

Ordinance No.: _____
Zoning Text Amendment No.: 26-##
Concerning: Accessory Residential
 Uses – Accessory
 Dwelling Unit (ADU)
Revised: _____ Draft No.: _____
Introduced: _____
Public Hearing: _____
Adopted: _____
Effective: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember _____
Co-Sponsors: Councilmembers _____

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) Revise the limited use provisions for attached and detached accessory dwelling units;
- (2) generally amend the provisions for accessory dwelling units.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 3.3. “Residential Uses”
Section 3.3.3. “Accessory Residential Uses”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

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Sec. 2. DIVISION 59-3.3 is amended as follows:

Division 3.3. Residential Uses

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Section 3.3.3. Accessory Residential Uses

A. Accessory Dwelling Unit, In General

1. Defined, In General

Accessory Dwelling Unit or Accessory Apartment means a second dwelling unit that is not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit [subordinate to the principal dwelling]. An Accessory Dwelling Unit includes an Attached Accessory Dwelling Unit and a Detached Accessory Dwelling Unit.

2. Use Standards for all Accessory Dwelling Units

Where an Accessory Dwelling Unit is allowed as a limited use, it must satisfy the following standards:

- a. Only one Accessory Dwelling Unit is permitted for each lot.
- b. The Accessory Apartment was approved as a special exception before May 20, 2013 and satisfies the conditions of the special exception approval or satisfies Subsection c
- c. If the Accessory Dwelling Unit does not satisfy Subsection b, the Accessory Dwelling Unit must be licensed by the Department of Housing and Community Affairs under Chapter 29 (Section 29-19); and
 - i. the Accessory Dwelling Unit must have the same street address as the principal dwelling;
 - ii. except for lots located within 1 mile of any Metrorail, Purple Line, or MARC Rail Station, either:

- 64 (a) one on-site parking space is provided in addition to
 65 any required on-site parking space for the principal
 66 dwelling; however, [if a new driveway must be
 67 constructed for the Accessory Dwelling Unit, then a
 68 total of at least two on-site parking spaces must be
 69 provided] if the principal dwelling has no existing
 70 on-site parking, the Accessory Dwelling Unit only
 71 needs to provide the one parking space required for
 72 the unit; or
- 73 (b) the Hearing Examiner finds under the waiver in
 74 Section 29-26(b) that there is adequate on-street
 75 parking or finds that the size or shape of the existing
 76 lot for the principal dwelling effectively precludes
 77 the ability to provide additional on-site parking;
- 78 iii. the maximum number of occupants is limited by Chapter 26
 79 (Section 26-5); however, the total number of occupants
 80 residing in the Accessory Dwelling Unit who are 18 years
 81 or older is limited to 2;
- 82 iv. the maximum footprint of an Accessory Dwelling Unit, in
 83 combination with other structures on the site, is limited by
 84 the total lot coverage limit in the underlying zone and the
 85 maximum gross floor area of the unit; and
- 86 v. unless modified by the use standards for an Accessory
 87 Dwelling Unit, an Accessory Dwelling Unit must comply
 88 with the setback, height, and building lot coverage
 89 standards of an accessory structure in the underlying zone.

- 90 d. An Accessory Dwelling Unit must not be located on a lot where
- 91 any short-term rental Residential use exists or is licensed.
- 92 e. [In the Agricultural and Rural Residential zones, a]An Accessory
- 93 Dwelling Unit is excluded from any density calculations. If the
- 94 property associated with an Accessory Dwelling Unit is
- 95 subsequently subdivided so that the detached Accessory
- 96 Dwelling Unit is now located on its own lot, the Accessory
- 97 Dwelling Unit is included in the density calculations.
- 98 f. Screening under Division 6.5 is not required.
- 99 g. In the AR zone, any Accessory Dwelling Unit may be prohibited
- 100 under Section 3.1.5, Transferable Development Rights.

101 **B. Attached Accessory Dwelling Unit**

102 **1. Defined**

103 Attached Accessory Apartment or Accessory Dwelling Unit means a second
 104 dwelling unit that is part of a detached house building type and includes
 105 facilities for cooking, eating, sanitation, and sleeping. An Attached Accessory
 106 Dwelling Unit is subordinate to the principal dwelling.

107 **2. Use Standards**

108 Where an Attached Accessory Dwelling Unit is allowed as a limited use, it
 109 must satisfy the use standards for all Accessory Dwelling Units under
 110 Section 3.3.3.A.2 and the following standards:

- 111 a. A separate entrance is located:
 - 112 i. on the side or rear of the dwelling;
 - 113 ii. at the front of the principal dwelling, if the entrance existed
 - 114 before May 20, 2013; or

- 115 iii. at the front of the principal dwelling, if it is a single
- 116 entrance door for use of the principal dwelling and the
- 117 Attached Accessory Dwelling Unit.
- 118 [b. The maximum gross floor area for an Attached Accessory
- 119 Dwelling Unit, including any floor area used for an Accessory
- 120 Dwelling Unit in a cellar, must be:
- 121 i. 1,200 square feet of gross floor area; or
- 122 ii. if the basement or cellar is used for the Attached Accessory
- 123 Dwelling Unit, the gross floor area for the Attached
- 124 Accessory Dwelling Unit may equal the square footage
- 125 area of the basement or cellar.]

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127 **C. Detached Accessory Dwelling Unit**

128 **1. Defined**

129 Detached Accessory Apartment or Accessory Dwelling Unit means a second
 130 dwelling unit that is located in a separate accessory structure on the same lot
 131 as a detached house building type and includes facilities for cooking, eating,
 132 sanitation, and sleeping. A Detached Accessory Dwelling Unit is subordinate
 133 to the principal dwelling.

134 **2. Use Standards**

- 135 a. Where a Detached Accessory Dwelling Unit is allowed as a
- 136 limited use, it must satisfy the use standards for all Accessory
- 137 Dwelling Units under Section [3.3.3.A.2](#).
- 138 b. Any structure constructed legally before May 31, 2012 that is not
- 139 increased in size or building height and does not have new
- 140 windows on a wall nearest an abutting property may be used for

- 141 a Detached Accessory Dwelling Unit without regard to setbacks
142 or floor area.
- 143 c. A Detached Accessory Dwelling Unit built after May 30, 2012
144 must have the same minimum side setback [as the principal
145 dwelling] and a minimum rear setback [of 12 feet] as the
146 accessory structure.
- 147 [d. For any Detached Accessory Dwelling Unit with a length along
148 a rear or side lot line that is longer than 24 feet, the minimum
149 side or rear setback must be increased at a ratio of 1 foot for every
150 1 foot that the dimension exceeds 24 linear feet. The additional
151 rear setback is from a 12-foot setback as its starting point.
- 152 e. The maximum gross floor area for a Detached Accessory
153 Dwelling Unit must be the least of:
- 154 i. 50% of the footprint of the principal dwelling;
155 ii. 10% of the lot area; or
156 iii. 1,200 square feet of gross floor area.]

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158 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
159 date of District Council adoption.

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This is a correct copy of Council action.

Sara R. Tenenbaum
Clerk of the Council