. How do I find out what zoning district my property is in to determine my allowable lot coverage and setback requirements?

To find out what zoning district your property is in, you can contact the Planning & Zoning Office (802-865-7188) and provide your address, or you can [view this zoning map online](#). Once you know what zoning district your property is in, you can consult the *Burlington Comprehensive Development Ordinance, Section 4.4.5 (b) Dimensional Standards and Density* which can be [found in this section of the ordinance online](#). You can also refer to a summary of this information in the chart below:

Base Zoning District Considerations

District	Max Height	Required Setbacks				Lot Coverage
		Front	Side	Rear	Waterfront	
Residential Low (RL) <i>Intended for low-density residential development in the form of single-family detached dwellings and duplexes.</i>	35 ft	Min/Max: Avg of 2 adj. lots on both sides +/- 5ft	Min 10% lot width, or avg of 2 adj. lots on both sides Max 20 ft	Min 25% lot depth, no less than 20 ft Max 75 ft		35%
Waterfront Res. Low (RL-W) <i>Same as RL, except greater consideration needed for proximity to the lake.</i>	35 ft	Min/Max: Avg of 2 adj. lots on both sides +/- 5ft	Min 10% lot width, or avg of 2 adj. lots on both sides Max 20 ft	Min 25% lot depth, no less than 20 ft Max 75 ft	75' from ordinary high water mark of Lake and River	35%
Residential Medium (RM) <i>Intended for medium density residential development in the form of single-family detached dwellings and attached multi-family apartments</i>	35 ft	Min/Max: Avg of 2 adj. lots on both sides +/- 5ft	Min 10% lot width, or avg of 2 adj. lots on both sides Max 20 ft	Min 25% lot depth, no less than 20 ft Max 75 ft		40%
Waterfront Res. Med (RM-W) <i>Same as RL, except greater consideration needed for proximity to the lake.</i>	35 ft	Min/Max: Avg of 2 adj. lots on both sides +/- 5ft	Min 10% lot width, or avg of 2 adj. lots on both sides Max 20 ft	Min 25% lot depth, no less than 20 ft Max 75 ft	75' from ordinary high water mark of Lake and River	60%
Institutional <i>Intention is to support the growth and flexibility of the city's major educational and health care institutions, and allows a broad range of related uses with transitions between institutional development and lower-scale residential uses.</i>	35'	15 ft	10% lot width with a Min 5 ft Max 20 ft	25% lot width with a Min 20 ft Max 75 ft		40%

3. What structures on my property count toward lot coverage?

Buildings, accessory structures, decks, patios, paved or unpaved walkways, parking areas, and any other paved surface is measured when calculating lot coverage. Some items that are not measured when calculating lot coverage include lawns, gardens, drainage ways, open play structures not on a paved surface, swimming pools (the apron, deck or walkway adjacent to it are included in lot coverage), and ramps built at the minimum dimension to meet accessibility standards.

However, in the low and medium density residential zones, the ordinance allows for an additional 10% of lot coverage for features that are accessory to residences, so long as they're not enclosed or used for parking. These include elements such as decks, patios, outdoor game courts, swimming pool aprons, walkways, window wells, and approved pervious pavement systems.

4. What if I want to add habitable space to my home, but don't want it to have its own kitchen?

Burlington's ordinance defines an ADU as an efficiency or 1-bedroom apartment that is subordinate to the primary dwelling, and includes facilities for independent living, including sleeping, food preparation, and sanitation. Adding habitable space to your home in the form of additional bedrooms or bathrooms that are not designed to be occupied independent of the primary structure is not considered an ADU.

5. How is a duplex different than an ADU?

The major differences are in how the density of the lot is calculated and in occupancy. An ADU is an efficiency or 1-bedroom apartment that is subordinate to the primary single family dwelling, and either the ADU or the primary home must be owner-occupied. The ADU size is limited to 30% of the habitable area on a lot, and is limited to one bedroom or 2 adult occupants and their minor children. The property is still considered to be a single-family home for the purposes of calculating density on a lot.

