



MONTGOMERY COUNTY COUNCIL

STIMULATING ACCESSORY APARTMENT DEVELOPMENT

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ABOUT THE FELLOW

Jane P. Lyons is a current Master of Public Policy student at the University of Maryland, College Park. She is passionate about creating sustainable, equitable communities through data driven decision-making. Her objective is to help state and local governments utilize affordable housing, multi-modal transit, and other smart growth strategies to spur economic development, improve quality of life, and protect the environment. At school, Jane sits on the University Senate's Student Conduct Committee and can be heard on WMUC 88.1 FM in her fifth year as a college radio DJ.



OVERVIEW

Accessory apartments can help to increase the stock of affordable housing in a community, match current demographic trends, and provide mortgage relief to homeowners. In Montgomery County, there are currently 133 licensed accessory apartments for a population of over one million, a ratio which falls significantly behind the most successful jurisdictions. This report recommends seven methods Montgomery County can use to increase production and make the process more accessible.

ACKNOWLEDGEMENTS

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EXECUTIVE SUMMARY

BACKGROUND

An accessory apartment is a dwelling unit that is either attached to or on the same lot as an existing single-family detached home. Accessory apartments **increase the supply of affordable housing, match the county's demographic trends, and provide mortgage relief to homeowners.** Finding ways to incentivize the development of accessory apartments is especially important at a time when **50 percent of renters and 28 percent of homeowners are burdened by housing costs.** By diversifying the housing stock where land is limited, the county can provide more affordable options for young professionals, empty nesters, non-nuclear households, multi-generational households, immigrants, and seniors who wish to age-in-place.

Montgomery County revised accessory apartment regulations in 2012 by relaxing some requirements, which successfully increased production from around 10 units per year to between 40 to 60 units per year. Since 2013, there have been 258 applications submitted, but there are still **only 133 licensed accessory apartments.** By implementing best practices from around North America, Montgomery County can become a leader in accessory apartments.

RECOMMENDATIONS

1 Offer homeowners assistance with financing development.

- Cost is the **number one reason why homeowners withdraw** their application in Montgomery County.
- Lenders often **will not finance** accessory apartment projects.

2 Increase outreach, education, and technical assistance.

- **15 percent** of homeowners applied because they learned through **educational websites, events, or a tour.**
- **20 percent** would have wanted a **how-to guide** to help them through the process.

3 Eliminate conditional use by passing ZTA 18-07.

- The current process for a conditional use permit takes **120 days.**
- In the past five years, the process has **only been used to make waiver decisions,** which allows for more relaxed parking and distance standards.

4 Apply uniform maximum floor area standards to attached and detached.

5 Provide amnesty for illegal apartments.

6 Relax the owner-occupancy requirement.

7 Eliminate on-site parking requirements within a certain distance of transit.

EXECUTIVE SUMMARY

DATA HIGHLIGHTS

47%

OF THE COUNTY'S HOUSING STOCK IS SINGLE-FAMILY DETACHED HOMES

30%

OF HOUSEHOLDS IN THE COUNTY ARE NON-FAMILY*

*People who live alone or share their residence with unrelated individuals

815

MCC311 CALLS REGARDING ACCESSORY APTS. SINCE 2014

42%

OF HOMEOWNERS BEGAN PROCESS DUE TO AN EASING OF LAND RULES

Based on survey results from accessory apt. owners in Cascadia region

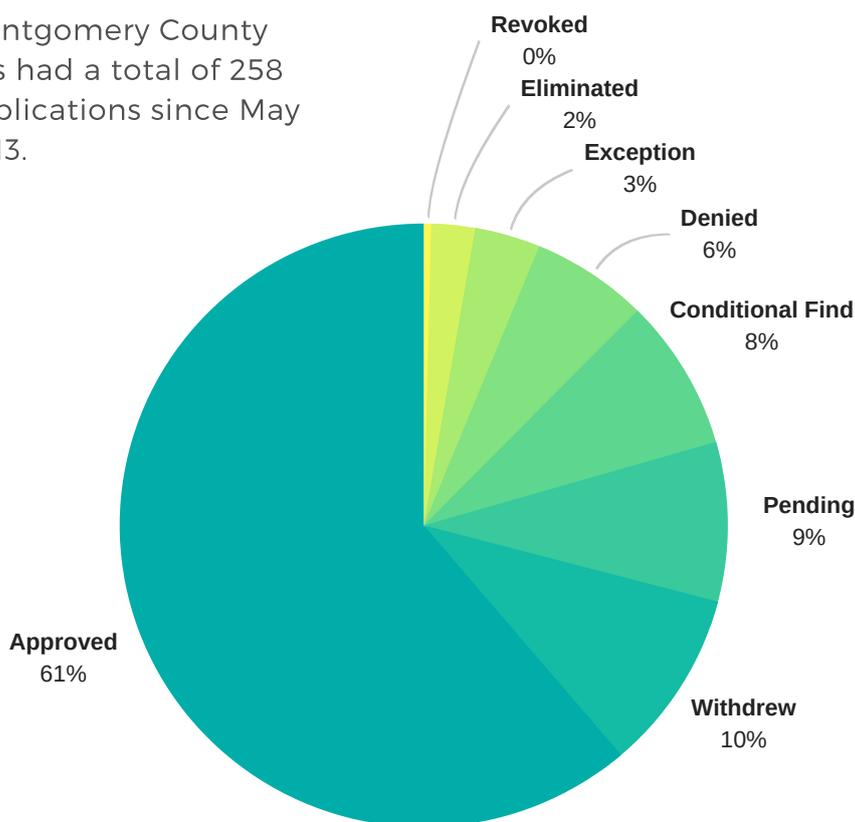
JURISDICTIONAL COMPARISON

Jurisdiction	2016 Pop.	Permits Issued in 2016	Permits Issued Per 10,000 Pop. In 2016
Portland, OR	639,863	615	9.611
Vancouver, BC	647,540	500	7.722
Santa Cruz, CA	64,465	40	6.205
Barnstable, MA	44,254	20	4.519
Seattle, WA	704,352	200	2.839
Austin, TX	947,890	227	2.395
Montgomery Co., MD	1,040,000	45	0.433
Washington, DC	693,972	30	0.432
Arlington Co., VA	229,164	2	0.087

"Because construction costs are relatively low... the majority of new [accessory apartments] are leased for below-market rents." – Chapple, K., et al.

BREAKDOWN OF APPLICATIONS

Montgomery County has had a total of 258 applications since May 2013.



RESEARCH INTRODUCTION

• definitions •

Accessory Apartments

A Class 3 Accessory Apartment is a second dwelling that is part of (but subordinate to or on the same lot as) an existing one-family detached home and has its own provisions for cooking, eating, sanitation, and sleeping. An accessory apartment can be an addition (attached) or separate structure on the same lot (detached).

• aims •

1. Detect

Detect onerous administrative burdens in the application process.

2. Review

Review the application processes in jurisdictions with successful accessory apartment programs.

• methodology •

- Consult with county staff members who administer the accessory apartment program to better understand the application process and what applicants find the most challenging.
- Review data from the Department of Housing and Community Affairs to determine the total number of inquiries, total applications, total approved properties, total approved after appeal, total approved with conditional use, and total denied properties; then conduct a geographical and longitudinal analysis.
- Determine which jurisdictions have the most successful accessory apartment programs and compare their process and regulations to Montgomery County.

