



## Takoma Park City Council Meeting – March 13, 2019 Agenda Item 7

### Work Session

Discussion of Accessory Dwelling Units and ZTA-19-01

### Recommended Council Action

Discussion leading to Resolution to County Council supporting ZTA 19-01

### Context with Key Issues

On January 15, 2019, Montgomery County Council Member Hans Reimer introduced Zoning Text Amendment (ZTA) 19-01 – *Accessory Residential Uses – Accessory Apartments* that would remove the requirement for conditional use approval for all accessory apartments; revise the limited use provisions for attached and detached accessory apartments; and generally amend the provisions for accessory apartments. An Accessory Dwelling Unit (ADU) is a second unit that is subordinate to a principal dwelling, which can be either an attached accessory apartment or a detached accessory structure.

Takoma Park has a long history of single-family homes that were divided into multiple apartments or utilized as rooming houses, starting with the Adventist community. The post-WWII era brought Walter Reed nurses and staff into rooms in Takoma Park, which led to the dividing up of houses into smaller apartments, a practice that persisted for decades. In 1978, Montgomery County passed a law prohibiting multifamily housing in single-family zoning, giving Takoma Park a 10-year grace period to phase-out these illegal apartments. In response, [Takoma Park residents rallied](#), brought lawsuits, and engaged in hunger strikes to protest the mass evictions. The result was great swaths of multifamily structures converted back to single-family homes. As a concession, the “special exception” process was created to allow a minimal number of accessory apartments in single-family homes under rigid conditions. Some requirements have eased over the years, but the process is still restrictive and onerous and has consequently resulted in only six (6) ADUs in Takoma Park receiving County approval since 2013.

ZTA 19-01 reframes ADUs as a way to create more housing opportunities while maintaining the character of residential neighborhoods. The ZTA retains the limit on one ADU per lot and the requirement that one unit is owner-occupied. It also keeps the requirement that no more than two adults may live in an ADU, and no more than two unrelated people. The ZTA eliminates the minimum distance required between ADUs. The current minimum distance is so great that it may permit only one legal ADU on a single block. It eliminates minimum lot size required for a detached ADU as well as absolute maximum size restrictions so long as structures conform to existing setbacks and other zoning requirements for new construction. It reduces the number of parking spaces required but retains an on-site parking requirement.

On March 6, 2019, the Department of Housing and Community Development presented an overview of ADUs, their existence in the City of Takoma Park, and the proposed ZTA. Please refer to the [video](#), the [presentation](#), and the [text of the ZTA](#) itself for additional information.

In addition to the 60+ licensed ADUs in Takoma Park, there is an unknown number of unlicensed units, many built from the remnants of prior apartments that were part of homes a few decades ago. The removal of barriers to licensing will allow these “informal” ADUs to “get on the books”

and therefore become part of the City's regular rental inspection program, ensuring they are up to health, safety, and property maintenance code.

The ZTA as written does not discuss a process for licensing existing ADUs not currently licensed. Other jurisdictions have established [amnesty periods](#) where permitting/registration fees may be waived, or [other enticements](#) to legalize units. Takoma Park only becomes involved at the rental licensing level, not the initial approval step, so any similar programs would have to be at the County level.

The ZTA as written still has an off-site parking requirement, with the option to use a two-month waiver process if this is not possible. Other jurisdictions have removed parking requirements within a [defined distance to mass transit, or within "urban village" or historic districts](#). Off-site parking is a rarity in City limits so this requirement has the effect of adding two months to the approval process for most residents wanting to create an ADU.

### **Council Priority**

A Livable Community for All; Environmentally Sustainable Community; and Community Development for an Improved & Equitable Quality of Life

### **Environmental Considerations**

Accessory dwelling units are an environmentally-friendly contribution to affordable housing. They provide an opportunity for population density near transit, placing fewer cars on the road. ADUs are "infill" housing, built on existing residential lots, often within existing homes, and do not contribute to sprawl. These housing units make use of existing utility infrastructure. Smaller homes such as detached ADUs have smaller carbon footprints.

### **Fiscal Considerations**

More licensed ADUs will increase the annual/biennial licensing fees received by the City, which will be offset somewhat by the administration of the licenses and required inspections.

