

AARP[®] **Rhode Island**

Senior Housing/Accessory Dwelling Unit Presentation

to

Special Legislative Committee

on

Low & Moderate Income Housing Act

1/18/2021

By: Catherine Taylor

State Director – AARP RI

AARP HOUSING PRINCIPLES



People of all ages and ability levels need safe, decent, and affordable housing that will enable them to continue to live safely in their homes and communities as they get older. Policymakers should adopt policies aligned with the following principles to support the broad goals that achieve this vision.

Secure affordability—communities should offer a range of housing sizes and types located across neighborhoods. Adequate subsidies should be available for all who qualify.

Ensure equity—affordable, accessible, high-quality housing should be available to people of all incomes and backgrounds, including those from groups that historically have faced discrimination. Policies should be developed and implemented that alleviate the impact of past discriminatory housing practices.

Prioritize accessibility—housing should be designed for people of all ages and ability levels, including those with disabilities. This empowers community residents to age in their homes and communities as well as live in the setting of their choice.

Ensure health and safety—housing should be designed and maintained to ensure the health and safety of all residents, including older adults.

Foster service delivery in housing—older adults should have access to convenient home- and community-based services to allow them to remain safely in their homes and communities as their needs change.

What Is a Livable Community?



AARP Livable Communities Principles

Policymakers on the federal, state, and local levels have important roles in designing livable communities where residents of all ages can participate fully. The following principles set out AARP's broad goals for land use, housing, and transportation that create livable and resilient communities that can endure over time.

Secure affordability

Secure equitable access

Ensure quality and choice

Prioritize accessibility and the ability to age in place

Promote health, safety, and environmental sustainability

Achieve holistic policymaking



Accessible Housing

Housing should meet the needs of all individuals, regardless of age and ability level. Accessible housing, which accommodates people of all ages and ability levels, is crucial to the majority of Americans who say they would like to remain in their homes as they age. Yet many homes are not accessible.

Universal Design: is the principle that people of all ages and ability levels can use buildings, products, and the built environment without adaptation

Building codes: State and local governments should require that building codes incorporate universal design principles in newly constructed housing.

Visitability: Policymakers should require government-funded housing to have visitability and other features that provide a basic level of access and should remove legal restrictions that impede the adoption of related ordinances for newly constructed housing.

Remodeling: Where incentives are used to promote remodeling, regulations should encourage the incorporation of universal design features.

Technical assistance: The Department of Housing and Urban Development should provide technical assistance to state and local governments to help implement and encourage the adoption of universal design and visitability features.

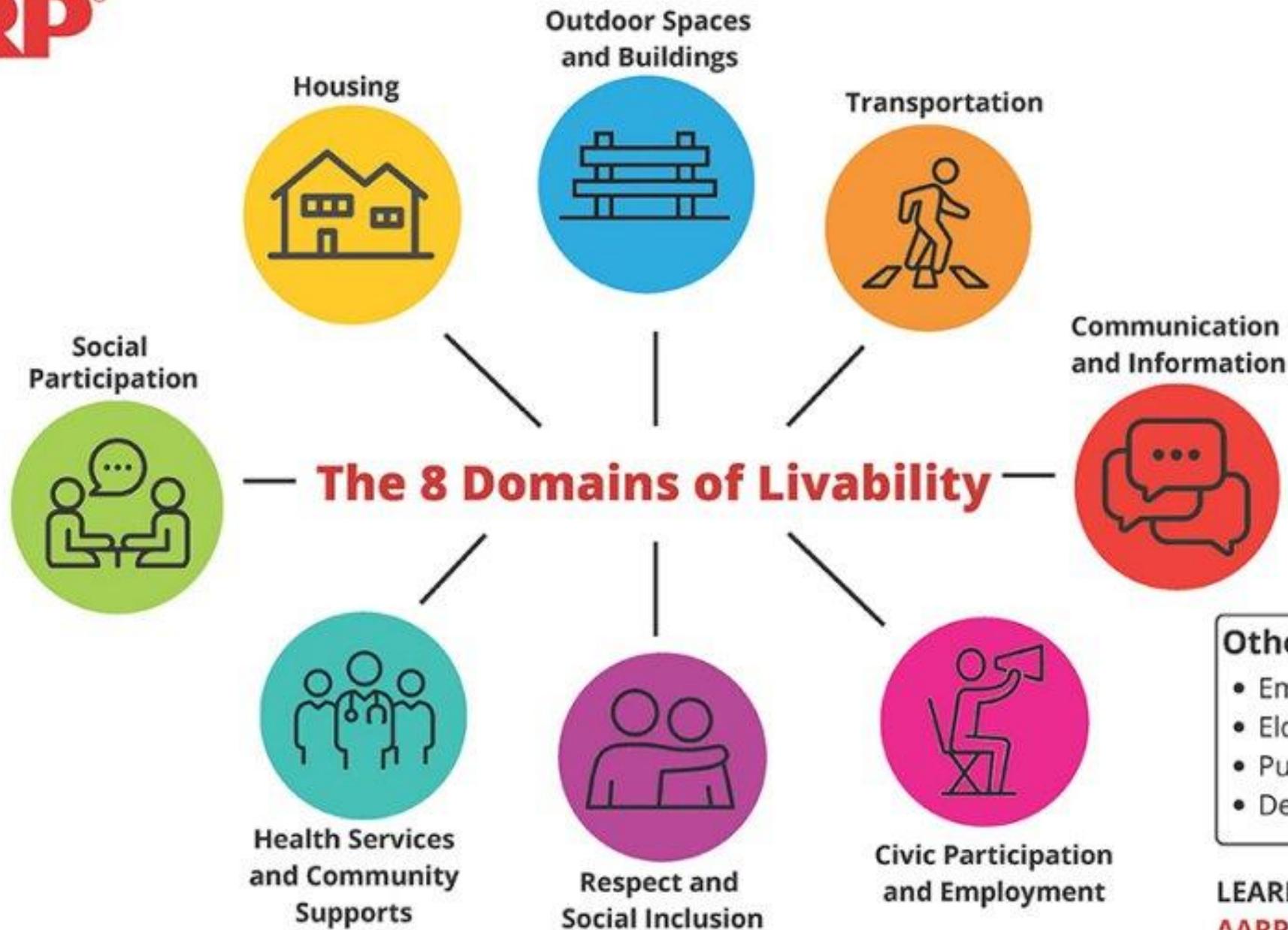
RI Livable Home Modification Grant Program

