

CORRECTED

Ordinance No.: 17-28

Zoning Text Amendment No.: 12-11

Concerning: Accessory Apartments –
Amendments

Draft No. & Date: 6 - 2/5/13

Introduced: July 24, 2012

Public Hearing: September 11, 2012

Adopted: February 5, 2013

Effective: May 20, 2013

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

By: District Council at the Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the definitions for one-family dwelling and one-family detached dwelling-unit;
- establish definitions for an attached accessory apartment and a detached accessory apartment to replace the definition for an accessory apartment;
- revise the standards and requirements for a registered living unit;
- establish standards for attached and detached accessory apartments as permitted uses;
- amend the land use table in one-family residential zones and agricultural zones to add attached and detached accessory apartments as a permitted use under certain circumstances; **[[and]]**
- establish special exception standards for attached and detached accessory apartments; and
- **[[and]]** generally amend all provisions concerning accessory apartments

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

CLERK'S NOTE: The following corrections were made: "59-A-6.20" replaced "59-A-6.19" on page 6, line 49; page 7, line 53; page 14, line 237; page 16, line 252; page 19, line 265; page 21, line 298; page 22, line 313; and page 23, line 364. The words "or detached" were added to page 14, line 237; page 19, line 265; and page 21, line 298. "May 20, 2013" replaced "{EFFECTIVE DATE}" on page 7, lines 57 and 70; page 8, line 94; page 11, line 167; page 12, line 193; and page 23, line 354.

DIVISION 59-A-2.	“DEFINITIONS AND INTERPRETATION.”
DIVISION 59-A-6.	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE.”
Adding Section [[59-A-6.19]] <u>59-A-6.20.</u>	“Attached <u>or detached</u> accessory [[apartments]] <u>apartment.</u> ”
[[Adding Section 59-A-6.20.	“Detached accessory apartments.”]]
DIVISION 59-C-1.	“RESIDENTIAL ZONES, ONE-FAMILY.”
Section 59-C-1.3.	“Standard development.”
Section 59-C-1.5.	“Cluster development.”
Section 59-C-1.6.	“Development including moderately priced dwelling units.”
DIVISION 59-C-9.	“AGRICULTURAL ZONES.”
Sec. 59-C-9.3.	“Land uses.”
Sec. 59-C-9.4.	“Development standards.”
<u>DIVISION 59-G-1.</u>	<u>“SPECIAL EXCEPTIONS—AUTHORITY AND PROCEDURE.”</u>
<u>Sec. 59-G-1.12.</u>	<u>“Hearing Examiner.”</u>
DIVISION 59-G-2.	“SPECIAL EXCEPTIONS—STANDARDS AND REQUIREMENTS.”
Sec. 59-G-2.00.	“Accessory apartment.”
Adding Sec. 59-G-2.00.6.	“Attached <u>or detached</u> accessory apartment.”
[[Adding Sec. 59-G-2.00.7.	“Detached accessory apartment.”]]

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 that text 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.*

OPINION

Zoning Text Amendment No. 12-11, sponsored by the District Council at the request of the Planning Board, was introduced on July 24, 2012.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved.

The Council conducted a public hearing on September 11, 2012. There was extensive testimony, some in support and some in opposition. Some testimony recommended specific changes. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions to review the amendment on October 8, October 22, and November 5, 2012. The Committee recommended approval of ZTA 12-11 with amendments. The Committee agreed with the core concept of ZTA 12-11 that makes accessory apartments a permitted use under certain circumstances; however, under the Committee's recommendation, if an applicant wanted a waiver of the minimum distance requirement or the on-site parking requirement, a special exception would be required. Such a special exception would be decided by the Hearing Examiner, with an appeal allowed to the Board of Appeals. In some instances, the Committee also recommended the following zoning standards for all future accessory apartments:

