



BUILD SMALL COALITION

Accessory dwelling unit (ADU) zoning code audit report

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Executive summary

Accessory Dwelling Units (ADUs) are self-contained homes located on the same property as a larger, principal home and can be detached, attached or internal to the primary home. ADUs have gained interest across the nation as an opportunity to diversify the housing market and use urban land more efficiently, increasing the number of new homes in an area while not changing the look or feel of the existing neighborhood.

They also provide options that can match peoples' needs at different life stages and income levels. For example, young homeowners may rent out their ADU to help pay their new mortgage; a retired senior may rent an ADU to supplement their pension; or an aging parent can live with their child, allowing families to stay connected while still enjoying a degree of independence.

Almost all cities and counties across greater Portland adopted regulations in 1997 to allow one ADU per single-family dwelling in single-family zones, subject to reasonable siting and design standards.

The construction of ADUs, however, has not been widespread. Nearly 2,700 ADUs have been permitted in the City of Portland alone since 1997; only about 250 units have been permitted in all other Metro-area jurisdictions combined. Simply allowing ADUs in the zoning code has not been enough to foster their widespread production.

Emerging best practices from across the country suggest that other factors such as regulations, building requirements, fees and other issues also play a significant role in supporting - or deterring - ADU development.



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In 2018, Metro's Build Small Coalition conducted a code audit to better understand the regulatory conditions across the region and their relationship to ADU production.

This audit consisted of three primary efforts:

- a review of zoning codes and public documents related to ADU regulations;
- select stakeholder interviews to gain insight into how those regulations function in practice;
- and collection of data on the number of ADUs in the region.



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While regulations and practices varied widely, the coalition found opportunities for every jurisdiction to reduce barriers to ADU production. The most significant regulatory barriers to ADUs identified through the audit were:

- owner-occupancy requirements;
- design standards;
- off-street parking requirements; and
- significant dimensional restrictions such as ADU height limits, size limits or property line setback requirements.
- System Development Charges (SDCs) were also identified as a significant financial barrier, though generally not the sole deterrent in places where ADU production was limited.

Based on these findings, the coalition recommended ADU code provisions and regulations that incorporate observed best practices in the greater Portland region, advice from ADU developers and best practices from across the country.

The findings of this audit and related technical assistance are intended to support jurisdictions as they continue to innovate through subsequent code updates, with the ultimate goal of removing barriers to ADU development across the region.

The audit comes at a time of great opportunity for jurisdictions as many are working to update or have recently updated their regulations to meet specific SB 1051 state requirements.

Metro offered technical assistance to local jurisdictions for reviewing or developing code language, navigating the adoption process and coordinating with the Department of Land Conservation and Development (DLCD).

These updates are an opportunity to set direction for the next 20 years of ADU regulations - and in doing so, to take a meaningful step in supporting housing choice and affordability for the region.

Introduction

The Accessory Dwelling Unit (ADU) code audit is an initiative of Metro's Build Small Coalition intended to understand ADU development trends and the regulatory environment, and to support greater ADU development throughout the greater Portland region.

The Build Small Coalition is a group of public, private and non-profit small home and housing affordability advocates who work together to increase development of and equitable access to smaller housing options across the region.

The coalition was previously led by the Oregon Department of Environmental Quality and was known as the Space-Efficient Housing Work Group. In general, the coalition is working to encourage a greater variety of housing to match people's needs at different life stages and income levels.

One of the focus areas in the coalition's work plan for the year is catalyzing ADU development beyond the city of Portland. By understanding existing development ADU regulations and development patterns, this report will support greater ADU development by providing distilled best practices and recommendations to reduce regulatory barriers in Metro jurisdictions.

The work also overlaps with existing Metro code requirements and the broader Equitable Housing Initiative, an effort to work with partners across the region to find opportunities for innovative approaches and policies that result in more people being able to find a home that meets their needs and income levels.

Since 1997, Metro has required jurisdictions to permit one ADU per single-family dwelling in single-family zones subject to reasonable siting and design standards. However, ADU development and interest has varied across the region over the past 20 years, with the majority of ADU activity centered in Portland and little ADU development in most other jurisdictions around the region.

ADU development supports two of the four Equitable Housing Initiative strategies: increasing and diversifying market-rate housing, and stabilizing homeowners and expanding access to home ownership.

ADU code audit project goals

- Summarize existing ADU regulations across all Metro cities and counties and compare against Metro code requirements, state SB 1051 requirements and emerging best practices.
- Understand how regulations are dynamically applied in practice through discussion with ADU developers, practitioners and regulators.
- Understand ADU development trends in all Metro cities and counties, and any correlations between regulations and development, particularly those that highlight potential regulatory barriers.
- Share regional trends, best practices, and recommendations with Metro jurisdictions to support code updates to catalyze ADU development beyond the City of Portland.

With existing interest and increasing conversations around ADUs and affordable housing, as evidenced by the Equitable Housing Initiative, the coalition wanted to better understand the existing scope of ADU regulations across the region, understand their relationship to resulting ADU production and feasibility and promote innovative practices emerging locally.

The audit scope includes review and analysis of ADU zoning regulations across all 27 Metro cities and counties.

The audit is intended to describe existing regulatory conditions for ADUs both as codified and as applied, in order to generate insight into aspects of ADU regulatory and practical approaches that best support ADU development.

Though zoning and regulatory approaches alone may not catalyze ADU development, understanding regulatory barriers is central to recommending updated regulatory approaches that better support ADU development.

The audit also comes at a time of great opportunity for jurisdictions as many are working to update or have recently updated their regulations to meet specific SB 1051 state requirements and to better support affordable housing development.

The findings and related technical assistance are intended to support jurisdictions as they continue to innovate through subsequent code updates, with the ultimate goal of removing barriers to ADU development across the region.



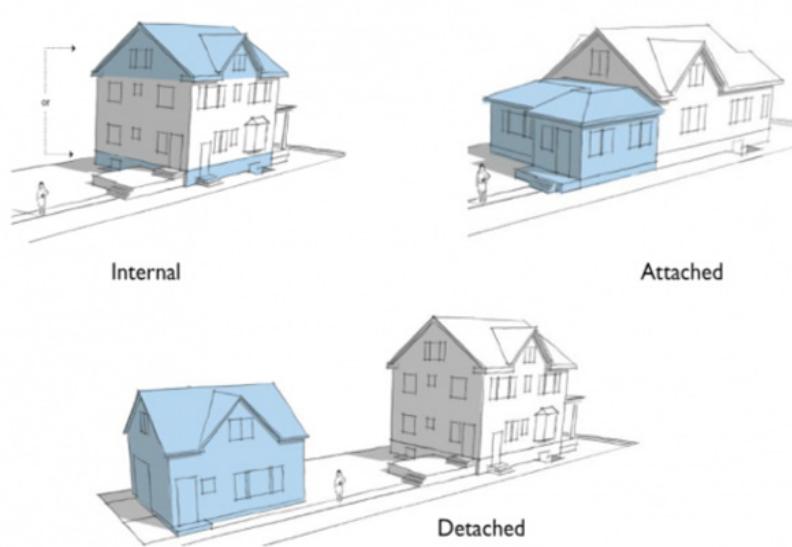
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ADU background

ADUs have existed historically in a variety of forms, dating back at least as far as the late 18th century. ADUs are smaller, secondary dwellings built in a variety of forms, including:

- Detached: New or converted detached structures such as garages.
- Attached: New or converted attached addition to the existing home.
- Internal: Conversion of existing space such as a basement or attic.

Figure 1: Example of ADUs, Source: City of Saint Paul, MN



ADUs are often built by the owners of the primary dwelling as a space for family, friends or caretakers, as a rental unit to generate income, or as a space for the homeowner to live while renting the primary dwelling. A common pattern is for ADU use to change over time, providing particular flexibility to support new homeowners, multigenerational households, and aging in place. For example, an older homeowner may construct an ADU initially for additional rental income to pay the mortgage, may use it to accommodate a live-in caretaker, or may subsequently move into the ADU to downsize while renting the primary house.

What is an ADU?

Accessory dwelling units (ADUs) are small, self-contained homes located on the same property as a larger, principal home with their own kitchen, bathroom and sleeping area.

ADUs can be attached or detached, can be converted from existing structures or new construction.

They are also known by other names that reflect their various potential uses, including granny flats, in-law units, studio apartments and secondary dwellings.



Photo credit:
accessorydwellings.org

Since 1997, Metro has required jurisdictions to permit one ADU per single-family dwelling in single-family zones subject to reasonable siting and design standards. Almost all cities adopted ADU regulations immediately following, but interest among both jurisdictions and homeowners has varied over the past 20 years. Some codes have remained unchanged and unused, while others have undergone successive rounds of improvement as ADU development has expanded.

Portland is the most notable example in the region, where ADU growth has taken off concurrent with regulatory changes that expand ADU allowances and system development charge (SDC) waivers to reduce up-front costs for homeowner developers.

Other greater Portland cities have not seen similar rates of ADU construction despite adopting some measure of ADU regulations to meet Metro requirements. Since 2000, ADU development in jurisdictions outside of Portland ranges from 0 to 60 total ADUs (see Table 3).