The RI Livable Home Modification Grant program partially reimburses home modification that allow individuals who have disabilities to live safer in their homes and remain in the community.

Highlights of the Livable Home Modification Program include the following:

- By keeping people in their own home and not nursing homes the state is saving state taxpayer dollars because of savings on Medicaid cost.
- By increasing accessible home inventory, these modifications – walk-in/roll-in shower, chair lifts, wheelchair ramps, etc. -- become permanent assets that can benefit future residents.
- Home modifications can help greatly to reduces falls. Falls are the leading cause of injury hospitalizations in RI and most of these people are age 65 and over.

In 2020, the Livable Home Modification Grant Program had exhausted its budget by February, leaving many families on a waitlist.



Other Areas

- Emergency Preparedness
- Elder abuse
- Public safety
- Dementia-friendly

LEARN MORE

[AARP.org/Livable](https://www.aarp.org/Livable)



Psychologist Daniel Cappon writes in the Canadian Journal of Public Health that *“high-rises keep children and the elderly from getting the exercise the extra effort it takes to get outside encourages them to stay at home and flip on the TV.”*

Psychologist Daniel Cappon also believes that *“the level of alienation and isolation, things that have been proven to negatively impact health and even shorten people's lives, increase with the height of the building.”*

[“Mental Health In the High Rise”](#) – Daniel Cappon (1971)

Jan Gehl - Founding Partner of Gehl Architects, and former Professor and Researcher at The Royal Danish Academy of Fine Arts, School of Architecture

“People above the 10th floor have more in common with birds and planes than with people.”

-“When people have access to balconies or open windows, where they can see people on the street, hear conversations, smell the aroma of street food, etc., are connected. They tend to go out and walk to the coffee shops or convenience stores more often than people living in high floors.”

-“People on higher floors tend to go out less, and when they do, they go down to the basement, get on their cars, and leave; isolated.”

Transportation
Access

Housing
Accessibility

Availability of
High-Quality
Home Care

Complete Streets

What Goes Into “Aging In Place”?

Affordability in
Housing

Affordable Taxes

Caregiver
Supports

Connection to
Community

**Survey Results for
Rhode Island-
Livable Community
Questions**

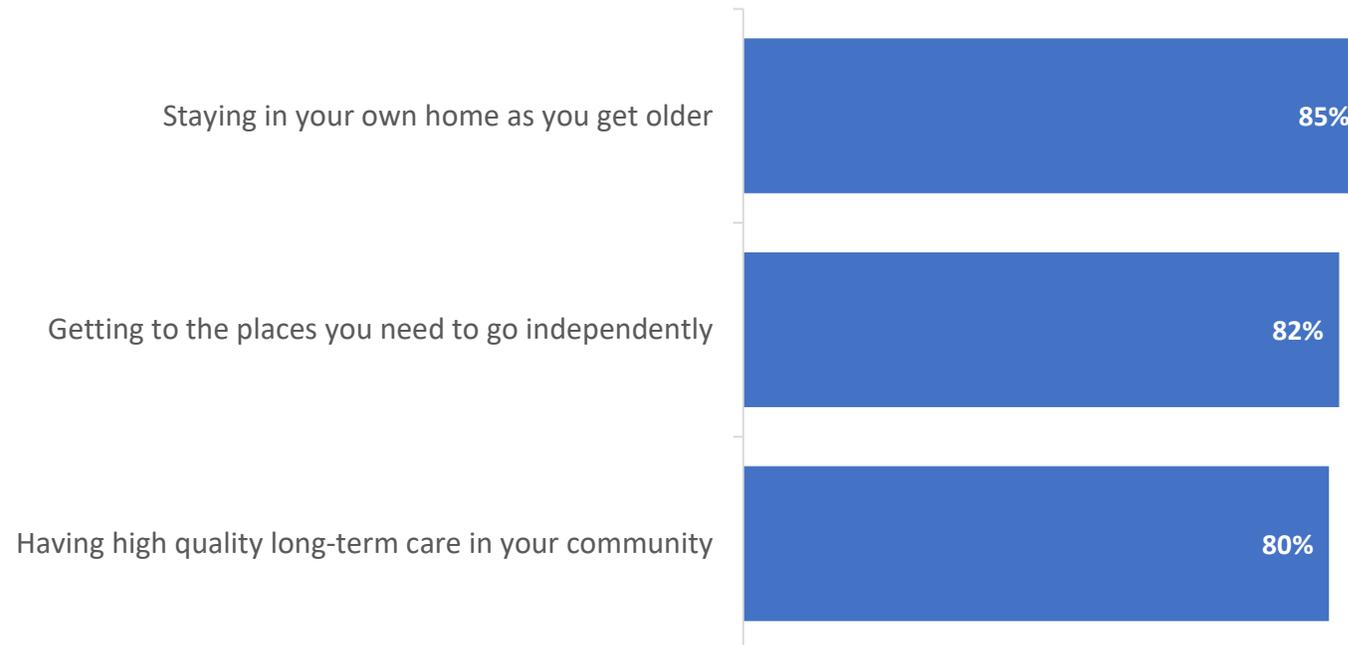
**Issues That Impact
Rhode Island Adults
Age 45 and Older**



