

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 13

Bill No. 49-11

Councilmembers Olszewski, Oliver & Bevins

By the County Council, August 1, 2011

A BILL
ENTITLED

AN ACT concerning

Zoning Regulations - Accessory Apartments

FOR the purpose of defining accessory apartment and permitting an accessory apartment in certain areas under certain conditions; providing for the issuance of a use permit and renewal thereof; providing for the application of the Act; and generally relating to accessory apartments.

BY adding

Section 101.1, the Definition of “Accessory Apartment,” and
Section 400.4
Baltimore County Zoning Regulations, as amended

WHEREAS, for a number of years, the County has permitted “in-law apartments” under certain limited circumstances within an existing single-family dwelling or within an accessory building; and

WHEREAS, there currently are no such provisions in the Zoning Regulations or the County Code specifically pertaining to in-law apartments; and

WHEREAS, the County has heretofore addressed such requests whereby if a request for an in-law apartment is within an existing single-family detached dwelling, it is generally processed and approved administratively with certain documentation required by the Department of Permits,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.

Underlining indicates amendments to bill.

Approvals and Inspections; if the request for an in-law apartment is within a detached accessory structure, a request for special hearing is filed and a public hearing required before the Office of Administrative Hearings; and

WHEREAS, the County Council recognizes that with an aging population, the need exists for elder family members to have access to care and comfort from their children on the same owner occupied property as that of the principal single-family detached dwelling; and

WHEREAS, the purpose of this Act is not to expand the potential for student housing in areas near County colleges and universities nor to worsen the saturation of student housing in such areas; and

WHEREAS, the purpose of this Act is to address this need and codify the limited circumstances under which an in-law apartment is permitted; now, therefore

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 101.1, the Definition of “Accessory Apartment,” and Section
3 400.4 be and they are hereby added to the Baltimore County Zoning Regulations, as amended, to
4 read as follows:

5 Section 101.1. Definitions

6 101.1 Word usage; definitions.

7 ACCESSORY APARTMENT - A SECOND LIVING QUARTER WITHIN A PRINCIPAL
8 SINGLE-FAMILY DETACHED DWELLING OR WITHIN AN ACCESSORY BUILDING
9 SITUATED ON THE SAME LOT AS THE PRINCIPAL SINGLE-FAMILY DETACHED
10 DWELLING AND IN COMPLIANCE WITH SECTION 400, WITH DEDICATED BATHING
11 AND COOKING FACILITIES, AND LOCATED ON OWNER-OCCUPIED PROPERTY,
12 SUBJECT TO THE FOLLOWING: (A) THE OWNER MAY OCCUPY EITHER THE
13 PRINCIPAL DWELLING OR THE ACCESSORY APARTMENT; (B) THE OCCUPANT(S) OF
14 THE ACCESSORY APARTMENT AND THE OCCUPANT(S) OF THE PRINCIPAL SINGLE-
15 FAMILY DETACHED DWELLING SHALL BE IMMEDIATE FAMILY, RELATED AS
16 GRANDPARENTS, PARENTS, OR PARENTS’ CHILDREN BY BLOOD, MARRIAGE OR
17 ADOPTION; ~~AND (C)~~ (C) THE ACCESSORY APARTMENT IS PROVIDED WITHOUT

1 COMPENSATION; AND (D) THE ACCESSORY APARTMENT, WHETHER LOCATED
2 WITHIN THE PRINCIPAL DWELLING OR IN THE ACCESSORY BUILDING, SHALL
3 COMPLY WITH ALL LAWS, REGULATIONS, AND CODES AFFECTING RESIDENTIAL
4 OCCUPANCY.

5 400.4. ACCESSORY APARTMENT.

6 AN ACCESSORY APARTMENT IS PERMITTED AS A TEMPORARY USE WITHIN A
7 PRINCIPAL SINGLE-FAMILY DETACHED DWELLING OR WITHIN AN ACCESSORY
8 BUILDING SITUATED ON THE SAME OWNER-OCCUPIED LOT AS THE PRINCIPAL
9 DWELLING IN ANY ZONE THAT PERMITS SINGLE-FAMILY DWELLINGS, SUBJECT TO
10 THE FOLLOWING REQUIREMENTS:

11 A. IF LOCATED WITHIN AN EXISTING SINGLE-FAMILY DETACHED DWELLING:

12 1. AN APPLICANT SHALL FILE WITH THE DEPARTMENT OF PERMITS,
13 APPROVALS AND INSPECTIONS AN APPLICATION FOR A USE PERMIT FOR AN
14 ACCESSORY APARTMENT, ON A FORM APPROVED BY THE DEPARTMENT. WITH THE
15 APPLICATION, THE APPLICANT SHALL SUBMIT A DECLARATION OF
16 UNDERSTANDING, ON A FORM APPROVED BY THE DEPARTMENT, INCLUDING BUT
17 NOT NECESSARILY LIMITED TO THE FOLLOWING TERMS AND CONDITIONS:

18 A. THE SIZE OF THE ACCESSORY APARTMENT MAY NOT EXCEED ONE
19 THIRD OF THE OVERALL FLOOR AREA OF THE DWELLING OR 2,000 SQUARE FEET,
20 WHICHEVER IS LESS;

21 B. ANY AND ALL IMPROVEMENTS TO BE DEDICATED AS AN ACCESSORY
22 APARTMENT SHALL BE USED SOLELY AS A SINGLE-FAMILY RESIDENCE; AND

23 C. THE ACCESSORY APARTMENT MAY NOT HAVE SEPARATE UTILITY
24 METERS, SUCH AS GAS AND ELECTRIC SERVICE.

25 2. THE DIRECTOR MAY APPROVE THE APPLICATION UPON A FINDING THAT
26 THE SIZE, LOCATION, AND PURPOSE OF THE ACCESSORY STRUCTURE WILL NOT
27 NEGATIVELY AFFECT THE HEALTH, SAFETY, OR GENERAL WELFARE OF THE
28 SURROUNDING COMMUNITY.