Examples across the West Coast also add to the understanding of ADU regulations and development potential. Vancouver, BC is notable for allowing two ADUs per lot, with approximately 35 percent of existing single-family homes estimated to be ADUs. Research by Sightline Institute mapped ADU regulations across Washington, Oregon and Idaho, concluding that many cities allow ADUs but make it difficult for ADUs to be built at scale.

California passed a new statewide requirement for all cities to permit ADUs in an effort to jumpstart development and ease the housing crisis. These developments highlight increasing national interest in how ADUs can be integrated into communities to expand housing opportunities, strengthen neighborhoods, provide flexibility for homeowners and changing family dynamics and generate financial benefits for homeowners and renters.

In Oregon, Senate Bill (SB) 1051, which passed in 2017, is intended to support more affordable housing development across the state, and includes a requirement for virtually all cities and counties to allow ADUs with all single-family detached dwellings in single-family zones, subject to “reasonable local regulations relating to siting and design.”

The statutory provisions also require that ADU regulations be “clear and objective.” The Oregon Department of Land Conservation and Development (DLCD) has issued guidance on implementing SB 1051 requirements in local jurisdictions.

The DLCD guidance on ADUs supports a number of innovative practices, including permitting two ADUs per lot, removing off-street parking requirements and removing owner-occupancy requirements. This guidance goes beyond what many jurisdictions would have considered in the late 1990s when first drafting their ADU regulations.

Although the actual language of the SB 1051 ADU requirements is remarkably similar to the language from the 1997 Metro requirement, the requirement and deadline come at a time when there is increasing interest in ADUs and in affordable and varied housing options.

There is also 20 years of experience of ADU development to draw upon from the greater Portland region, the state and nationally, reflected in the DLCD implementation guidance and emerging recommendations about best practices for ADUs from think tanks such as Sightline Institute.

Meeting state requirements in 2018 is thus an opportunity for Metro jurisdictions to refresh existing regulations and innovate to better support ADU development.



Photo credit: accessorydwellings.org

ADU requirements timeline

1997: Portland allows ADUs by right

1997: Metro code requirement for all cities to permit one ADU per single-family dwelling in single-family residential zones

2000: Majority of Metro cities have adopted ADU regulations

2010: Portland SDC waiver for ADUs first passed, permits markedly increase

2017: State SB 1051 passes, requires majority of cities and counties to permit ADUs subject to “clear and objective” standards

July 1, 2018: SB 1051 effective date, deadline for cities to adopt or update ADU regulations

Project approach and methodology

The code audit combined several layers of analysis of ADU regulations and development patterns to understand regulations as written and as applied. Audit findings across key issue areas are summarized in the *Code Audit Findings* section, incorporating insights from the regulatory code review and stakeholder interviews.

The first step of the code audit examined the published zoning codes, supplemented with review of land use application forms, fee schedules, and any other documents publicly available related to ADUs and SDCs for the 24 Metro cities and three Metro counties.

The code audit is based on regulations current as of March 31, 2018 when the audit was completed, however, many codes were already under review at the time of the audit to meet the SB 1051 effective date of July 1, with rolling adoption of new codes over summer 2018. Rather than making the audit a moving target, the audit matrix reflects the ADU regulations as they existed at the time; future work will include monitoring and evaluating new codes as they are adopted.

The evaluation matrix describes existing regulations across multiple categories for easy comparison between cities, and is intended to be both descriptive of the existing regulations as well as evaluative of whether the regulations support or inhibit ADU development, based on emerging best practices. Audit review categories were based on the requirements of state and Metro ADU mandates, and emerging best regulatory practices to support ADU development.



Photo credit: accessorydwellings.org

Categories were derived from noted regulatory barriers to ADU development including off-street parking requirements, owner-occupancy requirements of the ADU or primary dwelling, total occupancy limits, restrictive dimensional standards including total square footage, and design compatibility requirements with the primary dwelling.

Additional review categories capture non-code related elements such as System Development Charges (SDCs) for ADUs, land use application materials, and availability of information materials for prospective ADU developers.

Basic demographic data including city size, average home price, and prevalence of single-family dwellings, from the 2016 American Community Survey, is provided for a quick snapshot of the conditions in which ADUs may or may not perform well.

The matrix incorporates both descriptive summaries of applicable regulations, as well as an evaluative component using a tri-color-coding system to evaluate the status of each aspect of the regulations, relative to emerging best practices and regulatory requirements, rather than attempting to score or rank jurisdictions. Green indicates compliance with a specific regulatory aspect, yellow indicates mostly in compliance with opportunities to reduce barriers, and orange indicates the greatest opportunities to remove barriers.

For example, any regulation that allows one ADU per lot rather than per single-family detached dwelling was flagged as orange, because of the SB 1051 legal requirement to permit ADUs on a per dwelling rather than per lot basis, but regulations that permit one ADU per dwelling rather than the recommended two per dwelling consistent with DLCD guidance were flagged as yellow to indicate additional opportunity rather than lack of compliance.

Given the emerging consensus that off-street parking and owner-occupancy requirements are significant barriers to ADU development, both types of regulations were flagged as orange, as were any design standards requiring “similar” materials and character as the primary dwelling, which is contrary to the state requirement for clear and objective standards.

Code audit matrix intended to be:

Descriptive: capture the extent of ADU regulations that exist as of March 31, 2018.

Evaluative: compare existing regulations against state and Metro ADU requirements, and emerging best practices, in order to highlight opportunities for code updates that better support future ADU development.



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accessorydwellings.org

Stakeholder interviews were conducted with selected city and county planners and local ADU development professionals for additional insight into how the regulations function in practice.

The six representative jurisdictions were selected to include a variety of sizes, geographies, demographics, and ADU development trends; the six included City of Beaverton, City of Gresham, City of Lake Oswego, City of Wilsonville, Washington County, and City of Vancouver, WA.

ADU professionals interviewed were selected based on their experience developing or knowledge of ADU development around the greater Portland region beyond Portland, and included Dave Spitzer, with DMS Architects, Joe Robertson of Shelter Solutions, and Kol Peterson, author of “Backdoor Revolution: The Definitive Guide to ADU Development.”

Interviews were used for insight and general understanding, rather than for verbatim quotes.

A quantitative element of the project includes gathering data on ADU construction trends and SDC levels across jurisdictions to better understand the ADU development context and outcomes. Data on permitted ADU construction, estimated unpermitted ADUs and estimated level of interest was collected from multiple sources.

Data compiled by Metro’s Research Center as of February 27, 2018, was used as initial data for permitted ADUs built since 2000, and was supplemented with self-reported data from jurisdictions; individual jurisdictions relied on a range of permit data and other internal tracking metrics to provide estimates.

Results are shown in Table 3; in the event of conflicting totals, the higher figure was used provided it was deemed reliable.

Jurisdictional estimates were also gathered for unpermitted ADUs and number of ADU inquiries to understand ADU interest beyond finalized permits; for example, a jurisdiction with a high level of interest but no or few final ADUs might indicate significant regulatory barriers. While anecdotal and impressionistic, the self-reported observations are summarized in Table 2.

Finally, SDC rates applied to ADUs were calculated based on published fee schedules where available, or through inquiries to jurisdictional staff in the planning or engineering departments. Because of the uneven availability of SDC rates, data is provided for a subset of Metro jurisdictions to illustrate the general range of SDC variation rather than fully catalogue SDC rates; see Table 1.

Given the relevance of the ADU code audit findings for jurisdictions currently amending their codes to address housing opportunities generally and the SB 1051 requirements specifically, the audit approach was also expanded midway through the project to incorporate outreach and technical assistance for Metro jurisdictions.

Representatives from nearly half of Metro cities and counties attended a workshop convened April 23, 2018, to share preliminary audit findings, and code audit advice from both the Metro and state perspective intended to inform code update efforts. Metro will offer continuing technical assistance with code amendment and implementation issues over the rest of the year, as detailed in Section 7 on next steps, and monitor ADU code updates to identify emerging trends and issues.

Code audit findings

Comprehensive ADU regulations have been adopted in nearly every Metro jurisdiction, with limited exceptions, and address a similar suite of issues including dimensional standards, design standards, occupancy standards and permitting requirements.

Adopted regulations and practices are less consistent in addressing infrastructure requirements, including SDCs, and in providing application and informational materials for would-be ADU builders.

The most significant regulatory barriers to ADUs identified through the audit were owner-occupancy requirements, off-street parking requirements, and significant dimensional restrictions such as 20-foot rear-yard setbacks, one-story ADU height limits, or ADU size limits below 600 SF.

SDCs for ADUs were reported to have an outsize effect on discouraging ADU construction, however, even cities with reduced or eliminated SDCs did not report a significant boost in ADU permits, except for Portland. Conditional use review requirements are generally considered a barrier to ADUs, but none were observed in the greater Portland region.

One overarching trend is that cities appear to be learning from and copying each other, with certain code provisions repeated among neighboring cities, or even across the larger metropolitan area. For example, Tigard and Tualatin have similar provisions limiting ADUs to internal and attached ADUs, as do Gresham and Troutdale.

Many cities have nearly identical code language on required design elements. There may be a feeling of “safety in numbers,” with one city feeling more



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comfortable with certain provisions because they are already being used in a neighboring city with few apparent ill effects.

Another takeaway is the diversity of regulatory combinations and the resulting cumulative impact on ADU development feasibility. Codes generally fell along a spectrum from less supportive to more supportive depending on the exact mix of code provisions, rather than a dichotomy of prohibitive and permissive: jurisdictions do not seem to have taken an “all or nothing” approach but rather crafted codes to respond to local priorities.