### **Racial Equity Considerations**

While it is not entirely clear how ZTA 19-01 will impact the Takoma Park, City Council should take under advisement the racial equity study conducted by the [City of Seattle](#) concerning ADUs. The study concluded that white wealthy residents were more likely to be homeowners than any other racial group and would likely benefit from the ability to construct or retrofit units under the proposed ADU legislation. However, the study also found that removing barriers could help achieve the objective of increasing the number and variety of housing choices in single-family zones. The positive impact that ADUs bring to housing affordability could decrease economic displacement because additional housing stock could affect rent and housing prices.

### **Attachments and Links**

- ZTA-19-01
- Accessory Dwelling Units 101

Zoning Text Amendment No.: 19-01  
Concerning: Accessory Residential  
Uses – Accessory  
Apartments  
Draft No. & Date: 1 – 1/10/19  
Introduced: January 15, 2019  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

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

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Lead Sponsor: Councilmember Riemer

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- remove the requirement for conditional use approval for all accessory apartments;
- revise the limited use provisions for attached and detached accessory apartments;  
and
- generally amend the provisions for accessory apartments

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

Division 3.1.	“Use Table”
Section 3.1.6.	“Use Table”
Division 3.3.	“Residential Uses”
Section 3.3.3.	“Accessory Residential Uses”

**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 text that 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.*

*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 59-3.1 is amended as follows:**

2   **Division 3.1. Use Table**

3   \*   \*   \*

4   **Section 3.1.6. Use Table**

5   The following Use Table identifies uses allowed in each zone. Uses may be  
6   modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential				Residential						* * *
			Rural Residential				Residential Detached						
		AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	
* * *													
ACCESSORY RESIDENTIAL USES	3.3.3												* * *
Attached Accessory Apartment	3.3.3.B	L	L	L	L	L	L	L	L	L	L		
Detached Accessory Apartment	3.3.3.C	L	L	L	L	L	L	L	<u>L</u>	<u>L</u>	<u>L</u>		
* * *													

7   **Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

8   \*   \*   \*

9           **Sec. 2. DIVISION 59-3.3 is amended as follows:**

10 **Division 3.3. Residential Uses**

11 \* \* \*

12 **Section 3.3.3. Accessory Residential Uses**

13 **A. Accessory Apartment, In General**

14 **1. Defined, In General**

15       Accessory Apartment means a second dwelling unit that is  
16       subordinate to the principal dwelling. An Accessory Apartment  
17       includes an Attached Accessory Apartment and a Detached Accessory  
18       Apartment.

19 **2. Use Standards for all Accessory Apartments**

20 Where an Accessory Apartment is allowed as a limited use, it must  
21 satisfy the following standards:

- 22 a. Only one Accessory Apartment is permitted for each lot.
- 23 b. The Accessory Apartment was approved as a [conditional use]  
24 special exception before May 20, 2013 and satisfies the  
25 conditions of the conditional use approval[;] or the Accessory  
26 Apartment satisfies Subsection c.
- 27 c. [~~The~~] If the Accessory Apartment does not satisfy subsection b,  
28 the Accessory Apartment [is] must be licensed by the  
29 Department of Housing and Community Affairs under Chapter  
30 29 (Section 29-19); and
- 31 i. the apartment [has] must have the same street address as  
32 the principal dwelling;
- 33 ii. either:
- 34 (a) [one on-site parking space is provided in addition  
35 to any required on-site parking space for the  
36 principal dwelling; however, if a new driveway  
37 must be constructed for the Accessory Apartment,  
38 then 2] two on-site parking spaces must be  
39 provided; or
- 40 (b) the Hearing Examiner finds under the waiver in  
41 Section 29-26(b) that there is adequate on-street  
42 parking;
- 43 iii. the maximum [gross] habitable floor area for an  
44 Accessory Apartment, including any floor area used for  
45 an Accessory Apartment in a cellar or basement, must be  
46 less than 50% of the total floor area in the principal