Approval conditions	Committee's recommendation
<i>Limit one unit per one-family detached dwelling (non-agricultural zone)</i>	Allowed without regard to age of the house
<i>Additions to existing structure</i>	Allowed
<i>Separate structure</i>	Allowed if the lot is 1 acre or more in RE-2, RE-2C, and RE-1
<i>Occupancy of principal house</i>	Require the address to be the primary residence of the owner as a licensing requirement under Bill 31-12
<i>Registered living units or additional rentals</i>	An accessory apartment is prohibited if an RLU or other rental is occurring
<i>External attributes</i>	Allow a separate side or rear yard entrance, a separate front entrance if it pre-existed the application, and a common front entrance
<i>Street address</i>	Must be the same as the main dwelling
<i>Development standards</i>	Zoning classification controls; no minimum lot size
<i>Maximum number of people</i>	2 adults; no limit on minors except housing code
<i>Unit size</i>	Limit floor area to less than 50% of main dwelling but no larger than 2,500 square feet
<i>Excessive concentration</i>	300 feet from another accessory apartment on the same block face in the R-90, R-60, and RNC zones; 500 feet in the RE-2, RE-2C, RE-1, R-200, RMH-200, and R-150 zones, but subject to waiver by special exception; no prohibition on back-to-back apartments

Approval conditions	Committee's recommendation
<i>Parking</i>	If there is an existing driveway, 1 on-site space required in addition to any required on-site space required for the main dwelling; if new driveway is required, 2 spaces in addition to main dwelling spaces
<i>Reporting requirement</i>	Require a report by DHCA after the 2,000th license is issued

The District Council reviewed Zoning Text Amendment No. 12-11 at a worksession held on January 15, 2013. The Council amended ZTA 12-11 to:

- 1) repeat the standards in Bill 31-12 for the Hearing Examiner and the Board to find inadequate on-street parking in the course of the special exception process;
- 2) limit the amount of a new addition that could be used for an accessory apartment to no more than 800 square feet of floor area;
- 3) limit the total floor area of an accessory apartment to a maximum 1,200 square feet without regard to the floor area in the principal dwelling;
- 4) require the principal dwelling to be at least 5 years old when any application for an accessory apartment is made; and
- 5) make the effective date of the ZTA May 20, 2013, to coincide with the effective date of Bill 31-12.

In all other respects, the Council agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 12-11 will be approved as amended.

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:

1 **Sec. 1. DIVISION 59-A-2 is amended as follows:**
2 DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.

3 * * *

4 **59-A-2.1. Definitions.**

5 * * *

6 **[Accessory apartment:** A second dwelling unit that is part of an existing one-
7 family detached dwelling, or is located in a separate existing accessory structure on
8 the same lot as the main dwelling, with provision within the accessory apartment
9 for cooking, eating, sanitation and sleeping. Such a dwelling unit is subordinate to
10 the main dwelling.]

11 **Accessory apartment, attached:** A second dwelling unit that is part of a one-
12 family detached dwelling and provides for cooking, eating, sanitation, and
13 sleeping. An attached accessory apartment [[has a separate entrance and]] is
14 subordinate to the principal dwelling.

15 **Accessory apartment, detached:** A second dwelling unit that is located in a
16 separate accessory structure on the same lot as a one-family detached dwelling and
17 provides for cooking, eating, sanitation, and sleeping. A detached accessory
18 apartment is subordinate to the principal dwelling.

19 * * *

20 **Dwelling and dwelling units:**

21 **Dwelling:** A building or portion thereof arranged or designed to contain one or
22 more dwelling units.

23 * * *

24 **Dwelling, one-family:** A dwelling containing not more than one dwelling
25 unit. An accessory apartment[, if approved by special exception,] or a
26 registered living unit may also be part of a one-family dwelling. A one-

27 family dwelling with either of these subordinate uses is not a two-family
28 dwelling[,] as defined in this section.

29 * * *

30 **Dwelling unit:** A building or portion [thereof] of a building providing complete
31 living facilities for not more than one family, including, at a minimum, facilities
32 for cooking, sanitation, and sleeping.

33 **Dwelling unit, one-family detached:** A dwelling unit that is separated and
34 detached from any other dwelling unit on all sides, except where the
35 dwelling is modified to include an accessory apartment[, approved by
36 special exception,] or a registered living unit.