Many codes excluded some of the most significant barriers but included one or more “poison pills” (such as those listed on page 12) that could nevertheless make it difficult to develop.

For example, West Linn has no owner-occupancy requirement but does have one minimum off-street parking space required and design compatibility standards. King City has no owner occupancy requirement and many sites are exempt from providing off-street parking, but the high minimum lot size to develop an ADU disqualifies many potential ADUs.

Significant ADU regulatory barriers

- Off-street parking requirements, particularly if separate access is required and tandem parking is not permitted.
- Owner-occupancy requirements.
- Significant dimensional restrictions such as 20-foot rear-yard setbacks, one-story ADU height limits, or ADU size limits below 600 SF.
- Limiting types of ADUs, such as prohibiting detached ADUs.
- Design compatibility requirements with main dwelling.
- System development charges (SDCs).



*Photo credit:
accessorydwellings.org*

Portland is unique for having removed all of the most significant barriers, coupled with the current SDC waiver.

Among the codes outside of Portland, fewer barriers generally seem to support ADU development, such as examples in West Linn, Hillsboro and Wilsonville, compared to jurisdictions with several significant barriers that have seen limited ADU development.

A. Existence of Regulations

The vast majority of jurisdictions have code provisions to permit some type of ADU development. Of the 27 jurisdictions audited, only two jurisdictions did not have ADU codes: Multnomah County and Johnson City, both of which have unique factors limiting ADU development potential.

Multnomah County staff reports only 600 homes in urban areas of the UGB that could be eligible for ADU development. However, to comply with SB 1051 requirements, the County adopted ADU regulations on June 7, 2018, after the audit was completed, to permit ADUs within those urban areas.

No records were found for ADU regulations in Johnson City, home to approximately 500 residents where 90 percent of dwellings are manufactured homes, which are less likely to have flexibility for addition of an ADU, particularly those within manufactured home parks.

The majority of ADU codes were initially developed around 2000, and many have not been updated since. It seems likely that the frequency of updates and the number of ADUs built are directly related.

That is, the more ADUs are built, the more the code is examined and revised, whereas jurisdictions with no ADU development leave the code unchanged, potentially perpetuating barriers to development.

B. Number and Type of ADUs

The prevailing code approach is to permit one ADU per residential lot, including all types of ADUs. The majority of codes audited permit one ADU per lot, rather than per single-family dwelling as required by SB 1051.

This likely has a limited impact on actual ADU feasibility, given that most single-family houses are built on individual lots, but such language does not comply with state requirements. Only three jurisdictions clearly permit ADUs on a per dwelling basis rather than per lot. No codes permit more than one ADU per dwelling or per lot, however, several cities, such as Tigard and Portland, are considering whether to permit two ADUs per dwelling.

Most codes permit detached, attached, and internal ADUs, but a notable minority limit detached ADUs, potentially to encourage retention of garages for off-street parking or to minimize impact of ADUs by confining them within the existing dwelling.

Gresham and Rivergrove do not allow any detached ADUs unless over a garage. Tigard does not permit new detached ADUs, and prohibits garage conversions unless the garage is replaced. Troutdale and Tualatin prohibit all new or converted detached ADUs, and Troutdale further prohibits conversion of an attached garage for use as an ADU.

C. Where Allowed

All codes allow ADUs in all or almost all single-family detached residential districts, and most allow ADUs in all zones where single-family detached residences are permitted even if it is not a primary use.

The limited exceptions tend to be zones with narrow applicability, such as overlay zones or subdistricts, or unique situations such as an overwater zone in Lake Oswego where homes are only allowed on pilings over water and ADUs are not permitted.

Additional borderline situations included ADU limitations in zones where existing homes are explicitly permitted but no new ones are allowed, in mixed-use zones where single-family detached dwellings are permitted as part of a larger mix of uses, and for lots with attached single-family dwellings.

The majority of jurisdictions prohibit ADUs in these situations, which fall outside of state and Metro requirements to allow ADUs in zones where single-family detached dwellings are permitted. A small minority of jurisdictions has explicitly permitted ADUs in such situations to expand ADU development potential.

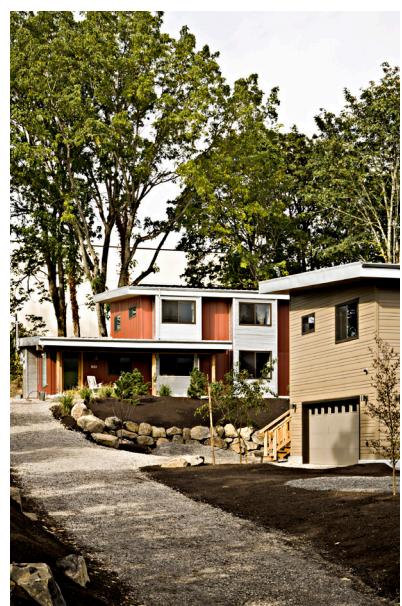


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accessorydwellings.org



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accessorydwellings.org

For example, Wilsonville, Clackamas County and Hillsboro permit ADUs with attached single-family dwellings as well as detached dwellings. Washington County is unique in permitting ADUs as part of some cottage housing developments.

Caution: Some regulations intentionally or inadvertently disqualify many existing lots from developing ADUs, even if ADUs are a permitted use, through minimum lot size requirements or nonconforming lot limitations, and this may not be fully captured in the code audit matrix in Appendix A.

An example of the former is King City. ADUs are permitted in all zones where single-family detached dwellings are permitted, but ADUs are only permitted on lots 7,500 SF or larger while minimum lot sizes for the residential zones range from 2,400 to 5,000 SF. Thus, few existing lots are likely to meet the minimum lot size requirements for ADUs.

Codes were mostly silent on whether nonconforming lots, that is, legally created lots that are smaller than the minimum lot size under current zoning, could be developed with an ADU. Hillsboro directly addressed the issue by limiting ADUs to lots that meet the minimum lot size, and many other jurisdictions may interpret their nonconforming standards to similarly prohibit ADUs on nonconforming lots.

As a practical matter, smaller lots may not have room to add ADUs regardless of the zoning; Wilsonville noted that many new, master planned developments with intentionally smaller lots and higher lot coverage were not conducive to adding ADUs because of lack of available lot area.

D. Dimensional Standards

Dimensional standards apply to the size of the ADU and to where on the lot ADUs may be placed. ADU dimensional standards were evaluated for impacts to ADU development feasibility, and compared to dimensions for the primary dwelling and other accessory structures to understand the relative flexibility of ADU standards. Many codes default to the same dimensional standards as the primary dwelling, or to the standards for other detached accessory structures. Though using similar standards may seem reasonable, in practice they can be difficult to interpret or inappropriately scaled for ADU construction.

Setbacks

Setbacks generally default to those for the primary dwelling or for similarly sized accessory structures. A quarter of jurisdictions has an additional standard requiring detached ADUs to be set back relative to the primary dwelling, measured in a variety of ways including minimum setback from the front property line, from the rear of the primary dwelling, or from the front façade of the primary dwelling.

No jurisdictions differentiate rear and side setbacks for ADUs, instead using standards for primary dwelling or accessory structures. Base zone setbacks were not fully audited as part of this project, but merit further review by individual jurisdictions to ensure they are not overly restrictive for ADU development.

A limited survey of setbacks showed that 20 to 25-foot rear setbacks apply in many single-family dwelling zones, which ADU developers report can be a significant obstacle to fitting a detached ADU on a standard lot. Some cities tie detached ADU setbacks to those for accessory structures, which generally require a greater setback for larger and taller structures; ADUs are typically larger than garden sheds or greenhouses, however, and few would likely qualify for the reduced setbacks.

One unique approach to ensure adequate yard space without a uniform rear setback is a minimum outdoor space standard, used by Washington County and Portland, which requires a yard meeting a minimum total size and minimum dimensions, but with the flexibility to locate the yard anywhere in the side and rear setbacks which frees up portions of the remaining side and rear setbacks for siting an ADU.