- 47 dwelling, including any floor area used for an Accessory  
48 Apartment in the cellar of the principal dwelling[, or  
49 1,200 square feet, whichever is less];
- 50 [iv. the maximum floor area used for an Accessory  
51 Apartment in a proposed addition to the principal  
52 dwelling must not be more than 800 square feet if the  
53 proposed addition increases the footprint of the principal  
54 dwelling; and]
- 55 [v]iv. the maximum number of occupants is limited by Chapter  
56 26 (Section 26-5); however, the total number of  
57 occupants residing in the Accessory Apartment who are  
58 18 years or older is limited to 2[.]; and
- 59 v. the principal dwelling or accessory apartment must be the  
60 primary residence of the applicant for an accessory  
61 apartment rental license.
- 62 d. An Accessory Apartment must not be located on a lot where  
63 any [other allowed] short-term rental Residential use exists or is  
64 licensed [; however, an Accessory Apartment may be located  
65 on a lot in an Agricultural or Rural Residential zone that  
66 includes a Farm Labor Housing Unit or a Guest House].
- 67 e. In the Agricultural and Rural Residential zones, an Accessory  
68 Apartment is excluded from any density calculations. If the  
69 property associated with an Accessory Apartment is  
70 subsequently subdivided, the Accessory Apartment is included  
71 in the density calculations.
- 72 f. Screening under Division 6.5 is not required.

73 g. In the AR zone, any accessory apartment may be prohibited  
74 under Section 3.1.5, Transferable Development Rights.

75 **B. Attached Accessory Apartment**

76 **1. Defined**

77 Attached Accessory Apartment means a second dwelling unit that is  
78 part of a detached house building type and includes facilities for  
79 cooking, eating, sanitation, and sleeping. An Attached Accessory  
80 Apartment is subordinate to the principal dwelling.

81 **2. Use Standards**

82 Where an Attached Accessory Apartment is allowed as a limited use,  
83 it must have a separate entrance and satisfy the use standards for all  
84 Accessory Apartments under Section 3.3.3.A.2. [and the following  
85 standards:]

- 86 [a. A separate entrance is located:
- 87 i. on the side or rear of the dwelling;
  - 88 ii. at the front of the principal dwelling, if the entrance  
89 existed before May 20, 2013; or
  - 90 iii. at the front of the principal dwelling, if it is a single  
91 entrance door for use of the principal dwelling and the  
92 Attached Accessory Apartment.]
- 93 [b. The detached house in which the Accessory Apartment is to be  
94 created or to which it is to be added must be at least 5 years old  
95 on the date of application for a license.]
- 96 [c. In the RE-2, RE-2C, RE-1, and R-200 zones, the Attached  
97 Accessory Apartment is located at least 500 feet from any other  
98 Attached or Detached Accessory Apartment, measured in a line  
99 from side lot line to side lot line along the same block face.]



- [d. In the RNC, R-90, and R-60 zones, the Attached Accessory Apartment is located at least 300 feet from any other Attached or Detached Accessory Apartment, measured in a line from side lot line to side lot line along the same block face.]
- [e. Under Section 29-26(b), the Hearing Examiner may grant a waiver from the parking and distance separation standards.]

**C. Detached Accessory Apartment**

**1. Defined**

Detached Accessory Apartment means a second dwelling unit that is located in a separate accessory structure on the same lot as a detached house building type and includes facilities for cooking, eating, sanitation, and sleeping. A Detached Accessory Apartment is subordinate to the principal dwelling.

**2. Use Standards**

a. Where a Detached Accessory Apartment is allowed as a limited use, it must satisfy the use standards for all Accessory Apartments under Section 3.3.3.A.2. [and the following standards:]

[a. In the RE-2, RE-2C, and RE-1 zones, the Detached Accessory Apartment must be located a minimum distance of 500 feet from any other Attached or Detached Accessory Apartment, measured in a line from side lot line to side lot line along the same block face.]

[b. A Detached Accessory Apartment built after May 30, 2012 must have the same minimum side setback as the principal dwelling and a minimum rear setback of 12 feet, unless more

- 126 restrictive accessory building or structure setback standards are  
127 required under Article 59-4.]
- 128 [c. The minimum lot area is one acre.]
- 129 b. Any structure constructed before May 31, 2012 may be used for  
130 a detached Accessory Apartment without regard to setbacks.
- 131 c. A Detached Accessory Apartment built after May 30, 2012  
132 must have the same minimum side setback as the principal  
133 dwelling and a minimum rear setback of 12 feet, unless more  
134 restrictive accessory building or structure setback standards are  
135 required under Article 59-4.

