

**MONTGOMERY COUNTY, MARYLAND**  
**DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**Licensing and Registration Unit**  
**Class 3 Accessory Apartment**

**Owner Reference Checklist:**

1.  The property must be the owner's primary residence.
2.  The house must be at least 5 years old.
3.  The accessory apartment must have the same street address as the main house.
4.  The accessory apartment may be only occupied by the allowable number of persons per square footage requirements under Chapter 26. However, no more than two adults (eighteen years or older) are permitted.
5.  The accessory apartment must be internal to the main dwelling on a property smaller than one acre. Complete separation of units is required (from main house to accessory apartment). A separate entrance has to be directly to the outside and cannot be through a garage.
6.  Only one accessory apartment may be created on the same lot as an existing one family detached dwelling. Townhomes are prohibited.
7.  The accessory apartment must have a separate entrance located on the side yard or rear yard; at the front of the principal dwelling, if the entrance existed before May 20, 2013; or at the front of the principal dwelling, if it is a single entrance door for use of the principal dwelling and the accessory apartment.
8.  Second floor accessory apartments must have a safe unobstructed means of escape leading to open space at ground level; a unit door with exterior stairs leading to ground with no obstructions. Stairs must have handrail and must be affixed to main house. See below for *handrail* information.
9.  The maximum net gross floor area for an accessory apartment, including any floor area used for an accessory apartment in a cellar, must be less than 50 percent of the total gross floor area in the principal dwelling, including any floor area used for an accessory apartment in the cellar of the principal dwelling, or 1,200 square feet, whichever is less. Maximum net gross is measured from the exterior of the house.
10.  The maximum net gross floor area used for an accessory apartment in a proposed addition to the principal dwelling must not be more than 800 square feet if the proposed addition increases the floor plate of the principal dwelling. Maximum net gross is measured from the exterior of the house.
11.  There must be no accessory apartments (pending or approved) within 300 feet in zones R-90 (including Plan Development zones), R-60, RNC, PD2, PD3, or PD2-2 or within 500 feet for zones R-2, RE-1, RE-2C, R-200, RMH-200, RC, and R-150. Measuring is in line from side lot line to side lot line along the same block face. ***If your property does not meet this code, you need to contact the Licensing and Registration Unit for a referral to the Office of Zoning and Administrative Hearings for a potential Conditional Use.***

12.  Properties with well and/or septic, must contact Department of Permitting Services (DPS) at 240-777-0311 making sure it meets required code for total individuals living at your dwelling unit property. A photocopy of the document you receive from DPS must accompany your application.
13.  If there is an existing driveway, one on-site parking space is required in addition to any required on-site parking space required for principal dwelling; however, if a new driveway must be constructed for the accessory apartment, then two on-site parking spaces must be provided. ***If your property does not meet this code, you need to contact Licensing and Registration for a referral to the Office of Zoning and Administrative Hearings for information on applying for a Conditional Use.***
14.  Smoke detectors must be installed in accordance with Fire Marshall's requirements. (See page 4.)
15.  Kitchen stove/range must have vertical clearance above the cooking top of at least 30 inches to unprotected combustible material. When the underside of this combustible material is protected with noncombustible material, the distance must not be less than 24 inches.
16.  Kitchen Facilities: Each unit must be equipped with a 30" wide kitchen stove (top burners and oven) and a standard refrigerator (approximately 36" w x 70" h) plus shelves for dry food storage and adequate counter space for food preparation. There must be a 3' passage between countertop/cabinet front and any appliances to the wall.
17.  Minimum Ceiling Heights: If the permit for building a single family dwelling or addition was issued before October 2000, all one and two family dwellings shall have a finished basements with minimum ceiling heights of 6'8" and not less than 6'4" to the finished bottom surface at beams, columns, ducts and similar obstructions that are a minimum 4' on center. If the permit for building a single family dwelling or addition was issued after October 2000, all one and two family dwellings shall have finished or unfinished basement rooms with minimum ceiling heights of 7' with minimum 6'6" to beams and girders spaced not more than 4' on center.
18.  Ceiling: Ceilings cannot be a drop ceiling. All ceilings must be at least ½" drywall ceiling.
19.  Door Hardware: Every exterior door, door hinge, and door latch must be maintained in good condition. Double-cylinder dead-bolts are not permitted and must be replaced with a thumb-turned dead-bolt or removed.
20.  Habitable Rooms: Every room must have at least one window which can be easily opened or such device as will adequately ventilate the room. The total operable window area in every room must be equal to at least forty-five percent (45%) of the minimum window area.
21.  Area for Sleeping Purposes: Every room occupied for sleeping purposes by one occupant must contain at least 70 square feet of floor area and must be at least 7 feet in width.

Every room occupied for sleeping purposes by more than one person must contain at least 50 square feet of floor area for each occupant.