BENEFITS OF ACCESSORY APARTMENTS

Accessory apartments (also commonly referred to as accessory dwelling units, secondary units, carriage houses, granny flats, ancillary units) have many economic, environmental, and societal benefits. Environmentally, accessory apartments typically use less energy and take up less land due to their smaller size, are located closer to public transit than new homes on green fields, and use existing resources (e.g., roads, sewers). Economic benefits include the creation construction jobs, an enhancement of the property tax base, an increase in the supply of affordable housing, and mortgage relief for homeowners. The affordability component is increasingly important as housing costs continue to rise in the county. Fifty percent of renters and 28.4 percent of owners with mortgages spend more than 30 percent of their income on housing costs. Thirty-eight percent of homeowners build accessory units as a way to receive extra income and 58 percent of accessory apartment owners rented below the market rate.

Accessory apartments help to diversify the housing stock in places where land is limited and create more affordable options for young professionals, non-nuclear households, multigenerational households, empty nesters, immigrants, and seniors aging-in-place. The shares of those key demographic groups are increasing. In 2016, 30 percent of households were non-family and 8 percent were a single-parent with a child under 18, meaning 38 percent of households are within the target demographic for accessory apartments. Further, the percentage of seniors is expected to increase from 12 percent in 2010 to 21 percent in 2040, and between 2015 to 2040 the overall population is expected to increase by 182,000, or 18 percent. In a study of the Pacific Northwest region, it was found that 46 percent of accessory units are rented to those with a relationship to the homeowner. Often, they are rented to elderly family members.

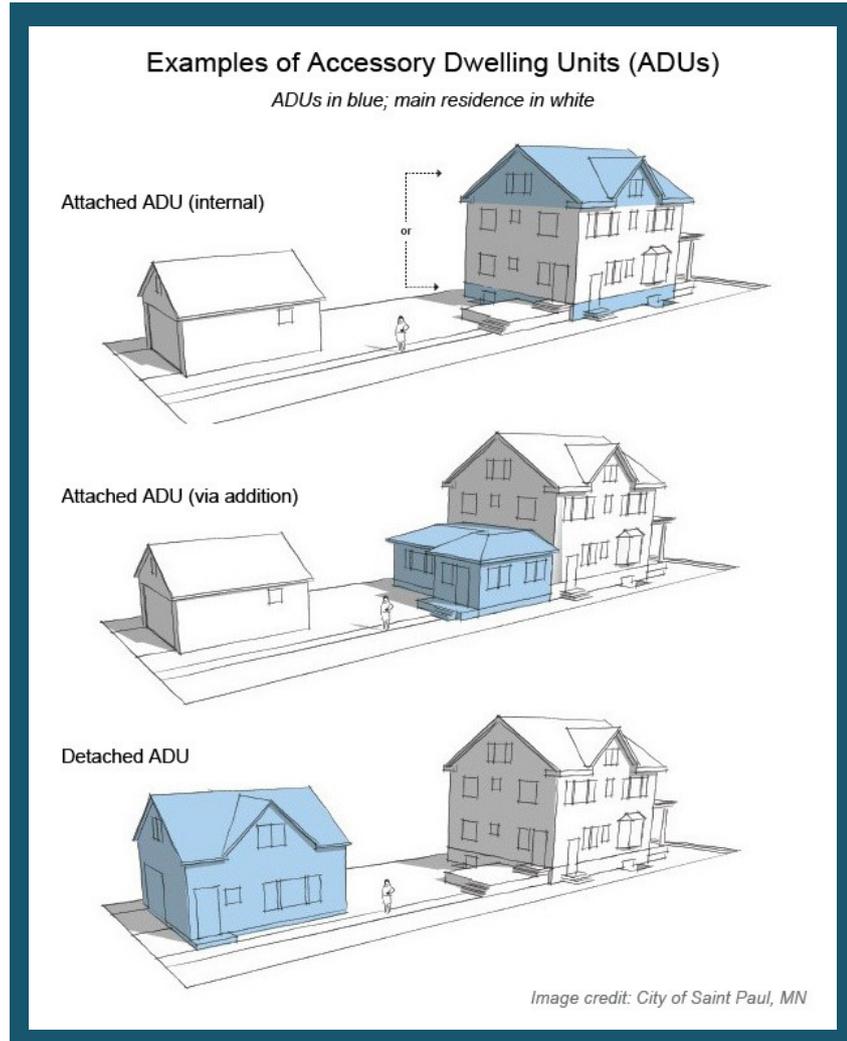
COMMON CHALLENGES

According to a survey of accessory unit owners in Portland, Seattle, and Vancouver, the biggest barriers to entry for homeowners are (1) zoning and permitting; (2) a lack of capital; (3) being intimidated by the process. Therefore, the top three factors that lead homeowners to initiate the applicant process are (1) the easing of land use rules (42 percent); obtaining enough money to begin (19 percent); and learning about accessory units through an educational website, event, or tour (15 percent). The most consequential zoning and land use factors were changes to the minimum lot size and allowable floor area.

Of those who were originally denied a permit in the Pacific Northwest, 36 percent reported issues with the permitting process, 22 said there was poor professional assistance, and 16 percent had existing infrastructure problems. When asked what resources they wished they had had while developing their accessory unit, the responses from the survey included:

- Professionals with knowledge of accessory unit development (24 percent);
- An easy-to-understand and comprehensive guide through the entire process (20 percent);
- Better assistance from local government (15 percent); and
- Better financing options (10 percent).

Furthermore, the biggest challenges faced by homeowners who successfully build accessory units were: (1) obtaining a loan (34 percent) and paying for the cost of construction (18 percent).



MONTGOMERY COUNTY REGULATIONS AND PROCEDURES

COUNTY REGULATIONS

Regulations for accessory apartments were revised in 2012, which increased the production of accessory apartments from about 10 per year before 2012 to about 40 to 60 per year after 2012. Currently, the existing principal dwelling must be an owner-occupied, detached single-family unit that is at least five years old. There must be on-site parking provided in addition to any required on-site parking for the principal dwelling and a separate entrance so that the appearance of a one-family home is preserved. Depending on zoning, attached accessory apartments must either be at least 500 feet or 300 feet away from any other approved or pending accessory apartment. Detached accessory apartments must be located a minimum distance of 500 feet from any approved or pending accessory apartment. The Department of Housing and Community Affairs (DHCA) offers a Class 3 Accessory Apartment Proximity Calculator on its website.

The accessory apartment must be less than 50 percent of the total floor area of the principal dwelling or 1,200 square feet – whichever is less. The maximum floor area for an addition is 800 square feet. If the lot is one acre or less, the accessory unit must be internal to the existing home. Further, it must have the same address as the main house and be the only additional living unit or residential use on a lot or parcel. The unit may not be occupied by more than two persons 18 years of age or older. Additional building code requirements for accessory units, such as requirements for kitchen facilities, minimum ceiling heights, and habitable rooms.

CONDITIONAL USE

If the application is rejected by DHCA, then applicants may file an application to obtain a conditional use permit only to (1) deviate from the requirements for on-site parking and/or for distance from other accessory apartments or (2) permit a detached accessory apartment in the AR, R, and RC zones.

