



FREDERICK COUNTY PLANNING COMMISSION
July 11, 2018

TITLE: **Bill #18-16 Construction of Accessory Dwelling Units in Frederick County**

FILE NUMBER: **N/A**

REQUEST: **Bill #18-16 Construction of Accessory Dwelling Units in Frederick County**

PROJECT INFORMATION: **N/A**

APPLICANT/REPRESENTATIVES: **Council President Bud Otis and Council Member Jessica Fitzwater**

STAFF:

RECOMMENDATION: **That the Planning Commission provide a recommendation to the Frederick County Council regarding the Text Amendment.**

ATTACHMENTS:

Proposed Bill
Council Summary Memorandum



FREDERICK COUNTY GOVERNMENT

COUNTY COUNCIL

To: County Council
From: Council President Bud Otis
Date: June 21, 2018
Subject: Bill No. 18-16 Construction of Accessory Dwelling Units in Frederick County

Issue:

Should the Frederick County Council update the Frederick County Code to facilitate construction of Accessory Dwelling Units (ADUs)? They are also referred to as tiny homes, In-law suites or granny pods.

Background:

According to the Frederick County Affordable Housing Needs Assessment Study (November 2016), rents have risen faster than income over the past 15 years. The recent ALICE report completed by the United Way also notes that about one-third of our residents are working poor and have a difficult time paying housing costs. Options are needed so that adequate workforce housing and housing for seniors are available in the County.

There are two principal types of ADUs: 1) ADUs constructed within or attached to an existing principal structure, or, 2) new stand-alone buildings (aka tiny houses) or an existing standalone building that is being converted to an ADU from some other use (i.e., garage). Regulations for ADUs will also differ if the property is served by public water and sewer or by a well and septic system since different state and local regulations apply in each case.

ADUs are generally defined as dwelling units that are accessory to, and located on the same lot, as the principal residential structure. ADUs are allowed only on single family lots associated with single family houses. Typically ADUs have separate cooking, bathroom and sleeping facilities separate from the principal structure. ADUs may be approved administratively if less than 800 square feet in size. ADUs over 800 square feet must be approved through the Board of Zoning Appeals as a special exception. The owner of the property must reside in either the principal residence or ADU for approval to be granted.

This legislation was developed with Council staff, members of the Planning and Permitting Division, County Attorney's Office, the Citizen's Services Division, the Health Department and the Affordable Housing Council.

The impact fees associated with ADUs are being addressed in the companion Bill.

What will the new bill do?

Update the County Code to facilitate construction of ADUs and, with the companion Bill to exempt the public school development impact fee, create additional options for affordable housing in Frederick County.



Bill No. 18-16
Concerning: Construction of Accessory Dwelling
Units in Frederick County

Introduced: June 19, 2018
Revised: _____ Draft No. _____
Enacted: _____
Effective: _____
Expires: September 17, 2018
Frederick County Code, Chapter 1-19
Section(s) 5.310, 8.212, 8.321 & 11.100

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis and Council Member Jessica Fitzwater

AN ACT to: Amend Chapter 1-19 of the Frederick County Code to amend the conditions for construction of accessory dwelling units in Frederick County.

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, 1-19 Section(s) 5.310, 8.212, 8.321 & 11.100

Other: _____

Boldface

Underlining

[Single boldface brackets]

* * *

Heading or defined term.

Added to existing law.

Deleted from existing law.

Existing law unaffected by bill.

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LEGISLATIVE FINDINGS

In order to encourage another option to support construction of affordable housing in Frederick County, the County Council, in concert with the County Executive, proposes modifications to current accessory dwelling unit (ADU) regulations. ADUs are a potential optional housing unit type for elderly parents, for returning children or for “workforce housing” for individuals or couples. This Bill revises the requirements for construction of ADUs located within a single-family dwelling, within a structure attached to the primary single family dwelling, within a structure not attached to the single family dwelling, or as a separate accessory structure on a single-family lot. The Bill streamlines the regulatory requirements for construction of these units by reducing parking requirements, reducing setback requirements, as well as modifying entrance and homeowner reporting requirements. ADUs under 800 square feet in size may be approved administratively under this Bill. ADUs over 800 square feet require Board of Zoning Appeals approval. The property owner must live in either the primary structure or accessory structure.

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to change the requirements for construction of accessory dwelling units in Frederick County.

