

Fact Sheet of PHED Committee Recommendations on ZTA 19-01, Accessory Dwelling Units (ADUs)



Accessory Dwelling Units (ADUs)

An ADU is a separate housing unit on the same lot as a primary home. Examples include backyard cottages & basement apartments. These housing units are more affordable than existing housing stock & are often used as in-law suites or apartments for young people.

PHED Committee Recommends ADU Changes

The Planning, Housing & Economic Development (PHED) Committee held three meetings to review ZTA 19-01 and unanimously recommended approving the zoning text amendment with changes. Recommendations from the PHED Committee will go to the full Council for review and a final vote in early summer.

Backyard cottages: Detached ADUs would be allowed in areas of the County that are zoned R-60 (residential) and larger lot zones. ZTA 19-01 removes the requirement that only properties of one acre or larger may have a detached ADU.

Unit size and lot coverage: The size of an ADU would be limited to 1,200 square feet (unless the footprint of the basement is larger than that size and the basement is proposed for the ADU). Detached ADUs would be limited to ten percent of the lot size. For example, a 6,000 square foot lot could have a detached ADU no larger than 600 square feet. This limits the size of detached structures, particularly in smaller lot zones.

Parking: The current parking requirements for ADUs located more than one mile away from any Metrorail or Purple Line Station would remain the same. Generally, this means that an ADU applicant must build an additional parking spot or receive a waiver based on a finding by the hearing examiner that there is available parking on the street. Within one mile of such stations and within the boundaries of the City of Takoma Park there would be no additional on-site parking requirement for an ADU.

Distance restriction: The requirement that no ADU may be built within 300-500 feet of another ADU was removed.

Setbacks and height: Existing setback and height requirements for accessory structures were retained. This allows existing accessory structures including garages, guest houses (without a kitchen), offices, studios, and sheds. Setbacks for new ADUs would be the same as existing setbacks for accessory structures; however, an ADU that is 32 feet in length or shorter (i.e. container size) would not be required to have an increased setback.

Existing structures: Current law allows backyard structures like garages, guest houses, pool houses, offices, and sheds. In older neighborhoods, existing structures were often located closer to the lot line before modern zoning standards required setbacks. These could be converted to ADUs with some restrictions, if they were built legally at the time. For example, no new window would be allowed facing a neighboring property and adding height or expanding the footprint would trigger setback requirements matching new structures.

Additional rental prohibition: The proposal retains the prohibition on any other rentals on a property where an ADU is licensed.

Short-term rental prohibition: A property with an ADU license may not also have a short-term rental license (i.e., Airbnb) and an ADU cannot be used for short-term rentals.

Owner occupancy: As is the case under existing law, there is an ownership-occupancy requirement for a license.

Occupancy limit: The proposal retains the current ADU occupancy limit of two adults (and their children).

New construction: The requirement that a new house cannot be constructed with an ADU already in it was removed, which would enable owners to design a new house with this feature.

Future Legislation

In addition to ZTA 19-01, the PHED Committee identified several additional provisions that will need to be modified in a subsequent bill amending the licensing section of the Montgomery County Code: These include:

- The applicant for an ADU license must certify that they have reviewed their home owner association (HOA) rules and that an ADU is allowed by those rules.
- Revise the ownership requirement in licensing to allow the owner to live in either the main home or the ADU.
- Change the name of accessory apartments to accessory dwelling units to match the standard terminology in other jurisdictions.

Further Discussion

Many important issues emerged during the ADU discussion and will be presented for Committee discussion in the future. They include:

- Racial equity analysis: An outreach plan will be developed to include low-income communities, so all residents are aware of the opportunity to build ADUs and ways to expand financing options for homeowners of all incomes.
- Objection process: The current licensing law (unchanged by ZTA 19-01) allows a neighbor to object to an ADU based on a claim of insufficient parking, even if the applicant has met the parking requirement in the code. The hearing examiner can apply additional requirements or reject the application.
- Enforcement staffing and budget: A review of staffing in the Department of Housing and Community Affairs will occur to make sure that applications are processed in an efficient manner and that inspections and enforcement measures are robust.
- An evaluation will occur to review how fees will be used to support ADU code enforcement and outreach.
- The Committee will also review if there needs to be a fee waiver provision for ADUs constructed for individuals who have disabilities.

