

# PRE-APPROVED ANCILLARY DWELLING UNITS REQUEST FOR SUBMISSIONS QUESTIONS: ADDENDUM #2

1. Question: When is it required to amend the certificate of occupancy if you have an ADU? If a CO is required please share a sample CO as ref.

Response: When a Backyard ADU is added to an existing site-specific One- or Two-family Residence, an NB application filing (a DOB Now Build Alteration CO application filing) will be required for a new CO for such ADU.

The DOB has not yet issued any COs with an ADU. Applicant shall follow DOB Now instructions to enter information in the Schedule of Occupancy.

The Schedule of Occupancy must include the following per BC U101.4:

- If the main entrance of the ADU opens to the rear yard, the ADU shall be identified as "ADU Apartment R".
- In the comment of the Schedule of Occupancy, "Ancillary Dwelling Unit per ZR 12-10 and BC Appendix U" must be stated.

2. Question: Is it legal to add an above-grade ADU to a 2-family building that is not separated by a "fire wall"? I understand that this will change the occupancy group of the entire building from R-3 to R-2 and trigger MDL compliance, but does Appendix U of the Building Code even allow it?

Questions reworded for clarity:

- 1) Is it legal to [physically attach/] add an above-grade ADU [in a rear yard] to a 2-family building that is not separated by a "fire wall" pursuant to Appendix U of the Building Code?

Response: No, that will not be an ADU complying with BC Appendix U.

- 2) I understand that this will change the occupancy group of the entire building from R-3 to R-2 and trigger MDL compliance, but does Appendix U of the Building Code even allow it?

Response: Adding an ADU to an existing Two-Family Dwelling Unit without meeting all ADU requirements will create a Three-Family Dwelling Unit which will place the building under MDL requirements.

3. Question: Are all newly-built attached ADUs separated by a "fire wall" from a 2-family building considered "Backyard ADUs"?

Response: Yes. These newly-built attached / abutted ADUs constructed in accordance with BC U203 are typically new development after 12/5/2024, meeting the "Backyard ADU" definition in ZR 12-10.

4. Question: Are other existing structures such as sheds treated the same way as garage conversions?

Response: This question is outside the pre-approved program. This will be reviewed case-by-case under the plan examination procedure.

5. Question: To what extent can you horizontally enlarge the existing structure outside of the garage's

existing footprint without it being considered a "backyard ADU"?

Response: Enlargement of an existing building that was developed before 12/5/2024 is not a Backyard ADU. Such enlargement will be reviewed case-by-case through the plan examination procedure, instead of the pre-approved program.

6. Question: To what extent can you horizontally enlarge the existing structure while still being allowed to retain existing non-compliances, particularly the 5' property line setback requirements?

Response: This question is outside the scope of a pre-approved ADU program. Such enlargement will be reviewed case-by-case under the plan examination procedure.

7. Question: The 15-foot and 25-foot height limits only apply to portions of the ADU within the rear yard. For portions of the ADU outside of the rear yard the height limit of the zoning district applies.

The submission guidelines state: "For any ADU associated with a detached, zero lot line or semi-detached building, the height, at any level, shall be limited to one story, not to exceed 15 feet. If a parking space is provided below a portion of a building containing an ADU, the height of such building, and an associated ancillary dwelling unit, shall not exceed two stories or 25 feet."

This is from "ZR 23-341 Permitted obstructions in required rear yard equivalents," so the 15-foot and 25-foot height limits only apply to portions of the ADU within the rear yard. For portions of the ADU outside of the rear yard the height limit of the zoning district applies.

Earlier in the summer I reached out to the Department of City Planning for clarification on this requirement and they confirmed this is correct.

Response: DOB agrees with DCP's interpretation of this matter.

8. Question: What marketing will be done to drive homeowners to view and select from the library?

Response: After the library is launched, there will be a concerted marketing effort to build awareness about the Pre-Approved Plan Library (PAPL). Outreach will be focused on homeowners, specifically in neighborhoods with the greatest potential eligibility for ADU development.

9. Question: Are there any incentives for energy efficiency designs?

Response: DOB will review pre-approved ADU submissions for compliance with NYC Zoning Resolution and Construction Codes. Submissions must comply with the NYC Energy Conservation Code (NYCECC). Other incentive programs are under the purview of New York State Energy Research and Development Authority (NYSERDA) and outside of DOB purview.

10. Question: Can an RDP submit innovative designs, such as a cooperative model?

Response: Ownership and corporation structure of property is outside of DOB's purview.

11. Question: Does an ADU need to be sprinklered even if the house is a single family non sprinklered building?

Response: When an ADU is added to a one-family home, it remains a R-3 occupancy, and a 1-hour fire separation is required between the two units. Attic ADUs specifically require automatic sprinklers, while other above-grade ADUs within a 1-family building are exempt. Backyard ADUs must be sprinklered.