22.  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 above grade or 5.7 square feet of net clear opening below grade. 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 bedroom floor. If bedroom is on second floor of main house, a second door and stairway with a clear path to the outside is also required.
23.  Window Bars: Required escape window must not be barred except with breakaway bar systems approved by the Fire Marshall.
24.  Outlets Required: Every habitable room must contain at least two separate and remote outlets, one of which may be a ceiling or wall type electric light fixture. In a kitchen, there must be a 20 amp circuit with three separate and remote wall type electric convenience outlets or two such convenience outlets and one ceiling or wall type electric light fixture must be provided. Every hall, bathroom, laundry room or furnace room must contain at least one electric light fixture. In addition to the electric light fixture in every bathroom and laundry room, there must be provided at least one electric outlet. Outlets in bathrooms must be protected with GFI's. Window air conditioners are required to have a dedicated 20-amp independent circuit where the room must have more than one egress window.
25.  Fuel burning warm air furnaces and water heaters must not be installed in a storage closet or under a stairway. Furnaces located in a bedroom or bathroom must not be installed in a sealed enclosure such that combustion air will not be taken from the living space (bedroom). Direct vent furnaces (in a bedroom) are not required to be installed within an enclosure.
26.  Basement stairwells must be at least 36" wide if used for an exit path. No furnace may be located under an exit stair.
27.  Handrails/Guardrails:
  - A.  Handrails must have minimum and maximum heights of 34" and not more than 38" as measured vertically from the nosing (outside portion of stair treads) and must be provided on at least one side of stairways of three or more risers.
  - B.  Open sides of stairs must have a guardrail installed to prevent a 4 inch sphere from passing through. Porches, balconies, decks or raised floor surfaces located more than 30" above the floor or grade below must have guardrails not less than 34" in height.
28.  Screens: All operable windows must be screened.
29.  Exterior lighting must be provided at the outdoor entrance to the accessory apartment.
30.  Existing walkway to the accessory apartment must be maintained in good serviceable and safe condition.
31.  Obtain all required permits needed for renovation and/or new construction, if applicable. Construction or renovations cannot be started before the preliminary Departmental inspection. Contact Licensing and Registration. Contact Department of Permitting

Services for obtaining required permits at 240-777-0311 or Washington Suburban Sanitary Commission for obtaining any required plumbing permits.

32.  Effective January 1, 2015, properties built before January 1, 1978 must comply with the Maryland Department of Environment (MDE) lead poisoning prevention law. The accessory apartment must be registered with MDE and inspected for lead paint by an accredited licensed inspector. A photocopy of the “passed” lead inspection certificate 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.

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

**MONTGOMERY COUNTY, MARYLAND**  
**RESIDENTIAL SMOKE ALARM REQUIREMENT**  
(Per: FSC 22, NFPA 1, NFPA 72, NFPA 74 & NFPA 101)

**7/1/2013 Update: Maryland's Smoke Alarm Law Applicable to battery-operated smoke alarms Phased implementation by 1/1/2018; Public Safety Article, Sections 9-101 through 9-109 (2013)** - Battery-operated smoke alarms Does NOT affect hardwired alarms. By 1/1/2018 any battery-operated smoke alarm must be sealed, tamper resistant units incorporating a silence/hush button and using long-life batteries. This is maintained by the occupant.

**After 7/1/2013 New Construction; International Residential Code (2012)**

APPLICABILITY	Built Prior to 7/1/75	Built Between 7/1/75-7/1/89	Built Between 7/1/89-7/1/90	Built Between 7/1/90-7/1/94	Built After 7/1/94	Built After 7/1/13 New Construction International Residential Code (2012)
INSTALLATION RESPONSIBILITY	Owner	Owner	Owner	Owner	Builder/ Owner	Owner
TYPE	Battery or Hardwire	Hardwired	Hardwired <u>Inter-connected</u>	Hardwired Inter-connected <u>w/battery back-up</u>	Hardwired Inter-connected w/battery back-up	Hardwired, Interconnected with battery back-up
LOCATION	Outside each sleeping area	Outside each sleeping area	Outside each sleeping area & <u>on every level</u>	Outside each sleeping area & <u>on every level</u>	Inside & outside each sleeping area & <u>on every level</u>	For all new residential units constructed after 7/1/2013, at least one smoke alarm must be installed in each sleeping room, the hallway or common area outside of sleeping rooms, and in the hallway or common area of each level, including basements and excluding specified unoccupied spaces such as attics.

**Installation and location of smoke alarms**

Minimum location requirements:

- 1) Outside each sleeping area
- 2) On each level if dwelling is a multi-level home (includes basements)
- 3) To ensure maximum protection, install a smoke alarm inside each sleeping room

**Maintenance**

- 1) Monthly – using test button, check smoke alarms to ensure they are working or as recommended by the manufacturer
- 2) Replace smoke alarms that are ten years old. Smoke alarms do not last forever and units that are 10 years old are near the end of their service life and should be replaced. Both hard-wired and battery-operated alarms are equally affected by age. Just like any electrical appliance, the circuitry and components of smoke alarms wear out over time. When a smoke alarm reaches 10 years of use, the potential of failing to detect a fire increases substantially and replacing units after 10 years reduces the likelihood of failure.
- 3) Maintained by the occupant

**Residential Sprinkler Systems**

Nothing in the new law is intended to imply that smoke alarms are an adequate substitute for residential sprinkler protection. The combination of properly located and functioning smoke alarms and properly designed residential sprinkler protection systems provide the greatest potential for surviving any residential fire.