37 * * *

38 **Sec. 2. DIVISION 59-A-6 is amended as follows:**

39 DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF
40 ZONE.

41 * * *

42 **59-A-6.10. Registered living unit--Standards and requirements.**

43 A registered living unit, permitted in[,] agricultural, one-family residential, and
44 planned unit development zones[,] must:

45 * * *

46 (i) be removed whenever it is no longer occupied as a registered living unit,
47 unless the owner applies for and is granted either a special exception or a
48 license for an attached accessory apartment [in accordance with Section 59-
49 G-2.00] under Section 59-G-2.00.6 or Section ~~[[59-A-6.19]]~~ 59-A-6.20, or
50 whenever the one-family detached dwelling unit in which it is located is no
51 longer occupied by the owner.

52 * * *

53 **Sec. ~~[[59-A-6.19]] 59-A-20. Attached or detached accessory apartment.~~**

54 (a) Where an attached or detached accessory apartment is permitted in a zone,
55 only one accessory apartment is permitted for each lot and it is only
56 permitted under the following standards:

57 (1) the apartment was approved as a special exception before May 20,
58 2013 and satisfies the conditions of the special exception approval; or

59 (2) the apartment is ~~[[registered with]]~~ licensed by the Department of
60 Housing and Community Affairs ~~[[in the same manner as a registered~~
61 living unit under Subsection 59-A-6.10(a)(3)]] under Section 29-19;
62 and

63 (A) ~~[[the owner of the lot occupies a dwelling unit on the lot at~~
64 least 6 months of every calendar year;]]

65 ~~[[B)]]~~ the apartment has the same street address as the principal
66 dwelling;

67 ~~[[C)]]~~(B) a separate entrance is located:

68 (i) on the side yard or rear yard;

69 (ii) at the front of the principal dwelling, if the entrance
70 existed before May 20, 2013; or

71 (iii) at the front of the principal dwelling, if it is a single
72 entrance door for use of the principal dwelling and the
73 accessory apartment;

74 ~~[[D)]]~~(C) one on-site parking space is provided in addition to any
75 required on-site parking for the principal dwelling; however, if
76 a new driveway must be constructed for the accessory
77 apartment, then two on-site parking spaces must be provided;

78 ~~[[E)]]~~(D) an attached accessory apartment:

- 79 (i) in the RE-2, RE-2C, RE-1, R-200, RMH-200, and R-150
80 zones[, the attached accessory apartment]] is located at
81 least 500 feet from any other attached or detached
82 accessory apartment, measured in a [[straight]] line from
83 side lot line to side lot line along the same block face;
84 ~~[(F)]~~(ii) in the R-90, R-60, and RNC zones[, the attached
85 accessory apartment]] is located at least 300 feet from
86 any other attached or detached accessory apartment,
87 measured in a [[straight]] line from side lot line to side
88 lot line along the same block face;
89 (E) a detached accessory apartment:
90 (i) in the RE-2, RE-2C, and RE-1 zones is located a
91 minimum distance of 500 feet from any other attached or
92 detached accessory apartment, measured in a line from
93 side lot line to side lot line along the same block face;
94 (ii) built after May 20, 2013 must have the same minimum
95 side yard setback requirement as the principal dwelling
96 and a minimum rear yard setback requirement of 12 feet,
97 unless more restrictive accessory building or structure
98 yard setback standards are required under Section 59-C-
99 1.326;
100 (iii) must be located on a lot with an area of one acre or
101 larger;
102 ~~[(G)]~~ the rear lot line of the lot with the accessory apartment does not
103 abut a lot with another accessory apartment;]]