OBJECTIONS

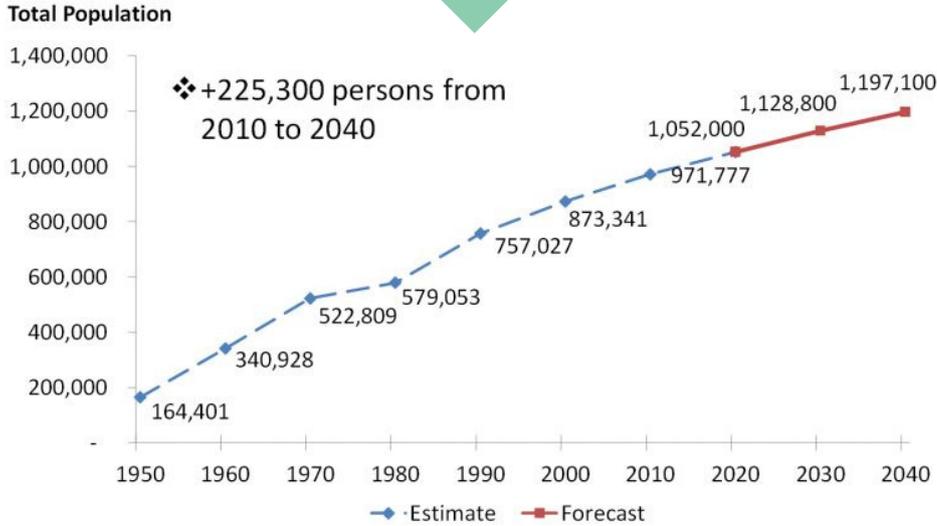
If the property does not meet the requirements, the applicant can object within the Office of Zoning and Administrative Hearings (OZAH) and request a hearing within 30 days of the DHCA Director's report. If the applicant knows prior to applying that parking or zone requirements would not pass, they may apply with the OZAH for approval as a conditional use.

Any other aggrieved person may file an objection with OZAH to (1) challenge any finding of fact by the DHCA Director or (2) allege that on-street parking is inadequate. For both types of objections, OZAH must hold a public hearing within 20 days of filing.



MONTGOMERY COUNTY DATA HIGHLIGHTS

TOTAL POPULATION IS EXPECTED TO INCREASE BY
 182,000 FROM 2015 TO 2040



47%

OF THE COUNTY'S
 HOUSING STOCK
 IS SINGLE-FAMILY
 DETACHED
 HOMES



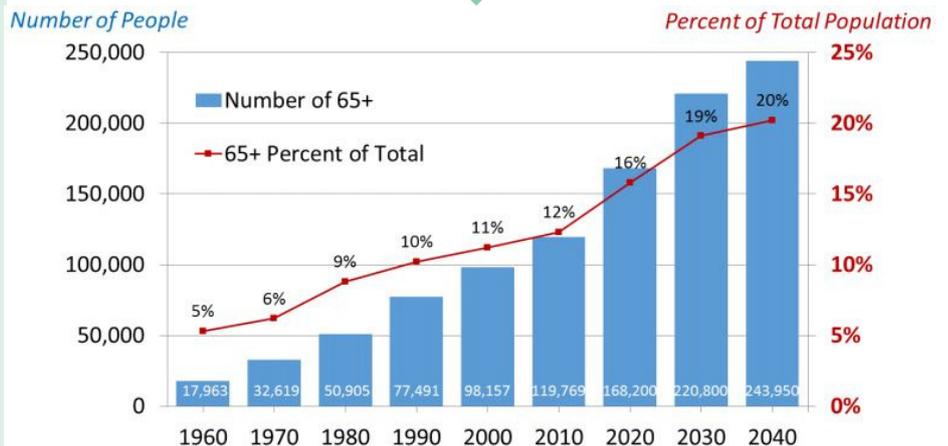
30%
 OF
 HOUSEHOLDS
 ARE NON-
 FAMILY

- Median mortgage is **\$2,393** and median rent is **\$1,662**, which are both higher than the Washington, D.C. and national averages.

- **50 percent of renters and 28.4 percent of owners with mortgages spend more than 30 percent of their income on housing costs, meaning that they are cost burdened.**

SENIORS WILL BE 20 PERCENT OF THE
 POPULATION BY 2040

30%
 OF HOUSE-
 HOLDS
 ARE
 EMPTY
 NESTERS



MONTGOMERY COUNTY APPROVAL PROCESS

1. The applicant obtains a Rental Housing License from DHCA Licensing and Registration. License holders must pay an annual license fee each year, which is \$101 dollars for a Class 3 Accessory Apartment. If the accessory apartment was built before 1978, the applicant must register with the Maryland Department of the Environment and pass a lead paint inspection.
2. Properties with well and/or septic must contact the Department of Permitting Services (DPS) to make sure it meets required code for total individuals living on the property.
3. The applicant applies for a Class 3 Accessory Apartment license through DHCA Licensing. The application is reviewed for completeness within five days of receipt. The package must include:
 - a. The application;
 - b. Required fees (\$250 filing fee and \$220 sign fee);
 - c. Detailed drawing with dimensions of accessory apartment;
 - d. Drawing with dimensions of driveway(s) and/or garage;
 - e. Signed affidavit of understanding form; and
 - f. Any permits from DPS issued.
4. DHCA sends a written notification of the application acceptance or returns the application and all fees with a written explanation regarding missing documents.
5. The Hearing Examiner receives a copy of the application with documents of acceptance of the application.
6. DHCA posts the information on the website and map of accessory apartment.
7. Applicant posts a sign on yard within five days of acceptance of the application by DHCA which remains posted for 30 days after the issuance of the DHCA Director's findings.
8. Licensing reviews the application for compliance with zoning ordinances and the Housing Code Enforcement inspects for compliance with housing code and zoning standards. The applicant has 30 days to repair and/or replace any violations, and then will receive a final inspection for all corrected violations. If the accessory apartment is new construction, then the construction must be completed within 180 days and all required permits must be obtained from DPS.
9. The DHCA Director issues a report on the findings of the Licensing review and Housing Code inspection.
10. A license is issued or denied 30 days after the issuance of the DHCA Director's report.
11. The sign is returned within 15 days after the end of the posting period.
12. The applicant contacts their homeowners association and follows their rules and regulations regarding accessory apartments.
13. Any changes to the information provided on the original application must be reported to DHCA Licensing immediately.
14. When accessory apartment meets all requirements, a license will be issued.