Photo credit: accessorydwellings.org

Height

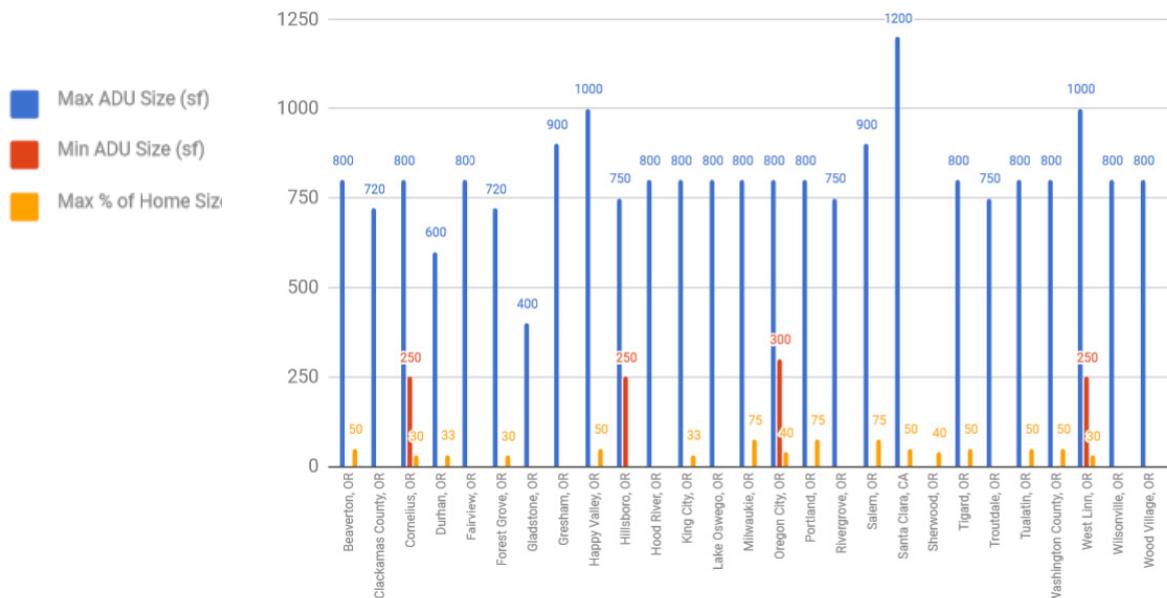
For detached ADUs, the most common height standard is 20 to 25 feet, in line with best practices to permit two-story and over-garage units. There are a few outliers limiting height to 12 to 15 feet or one story, which is not recommended. ADU developers report that two-story ADU construction is a desirable option for some lots in order to minimize the ADU footprint.

A few cities have tiered height standards, with taller heights allowed through a more detailed review process (Milwaukie) or outside of setbacks (Portland). Almost all codes limit height for attached and internal ADUs to the same height as the primary dwelling, typically meaning the maximum height permitted in the underlying zone but a few codes, such as West Linn's, specifically limit ADU height to the height of the existing primary dwelling.

Unit size

The large majority of jurisdictions uses a maximum building size limit of 720 to 1,000 square feet for ADUs, with 800 square feet the most common maximum size. About half of the jurisdictions also ties the maximum size to a percentage of the primary dwelling's size ranging from 30-75 percent; this is generally intended to keep ADUs in proportion to existing development.

Figure 2: ADU size regulations. Source: Multnomah County Department of Community Services Land Use Planning Division



In practice this limitation has equity implications because it disproportionately limits ADU development on lots with smaller dwellings, typically owned by lower-income households, with no impact on larger homes owned by higher-income households. A few codes included size restrictions by type of ADU (attached or detached) or zone where the ADU is built, or maximum number of bedrooms.

Lot Coverage

All cities default to the maximum lot coverage standards allowed in the base zones, to include the total coverage of the primary dwelling, ADU and any accessory structures, except Portland which specifically limits ADUs and all detached accessory structures to a combined 15 percent lot coverage.

A representative sample of base standards indicated that many jurisdictions limit lot coverage to 30-40 percent, which may be a tight fit for a home and ADU. For example, West Linn limits lots in the R-7 zone to combined 35 percent lot coverage and 0.45 FAR, which would translate to 2,450 SF lot coverage and 3,150 total SF for the primary dwelling and ADU. While not overly restrictive, some sites potentially near these limits could benefit from additional flexibility. For example, Milwaukie permits a 5 percent increase in lot coverage for detached ADUs.

E. Occupancy Quotas

Over two-thirds of jurisdictions have no stated limit on ADU occupants and treat an ADU as a dwelling – similar to any other dwelling such as a house or apartment – that may be occupied by a ‘family’ or ‘household’, typically defined as any number of related individuals or up to five unrelated individuals. While most jurisdictions thus allow two ‘families’ to occupy the lot where the ADU is located, Portland, Sherwood and Wood Village limit occupancy to one family/household quota shared between the ADU and primary dwelling.

This limitation is likely intended to keep total site occupancy at a level comparable to other properties in the neighborhood developed with a single-family dwelling. The remaining handful of jurisdictions use a variety of regulations to limit occupancy, either an overall limit of two to three occupants or an allowed ratio of one occupant per 250 SF.

Unique ADU regulations

- Yurts may be used as an ADU, exempt from design standards. (Milwaukie)

- 15 percent size bonus for ADA-accessible ADUs. (Washington County)

- Six total off-street parking spaces required to serve primary dwelling and ADU, including three covered, enclosed spaces. (Rivergrove)

- 7,500 SF minimum lot size to develop ADUs, when minimum lot sizes for affected zones range from 2,000 to 5,000 SF. (King City)

- Windows must be arranged above ground level when located within 20 feet of the property line. (Milwaukie)

These regulations may have a cascading impact, exemplified by West Linn: occupancy is limited to one person per 250 SF, and a maximum permitted ADU size of 1,000 SF could accommodate four occupants, except that detached ADUs are limited to 30 percent of the primary dwelling size, such that only a 3,333 SF primary dwelling would qualify for a 1,000-SF, four-person ADU. With a maximum of 0.45 FAR permitted, only lots close to 10,000 SF could accommodate the combined dwelling and ADU, and smaller lots would be effectively limited to fewer ADU occupants.

In practice, few cities actively enforce occupancy limits for any type of dwelling, including ADUs, and ADU occupancy rates are not likely to exceed occupancy limits due to their small size. There were no reported code enforcement concerns around occupancy limits among the jurisdictions interviewed.

F. Design

The large majority of codes require some degree of design compatibility between the ADU and the primary dwelling. Most of those list specific elements, from siding materials, eave depth, colors, roof form and materials to window treatments and proportions, that must be compatible; this specificity about elements helps make the code more objective, but many codes still use vague, discretionary language requiring those elements to be consistent with the primary dwelling.



Photo credit: accessorydwellings.org

Though the approach is similar, the precise code wording varies across jurisdictions: design elements are required to be “similar,” “consistent,” “same or similar,” “the same or visually similar,” “match,” “generally match,” “match or be the same as,” “compatible,” “same or visually match,” “substantially the same,” “conform to the degree reasonably feasible,” or be “architecturally consistent.”

Only five jurisdictions have no design compatibility standards, and an additional three only apply compatibility standards to attached ADUs. One specific design element required by many codes is to restrict any new street-facing entrances for the ADU, presumably to preserve the single-family ‘character’ of homes.

While design compatibility is generally identified as important for maintaining neighborhood character, both ADU developers and regulators noted that it can limit design options, particularly in cases where the primary dwelling design may not be high quality, and it can be difficult to demonstrate whether a particular design does or does not satisfy the standard. Design standards will be under heightened scrutiny to meet new state requirements for “clear and objective” standards.

G. Comparison to ADU alternatives

To understand the relative complexity of standards and processes for ADUs, the audit reviewed requirements for similar projects including home additions, new detached accessory structures such as garages and guest houses. There is potential concern that non-ADU standards that are significantly more permissive than ADU standards may incentivize construction of illegal ADUs in accessory structures as an easier work-around.

The main points of comparison were dimensional standards, design requirements, permitting requirements, and SDCs. Dimensional standards for accessory structures are largely similar to those for ADUs of comparable size; many accessory structure standards include reduced setbacks proportionate to the size of the structure, such as a 3-foot setback for a 200-SF structure, but no relative reduction for larger accessory structures compared to ADUs.



Photo credit:
accessorydwellings.org

In some instances the ADU standards are more generous, with ADU standards notably allowing detached structures closer to 800 SF and accessory structures often limited to 400-500 SF. However, there are almost no design standards for accessory structures compared to ADUs, and no land use permitting required, which could make the accessory structures relatively easier to construct.

SDCs associated with ADUs were reported as a primary deterrent to submitting a project as an ADU rather than an accessory structure or addition. In interviews, many jurisdictional staff were familiar with this type of project – one called such projects the “everything buts” meaning “everything but” a stove and oven, since adding a stove meets the definition of a permanent cooking facility, thus meeting the definition of a dwelling unit and an ADU. Other jurisdictional staff described a surprising number of homeowners submitting permits for pottery studios, complete with a 220V plug needed for the pottery kiln, which coincidentally is the same plug needed for an oven.

Jurisdictions were asked to estimate the number or ratio of unpermitted ADUs to permitted ADUs to better understand the relative temptation of “everything buts.” Nearly every jurisdiction had an example of one or two that were addressed through code enforcement, but no jurisdictions reported a wide-spread, prevalent trend of unpermitted ADUs masquerading as accessory structures or home additions.



Photo credit: accessorydwellings.org

Several cities also permit guest houses, similar to ADUs but without permanent cooking facilities and sometimes with occupancy time limits. Of the five cities and counties that permit guest houses, the guest houses are typically allowed under similar situations as ADUs, but would be exempt from SDCs.

However, none of these jurisdictions reported significant numbers of known guest houses, either because they are less understood or less desirable without a kitchen. Guest house standards are evenly split on whether a guest house is permitted in addition to an ADU or not.

H. Occupancy limits

Just over half of jurisdictions require owner occupancy of either the primary dwelling or the ADU, and half of those jurisdictions require a recorded deed restriction to that effect. No owner-occupancy limits were identified for other types of dwellings.

A few jurisdictions permit minor permutations of the owner-occupancy requirements to permit a family member to occupy the owner unit, or to limit required residency to seven months of the year provided the owner-occupied unit is not rented out during the remainder of the year.