136 \* \* \*

137 **Sec. 3. Effective date.** This ordinance becomes effective 90 days after the  
138 date of Council adoption.

139

140 This is a correct copy of Council action.

141

142 \_\_\_\_\_

143 Megan Davey Limarzi, Esq.  
144 Clerk of the Council



# Accessory Dwelling Units 101

Presented by:

**Patti Mallin**

Licensing Specialist, Housing and Community Development, City of Takoma Park

and

**Lisa Govoni**

Montgomery County Planning Department, M-NCPPC

# ADUs: Why Now?

**Proposed Zoning Text Amendment ZTA 19-01**

**Takoma Park City Council Work Session 3/13**

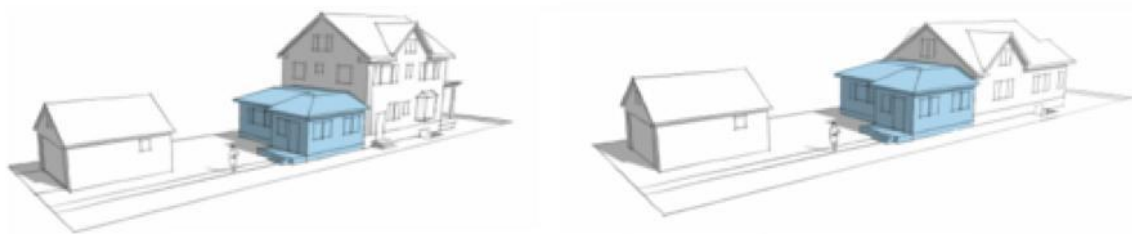
**Montgomery County Planning, Housing, and Economic  
Development Committee 3/18**

**Takoma Park City Council (Tentative) Resolution 3/20**

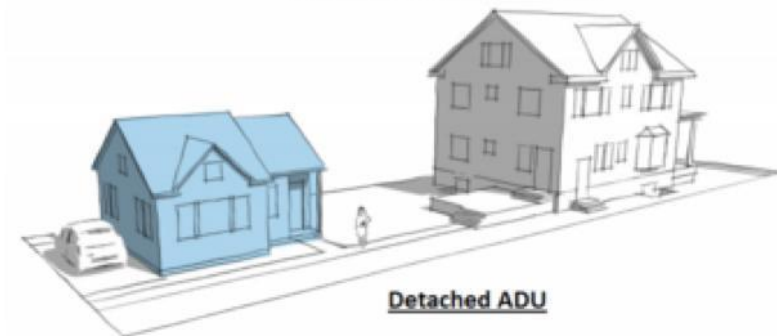
# ADU: Definition



**Interior Attached ADUs**



**Attached ADU (via Addition)**



**Detached ADU**

# ADU: Definition

Must have separate entrance, full kitchen, full bath



# ADUs: Benefits

- Create affordable rental units
- Create income stream to make mortgages affordable
  - Young families
  - Seniors Aging in Place
- Increase density near transit without changing character of neighborhood

# ADUs: Takoma Park

- Initial approval by Montgomery County
- Licensing and oversight by Takoma Park
- 60+ Licensed Accessory Dwelling Units, all wards
- 97% have biennial licenses, on time renewals
- Only 6 since 2013