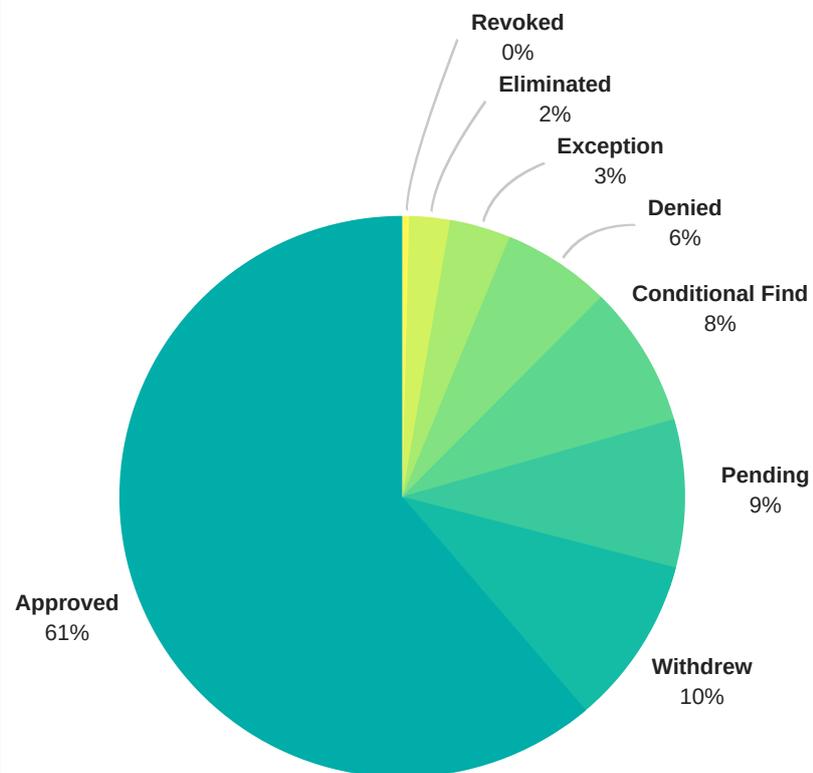
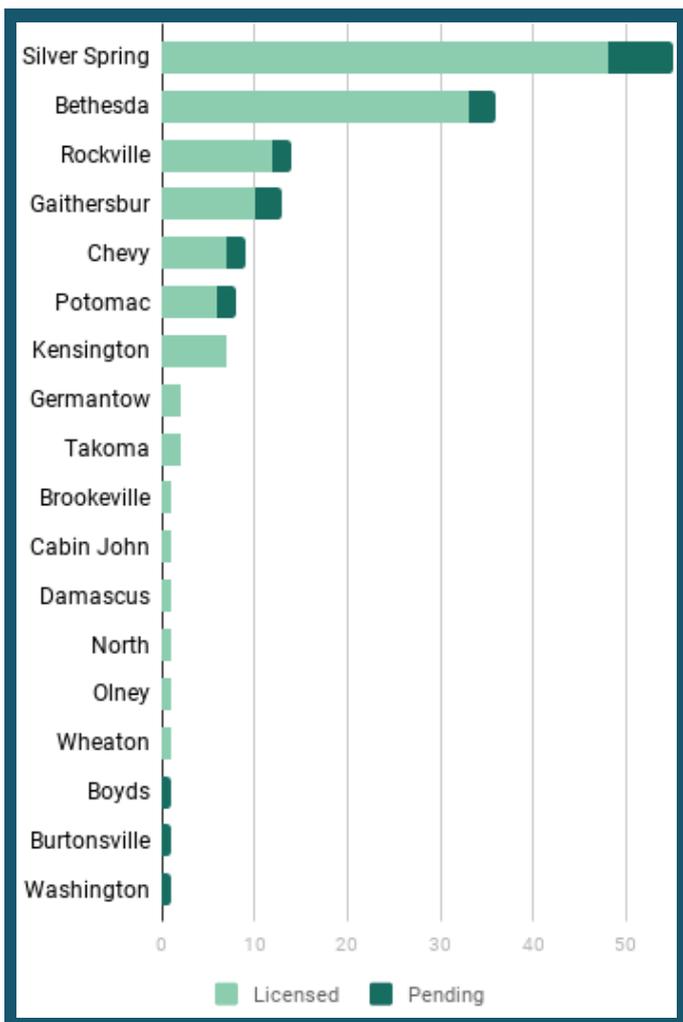
The total amount due with the application is \$571. Applicants can check their application status online at any time. To help clarify the process, DHCA offers to meet with potential applicants and provides a owner reference checklist on its website and step by step application instructions, along with other explanatory documents. DHCA estimates that the application process typically takes three to six months on average, with the code inspection taking the longest.

FINDINGS - DATA FROM MONTGOMERY COUNTY

Overview of Applications

There are currently 133 accessory apartments in Montgomery County that are licensed and 22 that are pending. Only 61 percent of the 258 applications submitted since May 2013 have been approved. Of the unapproved applications, the most common results are the application being withdrawn, given a conditional finding, pending, or denied.

Result of Application	Number of Applications
Approved	158
Withdrew	25
Finding Conditional	21
Pending	22
Denied	16
Exception	9
Eliminated	6
Revoked/Suspended	1
Total	258



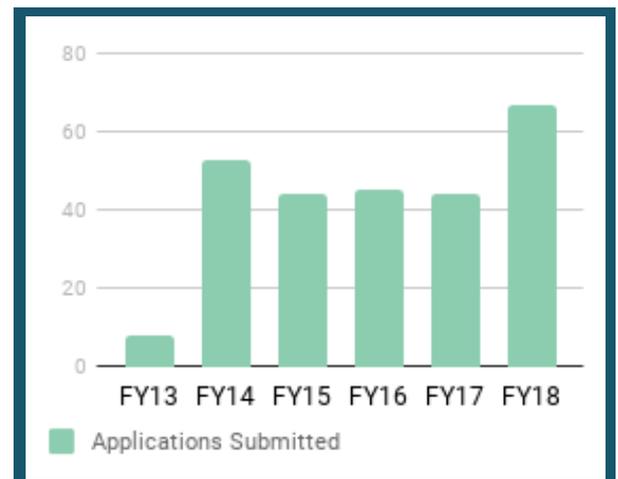
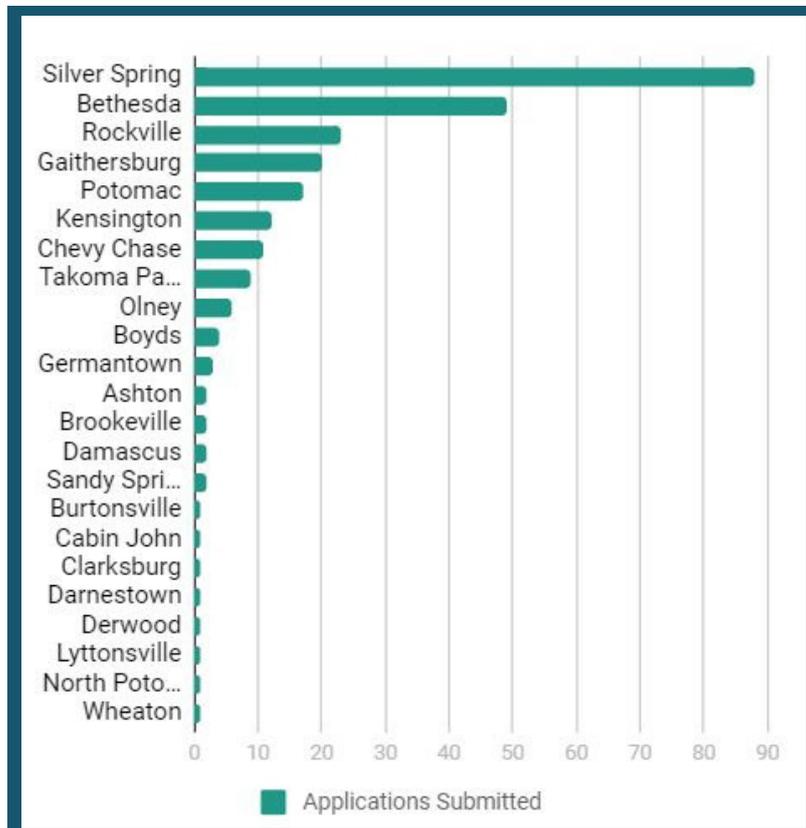
Interest

DHCA accepts walk-in and scheduled inquiries regarding accessory apartments, but those are not recorded. The below table shows the service request calls regarding accessory apartments as of January 1, 2014. The overwhelming majority of calls were to inquire about the definition of an accessory apartment and the standards for a Class 3 Accessory Apartment, which implies that there is a lack of clear, easily accessible public information regarding accessory apartments.

