

CLASS 3 ACCESSORY DWELLING UNIT

Homeowners in Montgomery County may be permitted to create and use or rent a Class 3 Accessory Dwelling Unit (ADU) in their primary residence. An ADU is a second dwelling unit that is part of a detached home or in separate accessory structure on the same lot that includes facilities for cooking, eating, sanitation and sleeping. ADUs must comply with requirements of Montgomery County Code: Chapter 26-Housing Standards, Chapter 29-Landlord/Tenant Relations, Chapter 59-Zoning Ordinance and all applicable laws.

CLASS 3 ACCESSORY DWELLING UNIT **APPLICATION PROCESS**

ADUs must be licensed regardless of whether they will be rented or not, and prior to being advertised for rent. You must apply prior to construction and renting. To obtain a Class 3 ADU license, follow these steps:

1. Visit our website at www.montgomerycountymd.gov/dhcalicensing. Under Accessory Dwelling Unit, click the “More Information” tab. There you will find useful information including a link to apply online and a link to a PDF application if you wish to submit a paper copy.
2. Complete the Class 3 Accessory Dwelling application.
3. Submit the application with the required documentation and fees listed below:
 - Proof of residency and signed Affidavit of Attestation are required for all owners/trustees.
 - The plan for the ADU must be submitted on 11x17” paper, drawn at ¼” per foot scale. Plans must be either digitally created or scanned into a pdf.
 - All rooms with their dimensions are to be identified, including any room with mechanical equipment. Identify all appliances
 - Ceiling heights, door and window sizes are to be noted. The location of any stairwell is to be identified as well.

***NOTE: When an ADU is proposed in a new detached building or detached accessory structure, a new building permit is required, and plans must be prepared according to:

<http://www.montgomerycountymd.gov/DPS/Process/rci/residential-access-structure.html>

***NOTE: When an ADU is proposed as an addition or conversion of existing space, an addition or alteration permit is required, and plans must be prepared according to: (addition)

<http://www.montgomerycountymd.gov/DPS/Process/rci/residential-additions.html> or

(alteration): <http://www.montgomerycountymd.gov/DPS/Process/rci/residential-alterations.html>

- A separate plan for the driveway must also be submitted and include the dimensions in feet.
- Application Fee of \$615 (\$260 filing fee, \$230 public notice sign fee, \$125 Accessory Dwelling Unit annual license fee).
 - Properties located within the incorporated City of Takoma

Park submit a \$490 payment (County rental license fee is exempt. Rental license is obtained through the City of Takoma Park).

- Copy of the receipt showing the property is registered with the Maryland Department of Environment (MDE) and photocopy of the Lead Paint inspection certificate, if property was built before January 1, 1978. The certificate is only required when construction is completed.
 - If you have a homeowner's association or community association, contact them to see if an ADU is allowed under its covenants or regulations. You must sign the affidavit attesting that an ADU is not prohibited by any of its governing documents and that you are not more than 30 days past due on any association or community fees.
4. Once the Licensing and Registration Section has received your application, it will be reviewed for completeness within 10 business days of receipt.
 5. The Department will send written notification of the application's acceptance or will return the application and all fees with a written explanation regarding missing documents.
 6. If the property does not meet the on-site parking requirement, you may still apply for an ADU license and file for a waiver with the Office of Zoning and Administrative Hearings (OZAH). Note – on-site parking is not required if your property is within one mile of any WMATA Metrorail, MTA Purple Line, or MARC Rail Station.
 7. Housing Code Enforcement will receive a copy of the accepted application with submitted documents.
 8. Owner must post the public notice sign on yard within 5 days of acceptance of the application by the Department and remain posted for 30 days, minimum, and until the initial inspection is completed. The sign is to be returned within 30 days after the end of the posting period. A refund of half of the sign deposit fee will be issued if the sign is clean and undamaged.
 9. Licensing will review the application for completion and Housing Code Enforcement will inspect the property for compliance with applicable codes.
 10. The Director will issue a preliminary report after the initial inspection and Licensing review, and a final report after Housing Code's final inspection.
 11. An ADU license will be approved 30 days after the issuance of the Director's Report. Additional time can be granted to applicants to bring their property into compliance with applicable codes.
 12. Changes in information provided on the original ADU application must be reported to the Department of Housing and Community Affairs, Licensing/Registration Section immediately.
 13. If your ADU application is denied after our inspection for a Class 3 Accessory Dwelling Unit, you can object to The Office of Zoning and Administrative Hearings (OZAH) by calling 240-777-6660 or going to 100 Maryland Avenue, Room 200, Rockville, MD 20850.



