



Kent County

Department of Planning Services Division of Planning

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Addendum to Application: Conditions of Approval for Accessory Dwelling Units

Application Number: _____

The following are the applicable sections of the Kent County Code, Vol. II, Chapter 205, Zoning. Accessory apartments are permitted by-right in all residential zoning districts (AC, AR, RS-1, RS-5, RM, and RMH), subject to the following definitions and conditions:

ACCESSORY APARTMENT – A separate complete housekeeping unit that is contained within the structure of a single-family dwelling.

ACCESSORY COTTAGE – A separate and subordinate dwelling unit that is located on the same lot as a single family dwelling but is contained in a detached garage or other out building.

ACCESSORY DWELLING – An accessory apartment or accessory cottage.

§205-397.6. Accessory Dwelling Units

A. The purpose and intent of the provisions concerning Accessory Dwelling Units, which shall include Accessory Apartments and Accessory Cottages, is to provide a diversity of housing for residents while protecting the single-family character of residential neighborhoods. Accessory Dwelling Units shall be permitted in accordance with the following criteria:

1. One dwelling unit on the property shall be owner occupied. A "Notice and Declaration of land use restriction" to this effect shall be signed and recorded prior to issuance of a certificate of use and/or building permit for the accessory dwelling unit.
2. Two off-street parking spaces shall be provided for each dwelling unit.
3. Any request for an accessory dwelling unit shall conform to all provisions of the Delaware State Plumbing Code and no dwelling unit that is served by an on-site wastewater disposal system shall be modified to create an accessory dwelling unit until a permit for such has been secured by the Department of Natural Resources and Environmental Control.
4. Outside stairways (either open or enclosed) that service accessory apartments on upper stories are permitted, provided that they are integrated into and consistent with the architecture of the building, as opposed to having a tacked on, obtrusive appearance.
5. Only one accessory dwelling unit (either apartment or cottage) shall be permitted per lot.

B. Accessory Apartments.

1. The single-family dwelling unit shall have only one main entrance and all other entrances shall appear subordinate to the main entrance. An entrance leading to a foyer with entrances leading from the foyer to the two dwelling units is permitted.
2. The floor area of an accessory apartment shall not exceed the following percentage of floor area of the single-family dwelling unit to which it is accessory, or the following fixed amounts, whichever are applicable:

If the floor area of the single-family dwelling unit is:	The floor area of the accessory apartment shall not exceed:
Under 2,000 sq. ft.	40%
2,000 sq. ft. or more, but less than 3,000 sq. ft.	35% or 800 sq. ft., whichever is greater
3,000 sq. ft. or more, but less than 5,000 sq. ft.	30% or 1,050 sq. ft., whichever is greater
5,000 sq. ft. or greater	20% or 1,500 sq. ft., whichever is greater

These floor areas shall be exclusive of garages, porches, or unfinished basements.

3. Any exterior modifications to the single-family dwelling associated with the construction or installation of an accessory apartment shall be consistent with the architectural style of the single-family dwelling in terms of exterior materials, roof form, and window spacing.

C. Accessory Cottages

1. An accessory cottage shall contain at least 220 square feet of floor area. The floor area of an accessory cottage shall not exceed 40% of the floor area of the single-family dwelling to which it is accessory or 1,200 square feet, whichever is greater. Compliance with §205-24 (D) requiring that accessory structures not dominate in area, extent or purpose the principal use or structure shall be maintained.
2. For an accessory cottage which will be located within a new structure, the exterior materials, roof form, and window spacing and proportions of the accessory cottage shall approximate those of the existing or proposed single-family dwelling.
3. For an accessory cottage located within an existing garage or other outbuilding, the structure is not required to approximate the exterior features of the existing single-family dwelling, but any exterior modification should be consistent with the architectural style of that structure unless the building is upgraded per the requirement for new structures.
4. Accessory cottages are permitted on nonconforming lots, but the buildings in which they are located, whether existing or proposed, shall meet the minimum property line setbacks and lot coverage requirements for the district in which they are located.
5. Accessory cottages shall comply with the accessory structure setbacks for the respective zoning district.

D. Approval Process

1. Any request for an accessory dwelling shall include a plot/site plan showing the following:
 - (a) Lot boundaries and dimensions
 - (b) Zoning district
 - (c) Date of plan
 - (d) Property owner with deed reference
 - (e) Lot area
 - (f) Location and setback of all buildings
 - (g) Rights-of-way, public and private
 - (h) All easements
 - (i) Street names
 - (j) Water and sewerage facilities
 - (k) Off-street parking spaces
 - (l) Any other information that may be required to be shown on the site plan by the Director of Planning Services or designee to determine that the application is in compliance with the codes and ordinances of the County.
2. Any request for an accessory dwelling unit shall include a building plan showing the following:
 - (a) Separate floor layout of all finished levels
 - (b) All plumbing facilities, kind and location
 - (c) Use of all rooms
 - (d) All Entrances/exits
 - (e) All partitions, temporary or permanent
 - (f) Location and type of all major appliances

3. Any request for an accessory dwelling shall also include a letter of “No Objection” from adjacent property owners.
 - (a) The applicant shall notify all property owners within 200 feet of the limits of the subject property of the proposal to establish/construct an accessory dwelling unit on the premises by certified mail.
 - (b) A mailing list of all property owners within 200 feet of the subject property shall be supplied to the applicant by the Department based upon the most current Board of Assessment records.
 - (c) The written notice shall be provided by certified mail to all property owners within 200 feet of the subject property on a standardized form letter provided by the Department to the applicant for this purpose.
 - (d) If a letter of objection is received by the Department, the application will then be processed as a conditional use application (not requiring formal site plan review), requiring approval from the Kent County Levy Court and meeting all applicable conditions of Chapter 205.
 - (e) If no letters of objection are received within thirty (30) days, it shall be presumed that no adjacent property owner has an objection to the application.

4. Within thirty (30) working days after application for an accessory dwelling is submitted and accepted, the Director or designee shall approve, conditionally approve, or deny such application. The Department shall inform the applicant in writing of the conditions, if any, for approval or the reasons for disapproval. Such written notice shall also describe the process of appeals. A copy of the written notice shall be kept in the permanent records of the Department.

5. Should the Director or designee deny an application for an accessory dwelling, the applicant may file an application for conditional use (not requiring formal site plan review), requiring approval from the Kent County Levy Court and meeting all applicable conditions of this Chapter.

6. The filing fee for administration review shall be as set from time to time by ordinance of the Levy Court.

I agree to comply with the above referenced conditions of approval, as applicable, for an accessory dwelling unit on my property. I understand that failure to comply with the regulations, and any other conditions of approval as may be applied by the Director of Planning Services, will result in enforcement action and may cause the revocation of the approval of this accessory dwelling unit.

Printed Name of Applicant: _____

Signature of Applicant: _____ Date: _____

Printed Name of Applicant: _____

Signature of Applicant: _____ Date: _____