Service Request	Calls Recorded since January 2014
Accessory Apartment Inspections	87
Accessory Apartment Public Notice Sign	32
Accessory Apartment Special Exception Transfer	14
Definition of Accessory Apartment	162
Standards for Class 3 Accessory Apartments	520
Total	815

Submitted Applications

Since May 2013, there have been 258 applications submitted to DHCA. Of those, 158, or 61.24 percent were approved. The most common locations for applications were Silver Spring (88), Bethesda (49), Rockville (23), and Gaithersburg (20). None were approved after an appeal.



Conditional Use

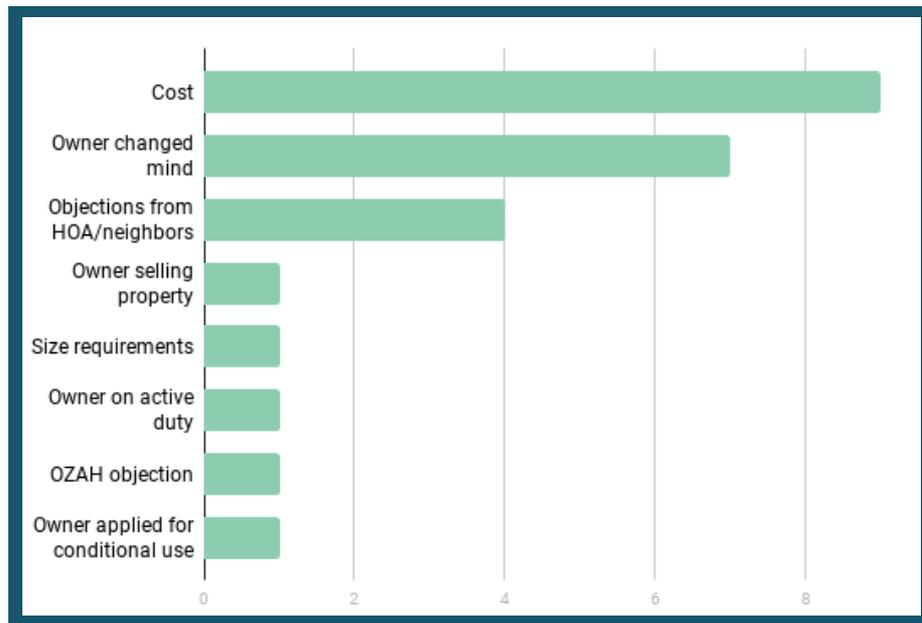
A conditional use (CU) is allowed for accessory apartments to: (1) deviate from the limited use standards for the number of on-site parking spaces; (2) deviate from the minimum distance from any other accessory apartment; or (3) allow a detached accessory apartment in AR, R, or RC Zones. A CU application required a public hearing before the Hearing Examiner and the process typically takes 120 for the Planning Department review. Between fiscal year (FY) 2014 and FY 2018, there were 13 accessory apartments applications that filed for CU and 10 instances of objections filed with OZAH. All were for attached accessory apartments and all were approved. A total of 11 were approved between FY 2016 and FY 2018, five were in Bethesda, four were in Takoma Park, one was in Rockville, and one was in Silver Spring.

Case No.	Attached or Detached	Opposition	Action Taken	Date Granted
CU 18-01	Attached	No	Granted, with Conditions	1/19/18
CU 18-03	Attached	No	Granted, with Conditions	2/21/18
CU 17-13	Attached	No	Granted, with Conditions	7/18/17
CU 17-07	Attached	No	Granted, with Conditions	7/5/17
CU 17-01	Attached	Yes	Granted, with Conditions	12/23/16
CU 16-12	Attached	No	Granted, with Conditions	8/1/16
CU 16-08	Attached	No	Granted, with Conditions	4/18/16
CU 16-06	Attached	No	Granted, with Conditions	4/11/16
CU 16-02	Attached	No	Granted, with Conditions	12/23/15
CU 16-05	Attached	No	Granted, with Conditions	3/3/16
CU 15-09	Attached	No	Granted, with Conditions	10/21/15
CU 15-01	Attached	Yes	Granted, with Conditions	8/5/15
AA 14-05	Attached	No	Granted, with Conditions	6/5/15

Withdrawals

There have been 25 application withdrawals, with the most common reasons given being because (1) cost, (2) the owner changed their mind, and (3) objections by Homeowners Associations or neighbors. Other reasons given also included withdrawing because the owner was selling the property, size requirements were too restrictive, the owner was on active military duty, an objection filed with OZAH, and the owner applied for conditional use instead.

Discussions with staff from DHCD revealed a perception that the two biggest barriers to creating a new accessory apartment are: (1) the mental hurdle of becoming a new landlord and (2) the expense of building an accessory apartment, which was estimated at \$10,000.



Objections

Between FY 2014 and FY 2018, there were 10 instances of objections filed with OZAH, all of which were for attached accessory apartments. Eight objections were filed by neighbors and two by the applicant. In half of the objection cases filed by neighbors, the applicant withdrew the application and in two cases the neighbors withdrew the objection, thereby mooting the cases. In two of the objection cases brought by neighbors, the Hearing Examiner upheld the DHCA Director's findings and denied the objections, although in one of those cases additional on-site parking was required. In the two objection cases filed by applicants, one was denied and the other was placed on hold while the applicant pursued a remedy with the Landlord and Tenant Commission.

Case No.	Attached or Detached	Filed by License Applicant or by Neighbor	Action Taken	Date of Action on Objection
AAO 17-02	Attached	Neighbors	License Application Withdrawn at Hearing & Denied - Objection Dismissed as Moot	7/7/17
AAO 17-01	Attached	Neighbors	License Application Withdrawn & Denied - Objection Dismissed as Moot	7/14/17
AAO 16-01	Attached	Applicant	At the Hearing, the Objection was Placed on Hold while the Applicant pursues a Remedy with Landlord and Tenant Commission	8/6/15
AAO 15-02	Attached	Applicant	Objection Denied after Hearing, and License Application Denied	4/9/15
AAO 15-01	Attached	Neighbors	Objection Withdrawn & Objection Dismissed as Moot	10/15/14
AAO 14-06	Attached	Neighbors	License Application Withdrawn & Objection Dismissed as Moot	7/1/14
AAO 14-04	Attached	Neighbors	Objection Withdrawn & Objection Dismissed as Moot	7/9/14
AAO 14-03	Attached	Neighbor	License Application Withdrawn & Objection Dismissed as Moot	6/6/14
AAO 14-02	Attached	Neighbors	Objection Denied after Hearing, and License Application Approved, but with Additional Parking Required	8/28/14
AAO 14-01	Attached	Neighbor	Objection Denied after Hearing & Grant of License Application Upheld	8/30/13

Denials

From FY 2014 to FY 2018, there were 16 total denied applications spread across five communities. This included denials in the top four applicant communities: Silver Spring (seven denials), Bethesda (one), Rockville (three), and Gaithersburg (four). Each other these communities had more than 18 applications in this same time period. The outlier is Germantown, which only submitted three applications between FY 2013 and FY 2018 and had one of those applications denied.