Washington County has a unique provision requiring owner occupancy unless the property is owned by a nonprofit serving persons with a developmental disability; staff explained that the provision was developed for a local nonprofit to facilitate a specific project that has since been built and is operating successfully.

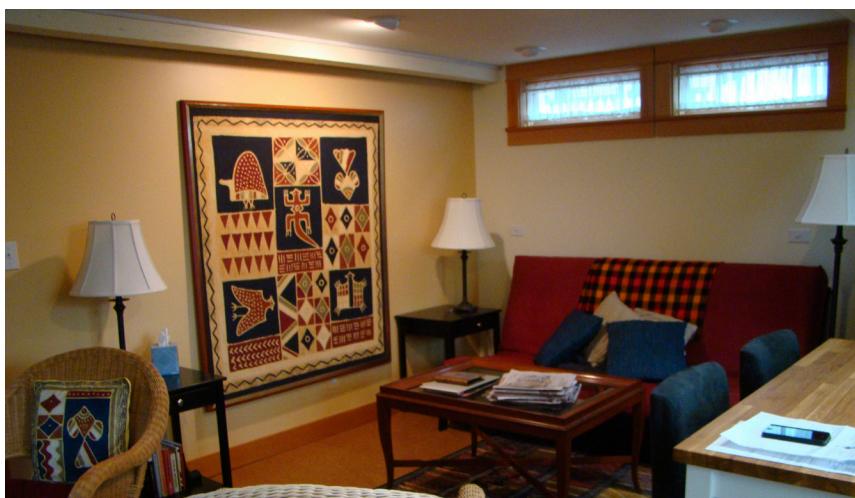


Photo credit: accessorydwellings.org



Photo credit:
buildinganadu.org

Owner-occupancy requirements are unique in that they create an ongoing use restriction rather than a standard that can be evaluated at a single point in time, requiring ongoing monitoring and potential code enforcement actions. Jurisdictions reported that owner occupancy enforcement rarely came up for ADUs, except in individual code enforcement cases.

Owner-occupancy regulations have a mix of potential impacts on ADU development feasibility. In the initial stage, many homeowners may not have any concerns about the owner-occupancy requirements because many do intend to continue living in their homes, though some express reservations or concerns about the limitations or the deed restriction requirements.

More significantly, however, the restrictions can reduce the assessed value of the ADU under many financing and assessment methodologies, making it more difficult to obtain financing for initial ADU construction and limiting property resale value in the long-term.

Owner-occupancy restrictions are often promoted as a tool to limit short-term rentals of ADUs. Only Portland and Milwaukie have developed specific short-term rental regulations to specifically address concerns around short-term rentals, and they regulate ADUs the same as other dwellings.

Concern about ADUs being used as short-term rentals, and desire for ADUs to be reserved for long-term housing, informed the recent Portland measure to permanently waive SDCs for ADUs—provided that homeowners sign a deed restriction prohibiting short-term rentals.

ADU developers report that some of their clients have in fact used their ADUs for short-term rentals for a limited time, primarily as a way to recoup some of costs associated with building the ADU, but that many then transition to long-term rentals or use by family members.

I. Off-street parking

The large majority of jurisdictions require off-street parking for ADUs, with additional parking locational standards that can significantly affect the overall impact of the off-street parking requirements.

The most common requirement is one off-street parking space for an ADU, reported in three-quarters of jurisdictions, though over one-third of those had an option to waive the off-street requirement if on-street parking was available adjacent to the site. Three jurisdictions had no off-street parking requirement for ADUs: Portland, Durham and King City.

When considering the total impact of off-street parking requirements for the site, just over half of jurisdictions require a total of two off-street parking spaces for the ADU and primary dwelling, while nearly a third of jurisdictions require more than two total off-street parking spaces. More than two spaces may have greater impacts on feasibility of ADU development because of the greater site area required for parking.

Rivergrove had the highest total parking requirement, six spaces total for a primary dwelling and for an ADU with one bedroom, including three covered, enclosed parking spaces, and even more parking for larger ADUs.

There is significant diversity and complexity of parking-related regulations, some that lessen and others that increase the impact of off-street requirements. Supportive regulations include allowing the portion of the driveway in the yard setbacks to count towards required parking spaces, allowing tandem parking to count multiple parking spaces in the driveway, and most significantly allowing adjacent on-street parking to fulfill ADU parking requirements, effectively eliminating the off-street parking requirements for many sites.

Problematic regulations include requiring covered, enclosed parking spaces, requiring replacement of any garages converted to an ADU, requiring separate driveway access for the ADU and primary dwelling parking, and prohibiting parking in the first 10 to 20 feet of the driveway. Parking standards that require a range of parking spaces for dwellings are also concerning as they create uncertainty and could be used to effectively block ADU development.

An example is Gresham's requirement for one space for the ADU and two to three spaces for the primary dwelling, or "as many spaces deemed necessary by reviewer to accommodate the actual number of vehicles" for the ADU and primary dwelling.



*Photo credit:
buildinganadu.org*



Photo credit:
buildinganadu.org

Off-street parking requirements were identified by ADU developers as one of the top barriers to ADU site development feasibility, though jurisdictional staff had mixed reports about the perceived impact of parking requirements for homeowners in their jurisdictions depending on prevalent lot sizes and common expectations of car usage and parking availability.

J. Other zoning standards

There were a limited number of special concerns outside of the main categories and there was general convergence on the topics included in ADU regulations. The most common issue addressed is privacy and screening between an ADU and neighboring single-family properties, including either minimum 4 to 6-foot tall fencing or landscaping requirements or more discretionary standards for an “appropriate” level of screening, included in regulations in Happy Valley, Lake Oswego and Milwaukie. One-off regulations, addressed in only one or two jurisdictions, included:

- Limiting types of home occupations permitted with ADUs (Portland, Tigard)
- Explicitly permitting simultaneous construction of ADUs and primary dwellings (Sherwood)
- Prohibiting occupation of an ADU before the primary dwelling (Gresham)
- Limiting ADUs to 50 percent of the lots per block face (Fairview)
- Prohibiting land division or separate ownership of ADU and primary dwelling (Sherwood, Tualatin)

Few of these concepts emerged as either critical needs or concerns for jurisdictional staff or ADU developers, and were likely developed in response to specific local issues. ADU developers did identify permitting simultaneous construction and occupation of ADU prior to the primary dwelling as supportive practices, particularly in communities with significant new construction, but acknowledged these as “extra” rather than central requirements.

K. Application requirements

Three-quarters of jurisdictions require some type of land use review in addition to building permit review; a handful either have a combined land use and building permit review option or simply require building permit review.

Of those requiring land use review, jurisdictions are split nearly evenly between requiring Type I – an administrative review with no discretion applied by the staff reviewer – and Type II land use review, which requires the staff reviewer to apply limited discretion to interpret standards and allows for a written public comment period.

Slightly more than half of jurisdictions required a Type I review, with the other half requiring a Type II or higher level review for some or all ADUs. Some triggers for higher-level review include larger ADUs, taller ADUs, detached ADUs, or ADUs located in specific zoning districts. Cities requiring Type II review generally had more discretionary or onerous ADU regulations, such as design compatibility requirements.

No jurisdictions uniformly require conditional use review, the most onerous review type involving a public hearing and documentation of how the ADU would not impact neighboring properties, though Cornelius requires it in limited circumstances and Rivergrove requires Planning Commission review of all ADU applications.

L. Infrastructure requirements

The code audit examined jurisdictional regulations on infrastructure improvements required with ADUs including any separate water and sewer connection requirements, stormwater treatment requirements for additional impervious surface, or street improvements if lot frontage is currently substandard.

Over two-thirds of ADU regulations do not specifically address these infrastructure requirements, and those regulations that were identified generally state that infrastructure improvements are required on a case-by-case basis to ensure adequate capacity to serve the site.



*Photo credit:
buildinganadu.org*



In part this highlights the different regulatory approaches for land use and public works issues. Sewer and water capacity, stormwater treatment requirements, and street improvement requirements are generally site-specific, or may be addressed through more general policies rather than ADU-specific policies.

For example, Portland ADU standards include a cross-reference to stormwater treatment requirements for any development creating 500 SF or more of new impervious surface, for all development types not just ADUs.

More commonly, utility requirements and thresholds triggering improvements are included in separate code chapters and not explicitly referenced in ADU standards; those thresholds typically apply to total size or value of new construction, and as such are not ADU-specific, making it more difficult to identify such standards.



For example, Oregon City's code chapter on street and sidewalk improvements requires that new construction or additions to single-family homes that exceed 50 percent of the existing square footage trigger street and sidewalk improvements, if needed; ADUs will likely not trigger such improvements because ADU size is limited to 40 percent of the existing square footage, but the policy does not clearly exempt ADUs. Milwaukie staff noted that new frontage improvements can be triggered by ADU construction, and are a significant obstacle to ADU development.

Another complication in determining infrastructure requirements is that many jurisdictions, particularly smaller suburban districts, are served by a combination of city and district utility providers, such as Clean Water Services which provides sewer and stormwater services to many cities and unincorporated areas in Washington County, so district standards for utility improvements are not regulated at the local level.

Unfortunately, the application of non-ADU specific engineering standards, sometimes administered by utility providers unaware of ADU-specific issues, means that utility improvement requirements for ADUs generally boil down to "it depends," and could not be fully captured in this audit.