Issues of importance

- **Independent living is extremely or very important to most Rhode Island residents age 45+.**

Important Independent Living Issues



11. For the following list of issues, please indicate how important each is to you personally. (Percent 'extremely important' or 'very important') (n=705)

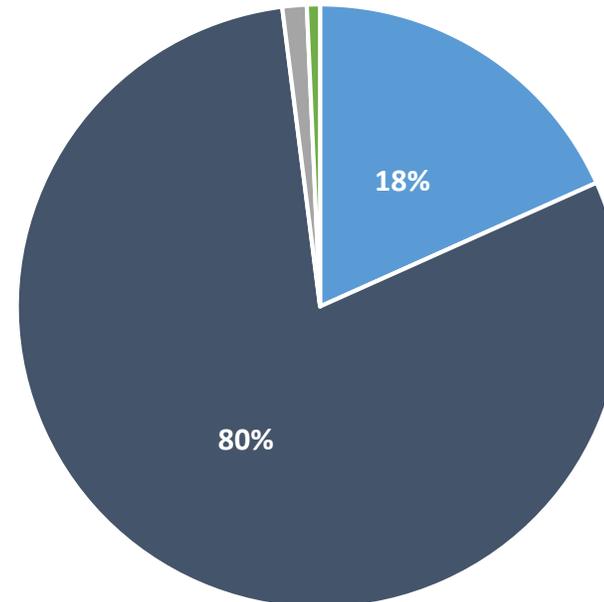


LIVCOMM3. Do you rent or own your home? (n=705)