FINDINGS - JURISDICTIONAL COMPARISON

Portland, Oregon

Portland has been recognized as one of the most successful accessory apartment programs in the country, mostly due to its high single-family housing stock, flexible requirements, and applicant assistance. The program has relaxed owner-occupancy requirements, allows short-term rentals, requires no additional parking for accessory units, offers fee waivers, and ADUs that meet all the standards are permitted by-right and do not require a land use review. Further, the program guide outlines ways to bring existing nonconforming units into compliance.

To assist applicants, Portland offers an early assistance process to help with project development for ADUs created through the conversion of an existing structure. It also provides an ADU financing guide that shows potential applicants how to secure financing whether they are financing with an existing or new main house, based on existing home equity, or independently of the main home. This was especially important in Oregon, where it was found that most owners actually built out of their cash savings due to developers not seeing accessory units as providing enough of a profit margin and lending institutions not allowing appraisals to factor in the expected rental income from an accessory unit to estimate the market value of a residential property.

Since 2010, Portland has issued almost 2,000 ADU permits. Fee waivers and public education efforts are cited as having contributed to the doubling of the number of annual ADU permits, from under 300 in 2014 to over 600 in 2016, in a city with a population of about 640,000.

Portland requires applicants to submit a:

- Building Permit Application;
- Water Service Application, if the project will result in more than three bathrooms on-site;
- Erosion Control Plan (may be a part of the Site Plan), if the project will result in ground disturbance;
- Stormwater Plan and/or Mitigation Form, if the project will add more than 500 square feet of impervious surface;
- Tree preservation and/or planting plan, if the project is 5,000 square feet or larger;
- Four copies of Site, Architectural, and Structural Plans;
- Structural Calculations;
- Mechanical, electrical, and plumbing permits if not obtained with Building Permit Application; and
- Major Alteration and Addition Form, if the project meets certain requirements.



Vancouver, British Columbia

Accessory apartments account for between a fifth and a quarter of all rental units in Canadian urban areas. Among them, the city of Vancouver has been especially successful with its laneway house (LWH) program. “Since adopting its LWH program in 2009, Vancouver, a city of roughly 648,000, has permitted over 3,000 ADUs and has set the target of adding another 4,000 by 2028.” Vancouver amended the program in 2013, which allowed accessory dwellings city-wide, permitted extra floor area, eliminated the garage requirements, and allowed ministerial approval. Further, there is no owner-occupancy requirement. These changes increased year approvals from around 350 in 2012-2014 to above 500 in 2015-2016.

One reason for its productivity has been the program’s ability to get banks to provide lending products tailored to LWH projects that take into account the borrowers’ future rental income from the new unit. Moreover, Vancouver also created a Laneway Housing How-To Guide that provides an overview of the program, how to determine eligibility, an explanation of the steps involved, design aspects, resources, contacts, and frequently asked questions. Currently, there is “more demand than the city can accommodate, and permitting is considerably backlogged.”



Santa Cruz, California

Santa Cruz adopted a new accessory dwelling unit (ADU) ordinance in 2003 and since then has won numerous awards and been used as a model by other communities. The program approves an average of 40 to 50 ADU permits per year in a city of about 64,500. The ADU program offers technical assistance, a wage subsidy and apprentice program that is linked to an existing construction jobs training program, and an accessory dwelling unit (ADU) loan program through a partnership with a local credit union.

“As part of the technical assistance program, the city published an ADU Plan Sets Book that contains design concepts developed by local and regional architects. Homeowners can select one of these designs and receive permits in an expedited manner. In addition, the city offers an ADU Manual, which provides homeowners with information on making their ADU architecturally compatible with their neighborhood, zoning regulations relevant to ADUs, and the permitting process.” Further, some development fees, which are approximately \$13,978, are waived for ADUs made available for low- and very-low-income households.

Barnstable, Massachusetts

Barnstable offers an amnesty program that guides creation of affordable units within existing detached structures or new affordable units within attached structures. Eligibility for the program is limited to single-family properties that are owner-occupied and multifamily properties that are legally permitted. In order to bring a unit into compliance, the property owner must agree to rent to those earning 80 percent or less of the area median income with a minimum lease term of one year. Further, it offers fee waivers for inspection and monitoring of units and designates town staff to assist homeowners through the administrative process. Barnstable uses Community Development Block Grant (CDBG) funds to reimburse homeowners for eligible costs associated with the rehabilitation or upgrade of an affordable ADU. The program created 160 affordable ADUs over eight years in a town of 47,821.



Seattle, Washington

Seattle has seen a spike in the permitting and construction of ADUs in recent years, likely attributable to its hot housing market. After the city began to study options to increase production in 2014, permit activity increased from about 30 permits issued per year to about 75. Once the report was released – stirring public discussion and proposing removing parking requirements, changing owner occupancy requirements, and allowing both attached and detached accessory units – the amount of permits issued jumped to 200 in 2016. The city has recently completed an Draft Environmental Impact Statement on the plan.

Austin, Texas



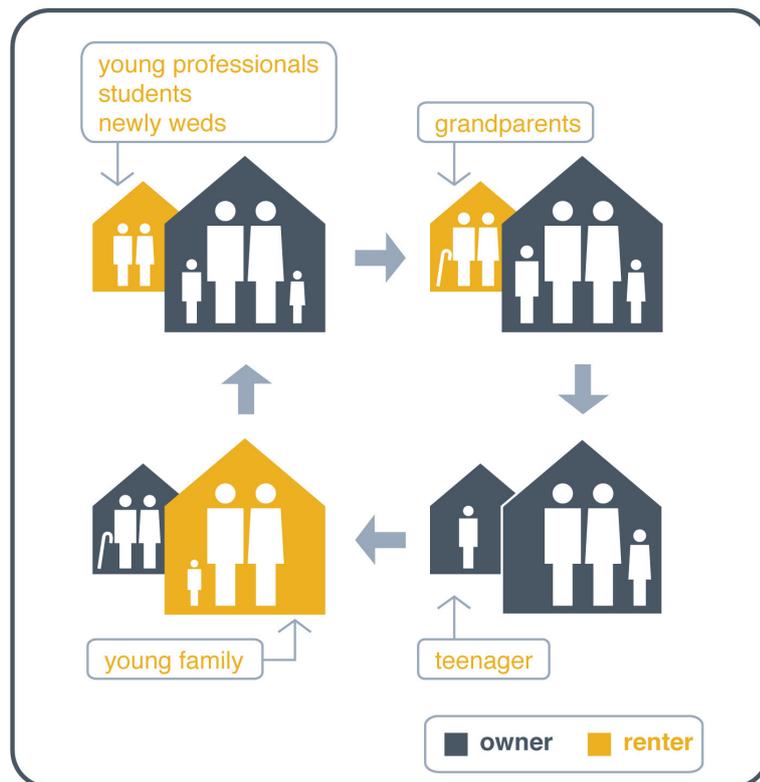
Austin has a hot housing market, expanding city limits, and large infills tracts inside city limits with new home building, including accessory units. The development of accessory units dramatically increased by 34 percent after the City Council approved a series of reforms in 2015. The reforms included a lower minimum lot size to 5,750 square feet, increase in the maximum square footage of the ADU, reduction in setbacks, removal of a driveway requirement, and an elimination of the parking requirement for ADUs within a quarter-mile of an activity corridor that is also served by transit.