*Photo credit:
buildinganadu.org*

M. System development charges

SDCs are one-time fees assessed on new development intended to support expanded infrastructure capacity needed to serve said development. SDCs or similar one-time development fees for residential development including ADUs are typically assessed for water, sewer, transportation, parks, schools, and sometimes for stormwater. ADU developers and jurisdictional staff repeatedly identified high SDC rates as a barrier to ADU development, citing concern that adding \$10-20,000 in fees to ADU projects overran many project budgets and homeowners' willingness to pay.

Table 1: Total SDCs applied to new ADUs for selected Metro jurisdictions

	SDCs	Notes
Hillsboro	\$0	City practice is to not apply SDCs at this time
Portland	\$0	Temporary waivers since 2010, made permanent in 2018 for ADUs not used as short-term rentals
Rivergrove	\$0	No SDCs assessed for individual dwellings, only for subdivisions
Tigard	\$0	City practice is to not apply SDCs at this time
Tualatin	\$0	City practice is to not apply SDCs at this time
Wilsonville	\$0	Permanent waiver since 2010
Wood Village	\$0	For sole permitted ADU to date, a converted space above a garage. SDCs for single-family dwellings would be applied to ADUs in new structures.
Fairview	\$2,417.43	Includes parks and stormwater.
Gresham	\$4,729 - 7,823	Includes parks, transportation and stormwater. Higher fees associated with detached ADU
Happy Valley	\$5,512	Includes transportation and parks.
Beaverton	\$10,823 - 11,831	Higher fees associated with detached ADU
Oregon City	\$14,547	Includes sewer, transportation, and parks. Water may be additional depending on meter size.
Forest Grove	\$15,143 – 22,171	Higher fees assessed for detached ADUs.
Washington County	\$15,600	Average, can range from \$6,000 to 25,000. Estimate includes transportation, parks, and schools. Water and sewer possible but rarely triggered.
Lake Oswego	\$21,324	Includes water, sewer, parks and transportation.

Source: Self-reported by jurisdictions in response to audit inquiry May 2018.



Photo credit:
accessorydwellings.org

SDCs are typically due at the time a building permit is issued, meaning that would-be ADU developers must write a check for the full amount before even beginning the project. For infrastructure services, that can be difficult to appreciate, particularly in developed neighborhoods where fees are not immediately translated into additional infrastructure.

SDC price sensitivity is compounded by relative difficulty determining SDC rates. Almost no cities have developed ADU-specific SDC rates, and few offer clarification on which of the existing residential SDC rates apply to an ADU. SDC rates are typically found outside of land use standards, in master fee schedules, info sheets, or fee calculators.

ADU-specific rates or clear explanation of which SDC rates applied to ADUs were identified in the audit for a handful of cities, but the majority of cities did not have clear information available about which category of rates (single-family, multifamily, townhouse or other) to apply to ADUs without specific guidance from jurisdictional staff.

Often planning staff needed to refer to public works departments to provide estimates. There were many variables that may influence the total SDCs for a given ADU even within the same city. Similar to infrastructure improvements noted above, SDCs can be a combination of charges assessed by city and utility service providers, each using different methodologies and adding additional complexity to determining ADU rates.

A representative sample of SDC rates for ADUs reveals a wide range of rates applied to ADUs, from zero to over \$20,000, and the details behind the totals capture a variety of methodologies used to develop those totals.

Only two cities, Portland and Wilsonville, explicitly offer an SDC waiver for ADUs, and an additional five cities reported assessing no SDCs for ADUs as a matter of practice. To add nuance to the common perception that SDCs are a significant barrier to ADU construction, ADU development trends in Portland and Wilsonville under similar SDC waivers have produced differing results. SDC waivers are largely credited with spurring ADU development in Portland: development increased from approximately 50 to 500 ADUs permitted annually after SDCs were waived in 2010.

However in Wilsonville, only seven total ADUs have been permitted since 2000 with no noticeable uptick in permits after the SDC waiver took effect in 2010. In addition to significant real estate market differences between the two cities, another difference that may relate to these divergent outcomes is that Portland's waiver was heavily publicized and was intended to be temporary – though was in fact extended multiple times – fueling a “beat the deadline” mentality.

In comparison, city practices to not assess SDCs in cities from Hillsboro to Tualatin have not been publicized and were only identified in audit research through discussion with cities, perhaps limiting their efficacy as an ADU development incentive.

N. Information and incentives

The availability of online information varied greatly between jurisdictions, but generally was minimal. All jurisdictions with adopted ADU regulations made those regulations available online, though some were harder to find than others and all required navigating through the municipal code to locate relevant sections. The audit specifically identified information written for prospective developers explaining the ADU regulations and permitting requirements.

ADU developers cited Portland's ADU website as the best local example, providing centralized, ADU-specific information including an overview of requirements, worksheets, application forms, and explanation of the permitting and inspection process.

Informational materials available online, specific to ADUs, were identified in slightly less than half of local jurisdictions; the



Photo credit: accessorydwellings.org

breadth and depth varied widely from a one-page info sheet summarizing land use code requirements for accessory structures generally with a few lines about ADUs, to a comprehensive packet with diagrams and checklists.

The most comprehensive materials detailed site requirements, ADU regulations, permitting procedures including any necessary application forms, and fees including SDCs. Of the information available, nearly all was specific to land use regulations with little available on engineering or building-related requirements.

Related issue: CC&Rs' Impact on ADU Feasibility



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Codes, covenants and restrictions (CC&Rs) are a set of rules and limits imposed on a residential development by the Homeowners Association (HOA), in which all homeowners agree to abide by certain standards for the neighborhood. CC&Rs are a private contract between homeowners and HOAs, separate from local zoning regulations, meaning that the jurisdiction cannot override CC&Rs nor can they enforce them. Generally CC&Rs can be more restrictive than local zoning regulations, but not less. Only HOAs have the power to amend CC&Rs.

Existing CC&Rs may prevent ADU development. A small sampling of Metro-area CC&Rs indicated that CC&Rs have moderate variation over time, depending on the era and place when they were recorded, and there was no single format. Generally the sampled CC&Rs included residential use and structure restrictions, which could be interpreted to restrict additional dwelling units such as an ADU, though none addressed ADUs explicitly.

Identified standards included:

- Properties limited to residential use only.
- Structures limited to one residential dwelling and accessory structures, restricted in the most limited version to “One single-family dwelling...designed for occupancy by not more than one family, together with a private garage.” Even without the one family restriction, such structural restrictions would make it difficult to build a detached ADU.
- Garage use limited to vehicle parking only, or other restrictions on parking in driveways or on the street that would compel use of garages for vehicles and effectively prohibiting conversion into an ADU.
- Architectural review required for any site improvements, which is inherently discretionary and could be used by the review board to deny any ADUs. For example, review intended to “assume quality of workmanship and materials and harmony between exterior design and the existing improvements and landscaping.”

There has been significant interest in whether CC&Rs generally prohibit ADUs, whether jurisdictions can override any such restrictions, and how widespread any such limitations on ADUs may be. Jurisdictions could consider an educational effort to engage interested homeowners to amend the CC&Rs for their neighborhood, but it would be an individual rather than comprehensive strategy outside of the jurisdiction's typical activities.

Jurisdictions may have the opportunity to limit any CC&Rs provisions for new development that interfere with ADU development. For example, the City of Medford requires that:

“A development’s Conditions, Covenants, and Restrictions (CC&Rs) or similar legal instrument recorded subsequent to the effective date of this ordinance shall not prohibit or limit the construction and use of ADUs meeting the standards and requirements of the City of Medford.”
(MMC 10.821(9).)

There is no simple measurement of the effect of CC&Rs on potential ADU development feasibility. Generally suburban jurisdictions with high growth rates over the past 30 to 40 years fueled by greenfield development of large parcels are estimated to have a higher percentage of homes subject to CC&Rs that might inhibit ADU development compared to older, more urban communities with development limited to smaller infill sites, notably Portland.

The first challenge would be to determine how many single-family detached homes in a jurisdiction, or the Metro UGB more broadly, are subject to CC&Rs, which could be estimated based on the ratio of overall residential permit data and recorded subdivision plats, with the assumption that all subdivisions were subject to CC&Rs.



Photo credit: accessorydwellings.org

The second step would be to estimate how many of those CC&Rs might be interpreted to restrict ADUs, possibly by making assumptions about prevailing practices specific to the era in which the CC&Rs were recorded.

A related consideration should be whether there are significant differences between typically development patterns of CC&R-restricted communities, compared to those of non-CC&R-restricted communities that might make it less likely or feasible for an ADU to be built in those communities regardless of any CC&R restrictions.

For example, city staff in Wilsonville reported that they see most ADU permits in the Old Town area because homes were built on lots with enough remaining area capable of accommodating an ADU.

In contrast, many of the homes such as those in the recent 2,700-unit Villebois development, are built on smaller lots with reduced setbacks, such that an ADU could only be added by converting a portion of the existing home rather than adding a detached or attached structure.

Regional ADU development trends

A comparison of data on permitted ADUs, unpermitted ADUs, and inquiries around ADUs provides additional insight into the ADU development climate, and any potential impacts of ADU regulations to support or restrict development.