- 104 [(H) if the accessory apartment is limited to a floor area of 800
 105 square feet, it must be no greater than 50% of the principal
 106 dwelling or 800 square feet, whichever is less;]]
- 107 [(I) if the accessory apartment is limited to a floor area of 1,200
 108 square feet, it must be no larger than 50% of the principal
 109 dwelling or 1,200 square feet, whichever is less; and]]
- 110 (F) (i) the maximum gross floor area for an accessory
 111 apartment, including any floor area used for an accessory
 112 apartment in a cellar, must be less than 50 percent of the
 113 total floor area in the principal dwelling, including any
 114 floor area used for an accessory apartment in the cellar of
 115 the principal dwelling, or 1,200 square feet, whichever is
 116 less;
- 117 (ii) the maximum floor area used for an accessory apartment
 118 in a proposed addition to the principal dwelling must not
 119 be more than 800 square feet if the proposed addition
 120 increases the floor plate of the principal dwelling;
- 121 [(J)](G) the maximum number of occupants is limited [[to 3
 122 persons]] by Section 26-5; however, the total number of
 123 occupants residing in the accessory apartment who are 18 years
 124 or older is limited to 2.
- 125 (3) [[The]] an accessory apartment must not be located on a lot where any
 126 of the following otherwise allowed residential uses exist: guest room
 127 for rent; boardinghouse; registered living unit; or any other rental
 128 residential use]], other than an accessory dwelling in an agricultural
 129 zone]]; however, an accessory apartment may be located on a lot in an

130 agricultural zone that includes a tenant dwelling, a farm tenant mobile
131 home, or a guest house.

132 (4) the one-family detached dwelling in which the accessory apartment is
133 to be created or to which it is to be added must be at least 5 years old
134 on the date of application for a license or a special exception.

135 (b) (1) An attached or detached accessory apartment special exception
136 petition may be filed with the [[Board of Appeals]] Hearing Examiner
137 to deviate from any permitted use standard regarding:

138 (A) [[location of the separate entrance;

139 (B)]] number of on-site parking spaces; or

140 [[C)]](B) minimum distance from any other attached or detached
141 accessory apartment.

142 (2) To approve a special exception filed under Subsection (b)(1), the
143 [[Board of Appeals]] Hearing Examiner must find, as applicable, that:

144 (A) [[the separate entrance is located so that the appearance of a
145 single-family dwelling is preserved;

146 (B)]] adequate on-street parking permits fewer off-street spaces; or

147 [[C)]](B) when considered in combination with other existing or
148 approved accessory apartments, the deviation in distance
149 separation does not result in an excessive concentration of
150 similar uses, including other special exception uses, in the
151 general neighborhood of the proposed use.

152 (3) The Hearing Examiner may find that on-street parking is inadequate
153 if:

154 (A) the available on-street parking for residents within 300 feet of
155 the proposed accessory apartment would not permit a resident

156 to park on-street near his or her residence on a regular basis;
157 and
158 (B) the proposed accessory apartment is likely to reduce the
159 available on-street parking within 300 feet of the proposed
160 accessory apartment.

161 **[[Sec. 59-A-6.20 Detached accessory apartment.**

162 (a) Where a detached accessory apartment is permitted in a zone: it must be
163 located on a lot one acre or greater in size; only one accessory apartment is
164 permitted for each lot; and it is only permitted under the following
165 standards:

166 (1) the accessory apartment was approved as a special exception before
167 May 20, 2013 and satisfies the conditions of the special exception
168 approval; or

169 (2) the accessory apartment is registered with the Department of Housing
170 and Community Affairs in the same manner as a registered living unit
171 under Subsection 59-A-6.10(a)(3); and

172 (A) the owner of the lot occupies a dwelling unit on the lot at least 6
173 months of every calendar year;

174 (B) the apartment has the same street address as the principal
175 dwelling;

176 (C) a separate entrance is located on the side yard or rear yard;

177 (D) one on-site parking space is provided in addition to any
178 required on-site parking for the principal dwelling;

179 (E) in the RE-2, RE-2C, and RE-1 zones, the detached accessory
180 apartment is located a minimum distance of 500 feet from any
181 other attached or detached accessory apartment, measured in a