Washington, District of Columbia

Zoning amendments that went into effect in Washington, DC in 2016 allowed accessory units by-right in many residential zones. With this change, there were 30 permits issued in 2017 and DC is on track to issue more than 30 this year. The minimum gross floor area (GFA) of the ADU, depending on the zone, is either 2,000 or 1,200 square feet. There is an owner-occupancy requirement, no more than three people can live in an accessory unit, and no new parking spaces are required. The application process requirement applicants to have a pre-permitting consultation with the Department of Consumer and Regulatory Affairs, which costs between \$400 to \$600, where applicants are told anything that is wrong with their plans before they apply for a building permit. The building permit process typically takes between two to six months. Finally, homeowners are also required to have the unit inspected and must apply for a Single Family Business license if renting out the unit.

Arlington County, Virginia

Arlington County has begun to promote affordable dwellings (ADs) after incorporating them into its Affordable Housing Master Plan. This manifested in changes to the zoning code in November 2017. The application process has three stages: pre-submission, submission, and review. In the pre-submission process, homeowners must determine whether they are eligible, which includes an owner-occupancy requirement and parking requirements. The application packet includes an accessory dwelling permit application, declaration of covenants, affidavit of compliance, occupancy survey, floor plan of the existing main dwelling and proposed AD, and certified plat showing all existing improvements on the property. The application then has a preliminary review by the Zoning Division staff and then a formal review by the Zoning Administrator, who determines whether a permit is issued.



Life Cycle Diagram: for family and housing needs

RECOMMENDATIONS

1 Offer homeowners assistance with financing accessory apartment development.

Cost is by far the number one challenge for accessory apartment development in Montgomery County and around North America. A lack of financing options makes this barrier even more difficult to overcome. Because of this, it is typically the most affluent homeowners, who can use their savings, that build accessory apartments. Income from accessory apartments is largely not recognized by the lending system, so is not taken into account by lobby lenders and repurchasers when completing income-based appraisals for properties with accessory apartments.

The most prominent recommendation of the 2018 report by the Urban Land Institute, U.C. Berkeley, and University of Texas at Austin was to focus efforts on making “loans for ADU projects more accessible to more homeowners.” To do this, cities have:

- Worked with banks to ensure they would lend to accessory unit projects;
- Provided interest-free loans or forgivable grants; and
- Created an accessory apartment financing guide.

Still, “to date, no city has development a comprehensive and fully effective approach to assisting homeowners with financing” accessory apartments. One potential option could be to “create a lending program that uses... rental income as a direct source of security for a... construction loan.”

2 Increase outreach, education, and technical assistance.

The second most common reason homeowners decide not to pursue the development of an accessory apartment is that they “change their mind.” This could be attributable to many factors, but is likely to be due to a lack of professional assistance from local government. Public outreach and education can take on many forms, such as quarterly information sessions, marketing campaigns, and providing information on how to schedule one-on-one meetings with staff. In a survey of homeowners in the Pacific Northwest who were originally denied a permit, 20 percent wished they had had an easy-to-understand and comprehensive guide through the entire process. This would be relieved by DHCA developing a manual, which could include:

- How to determine eligibility;
- Easy to understand and in-depth explanation of the permitting and applicant process;
- Design concepts that allow applicants to receive permits in an expedited manner;
- Architecture guidelines to help applicants make the design more compatible with their home;
- Zoning regulations relevant to accessory apartments; and
- Other resources, contacts, and frequently asked questions.



3 Eliminate conditional use by passing ZTA 18-07.

Since 2013, there have been no CU applications to allow detached accessory apartment in AR, R, or RC Zones, meaning that the lengthy CU application process has only been used for the Hearing Examiner to make a waiver decision. For this reason, OZAH recommended in a 2017 memorandum to the Planning, Housing, and Economic Development (PHED) Committee to eliminate the accessory apartment CU process and merge the waiver elements of the current CU process into a new Objection and Waiver process, which only takes 30 days from filing to hearing and eliminates the need for the Planning Department to review.

Under this recommendation and the currently introduced Zoning Text Amendment 18-07, “Accessory Residential Uses – Accessory Apartments,” the objection proceedings “would remain unchanged, except for modifying the time limits from 5 days to 10 days to send out notice of the hearing and for modifying the date of the hearing from 20 days after filing to 30 days.”

4 Apply uniform maximum floor area standards to attached and detached units.

When compared with the other jurisdictions analyzed, Montgomery County’s maximum allowed floor area for internal and detached accessory apartments is on-par at 50 percent of the total floor area of the principal dwelling or 1,200 square feet, whichever is less. However, a maximum of 800 square feet for accessory apartments that are additions is a distinction not made by other programs and is thus more restrictive than successful programs. Therefore, it is recommended that Montgomery County apply the maximum floor area standards for internal and detached accessory apartments to additions, as well.



5 Provide amnesty for illegal apartments.

There is no indication for how many illegal accessory apartments exist in Montgomery County. An amnesty program would allow the owners of illegal units to come forward and bring their unit into compliance. This could be modeled after Barnstable’s amnesty program, which makes the property owner agree to rent to those earning 80 percent or less of the area median income with a minimum lease term of one year. As mentioned above, the program uses CDBG funds to reimburse homeowners for eligible costs associated with the rehabilitation or upgrade.

6 Relax the owner-occupancy requirement.

Relaxing the owner-occupancy requirement would allow homeowners to rent out the principal dwelling unit for a certain period of time. For example, the county could allow homeowners to rent out the principal dwelling for 30 days each year. This makes accessory apartment development more attractive to homeowners because it allows for flexibility. Relaxing or eliminating owner-occupancy requirements has been a trend in Portland and Vancouver, the two most successful accessory apartment programs analyzed.

7 Eliminate the on-site parking requirement for units within a certain distance of transit.

Relaxing or eliminating parking standards has been a trend in many cities, including Portland; Seattle; Austin; and Washington, DC. To support transit-oriented development, Montgomery County could consider implementing a regulation similar to that of Austin, which eliminates on-site parking requirements for units within a certain distance of transit. For example, Montgomery County could eliminate its on-site parking requirement for accessory apartment units within a quarter-mile of Metrorail stations.



CONCLUDING REMARKS

Montgomery County's accessory apartment production falls far behind the most successful programs in the country. As the county faces rising housing costs, a growing population, limited development space, and a higher share of non-family and senior households, a reliable stock of accessory apartments will become an increasingly important tool to maintain affordable living. To ensure that the accessory apartment program can be as effective as possible, Montgomery County can learn from jurisdictions with successful programs, especially Portland, Vancouver, and Santa Cruz. For the most impact, reforms should be focused on enabling the financing of accessory apartment development, relaxing requirements, and providing comprehensive, accessible information.