NOW, THEREFORE, BE IT ENACTED, BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland

§ 1-19-5.310. USE TABLE.

(A) *Permitted uses and required development review.*

- P Principal permitted use subject to design regulations
 - PS Principal permitted use subject to site development plan approval. See §§ 1-19-2.160, and 1-19-3.300 through 1-19-3.300.4
 - E Principal permitted use as a special exception with site development plan approval. See §§ 1-19-8.320 and following
 - T Permitted as temporary use as a special exception. See § 1-19-8.300
 - X Permitted as temporary use only. See § 1-19-8.700
 - SW Solid Waste Floating Zone
- A blank indicates that the use is not permitted under any situation

<i>Zoning Districts</i>														
<i>Uses</i>	<i>RC</i>	<i>A</i>	<i>RI</i>	<i>R3</i>	<i>R5</i>	<i>R8</i>	<i>R12</i>	<i>R16</i>	<i>VC</i>	<i>MX</i>	<i>GC</i>	<i>ORI</i>	<i>LI</i>	<i>GI</i>
<i>Residential Uses</i>														
Single-family detached	P	P	P	P	P	P	P	P	P	P				
Duplex dwelling			P	P	P	P	P	P	P	P				
Two-family dwelling		P	P	P	P	P	P	P	P	P				
Townhouse				PS *	PS	PS	PS	PS	PS	PS				
Multifamily dwellings						PS	PS	PS	PS	PS				
Multifamily group developments						PS	PS	PS	PS	PS				
Mobile homes	P	P												
Caretaker residence in conjunction with a permitted use	PS	PS							PS	PS	P		P	P
Accessory <u>dwelling unit</u> [apartment]*****	E	E	E	E	E	E	E	E	E	E				

* Townhouses will be permitted only within MPDU developments; however, in no event shall the number of townhouses exceed 50% of the total number of units within the MPDU project.

** Communication towers not permitted in residential districts, PUD, or MXD districts with a residential component

*** A zoning certificate is required to be obtained prior to the initiation of the processing operation and/or prior to any building construction related to farm winery, farm brewery, farm distillery, farm distillery tasting room, farm winery tasting room, farm brewery tasting room, or limited farm alcoholic beverages tasting room.

Underlining indicates matter added to existing law.
 [Single boldface brackets] indicates matter deleted from existing law.
 *** - indicates existing law unaffected by bill.

**** These uses are prohibited within wellhead protection areas; outside of WHPA the location and containment of hazardous substance for these uses must meet the requirements of § 1-6-50.

***** A limited accessory dwelling unit ~~[apartment]~~ may be approved as an accessory use where the provisions in § 1-19-8.212 are met (see also § 1-19-8.240, and § 1-19-8.321)

§ 1-19-8.212. LIMITED ACCESSORY DWELLING UNITS ~~[APARTMENTS]~~ IN THE RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD, AND MX DISTRICTS.

The following provisions shall apply to limited accessory dwelling units ~~[apartments]~~ in the RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD, and MX districts.

(A) Only 1 limited accessory dwelling unit ~~[apartment]~~ may be created on a lot.

(B) A limited accessory dwelling unit ~~[apartment]~~ shall be allowed [only] within single-family dwellings, [or] in an accessory structure, or built as a separate accessory structure on a single-family lot.

(C) The owner of the property must reside in the principal dwelling or in the accessory dwelling unit. [If resident ownership ceases then the use of the limited accessory apartment shall cease.]

(D) There must be [2] at least one additional [off-street] parking space[s] provided for the limited accessory dwelling unit ~~[apartment]~~. On-street parking may be utilized to meet this requirement.

(E) [If t]The limited accessory dwelling unit ~~[apartment]~~ is to be located in an accessory structure, the limited accessory apartment shall not exceed 800 square feet in size [and must comply with setback requirements for principal structures]. An accessory dwelling unit ~~[apartment]~~ greater than 800 square feet [to be located in an accessory structure] shall be reviewed as a special exception under § 1-19-8.321[(see also § 1-19-8.240 and § 1-19-8.321)].

(F) A limited accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of § 1-19-8.240(B). [In the event a separate building entrance is utilized, it shall be to the side or rear of the structure, so as to maintain the appearance of a single-family residence.]