Table 2: Over-the-counter inquiries related to ADUs for selected jurisdictions

Jurisdiction	Estimated ADU Inquiries	Notes
Beaverton	One per week	Approximately one in 50 inquiries lead to permitted ADUs
Fairview	One per 1-2 months	
Forest Grove	A couple per month	Very few are permitted due to the required SDCs
Gresham	5% of counter inquiries related to ADUs	Approximately 10-20% of inquiries lead to permitted ADUs
Happy Valley	Unknown	One in 10 inquiries may lead to permitted ADUs
Hillsboro	10 inquiries per month	One in three inquiries may submit an ADU application
King City	No interest	
Lake Oswego	Unknown	7 out of 22 projects that completed pre-application conference have resulted in permitted ADUs since 2012.
Milwaukie	High level of interest	Many choose not construct ADUs due to SDCs, owner-occupancy requirements, frontage improvements.
Oregon City	A few per week	Vast majority do not go on to construct ADUs, often choose an accessory structure without a full kitchen instead.
Rivergrove	2-3 in the last year	
Troutdale	Greater interest in tiny homes than ADUs	
West Linn	Increase in the past year, but not a lot	
Wilsonville	Limited interest	
Wood Village	Increased interest over the past two years	
Washington County	1-2 inquiries per day	

Source: Self-reported by jurisdictions in response to audit inquiry May 2018; not all jurisdictions provided estimates.

Table 3: Total permitted ADUs by jurisdiction ranked by ADU adoption rates, approximately 2000 to 2018

Jurisdiction	Total Permitted ADUs	Adoption Rate (ADUs per 1,000 population)	Notes
Forest Grove, OR	0	0	Metro data; local permit data does not differentiate ADUs
Gladstone, OR	0	0	
Johnson City, OR	0	0	ADUs are not permitted
King City, OR	0	0	
Maywood Park, OR	0	0	
Rivergrove, OR	0	0	
Tualatin, OR	0	0	
Gresham, OR	7	0.06	
Troutdale, OR	1	0.06	
Cornelius, OR	1	0.08	
Lake Oswego, OR	7	0.18	From 2012-2017
Beaverton, OR	19	0.2	
Sherwood, OR	5	0.26	
Wilsonville, OR	7	0.32	
Milwaukie, OR	9	0.44	
Hillsboro, OR	47	0.47	
Wood Village, OR	2	0.5	
Tigard, OR	26	0.51	
Happy Valley, OR	10	0.57	
West Linn, OR	15	0.57	From 2012 to 2018
Oregon City, OR	23	0.66	
Durham, OR	1	0.71	
Fairview, OR	7	0.76	
Portland, OR	2,686	4.33	
Clackamas County	Not available	0	
Multnomah County	0	0	Not permitted
Washington County	60	Not available; population estimate of non-urban population within Metro limits not available.	Includes 6 guesthouses, similar to ADUs. May include ADUs outside of Metro UGB.

Source: Metro and self-reported by jurisdictions in response to audit inquiry May 2018; in the case of differing estimates, the higher was used. Population data from 2016 American Community Survey.



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accessorydwellings.org



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buildinganadu.org

Jurisdictions self-reported estimated levels of ADU interest described by many as relatively high, though with significant variation, and relatively low rates of permitted ADUs resulting from those inquiries.

Some of the reported interest levels are significantly higher than actual ADU production to date, as shown in Table 3, but should be understood as general estimates intended to capture broader trends.

Total permitted ADUs around the region remains relatively low outside of Portland. Portland ADUs total an estimated 2,686 permitted since 2000, with 247 permitted ADUs in all other Metro-area jurisdictions combined. Though total numbers would be expected to vary based on the different sizes of respective cities, ADU rates relative to population are also proportionally high for Portland compared to all other jurisdictions, with 4.33 ADUs per 1,000 residents in Portland compared to 0 to 0.76 ADUs per 1,000 residents outside of Portland.

Variation between cities is difficult to parse, and more difficult still to associate with ADU regulatory practices. Conclusions are further limited by potential limits of the self-reported data; though deemed the best available data source, quality varied widely from cities with spreadsheets tracking ADU permits to looser estimates, making significant comparisons between cities on the basis of ADU development rates less reliable.

One predominating trend is that one-third of cities have no permitted ADUs at all. It is unclear how much of the variation among non-Portland jurisdictions with at least one permitted ADU since 2000 can be attributed to presence of supporting ADU regulations, or absence of regulatory barriers.

Higher rates of ADU development might be expected for jurisdictions notably lacking in barriers, such as Wilsonville and Hillsboro that do not charge SDCs for ADUs. Both cities report middle-of-the-pack ADU permits and ADUs per 1,000 residents, lending some support to the theory, but the data is simply too limited to draw such conclusions.

West Linn has generally more restrictive ADU regulations on paper, but a higher ADU adoption rate than either city.

In several jurisdictions including Tigard and Oregon City, a relatively high percentage of the total ADUs are attributable to one new development that elected to construct ADUs simultaneously with new homes.

Research also explored the estimated number of unpermitted ADUs in each jurisdiction. Relatively low numbers of reported unpermitted ADUs – those that function as ADUs but were not permitted as such – may indicate limited regulatory barriers to legal ADU development, or lower levels of ADU interest.

Relatively high numbers of unpermitted ADUs might indicate a desire for ADU development but significant regulatory barriers to permitting them; until recently Los Angeles was the best-known example of this, estimated to have up to 50,000 unpermitted ADUs due to byzantine permitting restrictions. However, low numbers of unpermitted ADUs could indicate the permitting process is relatively free of barriers, there is little demand for ADUs, or both.

Jurisdictional estimates of unpermitted ADUs were relatively low, though that is data that jurisdictions explicitly do not track unless they receive a code enforcement complaint. Anecdotally, jurisdictions reported learning of one to two unpermitted ADUs through code enforcement complaints. Alternative data sources or investigation may be needed to fully answer this question, however, it is unlikely that local jurisdictions with such low numbers of permitted ADUs would have a large “black market” for unpermitted ADUs.

A more useful comparison might be to understand how many “everything buts” – that is, a home addition with all the same

features as an ADU except for a stove triggering the definition of a “dwelling unit” and the related permitting and fees – are built in place of an ADU. Such home additions would be difficult to track with most cities’ permitting records because they would be undifferentiated from home additions for other purposes, but anecdotal observations from Washington County, for example, estimated as many as three “everything buts” for every one ADU.

Generally, the observed rarity of unpermitted ADUs suggests that demand for ADUs is not yet strong enough in many Metro-area jurisdictions to incentivize such development. Future ADU demand may expose regulatory barriers, such as high SDC fees, that could drive more unpermitted ADU or alternative home expansion projects as a work-around.



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Vancouver, WA Case Study

Vancouver, WA, right across the river from the audited Metro jurisdictions, recently completed a significant ADU regulatory update that provides a lens for understanding the possibilities for liberalizing ADU regulations and some lessons on how to get there.

Although operating outside of Metro and Oregon state requirements to permit ADUs, city planning staff, community advocates, and interested homeowners worked together to significantly overhaul the existing ADU regulations to respond to increasing community interest in ADUs.

The city was experiencing a lot of interest around ADUs, but off-street parking requirements and an ADU size limitation of 40 percent of the existing dwelling were significant deterrents. Simultaneously, a city-led affordable housing task force came out with a recommendation to update the ADU regulations.

Significant changes with the 2017 amendments included:

- Increasing allowed size from 40 percent to 50 percent of the main dwelling, or 800 SF, whichever was less. The 40 percent limitation had emerged as a concern for homeowners converting one story or a basement of a two-story house, and not being able to use the full floor for the ADU.
- Removing off-street parking requirements, which had emerged as a significant obstacle when trying to fit a parking space on a standard 50 by 100-foot lot.
- Removing owner-occupancy requirements for greater use flexibility, though this was the most debated provision among both staff and elected officials.
- Retaining SDC practices of not assessing impact fees or SDCs for ADUs.

The update process benefited from targeted public outreach and positive local stories that illustrated the benefits of ADUs, culminating in a close vote in favor of the update. Planning department staff drafted the updates in-house relying on local experience, comparative research and internal debate to shape the recommendations.

Public outreach included an early open house and presentations to local neighborhood groups.

Staff focused their messaging on familial ADU benefits, such as opportunities to house older relatives or kids returning home after college, as well as messages about how ADUs can add value to single-family homes and help with mortgage costs.

Staff also reported success framing the discussion in terms of the city's own ADU history, pointing at the modest trend of 60 ADUs permitted in the past decade and limited short-term rental usage across the city to calm any fears about future growth.

The mayor, while not the main proponent, was a literal poster child for the ADU update because she had built an ADU herself; a timely newspaper story about an ADU built for a homeowner's adult child with disabilities also helped make ADUs a personal, relatable issue. The vote was close at both the Planning Commission and the City Council, but the council narrowly voted in favor of all the provisions.

ADU development trends are just starting to respond to the regulatory changes. The city permitted a total of 60 ADUs in the previous decade, averaging six per year, and has now seen a modest increase of eight permits in the first nine months under the updated regulations, but it is still too soon to assess impacts of the new regulations or predict future trends with this limited data.

Staff reports a marked increase in interest around ADUs, as well as the number of inquiries that continue moving forward to ADU permitting and development; the most common concerns now voiced by potential ADU developers are problems outside of the city's control related to building costs and financing.



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Recommended ADU regulatory practices



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These recommended ADU code provisions and regulations incorporate observed best practices in the greater Portland region, advice from ADU developers and best practices from across the country.