1. Offer homeowners assistance with financing development.
2. Increase outreach, education, and technical assistance.
3. Eliminate conditional use by passing ZTA 18-07.
4. Apply uniform maximum floor area standards to attached and detached units.
5. Provide amnesty for illegal apartments.
6. Relax the owner-occupancy requirement.
7. Eliminate on-site parking requirements within a certain distance of transit.

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REFERENCES

- Arlington County. 2018. "Accessory Dwelling Permit Filing Instructions." Building Arlington. January 1. <https://building.arlingtonva.us/wp-content/uploads/sites/38/2018/01/Accessory-Dwelling-Application-Packet.pdf>.
- Arlington County, VA. 2018. "Affordable Housing Master Plan Annual Report." Arlington County, VA. January 15. https://housing.arlingtonva.us/wp-content/uploads/sites/15/2018/01/FY-2017-AHMP-Indicators_Final.pdf.
- Austin Development Services Department. n.d. Accessory Dwelling Units. Accessed July 2018. <https://www.austintexas.gov/page/adu>.
- Brown, Martin John. 2012. A research and action agenda for Accessory Dwelling Units and their advocates. January 10. <https://accessorydwellings.org/2012/01/10/a-research-and-action-agenda-for-accessory-dwelling-units-and-their-advocates/>.
- Chapple, Karen, Jake Wegmann, Farzad Mashhood, and Rebecca Coleman. 2018. Jumpstarting the Market for Accessory Dwelling Units: Lessons Learning from Portland, Seattle, and Vancouver. Urban Land Institute.
- City of Santa Cruz. 2017. "New Accessory Dwelling Unit (ADU) Ordinance Changes 2014, 2015, and 2017."
- City of Santa Cruz. April 6. <http://www.cityofsantacruz.com/home/showdocument?id=59310>.
- City of Vancouver. 2016. "Laneway Housing How-To Guide." City of Vancouver. November. <https://vancouver.ca/files/cov/laneway-housing-howto-guide.pdf>.
- Grossman, Martin. 2018. Bill for Hearing Examiner to Waive Accessory Apartment Standards. June 8.
- Grossman, Martin. 2017. Issues Regarding Accessory Apartment Objections and Conditional Use Applications Filed Since FY 2014. September 22.
- Harkin, Nicole. 2017. You can now build an accessory apartment in DC to make some money! Here's a step-by-step guide. October 26. <https://ggwash.org/view/65326/you-can-now-build-an-accessory-apartment-in-dc-to-make-some-money-heres-a-step-by-step-guide>.
- Harris, Richard, and Kathleen Kinsella. 2017. "Secondary suites: A survey of evidence and municipal policy." *The Canadian Geographer*.
- Institute for Local Government. n.d. Santa Cruz Implements "Granny Flat" Program. Accessed July 2018. <http://www.ca-ilg.org/sustainability-case-story/santa-cruz-implements-granny-flat-program>.
- Menez, Gene. 2017. What You Need To Know About Accessory Dwelling Units. April 17. <http://www.austinmonthly.com/AHM/Spring-2017/What-You-Need-to-Know-about-Accessory-Dwelling-Units/>.
- Montgomery County Department of Housing and Community Affairs. 2017. "Class 3 Accessory Apartment." Step by Step Instructions. January 9.
- https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/licensing/class3accyapt_stepbystep.pdf.
- . n.d. "Class 3 Accessory Apartment Affidavit." Montgomery County Department of Housing and Community Affairs. Accessed July 2018. https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/licensing/class3accyapt_affidavit.pdf.
- . 2018. "Class 3 Accessory Apartment Applications." Montgomery County Department of Housing and Community Affairs. Accessed July 2018. <https://apps.montgomerycountymd.gov/DHCA-Licensing/Class3/List>.
- . 2015. "Class 3 Accessory Apartment Fact Sheet." Montgomery County Office of Zoning and Administrative Hearings. August 20. https://www.montgomerycountymd.gov/OZAH/Resources/Files/pdf/2015/class3accyapt_factsheet.pdf.

REFERENCES, CONTINUED

- . n.d. "Class 3 Accessory Apartment Fee Schedule." Montgomery County Department of Housing and Community Affairs. Accessed July 2018. https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/licensing/class3accapt_fee_schedule.pdf.
- . 2016. "Class 3 Accessory Apartment Owner Reference Checklist." Montgomery County Department of Housing and Community Affairs. September 26. https://www.montgomerycountymd.gov/DHCA/Resources/Files/housing/licensing/class3accyapt_checklist.pdf.
- . 2018. Class 3 Accessory Apartments Proximity Calculator. <https://apps.montgomerycountymd.gov/DHCA-Licensing/Class3/CalculateProximity>.
- . n.d. Rental Housing License Fees. Accessed July 2018. <https://montgomerycountymd.gov/DHCA/housing/licensing/fees.html>.
- Montgomery County Office of Zoning and Administrative Hearings. n.d. Accessory Apartment Licenses. Accessed July 2018. https://www.montgomerycountymd.gov/OZAH/Accessory_Apartments.html.
- Municipal Research and Services Center. 2018. Accessory Dwelling Units. June 11. Accessed July 2018. <http://mrsc.org/Home/Explore-Topics/Planning/General-Planning-and-Growth-Management/Accessory-Dwelling-Units-in-Plain-English.aspx>.
- Oregon Department of Environmental Quality; Earth Advantage; AccessoryDwellings.org. n.d. "Accessory Dwelling Unit (ADU) Financing Guide." Oregon Department of Environmental Quality. Accessed July 2018. <https://www.oregon.gov/deq/FilterDocs/ADU-FinanceGuide.pdf>.
- Perry-Brown, Nena. 2018. The Essential Guide to Building an Accessory Dwelling Unit in DC. June 28. <https://dc.urbanturf.com/articles/blog/want-to-build-an-adu-here-are-some-basics/14165>.
- Portland Bureau of Development Services. 2016. "Adding a Dwelling Unit." Portland Bureau of Development Services. April 6. <https://www.portlandoregon.gov/bds/index.cfm?a=92698>.
- Sage Computing. 2008. Accessory Dwelling Units: Case Study. U.S. Department of Housing and Urban Development, Office of Policy Development and Research.
- Santa Cruz Economic Development. 2016. "Accessory Dwelling Units Fee Waiver Information and Application." City of Santa Cruz. <http://www.cityofsantacruz.com/home/showdocument?id=53802>.
- Scarlett, Paul L. 2016. "Accessory Dwelling Units." City of Portland Bureau of Development Services. June 22. <https://www.portlandoregon.gov/bds/index.cfm?a=68689>.
- Seattle City Council. 2018. Accessory Dwelling Units EIS. June. <http://www.seattle.gov/council/adu-eis>.
- Seattle Department of Construction & Inspections. n.d. Accessory Dwelling Unit (Mother-in-Law Apartment). Accessed July 2018. <http://www.seattle.gov/dpd/permits/commonprojects/motherinlawunits/default.htm>.
- Town of Barnstable, MA. 2002. Chapter 9: Affordable Housing, Article II: Accessory Apartments and Apartment Units. October 3. Accessed July 2018. <https://ecode360.com/6556809>.
- Vancouver Planning and Development Services. 2013. "Laneway House (LWH) Guidelines." City of Vancouver. July. <https://vancouver.ca/files/cov/L007-vancouver-laneway-house-guidelines-2013.pdf>.