- 182 straight line from side property line to side property along the
183 same block face;
- 184 (F) the rear lot line of the lot with the accessory apartment does not
185 abut a lot with another accessory apartment;
- 186 (G) if the accessory apartment is limited to a floor area of 800
187 square feet, it must be no greater than 50% of the principal
188 dwelling or 800 square feet, whichever is less;
- 189 (H) if the accessory apartment is limited to a floor area of 1,200
190 square feet, it must be no greater than 50% of the principal
191 dwelling or 1,200 square feet, whichever is less;
- 192 (I) the maximum number of occupants is limited to 3 persons; and
- 193 (J) any structure built after May 20, 2013 to be occupied as an
194 accessory apartment must have the same minimum side yard
195 setback requirement as the principal dwelling and a minimum
196 rear yard setback requirement of 12 feet, unless more restrictive
197 accessory building or structure yard setback standards are
198 required under Section 59-C-1.326.
- 199 (3) The accessory apartment must not be located on a lot where any of the
200 following otherwise allowed residential uses exist: guest room for
201 rent; boardinghouse; registered living unit; or any other rental
202 residential use, other than an accessory dwelling in an agricultural
203 zone.
- 204 (b) (1) A detached accessory apartment special exception petition may be
205 filed with the Board of Appeals to deviate from any permitted use
206 standard regarding:
- 207 (A) location of the separate entrance;
- 208 (B) number of on-site parking spaces; or

209 (C) minimum distance from any other attached or detached
210 accessory apartment.

211 (2) To approve a special exception filed under Subsection (b)(1), the
212 Board of Appeals must find, as applicable, that:

213 (A) the separate entrance is located so that the appearance of a
214 single-family dwelling is preserved;

215 (B) adequate on-street parking permits fewer off-street spaces; or

216 (C) when considered in combination with other existing or
217 approved accessory apartments, the deviation in distance
218 separation does not result in an excessive concentration of
219 similar uses, including other special exception uses, in the
220 general neighborhood of the proposed use.]]

221 * * *

222 **Sec. 3. DIVISION 59-C-1 is amended as follows:**

223 DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.

224 * * *

225 **Sec. 59-C-1.3. Standard development.**

226 The procedure for approval is specified in Chapter 50.

227 **59-C-1.31. Land uses.**

228 No use is allowed except as indicated in the following table:

229 **-Permitted Uses.** Uses designated by the letter "P" are permitted on any lot in the
230 zones indicated, subject to all applicable regulations.

231 **-Special Exception Uses.** Uses designated by the letters "SE" may be authorized
232 as special exceptions under Article 59-G.

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	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4 plex	RMH 200
(a) Residential										
[Accessory apartment. ⁴]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]			[SE]
<u>Accessory apartment, attached</u> [(up to 800 square feet)]. ⁴	<u>P*/SE***</u>	<u>P*/SE***</u>	<u>P*/SE***</u>	<u>P*/SE***</u>	<u>P*/SE***</u>	<u>P*/SE***</u>	<u>P*/SE***</u>			<u>P*/SE***</u>
[[<u>Accessory apartment, attached (greater than 800 square feet, up to 1,200 square feet).</u>] ⁴]	[[<u>P*/SE***</u>] 	[[<u>P*/SE***</u>] 	[[<u>P*/SE***</u>] 	[[<u>P*/SE***</u>] 	[[<u>P*/SE***</u>] 	[[<u>SE**</u>] -	[[<u>SE**</u>] -			[[<u>P*/SE***</u>]
<u>Accessory apartment, detached</u> [(up to 800 square feet)]. ⁴	[[<u>P**/SE****</u>] <u>P*/SE***</u>	[[<u>P**/SE****</u>] <u>P*/SE***</u>	[[<u>P**/SE****</u>] <u>P*/SE***</u>							
[[<u>Accessory apartment, detached (greater than 800 square feet, up to 1,200 square feet).</u>] ⁴]	[[<u>P**/SE****</u>] 	[[<u>P**/SE****</u>] 	[[<u>P**/SE****</u>] 							

235 * * *

236 ⁴ Not permitted in a mobile home.

237 * See Sec. [[59-A-6.19]] 59-A-6.20. Attached or detached accessory apartment.

238 [[^{**} See Sec. 59-A-6.20. Detached accessory apartment.]]

239 ^{***} See Sec. 59-G-2.00.6. Attached or detached accessory apartment.

240 ~~[[~~^{****} See Sec. 59-G-2.00.7. Detached accessory apartment.]]

241 * * *

242 **Sec. 59-C-1.5. Cluster development.**

243 * * *

244 **59-C-1.53. Development standards.**

245 All requirements of the standard method of development in the respective zones, as
246 specified in Section 59-C-1.3, apply, except as expressly modified in this section.