Montgomery Planning

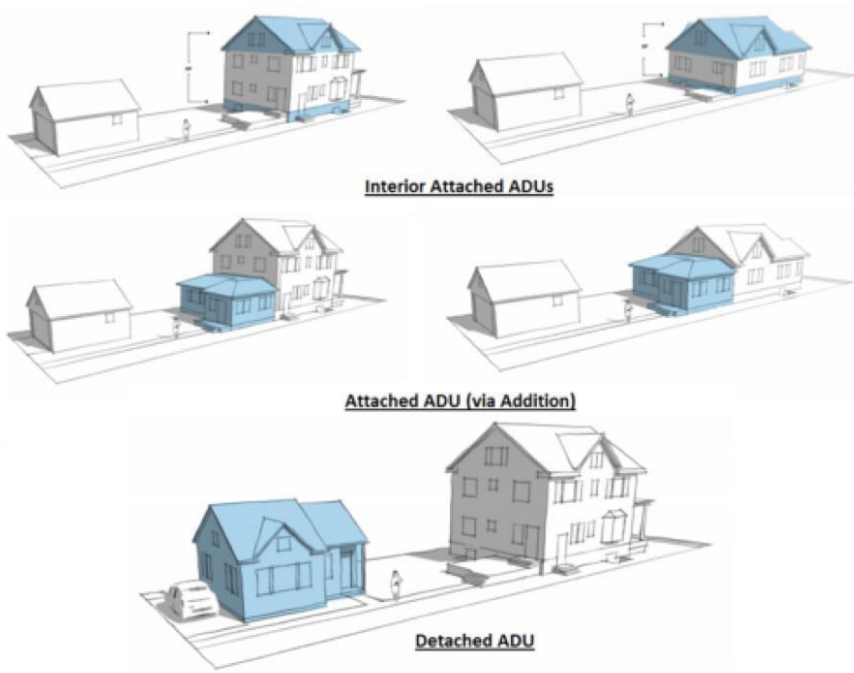
Functional Planning & Policy

# Zoning Text Amendment (ZTA) No. 19-01, Accessory Residential Uses – Accessory Apartments

Limited Use Standards



# Timeline



ADUs reviewed as Special  
Exceptions  
Pre 2013



**ZTA 12-11**  
Allows ADUs as a limited use  
in certain zones  
Effective 5/20/13



**ZTA 18-07**  
Allows waiver for ADUs that  
do not meet parking/spacing  
Effective 10/29/18



**ZTA 19-01**  
Generally amends the  
provisions for ADUs  
Introduced 1/5/19

# Use Standards - Zones Allowed

- Attached Accessory Apartments are allowed in the AR, R, RC, RNC, RE-2, RE-2C, RE-1, R-200, R-90 and R-60 Zone following all limited use standards.
- Detached Accessory Apartments are allowed in the AR, R, RC, RNC, RE-2, RE-2C, and RE-1 zone if ~~the property is a minimum of 1 acre in size, and all limited use standards are met.~~
- ~~There must be no approved or pending **attached** accessory apartments within 500 feet within the RE-2, RE-2C, RE-1, R-200, RMH-200, and R-150 zones.~~
- ~~There must be no approved or pending **attached** accessory apartments within 300 feet in the R-90 (including Plan Development zones), R-60, and RNC zones.~~
- ~~There must be no approved or pending **detached** accessory apartments within 500 feet within the RE-2, RE-2C, and RE-1 zones.~~
  - ~~If your property does not meet the spacing requirement, you can apply for a waiver with the Hearing Examiner~~

# Use Standards

- The property must be the owner's primary address
- ~~The house must be at least 5 years old~~
- The ADU must have the same street address as the main house
- ~~The ADU must be internal to the main dwelling on a property smaller than one acre. Complete separation of the units is required.~~
- Only one ADU apartment may be created on the same lot as an existing one family detached house. ADUs are prohibited in Townhomes.

# Use Standards - Size

- Accessory Apartments must be less than 50 percent of the gross habitable floor area in the principal dwelling; ~~or 1200 square feet, whichever is less.~~
- ~~The maximum floor area for an addition is 800 square feet if it increases the footprint of the principal dwelling.~~

# Use Standards - Parking

- ~~• 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 the parking requirement, you can apply for a waiver with the Hearing Examiner.

# Additional ZTA 19-01 Provisions

- Allow an accessory structure built before May 31, 2012 to be used as an accessory apartment without regard to setbacks.
- Delete requirement that the separate entrance be located on the side or rear of the dwelling unless front entrance existed before a certain date or there exists a single entrance for use of the principal dwelling and the Attached Accessory Apartment.
- Owner can live in the principal dwelling or accessory structure

# Questions?

**Please join us in the Azalea Room for Q&A**

## **Contact Information**

Patti Mallin, Housing and Community Development, City of Takoma Park  
email: [pattim@takomaparkmd.gov](mailto:pattim@takomaparkmd.gov)

Lisa Govoni, Montgomery County Planning Department, M-NCPPC  
email: [Lisa.Govoni@MontgomeryPlanning.org](mailto:Lisa.Govoni@MontgomeryPlanning.org)