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

Aseem Nigam
Director

ACCESSORY DWELLING UNIT (ADU) REQUIREMENTS

- An ADU is a second dwelling unit that is part of a detached home or in separate accessory structure on the same lot that includes facilities for cooking, eating, sanitation and sleeping. An ADU must be on a single-family detached property – not permitted in townhouses, condominiums, duplexes, or mobile homes.
- Either the principal dwelling or the proposed Accessory Dwelling, on the lot or parcel for the proposed ADU, must be the owner's primary residence.
- Parking: If there is an existing driveway, one on-site parking space is required in addition to any on-site parking space required for the principal dwelling (Montgomery County Zoning Ordinance 59.6.2.4B); however, if a new driveway must be constructed for the ADU requirement then two on-site parking spaces, total min. 480 sq. ft., shall be provided. If the property is located within one mile of any Metrorail, Purple Line or MARC Rail Station, no on-site parking space is required.
- The maximum footprint of an Accessory Dwelling Unit, in combination with other structures on site, cannot exceed the total lot coverage limit in the underlying zone and the maximum gross floor area of the unit; an ADU must comply with the setback, height, and building lot coverage standards of an accessory structure in the underlying zone, unless modified by the use standards for an ADU.
- The maximum gross floor area used for an Attached Accessory Dwelling Unit, including any floor area used for an ADU in a cellar, is 1,200 square feet; if only the basement or cellar is used, the maximum gross floor area for the ADU may equal the square footage of the basement or cellar.
- The maximum gross floor area for a Detached Accessory Dwelling Unit must be the least of:
 - 1) 50% of the footprint of the principal dwelling.
 - 2) 10% of the lot area; or
 - 3) 1,200 square feet of gross floor area.
- The Accessory Dwelling Unit must be the only additional living unit or residential use space on a lot or parcel. A registered living unit (RLU) is not permitted. In addition, no other tenants (this includes boarding house and guest room for rent), Airbnb's or short-term residential rentals are permitted.
- An ADU is to have the same street address as the main house.
- The Accessory Dwelling Unit may not be occupied by more than two adults (eighteen years or older) and total number of occupants must follow the square footage requirements under Chapter 26.
- Entrance/Egress: The Accessory Dwelling Unit must have a separate entrance located on the side yard or rear yard. An entrance at the front of the principal dwelling is allowable if it is a single entrance door for both the principal dwelling and the accessory unit. A front entrance solely for the ADU is allowed if the entrance door existed before May 20, 2013. A separate entrance must lead directly to the outside and cannot be through a garage.