12. Question: How to move forward with prefab units? Rules and regulations on that?

Response: HUD and NYS fabricated units will be reviewed pursuant to TPPN6/88: [TECHNICAL](#)

[POLICY AND PROCEDURE # 6/88](#)

For all other prefabricated units that are not NYS or HUD certified, see the following page for details.

[Fabricated Items](#)

[BB 2014-003](#) and [BB 2011-009](#)

[OPERATIONS POLICY MID PROCEDURE NOTICE # 10/88](#)

13. Question: Are homeowners being provided with guidance on selecting preapproved plans?

Response: Yes. Guidance materials will be provided.

14. Question: Will there be ADU fee waivers to incentivize homeowners/ property owners to build ADU's? I ask this as other jurisdictions in other states have done so, to jump start construction of these smaller dwellings.

Response: Fee waivers are not currently available for ADU applications at this time.

15. Question: What's the current turnaround time for ADU permit approvals?

Response: ADU applications filed for standard plan examination will be reviewed per current service levels.

16. Question: If your design is not chosen for a pre-approved design, can you file your own ADU design under full plan exam?

Response: All complete code-compliant submissions will be included in the pre-approved plan library, provided the RDP address plan review objections and revise the submission in a timely manner. Full plan examination is always available when DOB begins accepting ADU applications.

17. Question: Does bringing in ADU sprinklers prompt updating the main house water connection - for example if there wasn't an existing backflow preventer would one have to be installed?

Response: Each specific site with its individual ADU application will have its own requirements regarding plumbing capacities, existing loads and potential need to update house water and site drainage connections.

18. Question: Can sprinklers for the ADU be tapped of the existing domestic service?

Response: Yes, if the site-specific existing building's water service capacity will accommodate the additional load.

19. Question: Will the ADU filing fee be inclusive for all worktypes?

Response: The initial NYC DOB OTCR ADU Pre-Approved Filing Application covers all work types. When the RDP selects a pre-approved design and applies for a job for a site-specific location, the filing fee will be calculated in accordance with Administrative Code Table 28-112.2 and collected by DOB Now.

20. Question: Do we need submit a new sewer connection application to DEP? Or we can just connect with existing service?

Response: This will be based on the site-specific conditions. Both may be available options pending site-specific limitations. If, however, the existing building's site connection and house connection capacity does not accommodate the additional load(s), then a separate DEP Site Connection Proposal (SCP) and/or Housing Connection Proposal (HCP) will be required. Regardless of the

connection, a DEP application will be required.

21. Question: What is the average ADU (say 500 sf, detached) building permit review time?

Response: When this is filed as a pre-approved submission under the current pre-approved program, the approved designs are slated to be posted to the online pre-approved library by the end of the year.

If this is filed as a regular DOB filing outside of the pre-approved program submission, DOB review time will be per the standard plan exam service levels. The time duration for a site-specific ADU application will depend on the approval(s) of other required NYC Agency application approval(s). The permitting time will vary from site to site. The goal and intent of the DOB Pre-Approved ADU is to assist in getting projects permitted as quickly as possible.

22. Question: Do you have any information regarding the difference in submission process for a submission in this initial RFS period vs when the RFS reopens in 2026? Specifically, regarding cost, submission inclusions, timeline for DOB review, etc.

Response: That is yet to be determined. Please stay tuned.

23. Question: If the ADU has to comply with MDL then what is the advantage of filing it as an ADU as compared to a standard DU?

Response: In a two-family home, a third unit may be added as an ADU if it is physically separated by a fire wall. This is known as an ADU Separated by Fire Wall from a 2-Family Primary Dwelling complying with BC U203. This approach allows the property to remain classified as R-3 occupancy and avoids triggering Multi-Dwelling Law requirements, which would otherwise apply to three-family buildings. The fire wall must be made of concrete or masonry per BC 706 and fully separate the ADU's structural and building systems from the main dwelling, from the foundation to the roof.

These ADUs are considered separate buildings, even if attached/abutting, and must meet all general and specific provisions under BC U203. They must be fully code-compliant with independent exits, fire protection, and vertical circulation. This typology is often used for side additions or rear yard extensions/horizontal enlargements that are structurally independent but has an integrated massing on a single lot.

Under the above configuration, a two-family home plus ADU remains a two-family, complying with zoning district regulations that only allows 1-2 family homes.

24. Question: Will the estimated construction cost be displayed with each design in the library?

Response: Yes.

25. Question: Are there discussions about expanding the planning and code to allow for 2 ADU's or a duplex in the "back" of the primary building?

Response: This would require a zoning amendment and can be best addressed by the NYC Department of City Planning.

26. Question: Could you share DOB's projected timeline for finalizing the ADU rules and opening the application process for permits?

Response The remaining ADU rules will be finalized in fall 2025. The PAPL RFS portal is open, and the DOB Now standard Plan Exam application filing portal is open. DOB is placing all DOB Now ADU application filings in Administrative Hold status until the City Council and the Mayor signs the current ADU legislation under review and when the DEP issues it modified Flood Hazard Map. No ADU permits for PAPL RFS or DOB Now application filings will currently be permitted.