A duplex, conversely, requires a larger lot than a single-family home when in low density residential districts, and is considered to be two units for the purposes of calculating density on a lot. There are no limits on the size of each unit in a duplex relative to the other, and no limit to the number of bedrooms within the unit so long as minimum life safety codes are met. In a duplex arrangement, each unit can be independently owned and/or rented. A duplex is not predicated on owner-occupancy of the property.

6. Is a tiny home an ADU?

Whether on a permanent foundation or on wheels, a subordinate residential structure on the same lot as a single-family home is considered an accessory dwelling unit (ADU). A tiny home may be considered temporary if it occupies a property for 11-30 consecutive days, or for 31-60 days within a 12-month period. It is considered permanent if it is in place for more than 31 consecutive days, or more than 60 days out of a 12-month period.

7. Is a Vermod modular home an ADU?

A modular home on the same lot as and subordinate to a single family home, and which meets all of the additional requirements in question 1, is considered an ADU.

8. Can I put a composting toilet in an ADU?

Acceptable methods for processing/disposing human waste are outside of the scope of Zoning. This issue should be discussed with Department of Public Works and/or the State Department of Environmental Conservation, which is responsible for issuing wastewater permits within Burlington.

9. Does the parking space for the ADU need its own parking area?

One additional parking space is required to be provided for an ADU. This can be located within an existing driveway or parking area as long as the parking area is large enough to accommodate the additional space as well as the two required spaces for the single-family dwelling. Tandem parking is permitted on residential properties, but no more than 2 cars can be parked in a row.

10. Does the additional parking space have to comply with setbacks?

If a new parking area is being constructed to meet the required parking for the ADU, it must meet the required setbacks articulated in the chart on page 1.

11. What if I don't/the person who will occupy the ADU doesn't have a car?

Property owners may request the Development Review Board grant a waiver of up to 50% of their required parking per the standards of Sec. 8.1.15 of [Article 8](#) of the zoning code. One of the two required parking spaces may be waived for the primary dwelling. There is no provision for waiving the one required space for the ADU.

12. Does the ADU have to have a separate entry?

And ADU may share an entry with the primary home as long as the ADU itself has facilities for independent living.

13. How do ADU's affect the City's 4-unrelated ordinance?

The occupancy of an ADU is limited to 2 adult occupants and their minor children, regardless of their relationship, and the occupancy of the ADU is calculated separately from that of the principal dwelling. It is important to remember that either the primary dwelling or the ADU must be occupied by the owner(s). If at any time owner-occupancy is discontinued, the ADU must be removed, and the additional space created to accommodate the unit cannot be used for the purposes of increasing the number of unrelated adults inhabiting the property.

14. If I sell a property containing an ADU, do the new owners have to comply with the owner-occupancy requirement? Do they have to reapply for a zoning permit for the ADU?

If the new owners wish to utilize the ADU, they will be required to comply with the owner-occupancy requirement and do not need to reapply for a zoning permit for the unit. If the new owners wish to use the property primarily for rental purposes, the accessory unit must be discontinued, and a new zoning permit would be necessary to reflect the change in use of the space.

15. Do I have to have separate utility hookups or can I connect to those of the main house?

Acceptable methods for connecting to utility services are outside of the scope of Zoning. This issue should be discussed with Department of Public Works, Burlington Electric, Vermont Gas, and any internet/telecom service providers as necessary.

16. If I meet all of the requirements of the zoning, can my neighbor appeal my permit?

Under Vermont State Law, a notice of zoning permit application must be posted for all permit applications, offering adjacent residents the opportunity to learn more and/or appeal the permit. In Burlington, permits that are approved administratively are subject to a 15-day appeal period, and permits approved by the Development Review Board are subject to a 30-day appeal period. Any zoning permit may be appealed within its appeal period.