Recommendations are intended to fulfill state and Metro minimum requirements, with the caveat that the interpretation of “reasonable siting and design standards” for ADUs required under SB 1051 is still an open question. These recommendations deliberately avoid any regulations that could be seen as “unreasonable” as a cautionary approach.

Many recommendations are as simple as discouraging any regulation around a particular area, based on audit findings that such regulations were either a barrier to ADU development without a concurrent benefit, or over-regulation in anticipation of negative impacts that were not in fact observed. A code audit checklist incorporating these recommendations is included in Appendix B.

Type and number of ADUs: At a minimum, permit one ADU per detached single-family dwelling, not per lot, to meet specific SB 1051 requirements. Consider allowing two ADUs per dwelling, possibly one attached and one detached. Permit all types of ADUs: attached or detached, through new construction or conversion of an existing space or garage.

Where allowed: Permit ADUs in all zones where single-family detached dwellings are permitted, and consider whether to permit ADUs in special situations such as in mixed-use zones where single-family detached dwellings are allowed on a limited basis, zones where existing dwellings are permitted but new dwellings are not.

Consider whether to permit ADUs with attached dwellings for additional flexibility, even if they are not likely to be as popular given smaller average lots. Address nonconforming situations by allowing ADUs on nonconforming lots that may not meet dimensional standards such as minimum lot size, and in converted, existing nonconforming accessory structures such as a garage that is within setbacks, provided it does not increase the degree of nonconformity.

Consider whether to allow ADUs in nonconforming use situations, where the single-family detached dwelling is located in a zoning district that does not allow the use and is intended for future redevelopment, where the interface between residential and nonresidential uses may be a concern.

Dimensional standards: Make clear which dimensional standards apply to ADUs, whether they are ADU-specific standards, accessory structure standards, or primary dwelling standards.

Size: Approximately 800 SF size limit provides sufficient space for ADU development at a scale consistent with most single-family dwellings and surrounding neighborhoods.

Decouple size limit from the size of the primary dwelling in favor of a straight square footage limit for all dwellings, to avoid penalizing smaller dwellings that by definition already have a small footprint and visual presence.

Promote equity by utilizing a uniform size limit in lieu of a percentage to avoid disproportionately restricting ADU potential of smaller homes typically owned by lower-income and disadvantaged households. If a percentage limit is desired, allow ADUs to be at least 50 percent and preferably 75 percent of the size of the primary dwelling.

Setbacks: Reduce side and rear setbacks for detached ADUs to 5 to 10 feet, either by reducing standards specific for ADUs and accessory structures or reducing setbacks for the base zones.

Consider additional tools to minimize impacts of ADUs on adjoining properties if warranted, such as: height stepbacks that reduce height closer to the property line, landscape buffering within the setback, or minimum outdoor yard space to ensure open space somewhere in the side and rear yards, such as 400 SF minimum area with no dimension less than 10 feet, in lieu of a uniform 20-foot-wide backyard guaranteed by a rear setback.

Height: Allow at least 20 to 25-foot maximum height for detached ADUs depending on whether height is measured as the average or the top of a sloped roof, and up to 35 feet or the base zone maximum height for attached ADUs, to permit two-story ADUs for additional flexibility, such as ADUs over a garage.



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Coverage: Allow 40 to 50 percent lot coverage, and at least 0.5 FAR if used, preferably higher, to provide greater flexibility for adding ADUs to existing developed lots. Alternatively, consider a small lot coverage and/or FAR bonus for ADUs such as 5-10 percent to mitigate concerns about large primary dwellings.

Design standards: Require no or minimal design standards for ADUs, and do not require design compatibility for ADUs and primary dwellings. Homeowners developing ADUs have a vested interest in the design and visual impact of the ADU, at least after accounting for matters of taste.

Standards about compatibility are vague and difficult to apply, many do not meet the state requirements for “clear and objective” standards, and may increase costs associated with custom designing an ADU to match a particular house. In some cases, the primary dwelling’s design may be undesirable and not worthy of repeating.

Absence of discretionary design standards should also simplify the land use review process. If minimum design standards are desired, use clear and objective standards such as minimum window trim requirements, roof pitch, or eave projections.

Accessory structure standards: Align dimensional, design and required review standards for accessory structures and ADUs for parity and to reduce incentives for unpermitted residential use of accessory structures.

Focus particularly on dimensional standards for similarly sized structures, such as a detached garage and detached ADU. Review guest house standards, if they exist, to establish parity and to clarify whether both guest houses and ADUs are permitted on the same lot.

Consider the need for guest houses separate from ADUs, and potential to consolidate standards.

Owner occupancy: Avoid any owner-occupancy requirements for ADUs or primary dwellings, which limit the normalization of ADUs as a mainstream residential option and often create financing limitations for ADUs. Eliminating owner-occupancy requirements also minimizes code enforcement concerns about tenant residency status, which is not regulated for any other type of residence.

Occupancy quotas: Define an ADU as a dwelling that may be occupied by a ‘household’ or ‘family,’ same as any other dwelling ranging from studio apartments to detached single-family dwellings, which provides maximum flexibility for ADU use and requires minimum ongoing oversight by code enforcement to monitor number of occupants.

Parking requirements: Avoid requirements for off-street parking for ADUs. If parking is a significant political or neighborhood concern, consider a low parking standard of one space per ADU that can be located on-street if available or off-street.

Provide flexible off-street configuration standards including allowing tandem parking in driveways, shared access to parking spaces for both dwellings, and allowing parking within the portion of driveway that crosses required yards.

Also review requirements for off-street parking for the primary dwelling to ensure that primary dwelling parking spaces or garage requirements are limited to one or two spaces maximum and do not take up a significant portion of the site and limit ADU development feasibility.

Additional regulations: Consider any community-specific concerns and address through tailored requirements as needed, but generally limit the scope of regulations as tightly as possible to avoid over-regulation.

- If privacy between ADUs and abutting properties is a concern, provide a menu of clear and objective options including window placement, fences or vegetative buffers.
- Consider explicitly permitting simultaneous construction of primary dwellings and ADUs, and permitting occupation of the ADU earlier than the primary dwelling to better support ADU development in communities with significant new construction.

Application requirements: Review ADUs through a Type I land use process either in advance of or combined with building permit review, or simply require a building permit application similar to most single-family dwellings.

Optimize internal coordination between planning and building departments to ensure that the permitting process is “one-stop shopping” for applicants.



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Assuming that ADU standards are indeed “clear and objective” as required by state law, a nondiscretionary Type I review should be the appropriate review type and there should not be any need for a discretionary Type II process or conditional use review.

Infrastructure requirements: Coordinate with and cross-reference any existing engineering standards about thresholds for public works improvements, specifically separate sewer and water connections for ADUs, stormwater treatment triggered by new impervious surface or street improvements.

If policies can be set locally with buy-in from the Public Works department, specifically exempt ADUs from mandatory sewer and water connections, and from triggering street frontage improvements. Provide as much information on potential infrastructure improvement requirements, including resources translating engineering requirements to ADU projects and options for individualized consultation.



SDC rates: Make SDC rates for ADUs clear in a publicly available format, preferably online. List SDC-specific rates or explain which of the existing categories apply to ADUs. Provide a fee waiver or reduction for ADUs, or elect not to assess SDCs for new ADUs.

When developing any financial incentives, it is both the total amount of fee reduction and the messaging that matter: Promote any fee reductions, temporary or permanent, even if a full fee waiver is not possible. In future SDC calculations, promote alternative methodologies to calculate SDCs for ADUs that scale to ADU size and impacts.



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Information: Provide clear supporting materials including info sheets, application forms, fee schedules, permitting procedures and procedural overview from project initiation through final occupancy, coordinating requirements for planning, engineering and building departments.

Consider developing educational materials such as local case studies, promotional videos and more. Ensure department staff can provide consistent information in an accessible manner to potential ADU developers.

Next Steps

ADU regulatory innovation is well underway around the region as this report is being completed, with jurisdictions around the greater Portland region and the state updating their regulations to meet state SB 1051 requirements and to generally support additional residential development opportunities in the midst of a housing crisis.

SB 1051 is effective as of July 1, 2018, though many jurisdictions are still in the process of updating their requirements. To date we are aware of updates completed, in process or under consideration in: Beaverton, Cornelius, Fairview, Gladstone, Gresham, Hillsboro, Lake Oswego, Maywood Park, Milwaukie, Oregon City, Portland, Sherwood, Tigard, Tualatin, Wilsonville, Multnomah County and Washington County, together nearly two-thirds of area jurisdictions.

Targeted technical assistance will be available through 2018 for jurisdictions interested to update their code, and to implement new code provisions. Assistance could include code audit suggestions, support during the adoption process, recommendations for educational materials to support implementation, or other expert ADU guidance. Please contact Metro staff about available services.

Metro will continue to monitor the outcomes of code update efforts through the end of 2018 to identify key updates, particularly efforts to remove significant barriers including off-street parking requirements, owner-occupancy requirements, significant dimensional limitations and SDC requirements.

Ongoing discussions with jurisdictions will also be valuable to understand the local opportunities and concerns raised around these issues, and early implementation experiences. We look forward to learning from our jurisdictional partners in this dynamic and evolving field, and sharing lessons learned through further workshops or updates as useful.



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