27. Question: Will there be any additional considerations or specially designated categories for energy efficient design, LEED, passive home, etc?

Response: NYC DOB Building Construction Codes include rigorous Energy Construction Code compliance requirements. What the Registered Design Professional (RDP) chooses to include in her/his design is an elected choice of the RDP. The ADU for You Pre-Approved ADU Plan Library (PAPL) Request for Submission application includes information about ADU Design Characteristics that exceed NYC Zoning Regulation and DOB Building Construction Code requirements.

See: <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/250826-adu-for-you-introduction-and-dob-pre-approval-rfs-guidelines-final-q-a-update.pdf>

28. Question: Once the homeowner chooses a pre-approval design, is it the homeowner responsibility to pick a contractor to build the design, or is it prepackage with RDP's design?

Response: How the Owner and the Registered Design Professional (RDP) of the selected Pre-Approved ADU Plan agree to select and engage/contract an ADU Constructor (e.g. General Contractor) to build the ADU occurs between the Owner and the RDP.

The only requirement for a homeowner to use the pre-approved design is to work with the RDP associated with the selected design. The homeowner is not required to contract with a specific contractor.

29. Question: Does pre-approval is only for to be in the plan library? How does this align with an NB permit? Or no effect at all, you'd still need to thru plan exam review?

Response: Approval of a Pre-Approved ADU Plan Library Submission (PAPL) applies to two parts of the PAPL Submission:

1) Approval for inclusion in the PAPL HPD Website Posting, and

2) DOB Plan Examination Approval of the Initial, Non-Site Specific OTCR application filing.

An NB Permit will only be issued after a DOB Pre-Approved ADU is approved for Site Specific conditions. This type of permitting will occur on a site-specific case-by-case application filing basis.

30. Question: Is a cellar acceptable for an ADU?

Response: Cellar ADUs are not part of the Pre-Approved Plan Library (PAPL) Submission ADU Scope of Work.

31. Question: Does DOB offer any pre-approval or plan review services for the ADU designs?

Response: The Pre-approved Backyard Ancillary Dwelling Units Request for Submissions ([250826-adu-for-you-introduction-and-dob-pre-approval-rfs-guidelines-final-q-a-update.pdf](https://www.nyc.gov/assets/hpd/downloads/pdfs/services/250826-adu-for-you-introduction-and-dob-pre-approval-rfs-guidelines-final-q-a-update.pdf)) is the program offered at this time for pre-approval of ADU designs. Full plan examination is always available when DOB begins accepting ADU applications.

32. Question: Will Pre-approved Plan Library (PAPL) RDPs allowed to promote, or associate in their PAPL entry, with a Constructor?

Response: The only requirement for a homeowner to use the pre-approved design is to work with the RDP associated with the selected design. If the RDP is employed by a constructor, or if a constructor and the RDP have come to an agreement to work together on the pre-approved design, that agreement should be made clear to the homeowner. Any agreements between a constructor and an RDP are outside the purview of the PAPL.

33. Question: Does NYC DOB allow vacant landowners to build an ADU unit on a vacant lot? If so,

what's the minimum lot size in order to build an ADU unit that will be owner occupied?

Response: No. See the Definition of Ancillary Dwelling Unit in ZR 12-10: An "ancillary dwelling unit" is an additional dwelling unit, permitted on the same zoning lot as a single- or two-family residence that does not exceed eight hundred square feet of floor area. Only one ancillary dwelling unit shall be permitted per every single- or two-family residence on a zoning lot.

34. Question: What is the minimum and maximum size of an ADU unit you can build in NYC?

Response: Minimum is based on NYC Building Construction Codes requirements for habitable spaces and for dwelling units.

Maximum is defined by ZR 12-10: An "ancillary dwelling unit" is an additional dwelling unit, permitted on the same zoning lot as a single- or two-family residence that does not exceed eight hundred square feet of floor area. Only one ancillary dwelling unit shall be permitted per every single- or two-family residence on a zoning lot.

35. Question: Once a design is approved and added to the library, can manufacturers (including those based overseas) be engaged to fabricate these ADUs, provided they build to the approved specifications? Or must the manufacturer also be the submitting party together with the RDP?

Response: Yes, approved ADUs may be fabricated. Please reach out to Office of Technical Certification & Research (OTCR) for further details. [OTCR@buildings.nyc.gov](mailto:OTCR@buildings.nyc.gov)

The RDP is the submitting party with DOB for construction document approval.

The fabricator may elect to self-certify units in lieu of special inspections in accordance with [BB 2011-2009](#). Also, the owner of a project may have an RDP certify electrical, plumbing and fire suppression work in lieu of work performed by master plumbers, master fire protection piping contractors, oil burning equipment installers or electricians in accordance with [BB 2014-003](#). Please reach out to OTCR for further assistance.