29 B. IF LOCATED WITHIN AN ACCESSORY BUILDING ON THE SAME OWNER-OCCUPIED
30 PROPERTY AS THE PRINCIPAL SINGLE-FAMILY DETACHED DWELLING:

1 1. AN APPLICANT SHALL FILE A REQUEST FOR SPECIAL HEARING AND USE
2 PERMIT WITH THE DEPARTMENT, TOGETHER WITH A DECLARATION OF
3 UNDERSTANDING AS REQUIRED BY SUBSECTION A.1 OF THIS SECTION, AND A
4 PUBLIC HEARING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS IS
5 REQUIRED.

6 2. THE SIZE OF THE ACCESSORY APARTMENT MAY NOT EXCEED 1,200 SQUARE
7 FEET, AND THE ACCESSORY BUILDING SHALL COMPLY WITH THE REQUIREMENTS
8 OF SECTION 400.

9 3. FOLLOWING A PUBLIC HEARING, THE OFFICE OF ADMINISTRATIVE
10 HEARINGS MAY GRANT A REQUEST UPON A FINDING THAT THE SIZE, LOCATION,
11 AND PURPOSE OF THE ACCESSORY APARTMENT CONFORMS WITH SECTION 502.1:~~A,~~
12 ~~B, C, D, E, AND F,~~ AND MAY IMPOSE SUCH CONDITIONS, RESTRICTIONS OR
13 REGULATIONS CONSISTENT WITH SECTION 502.2 AS MAY BE DEEMED NECESSARY
14 OR ADVISABLE FOR THE PROTECTION OF SURROUNDING AND NEIGHBORING
15 PROPERTIES, INCLUDING THE EXPRESS PROHIBITION THAT THE ACCESSORY
16 APARTMENT NOT BE CONVERTED TO A SECOND DWELLING BEYOND THE SCOPE OF
17 THIS SECTION.

18 4. THE ACCESSORY APARTMENT MAY ~~ONLY~~ NOT HAVE SEPARATE UTILITY
19 METERS OR WATER AND SEWERAGE SERVICES ~~IF~~ UNLESS APPROVED BY THE
20 OFFICE OF ADMINISTRATIVE HEARINGS BASED ON SPECIFIC FINDINGS OF
21 NECESSITY FOR THE ACCESSORY BUILDING.

22 C. APPROVAL; RENEWAL.

23 1. APPROVAL. THE APPROVAL OF AN APPLICATION FOR USE PERMIT IN
24 SUBSECTION A. OR REQUEST FOR SPECIAL HEARING AND USE PERMIT IN
25 SUBSECTION B. SHALL BE SUBJECT TO THE FOLLOWING:

26 A. THE DECLARATION OF UNDERSTANDING AND PROPERTY
27 DESCRIPTION, INCLUDING ANY CONDITIONS, RESTRICTIONS, OR REGULATIONS
28 IMPOSED BY THE DEPARTMENT OR THE OFFICE OF ADMINISTRATIVE HEARINGS,
29 SHALL BE RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY AND A COPY
30 FILED WITH THE DEPARTMENT; AND

1 B. THE ACCESSORY APARTMENT SHALL ONLY BE UTILIZED BY
2 IMMEDIATE FAMILY MEMBERS AS DEFINED IN SECTION 101 AND MAY NOT BE
3 ~~LEASED OR RENTED OR~~ USED BY ANY PERSON OTHER THAN AN IMMEDIATE
4 FAMILY MEMBER FOR ANY OTHER REASON.

5 C. IF THE ACCESSORY APARTMENT IS NO LONGER OCCUPIED BY ANY
6 PERSON NAMED IN THE USE PERMIT OR IF THE PROPERTY IS SOLD, THE USE PERMIT
7 SHALL TERMINATE, AND ANY PROPOSED CHANGES IN OCCUPANCY TO THE
8 ACCESSORY APARTMENT BY THE PROPERTY OWNER OR SUBSEQUENT PURCHASER
9 SHALL REQUIRE A NEW REQUEST FOR USE PERMIT AS APPLICABLE UNDER
10 SUBSECTIONS A. OR B.

11 2. RENEWAL. THE APPLICANT SHALL RENEW THE USE PERMIT WITH THE
12 DEPARTMENT EVERY TWO YEARS BY FILING A RENEWAL ON A FORM APPROVED
13 BY THE DEPARTMENT, TO BE DATED FROM THE MONTH OF THE INITIAL APPROVAL,
14 ~~AND SHALL NOTE ANY PROPOSED CHANGES IN OCCUPANCY TO~~ LIST THE NAME OF
15 ANY PERSON OCCUPYING THE ACCESSORY APARTMENT.

16 SECTION 2. AND BE IT FURTHER ENACTED, that a property owner with an in-law
17 apartment lawfully approved prior to the effective date of this Act shall obtain a use permit required
18 by this Act on or before October 1, 2012.

19 SECTION 3. AND BE IT FURTHER ENACTED, that the Department of Permits,
20 Approvals and Inspections shall publish notice of the requirement of Section 2 of this Act in one
21 newspaper of general circulation in the County one time per month each month prior to October 1,
22 2012.

23 ~~SECTION 2.~~ SECTION 4. AND BE IT FURTHER ENACTED, that this Act shall take
24 effect forty-five (45) days after its enactment, and shall apply retroactively to a request for in-law
25 apartment filed on or after August 1, 2010.