(G) [The application for limited accessory apartment approval shall include the name and address of each person owning property adjacent to the subject property. The Zoning Administrator shall notify all adjacent property owners, whether separated by streets, railroads, or other rights-of-way, of the application for accessory apartment approval. The Zoning Administrator shall approve or deny the application for a limited accessory apartment not less than 30 days after notification of adjacent property owners.] ADUs are intended to serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnbs, or seasonal temporary housing is not permitted.

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[(H) The renting of rooms under § 1-19-8.240 will not be permitted in conjunction with a limited accessory apartment.]

(H[I]) The owner of the principal residence shall file an annual statement [report] with the Zoning Administrator verifying that conditions remain the same under which the limited accessory dwelling unit [apartment] was granted.

(I[J]) If the ownership of the lot changes, the subsequent owner must provide a statement as to the continued use and eligibility of the accessory dwelling unit [reapply for approval].

(J[K]) If the Zoning Administrator, after consultation with appropriate County staff, determines that the limited accessory dwelling unit [apartment] is not in compliance with the above provisions as well as all safety, health, and environmental standards, approval of the accessory dwelling unit may be revoked pursuant to § 1-19-2.210.

§ 1-19-8.321. ACCESSORY DWELLING UNITS [APARTMENTS] GREATER THAN 800 SQUARE FEET [TO BE LOCATED IN AN ACCESSORY STRUCTURE].

The following provisions shall apply to all accessory dwelling units [apartments] greater than 800 square feet [to be located in an accessory structure or built as a separate accessory structure] in the RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD and MX districts.

(A) Only 1 accessory dwelling unit [apartment] may be created on a lot.

(B) Accessory dwelling units [apartments] greater than 800 square feet shall be allowed [only] in single-family dwellings, [or] in an accessory structure, or built as a separate accessory structure, on a single-family lot.

(C) The owner of the property must reside in the principal dwelling or in the accessory dwelling unit. [If resident ownership ceases then the use of the accessory apartment shall cease.]

(D) There must be at least one [2] additional [off-street] parking space[s] provided for the accessory dwelling unit [apartment]. On-street parking may be utilized to meet this requirement.

(E) An accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of § 1-19-8.240(B). [The maximum size of an accessory structure in which an accessory dwelling unit [apartment] may be located shall comply with § 1-19-8.240.]

(F) [In the event a separate building entrance is utilized, it shall be to the side or rear of the structure, so as to maintain the appearance of a single-family residence.] **ADUs are intended to**

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serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnbs, or seasonal temporary housing is not permitted.

[(G) The renting of rooms under § 1-19-8.240 will not be permitted in conjunction with accessory apartments.]

(G [H]) The owner of the principal residence shall file an annual [report] statement with the Zoning Administrator verifying that the conditions under which the special exception was granted remain the same.

(H [I]) If the ownership of the lot changes, the subsequent owner must provide a statement to the Zoning Administrator as to the continuing use and eligibility of the accessory dwelling unit [reapply for approval].

(I [J]) Due to the nature of this use, site plan approval can be granted by the Zoning Administrator in lieu of the Planning Commission.

(J[K]) An accessory dwelling unit [apartment] meeting the provisions of § 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section.

§ 1-19-11.100. DEFINITIONS.

(B) In this chapter the following terms are used as defined unless otherwise apparent from the context.

ACCESSORY DWELLING UNIT [***APARTMENT***]. An independent, self-contained dwelling unit [greater than 800 square feet] located within a single-family dwelling, or within an accessory structure, or built as a separate accessory structure, and located on the same lot as a single-family dwelling. An accessory dwelling unit greater than 800 square feet must be approved in accordance with § 1-19-8.321 of this chapter. An accessory dwelling unit that does not exceed 800 square feet must be approved in accordance § 1-19-8.212 of this chapter. (See also ***CARETAKER RESIDENCE***.)

[***ACCESSORY APARTMENT, LIMITED***. An independent, self-contained dwelling unit within a single-family dwelling, or within an accessory structure, located on the same lot as a single-family dwelling. If the limited accessory apartment is located in an accessory structure, the limited accessory apartment shall not exceed 800 square feet in size.]

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DWELLING UNIT. A room or group of rooms forming a single residential unit that can be used [with facilities] for living, sleeping, cooking, and sanitation [and cooking purposes which are exclusively used for the family living therein].

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