Housing

- **Eight in ten (80%) Rhode Island residents age 45+ are homeowners.**

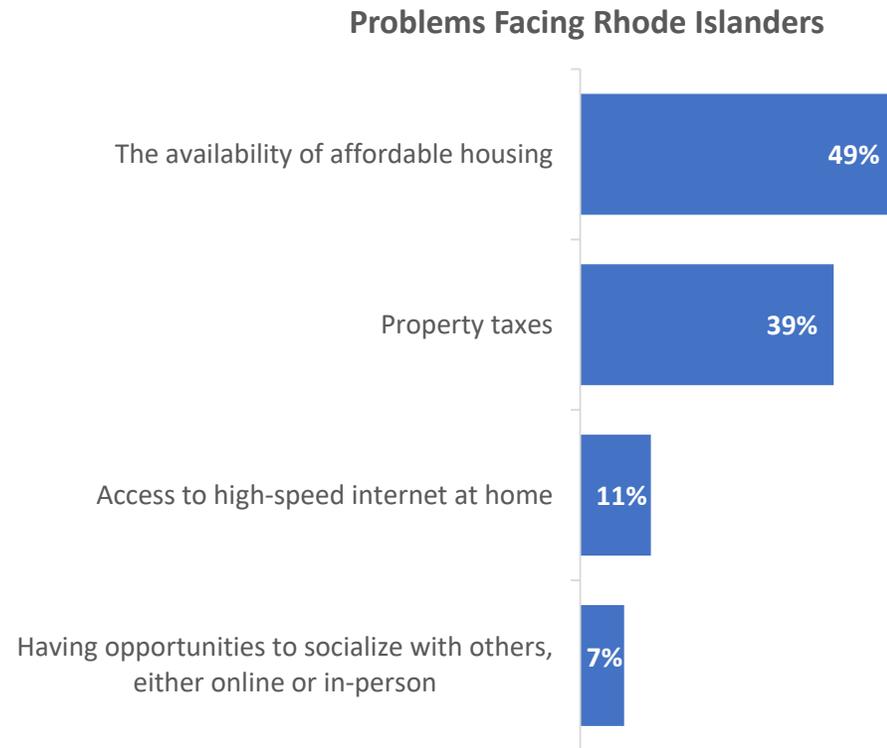
Home Ownership



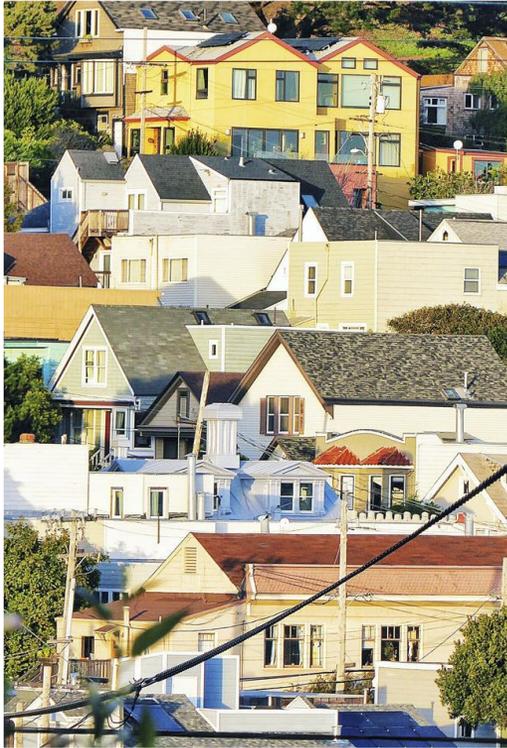
■ Rent ■ Own ■ Some other type of living arrangement ■ Don't know/ refused

Problems Facing Rhode Islanders

- The availability of affordable housing is considered a very serious problem by nearly half (49%) of Rhode Island residents age 45+.



AF. How serious a problem do you think each of the following issues are for Rhode Islanders like you? (Percent 'very serious problem') (n=705)

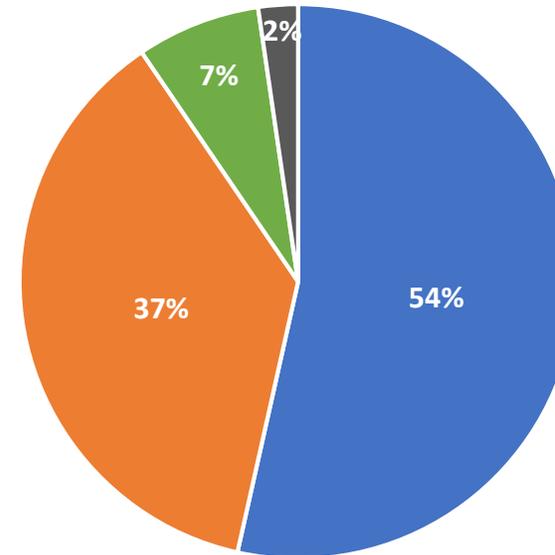


Housing

- Over half (54%) of Rhode Island residents age 45+ would consider creating an ADU if the space was available.

ADU-RI. If you had the space to create an ADU within your home or on your property, would you consider doing that, or do you already have one? (n=705)

Consider Creating an ADU



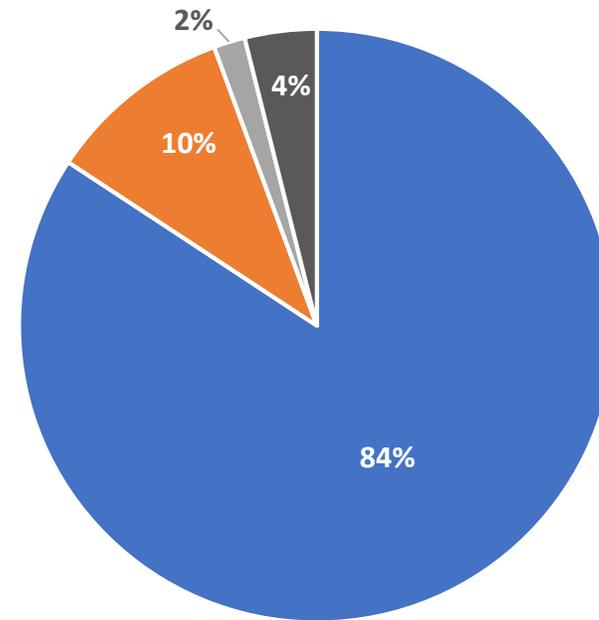
■ Yes ■ No ■ Already have one ■ Don't know/refused



Housing

- A strong majority (84%) of Rhode Island residents age 45+ strongly or somewhat support town ordinances that make it easier for property owners to create an ADU.

Support for Town Ordinances That Make It Easier to Create an ADU



ADU-3. Do you support or oppose town ordinances that make it easier for property owners to create an ADU on their property? (n=705)

■ Strongly support/ somewhat support ■ Somewhat oppose/ strongly oppose ■ Neither ■ Don't know/ refused

Why ADUs?

ADUs are an affordable housing option

ADUs can generate rental income to help homeowners cover mortgage payments or simply make ends meet. The income provided by an ADU tenant can be especially important for older people on fixed incomes.

Since the land on which an ADU is built already belongs to the homeowner, the expense to build a secondary residence is for the new structure only. The lot is, in a sense, free.

ADUs are age-friendly

New-construction ADUs can be created with "universal design" features, such as a zero-step entrance and doorways, hallways and bathrooms that are accessible for people with mobility differences. Garage conversions are among the easiest and least expensive ADU solutions for aging in place since they're preexisting structures and generally have no-step entries.

ADUs are typically owned and managed by homeowners who live on the premises. Such landlords are less likely to raise the rent once a valued tenant has moved in. Many ADUs are created for family members to reside in for free or at a discounted rate.

Although market-rate rents for ADUs tend to be slightly more than for similarly sized apartments, they often represent the only affordable rental choices in single-family neighborhoods, which typically contain no studio or one-bedroom housing options at all.

Some municipalities are boosting ADUs as part of affordable housing and anti-displacement strategies. Santa Cruz, California is among the cities with programs to help lower-income households build ADUs or reside in them at reliably affordable rents.