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	RE-2C	RE-1	R-200	R-150	R-90	R-60	RMH 200
59-C-1.531. Uses Permitted. No uses shall be permitted except as indicated by the letter "P" in the following schedule. Special exceptions may be authorized as indicated in [section] <u>Section 59-C-1.31.</u>							
* * *							
[Accessory apartment. ²]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]
<u>Accessory apartment, attached</u> [[up to 800 square feet]]. ²	<u>P*/</u> <u>SE**</u>	<u>P*/</u> <u>SE**</u>	<u>P*/</u> <u>SE**</u>	<u>P*/</u> <u>SE**</u>	<u>P*/</u> <u>SE**</u>	<u>P*/</u> <u>SE**</u>	<u>P*/</u> <u>SE**</u>
[[<u>Accessory apartment, attached (greater than 800 square feet, up to 1,200 square feet).</u>] ²]	[[<u>P*/</u> <u>SE**</u>]]	[[<u>P*/</u> <u>SE**</u>]]	[[<u>SE**</u>] 				
<u>Accessory apartment, detached</u> [[up to 800 square feet]]. ²	[[<u>P***</u> <u>SE****</u>] <u>P*/</u> <u>SE**</u>	[[<u>P***</u> <u>SE****</u>] <u>P*/</u> <u>SE**</u>					
[[<u>Accessory apartment, detached (greater than 800 square feet, up to 1,200 square feet).</u>] ²]	[[<u>P***</u> <u>SE****</u>] 	[[<u>P***</u> <u>SE****</u>] 					

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² Not permitted in a townhouse, one-family attached dwelling unit, or mobile home.

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253

* See Sec. [[59-A-6.19]] 59-A-6.20. Attached or detached accessory apartment.

254

** See Sec. 59-G-2.00.6. Attached or detached accessory apartment.

255

[[*** See Sec. 59-A-6.20. Detached accessory apartment.

256 ^{****} See Sec. 59-G-2.00.7. Detached accessory apartment.]]

257 * * *

258 **Sec. 59-C-1.6. Development including moderately priced dwelling units.**

259 * * *

260 **59-C-1.62. Development standards.**

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263

	RE-2C ⁸	RE-1 ⁸	R-200	R-150	R-90	R-60	R-40
59-C-1.621. Uses Permitted. No uses are permitted except as indicated by the letter "P" in the following schedule. Special exceptions may be authorized as indicated in [section] Section 59-C-1.31, [title "Land Uses,"] subject to [the provisions of article] Article 59-G.							
* * *							
Registered living unit. ^{3,5}	P	P	P	P	P	P	
[Accessory apartment. ³]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]	
<u>Accessory apartment, attached [(up to 800 square feet)].³</u>	<u>P*/SE**</u>	<u>P*/SE**</u>	<u>P*/SE**</u>	<u>P*/SE**</u>	<u>P*/SE**</u>	<u>P*/SE**</u>	
<u>[[Accessory apartment, attached (greater than 800 square feet, up to 1,200 square feet).³]]</u>	<u>[[P*/SE**]]</u>	<u>[[SE**]]</u>	<u>[[SE**]]</u>	<u>[[SE**]]</u>	<u>[[SE**]]</u>	<u>[[SE**]]</u>	
<u>Accessory apartment, detached [(up to 800 square feet)].³</u>	<u>[[P***/SE****]]</u> <u>[[P*/SE**]]</u>	<u>[[P***/SE****]]</u> <u>[[P*/SE**]]</u>					
<u>[[Accessory apartment, detached (greater than 800 square feet, up to 1,200 square feet).³]]</u>	<u>[[P***/SE****]]</u> <u>[[P*/SE**]]</u>	<u>[[P***/SE****]]</u> <u>[[P*/SE**]]</u>					

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³ Not permitted in a townhouse, one-family attached dwelling unit, or mobile home.

266

267 ^{*} See Sec. ~~[[59-A-6.19]]~~ 59-A-6.20. Attached or detached accessory apartment.

268 ^{**} See Sec. 59-G-2.00.6. Attached or detached accessory apartment.

