

## Accessory Dwelling Units

# Municipal Perspective

- ADU rule in State Statute Supersedes local zoning.
  - 24 V.S.A. § 4412 (1) (E).
- Key Provisions:
  - Adding an ADU to a SINGLE-FAMILY DWELLING shall be considered a Permitted use.
  - A single-family dwelling with an ADU is subject to the same zoning rules as single-family dwelling WITHOUT an ADU.

# More Key Provisions

- The ADU may be located within the same building as the single-family dwelling or in an “appurtenant” structure on the same property.
  - E.g. above the garage.
- The ADU can be at least 900 square feet or 30% of the total habitable floor area of the single-family dwelling (including the ADU).
  - Whichever is greater.
  - A municipality can choose to allow larger ADUs.

# Some Limitations on ADUs

- Municipalities can require that the ADU be on an owner-occupied lot.
  - And most do.
  - The owner can live in the ADU.
- Flood hazard and fluvial erosion area bylaws could still limit the ability to permit an ADU.
- Must have water/wastewater capacity.

# Considerations and Challenges

- ADUs can still be subject to zoning standards that are based on square footage and # bedrooms.
  - E.g. parking rules.
- Municipalities can subject appurtenant structures that contain ADUs to the same rules that apply to Single-Family Dwellings.
  - E.g. There may be different setback rules for a simple garage vs. a garage that has an apartment upstairs.
- Proving owner-occupied status can be an adventure.
  - Be prepared to declare your property as a Homestead on an annual basis or provide similar proof of owner-occupation.

# Editorializing...

- Important to most municipalities to be able to require owner-occupation for the ADU allowance.
- “Permitted by Right” is a powerful concept in zoning.
  - End-run around the local development review process.
  - We caution the Legislature against overusing such a mandate.