Why ADUs?

ADUs are able to house people of all ages

- An individual's housing needs change over time, and an ADU's use can be adapted for different household types, income levels, employment situations and stages of life.
- ADUs offer young people entry-level housing choices.
- ADUs enable families to expand beyond their primary home.
- ADUs provide empty nesters and others with the option of moving into a smaller space while renting out their larger house or letting an adult child and his or her family reside in it.

ADUs are good for the environment

- ADUs require fewer resources to build and maintain than full-sized homes.
- ADUs use significantly less energy for heating and cooling. (Of all the ADU types, internal ones tend to have the lowest building and operating costs.)

ADUs are community compatible

- ADUs offer a way to include smaller, relatively affordable homes in established neighborhoods with minimal visual impact and without adding to an area's sprawl.
- ADUs provide a more dispersed and incremental way of adding homes to a neighborhood than other options, such as multistory apartment buildings.

Current Rhode Island ADU Law

Most recent amendment was in 2017. It added the authorization of ADUs for family members over 62.

- Only permissible for an owner occupied, single-family residence.
- Shall be permitted as a reasonable accommodation for family members with disabilities or who are sixty-two (62) years of age or older, or to accommodate other family members.
- The appearance of the structure shall remain that of a single-family residence and there shall be an internal means of egress between the principal unit and the accessory family dwelling unit.
- Once the family members with disabilities or who are sixty-two (62) years of age or older, or any other family member, no longer reside(s) in the premises on a permanent basis, or the title is transferred, the property owner shall notify the zoning official in writing, and the accessory family dwelling unit shall no longer be permitted.

AARP Model State Act on Accessory Dwelling Units

Findings, Policy and Legislative Intent, Definitions

Findings:

The Legislature finds and declares:

- (a) Many communities in our state face a severe housing crisis, with home prices and rents unaffordable by families and households of middle and moderate incomes.
- (b) The State is falling far short of meeting current and future housing demand, with serious potential consequences for the state's economy and the well-being of our residents, particularly lower income and middle-income earners.
- (c) The State can play an important role in reducing the barriers that prevent homeowners from building accessory dwelling units.
- (d) There are many benefits associated with the creation of legal accessory dwelling units on lots in single-family zones and other zoning districts. These benefits include:
 - (i) Increasing the supply of a more affordable and diverse type of housing not requiring government subsidies;
 - (ii) Helping older homeowners, single parents, young home buyers, and renters seeking a wider range of homes, prices, rents and locations;

Findings (Continued)

- (iii) Providing opportunities to reduce segregation of people by race, ethnicity, and income that resulted from decades of exclusionary zoning;
 - (iv) Providing homeowners with extra income to help meet rising ownership costs;
 - (v) Creating a convenient living arrangement that allows family members or other persons to provide care and support for someone in a semi-independent living arrangement while remaining in his or her community;
 - (vi) Increased security, home care and companionship for older or other homeowners;
 - (vii) Reducing burdens on taxpayers while enhancing the local property tax base by providing a cost-effective means of accommodating development without the cost of building, operating and maintaining new infrastructure;
 - (viii) Promoting more compact urban and suburban growth, which reduces the loss of farm and forest lands, as well as natural areas and resources, while limiting increases in pollution that contributes to climate instability; and
 - (ix) Enhancing job opportunities for individuals by providing housing nearer to employment centers and public transportation.
- (2) Accessory dwelling units are, therefore, an essential component of the state's housing supply.

Policy and Intent:

It is the policy of the State to promote and encourage the creation of accessory dwelling units in order to meet our residents' housing needs and to realize other benefits of ADUs.

It is the intent of the Legislature that accessory dwelling unit ordinances adopted by local governments allow the creation of such units and that these local ordinances not unreasonably restrict the ability of homeowners to create these units in zones in which they are authorized.

Definitions:

There are three different definitions of ADUs in the Model Act. Choose 1.

Limiting ADUs to parcels that are already the site of a single-family dwelling

1. "Accessory Dwelling Unit" (ADU) means a residential living unit on the same parcel as a single-family dwelling. The ADU provides complete independent living facilities for one or more persons. It may take various forms: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.

The ADU to be built before or concurrently with a single-family home

1. “Accessory Dwelling Unit” (ADU) means a residential living unit on the same parcel on which a single-family dwelling is present or may be constructed. It provides complete independent living facilities for one or more persons and may take various forms: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled dwelling.

This definition allows for the construction of an ADU prior to or concurrent with that of the primary residence.

Two common circumstances in which an ADU might be built before the primary residence are:

(1) when a homeowner wishes to stage construction expenses and living arrangements and

(2) when the homeowner owns an adjacent legal lot (typically used as a side or backyard) and would prefer to site an ADU there rather than on the lot with the primary residence. Suppose that an owner built a 600-square-foot detached dwelling on the second lot to serve as an ADU. If that lot was separately sold and the home on it was not identified as an ADU, then the new owner might find that regulations limiting the size of an ADU to 75% of the primary dwelling would treat the small home as the primary residence and limit the size of an official ADU to 400 square feet.

The ADU to be created is on a lot with a multifamily dwelling

1. “Accessory Dwelling Unit” (ADU) means a residential living unit on the same parcel as a single-family dwelling or a multifamily structure. It provides complete independent living facilities for one or more persons and may take various forms: a detached unit; a unit that is part of an accessory structure, such as a detached garage; a unit that is part of an expanded or remodeled single-family unit; or a unit in a multifamily dwelling.