269 ~~[[^{***} See Sec. 59-A-6.20. Detached accessory apartment.]]~~

270 ~~[[^{****} See Sec. 59-G-2.00.7. Detached accessory apartment.]]~~

271 * * *

272 **Sec. 4. DIVISION 59-C-9 is amended as follows:**

273 DIVISION 59-C-9. AGRICULTURAL ZONES.

274 * * *

275 **Sec. 59-C-9.3. Land uses.**

276 No use is allowed except as indicated in the following table:

277 — **Permitted uses.** Uses designated by the letter “P” are permitted on any lot in
278 the zones indicated, subject to all applicable regulations.

279 — **Special exception uses.** Uses designated by the letters “SE” may be authorized
280 as special exceptions under Article 59-G.

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	Rural	RC	LDRC	RDT	RS	RNC	RNC/ TDR
* * *							
(e) Residential:²							
[Accessory apartment. ^{6,7}]	[SE]	[SE]	[SE]	[SE ⁴⁸]		[SE]	[SE]
Accessory dwelling. ⁷	SE	SE	SE	SE ⁴⁸	SE	SE	SE
Accessory dwelling for agricultural workers. ⁴²				P			
<u>Accessory apartment, attached [(up to 800 square feet)].^{6,7}</u>	<u>P*/SE**</u>	<u>P*/SE**</u>	<u>P*/SE**</u>	<u>P^{48,*}/SE^{48,**}</u>		<u>P*/SE**</u>	
<u>[[Accessory apartment, attached (greater than 800 square feet, up to 1,200 square feet).^{6,7}]]</u>	<u>[[P*/SE**]]</u>	<u>[[P*/SE**]]</u>	<u>[[P*/SE**]]</u>	<u>[[P^{48,*}/SE^{48,**}]]</u>		<u>[[SE**]]</u>	
<u>Accessory apartment, detached [(up to 800 square feet)].^{6,7}</u>	<u>[[SE***]]</u> <u>[[SE**]]</u>	<u>[[SE***]]</u> <u>[[SE**]]</u>	<u>[[SE***]]</u> <u>[[SE**]]</u>	<u>[[SE^{48,*}]]</u> <u>[[SE^{48,**}]]</u>			
<u>[[Accessory apartment, detached (greater than 800 square feet, up to 1,200 square feet).^{6,7}]]</u>	<u>[[SE***]]</u> <u>[[SE**]]</u>	<u>[[SE***]]</u> <u>[[SE**]]</u>	<u>[[SE***]]</u> <u>[[SE**]]</u>	<u>[[SE^{48,*}]]</u> <u>[[SE^{48,**}]]</u>			

284

* * *

285

⁶ Not permitted in a mobile home.

286

⁷ [As a special exception regulated by divisions 59-G-1 and 59-G-2, such a] An

287

accessory dwelling unit, including an attached or detached accessory apartment, is

288

excluded from the density calculations [set forth] in [sections] Sections 59-C-9.41 [,

289 title "Density in RDT Zone,"] and 59-C-9.6[, title "Transfer of Density-Option in
290 RDT Zone."]. Once the property is subdivided, such a dwelling would no longer
291 comply with [the special exception regulations or with] this exclusion. A special
292 exception is not required for a dwelling that was a farm tenant dwelling in
293 existence [prior to] before June 1, 1958[, provided, that] if the dwelling meets all
294 applicable health and safety regulations.

295 * * *

296 ⁴⁸ If property is encumbered by a recorded transfer of developments rights
297 easement, this use is prohibited. However, any building existing on October 2,
298 2007 may be repaired or reconstructed if the floor area of the building is not
299 increased and the use is not changed.

300 * * *

301 ^{*} See Sec. [[59-A-6.19]] 59-A-6.20. Attached or detached accessory apartment.

302 ^{**} See Sec. 59-G-2.00.6. Attached or detached accessory apartment.

303 ^{***} See Sec. 59-G-2.00.7. Detached accessory apartment.]]

304 * * *

305 **Sec. 59-C-9.4. Development standards.**

306 * * *

307 **59-C-9.41. Density in RDT zone.**

308 Only one one-family dwelling unit per 25 acres is permitted. (See [section] Section
309 59-C-9.6 for permitted transferable density.) The following dwelling units on land
310 in the RDT zone are excluded from this calculation, provided that the use remains
311 accessory to a farm. Once the property is subdivided, the dwelling is not excluded:

- 312 (a) A farm tenant dwelling, farm tenant mobile home₂, or guest house₂, as defined
313 in [section] Section 59-A-2.1[, title "Definitions."].