- The entrance door shall be side-hinged and have a clear width of not less than 32 inches and a clear height of not less than 78 inches. Double-cylinder deadbolt locks are not permitted and must be replaced with a thumb-turned deadbolt.
- Exterior lighting must be provided for walkway to ADU and outside of ADU entrance door.
- Second floor Accessory Dwelling Units must have a safe unobstructed means of escape leading to open space at ground level; a unit door with exterior stairs leading to ground level with no obstructions.
- Stairs of four or more risers must have a handrail on at least one side. Handrails must have a minimum height of 34 inches and a maximum height of not more than 38 inches as measured vertically from the nosing (outside portion of stair treads).
- Porches, balconies, decks or raised floor surfaces located more than 30 inches above the floor or grade below must have guardrails not less than 36 inches in height. Open sides of stairs must have a guardrail installed to prevent passage of an object four or more inches in diameter.
- Permits: Construction, alternation or renovations cannot be started before the Department of Housing and Community Affairs preliminary inspection report is completed. Any opened permits must be finalized before the license is issued. Contact Department of Permitting Services to obtain any required permits at 240-777-0311 or Washington Suburban Sanitary Commission to obtain required plumbing permits at 301-206-4003.
- Properties built before January 1, 1978, must comply with the Maryland Department of Environment (MDE) lead poisoning prevention law. The Accessory Dwelling Unit must be registered with MDE and inspected for lead paint by an accredited licensed inspector. A copy of the “passed” lead inspection certificate and copy of the receipt showing registration fees were paid to MDE must be submitted to Licensing and Registration before a license will be issued. For more information, contact MDE at 800-633-6101 or 410-537-4199.
- Basement Ceiling Heights: Accessory Dwelling Units located in finished basements or cellars must have a ceiling height of at least 6'8", except a beam, girder, duct, or other obstruction may project to within 6'4" of the finished floor. Ceilings must also be constructed of finished drywall.
- Area for Sleeping Purposes: Every room used for sleeping purposes by one occupant must have at least 70 square feet of floor area and be at least 7 feet in width. Every room used for sleeping purposes by more than one person must contain at least 50 square feet of floor area for each occupant.
- Egress Windows: Every sleeping room must have at least one operable outside window or exterior door approved for emergency egress or rescue in accordance with the fire code. A window shall be at least 5 square feet of net clear opening for grade floor or below grade. Above grade windows shall be at least 5'7" square feet of net clear opening. The minimum height of the window opening must be at least 24 inches, the width shall not be less than 20 inches, and the opening must achieve the required square footage. A window opening cannot be greater than 44 inches from the sleeping room floor.
- Window Bars: Required escape window must not be barred except with breakaway bar systems approved by the Fire Marshall.

- Kitchen Facilities: Each unit must be equipped with a kitchen stove 24-inch or wider (top burners and oven), a standard refrigerator, shelves for dry food storage and adequate counter space for food preparation with a 36-inch clear passageway.
- Kitchen stove/range must have vertical clearance above the cooking top of at least 30 inches to unprotected combustible material. Reduced clearances are permitted in accordance with the listing and labeling of the range hood or appliance.
- Screens: All operable windows must be screened.
- Outlets Required: Every habitable room must have electric service and outlets or fixtures, or both. Every cooking area must be supplied with two circuits rated for at least 20-amp service capacity. Each individual room air conditioning unit, regardless of its current rating, must be served by not less than an individual 20-amp circuit that terminates in a single receptacle. Outlets in bathrooms must be protected with GFI's on a 20-amp circuit.
- A sleeping room cannot be installed in an area that is adjacent to a utility room containing fuel burning furnaces and/or water heaters that use the area for combustion air; unless, separated by a solid weather-stripped door equipped with an approved self-closing device. All combustion air shall be taken from the outdoors in accordance with IRC Section G2407-6.
- Basement stairwells used as exit path shall be at least 36 inches wide. An existing stairwell may be 32 inches wide. A furnace may not be located under an exit stairwell.
- Smoke detectors: At least one (1) smoke detector shall be installed to protect each sleeping area. A sleeping area is defined as the area or areas of the family living unit in which the bedrooms (or sleeping rooms) are located. Where bedrooms or rooms ordinarily used for sleeping are separated by other-use areas (such as kitchens or living rooms, but not bathrooms or closets), they shall be considered as separate sleeping areas for the purposes of this section. At least one (1) smoke detector shall be installed in or near each stairway leading to an occupied area.
- Maryland Smoke Alarm Law: Maryland's new law requires the replacement of battery-only smoke alarms with new smoke alarms powered by 10-year, long-life, sealed-in batteries. Hard-wired smoke alarms must remain hard-wired.
- Carbon monoxide alarm or detector: Carbon monoxide (CO) detection and warning equipment shall be installed in all rental dwelling units, regardless of whether they have fuel burning equipment or not. Carbon monoxide alarms or detectors must be installed as follows:
 - Outside of each separate dwelling unit sleeping area and in the immediate vicinity of the bedrooms; and on every occupiable level of a dwelling unit, including basements, excluding attics and crawl spaces. A carbon monoxide alarm or detector must be located on the wall, ceiling, or other location as specified in the manufacturer's published instructions that accompany the unit; and be installed and maintained under NFPA 720.

**For more information regarding Class 3 Accessory Dwelling Unit process, contact
Clifton Bouma, Program Specialist II, Licensing and Registration Unit at 240-777-0311.**