This third alternative allows for building detached ADUs on properties with multifamily housing structures and through additions to or remodeling of those structures

II. Authorization of ADUs, Local Government Implementation

Local governments shall adopt ordinances, in conformity with this Act, authorizing accessory dwelling units in single-family zones or districts and on appropriate lots in other zones that allow housing (except as specifically exempted in Section B) and authorizing their use as rental housing.

III. Health and Safety Exemptions

The [appropriate state agency] may grant an exemption from these provisions for those properties where new single-family homes have been prohibited because of limitations on safe drinking water or because of risks to public health due to limits on sewage disposal or because of the risk of fires, floods or landslides.

IV. Private Deed and Homeowner Association Restrictions on ADUs

Any covenant, restriction or condition contained in any deed, contract, security instrument or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit [or junior accessory dwelling unit] as a rental unit, though the latter otherwise meets the requirements of this Act, is void and unenforceable.

This section does not apply to provisions that impose reasonable private restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, “reasonable private restrictions” means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct an accessory dwelling unit or junior accessory dwelling unit consistently with the provisions of this Act.

Based on California Civil Code Section 4751, which was added by Statutes 2019, Chapter 178, Section 2. [AB 670], effective January 1, 2020.

V. Local Regulations and Interpretations May Not Be Used to Frustrate Purposes of the Act

Local governments may adopt only reasonable regulations to govern the review and operation of accessory dwelling units. No local government may develop, amend or interpret other codes or regulations, such as building codes or special taxing district provisions, in ways that interfere with the intent of this Act.

VI. Utility Connections and Building Codes

A. Utility Connections

A local agency, special district or water corporation shall not require the applicant to install new or separate water and sewer lines directly between the accessory dwelling unit and the trunk lines unless the accessory dwelling unit was constructed with a new single-family dwelling. Applicants may choose to use a shared water meter for the primary structure and the ADU or have a separate water meter installed for the ADU.

B. Building Codes

- (1) Within one year of the effective date of this Act, the [State Building Codes Division] shall by rule establish building codes that local governments shall use to approve the conversion of single-family dwellings, [town houses] and accessory structures to create accessory dwelling units [and junior accessory dwelling units] for structures legally in existence prior to the effective date of this Act. The standards established under this subsection shall allow for revisions to local government building code standards governing ceiling heights, access and egress; energy efficiency; seismic safety; and other standards that may unnecessarily inhibit the construction of accessory dwelling units within, or primarily within, existing structures. These alternate standards shall describe the information that must be submitted before an application for conversion of a structure into an ADU will be deemed complete.
- (2) A building official must approve or deny an application to create an accessory dwelling unit under the accessory dwelling unit building codes adopted pursuant to subsection (1) of this section no later than 25 business days after receiving a complete application. A building official who denies an application for alternate approval under this subsection shall provide to the applicant a written explanation of the basis for the denial and a statement that describes the applicant's appeal rights.

VII. Local Government ADU Authority, Density Limits and Other Matters

A. Authority to Adopt Reasonable Regulations and Impose Reasonable Conditions

Local governments may adopt reasonable local regulations governing ADUs, addressing height and bulk, setback, lot coverage, and regulations generally applicable to other residences in the same zones. Local governments may impose reasonable conditions of approval to ensure compliance with the regulations. Those regulations must be implemented using clear and objective standards and the procedures specified in this Act.

Owner Occupancy Requirements

Owner occupancy covenants or conditions give pause to homeowners and institutions financing home purchases because of the limits they place on successive owners, who will not be able to rent out or lease their main house, which might be necessary as a result of a divorce, job transfer or death. They can also make financial institutions reluctant to provide financing for construction of an ADU, and because covenants or conditions serve as a restriction on a mortgage lender's security interest in a property, lenders may withhold consent to any owner occupancy requirement that takes the form of a covenant.

Aside from its effect on ADU production, there is a problem with the logic and fairness of applying an owner occupancy standard to ADUs if there is no such requirement with single-family homes generally. If single-family homes can be rented out (by a nonresident owner), then what is the policy basis for requiring occupancy when there is an ADU on the property?

B. Short-Term Rentals

Many cities and residents are concerned about the use of houses, apartments and ADUs for short-term rentals, especially in regions, cities or districts that are tourist destinations. Use of these dwellings for short-term rentals can remove existing housing from the supply available for residents, worsening affordability and introducing commercial types of impacts into residential areas. Short-term rentals are often a major subject of debate in high-amenity areas, where the return on investment in ADUs used for short-term rentals is generally much higher than with those used for long-term housing.

But the exact same concerns apply to short-term rental use of the primary dwelling. If short-term rental regulations are adopted, they should apply to all housing in the jurisdiction or zone, not just ADUs. Many existing ordinances have such limitations or prohibitions built into the list of permitted uses authorized for all housing.

In legislation passed in 2020, Vermont amended its ADU legislation to allow for the regulation of short-term rentals, provided those regulations were not applicable to or did not inhibit the construction ADUs for longer-term rental use.

There is a counterargument in support of short-term rental use of ADUs. The high return spurs the construction of more ADUs than would otherwise occur and these ADUs typically, over time, convert into long-term rentals or other uses. If the goal of ADU authorization is wealth creation or allowing people to stay in their homes as they age, then the use of ADUs for short-term rentals should be encouraged because short-term rentals help realize those objectives.