314 (b) An accessory apartment or accessory dwelling regulated by the special
315 exception provisions of Division 59-G-1 and 59-G-2 and ~~[[Sections]]~~
316 Section ~~[[59-A-6.19]]~~ ~~[[and 59-A-6.20]]~~ 59-A-6.20.

317 * * *

318 **Sec. 5. DIVISION 59-G-1 is amended as follows:**

319 DIVISION 59-G-1. SPECIAL EXCEPTIONS – AUTHORITY AND
320 PROCEDURE.

321 * * *

322 **59-G-1.12. Hearing examiner.**

323 (a) In addition to the authorization given to the Board of Appeals to hear and
324 decide petitions for special exceptions under Section 59-A-4.11, the Hearing
325 Examiner may hear and decide petitions for special exceptions for the
326 following uses:

327 (1) Boardinghouses for 3 guests or fewer~~[[,]]~~ in the R-30, R-20_x and R-10
328 zones.

329 (2) Home occupations in the R-30, R-20_x or R-10 zones.

330 (3) Noncommercial riding stable for not more than 2 horses, for personal
331 or family use, in the RE-2 zone.

332 (4) Temporary structures~~[[,]]~~ in residential zones.

333 (5) Renewals of temporary special exceptions originally granted by the
334 board, director_x or hearing examiner for boardinghouses~~[[,]]~~ and home
335 occupations.

336 (6) Farm Tenant mobile homes, for more than one but less than 4;
337 provided such farm tenant mobile homes meet the definition
338 established for such uses by this chapter and that such uses are not
339 within 200 feet of a non-farm residence.

340 (7) Child day care facilities for up to 30 children.

341 (8) Accessory apartments.

342 * * *

343 **Sec. 6. DIVISION 59-G-2 is amended as follows:**

344 DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND
345 REQUIREMENTS.

346 The uses listed in this Division, as shown on the index table below, may be
347 allowed as special exceptions in any zone where they are so indicated, as provided
348 in this Article, subject to the standards and requirements in this Division and the
349 general conditions specified in Section 59-G-1.21.

350 USE	SECTION
351 * * *	
352 Accessory apartment	G-2.00
353 <u>Accessory apartment, attached or detached</u>	<u>G-2.00.6</u>
354 [[Accessory apartment, detached	G-2.00.7]]

355 * * *

356 **Sec. 59-G-2.00. Accessory apartment. (The standards below reflect the**
357 **conditions required only for an accessory apartment approved before May 20,**
358 **2013.)**

359 A special exception may be granted for an accessory apartment on the same lot as
360 an existing one-family detached dwelling, subject to the following standards and
361 requirements:

362 * * *

363 **Sec. 59-G-2.00.6. Attached or detached accessory apartment.**

364 A special exception may be granted for an attached or detached accessory
365 apartment on the same lot as an existing one-family detached dwelling, subject to
366 the special exception provisions of Division 59-G-1 and the standards and
367 requirements of Section ~~[[59-A-6.19]] 59-A-6.20.~~

368 **[[Sec. 59-G-2.00.7. Detached accessory apartment.**
369 **Where a detached accessory apartment is permitted in a zone, only one detached**
370 **accessory unit is permitted for each lot and it is only permitted under the special**
371 **exception provisions of Division 59-G-1 and the standards and requirements of**
372 **Section 59-A-6.20.]]**

373

374 **Sec. 7. Effective date.** This ordinance becomes effective on May 20, 2013.

375

376 **Sec. 8. Reporting.** The Director of the Department of Housing and
377 Community Affairs must issue a report concerning any administrative problems or
378 resident complaints after the 2,000th accessory apartment license is issued by the
379 Department of Housing and Community Affairs. The Director must recommend
380 any changes in legislation that the Department deems warranted.

381

382 This is a correct copy of Council action.

383

384



385 Linda M. Lauer, Clerk of the Council