C. Density Limitations

An ADU authorized under this Act shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed a residential use consistent with the existing general plan and zoning designations for the lot.

D. Exemption from Local Growth-Limitation Measures

ADUs shall not be restricted by any local government ordinance, policy or program intended to limit residential growth in residential zones or residential planning districts or mixed commercial and residential zones. Adapted from California Government Code Section 65852.2(a)(5). This section is drafted to apply only to locally adopted growth limitations and not state-level farm, forest, or natural resource conservation zones or districts that are part of a growth management program.

E. Less Restrictive Provisions

This Act does not limit the authority of municipalities to adopt less restrictive requirements for the creation of ADUs. Adapted from California Government Code Section 65852.2(e).

F. Fees and Incentives

Local governments charge permit processing fees, system development charges (for funding a share of capital improvements, such as water lines, sewage treatment capacity, schools and parks), utility connection upgrades, and fees for new residential development.

The Model State ADU Act waives and reduces fees for smaller ADUs to incentivize construction or to encourage affordability, equity or environmental goals.

- (1) An accessory dwelling unit shall not be considered by a local government or agency, special district or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.
- (2) (2) A local government or agency, special district or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit with less than 750 square feet. Any impact fees charged for an Accessory Dwelling Unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- (3) (3) A local government or agency, special district or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. The connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square footage or its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

VIII. Standards Governing ADUs

A. Number of Units

The Model State ADU Act allows two ADUs per lot without specifying their form, leaving that to local government or homeowner discretion. This provision is written to allow for both concurrent and prior construction of ADUs.

- *In 2020, Portland, Oregon, decided to allow two ADUs in any configuration on each single-family-zoned lot as part of broad reform of residential zoning. Since 2016, the Canadian city of Vancouver, British Columbia, has allowed a “secondary suite” (internal ADU) and a “laneway home” (detached ADU with alley access) on single-family lots on corner, double-fronted lots and lots with an alley.*
- *In California (as of 2020) a single-family lot can have both an ADU and a junior accessory dwelling unit, which may be no larger than 500 square feet and must be part of the primary residence.*
- *In 2019 Seattle, Washington, authorized the creation of one detached ADU and one internal ADU per single-family lot; if green building or affordability requirements were met, a second detached unit is also allowed.*

B. Minimum Lot Size

A local government may not require a minimum lot size for ADUs that is larger than the minimum lot size for single-family houses [or town houses] in the same zone or district.

C. Size of ADUs

Accessory dwelling units may be any size, provided that the proposed ADU's total square footage is less than that of the primary dwelling's and other requirements are satisfied.

D. Parking Requirements

No additional off-street parking is required for construction of an ADU. If the ADU removes one of the existing off-street parking spaces, the local government may require that the space be replaced on site if required by the underlying zoning. In lieu of an on-site parking space, an additional on-street parking space may be substituted if there is already sufficient curb area available along the frontage for a parking space or by removing the parking space access ramp and reinstalling the curb.

E. Building Setbacks

No setback shall be required for an existing garage living area or accessory structure or for a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or for a portion of an accessory dwelling unit. A setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or for a new structure constructed in the same location and to the same dimensions as an existing structure.

XIII. Default Provisions Governing Applications for Accessory Dwelling Units in the Absence of a Certified Local Ordinance

A. Default Provisions

If a local government without an adopted state-certified ADU ordinance receives an application for a permit for an ADU on or after [the effective date of the Act], it shall accept the application and approve or disapprove the application pursuant to the default provisions of this section of the Act unless it adopts a certified ordinance in accordance with this Act within 120 days after receiving the application.

B. Only Basis for Denial

No local ordinance, policy or regulation shall be the basis for the denial of a building permit or a use permit under the default provisions of the Act.

C. Maximum Standards in Absence of Local Ordinance

The default provisions of this section establish the maximum standards that municipalities shall use to evaluate proposed ADUs on lots that are zoned for residential use and contain an existing single-family dwelling. No additional standards, other than those provided in this section, shall be used or imposed.

D. No Changes to Local Ordinances Necessary

No changes to zoning ordinances or other ordinances or any changes to the general plan shall be required to implement the default provisions of this Act. Any local government may amend its zoning ordinance or general plan to incorporate the policies, procedures or other provisions applicable to the creation of ADUs if these provisions are consistent with the limitations of the default provisions.

E. Default Standards

(1) Zones Where ADUs Are Authorized: The lot proposed to contain the ADU is in a zone in which single family residences are authorized and is the current site of a primary dwelling or qualifies as the site for a future primary residence.

(2) Time of Construction: ADUs may be built concurrently with or before the primary residence.

(3) Detached ADUs: Detached ADUs (including ADUs built as part of a garage or another accessory building) may be built before the primary residence. The location, scale and other aspects of the ADU must not preclude or constrain the construction of a primary dwelling in conformity with regulations governing those dwellings.

(4) Unit Size: The living area of an ADU shall be smaller than the living area of the primary residence. There is no minimum size, provided code requirements governing kitchen, sanitation and other relevant provisions are satisfied.

(5) Separate Sale of ADUs: Local governments may choose to limit or prohibit the separate sale of ADUs.

(6) Other Matters: Requirements related to height, setback, lot coverage, site plan review, fees, charges and other zoning requirements generally applicable to residential construction in the zone in which the property is located are applicable to any ADU, except when the provisions of this Act specify otherwise.

F. Local Government Review of Applications for ADUs

A permit application for an accessory dwelling unit shall be approved or denied ministerially without discretionary review or a hearing, notwithstanding any local ordinance regulating the issuance of variances or special use permits, within 90 days after receipt of a completed application.

If the permit application to create an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or a junior accessory dwelling unit until the permitting agency acts on the application to create the new single-family dwelling, but the application to create the accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 90-day time period shall be tolled for the period of the delay. The ministerial decision on the ADU application shall be the final decision of the local government for purposes of judicial review.

XIV. State Oversight and Monitoring

A. State Certification of ADU Ordinances

(1) Submission for Certification: A local government shall submit the zoning ordinance provisions implementing this Act 90 days prior to final approval of such an ordinance or amendment, seeking an opinion from the [state agency] on whether the ordinance conforms to this statute. This submission must include the local government's date of planned final approval. The [state agency] may notify other relevant agencies so that they may also comment on whether the municipality's draft ordinance conforms to the statute. The [state agency] shall notify the local government prior to the planned date of final approval of its opinion as to the conformity of the ordinance to this statute. If, in the opinion of the [state agency], the ordinance and/or amendments reviewed do not conform to this statute, the [state agency] shall notify the local jurisdiction of actions that must be taken to bring the ordinance(s) and/or amendments into conformity.

(2) Local Government Action on Deficiencies: The local government shall bring its ordinance into conformity, as recommended by the [state agency], within 90 days of notification of nonconformance pursuant to the prior section. If the municipality has not brought its ordinance into conformity within the 90-day period, the [state agency] will notify the jurisdiction that it must automatically accept and process applications for ADUs under the default regulations of this Act until conformity is certified by the [state agency]. Prior to any certification by the [state agency], any applications submitted under the default regulations of this Act shall be processed fully and solely under those regulations.

(3) Amendments: Changes to a municipality's ordinance certified by the [state agency] must be submitted and certified in the same manner and procedure as the initial proposed ordinance pursuant to this section.

B. Local Government Annual Reports to State

- (1) Local governments shall report annually to the [state agency] the number of:
 - (a) Single-family structures in the jurisdiction;
 - (b) Single-family structures in single-family-residential zones and in multifamily residential zones in which accessory dwelling units are permitted;
 - (c) Illegal accessory dwelling units, attached and unattached, and known or estimated to be in the jurisdiction;
 - (d) Applications to legalize illegal accessory dwelling units submitted to the jurisdiction and the results of processing these applications;
 - (e) Legal accessory dwelling units in the jurisdiction;
 - (f) Applications for new accessory dwelling units accepted for processing;
 - (g) New accessory dwelling units approved and permits issued by type of unit (internal, attached, detached integrated with another accessory structure and detached stand-alone), size, number of bedrooms, location and level of accessibility; and
 - (h) Applications disapproved, with reasons categorized by requirements not met.

C. State Annual Report

The [state agency] shall prepare an annual report to the Governor and the Legislature from the annual reports from local governments, including the installation rates of ADUs and recommendations, if any, for amending the Act or other implementation measures necessary for promoting the development of ADUs to increase housing supply generally or for particular residents or communities. The annual report shall include any recommendations on ADU policies from the State Advisory Board.

D. State Advisory Board on ADU Policies

- (1) Creation: The [state agency] shall establish an Advisory Board to monitor implementation of the Act and to recommend amendments to the Model ADU Act or Model Local Ordinance provisions to the [state agency].
- (2) Composition: The Advisory Board shall be appointed by the Director of the [state agency] in consultation with the Legislature and Governor and shall include one representative from each of the following groups: renters, remodelers, mortgage bankers, real estate agents, new home builders, nonprofit home builders, first-time home buyers, home health care agencies and local permitting agencies; organizations for the disabled, older persons and neighborhoods; and historically underrepresented communities and neighborhoods.
- (3) Duties: The Advisory Board's duties shall include, but not be limited to, preparing an annual commentary on the report prepared by the [state agency] on accessory dwelling units. The Board's commentary shall contain recommendations for furthering the purposes of the legislation and will be published and circulated with the [state agency's] annual report.

Other States Working on ADU Laws

We have found that each state ADU law is different from the next. What we have presented you with today is the AARP Model ADU Act. This act pulls provisions from ADU law across the country. AARP RI is ready to work with you to create the Act that works best for Rhode Island.

Connecticut: <https://www.cga.ct.gov/2021/FC/PDF/2021HB-06107-R000716-FC.PDF>

Oregon - <https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument/HB2001/Enrolled> (2019)
- <https://olis.oregonlegislature.gov/liz/2017R1/Downloads/MeasureDocument/SB1051/Enrolled> (2017)

California - <https://www.hcd.ca.gov/policy-research/accessorydwellingunits.shtml> (Incentive Programs)

New Hampshire - <https://www.nh.gov/osi/planning/resources/documents/planning-for-accessory-dwellings.pdf>

New York - <https://www.nysenate.gov/legislation/bills/2021/s4547> (AARP NY proposed in 2021)

Massachusetts - <https://www.boston.gov/departments/neighborhood-development/addition-dwelling-units> (pilot program)