

Zoning Requirements for Rental Units in One-Family Dwellings and Two-Family Flats

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DCRA's Mission |

The Department of Consumer and Regulatory Affairs (DCRA) supports a thriving community of residents, businesses, and visitors through diligent protection of health and safety and equitable administration of regulation and compliance in our District.



Overview

- Background
- Terminology
- Two-Family Flat
- Accessory Apartment:
- Potential Dwelling Unit
- General Development Standards
- Submission Tips

*This presentation highlights key applicable zoning regulations, but is not an exhaustive list of all zoning regulations that may apply to a project. This presentation also is not a substitute or replacement for District law and regulations which should be consulted for the specific legal requirements applicable to the construction process.

Background

- **1958 Regulations** (Old Regulations)
 - Two-family flat were permitted as a matter of right in R-4, R-5 and all commercial and mixed-use zones
 - Accessory apartments were only permitted by special exception pursuant to Board of Zoning Adjustment (BZA) approval
 - Residential units were limited to the principal dwelling and not allowed in an accessory building or carriage house (exception for domestic employees in the R-1-A or R-1-B zones)
- **ZR 16 Regulations** (Implemented September 6, 2016)
 - More permissive accessory apartment rules provide a matter of right path for zoning approval
 - Accessory apartments and second unit (for flat) may be located in either the principal or accessory building

Terminology: B-100.2

- **Dwelling Unit:** One (1) or more habitable rooms comprising complete independent living facilities for one (1) or more persons, and including within those rooms permanent provisions for living, sleeping, eating, cooking, and sanitation. A dwelling unit is intended for a single household.
- **Dwelling Unit, Principal:** The primary residential structure on a lot
- **Building, Principal:** The building in which the primary use of the lot is conducted
- **Building, Accessory:** A subordinate building located on the same lot as the principal building, the use of which is incidental to the use of the principal building
- **Accessory Apartment:** A dwelling unit that is secondary to the principal single household dwelling unit in terms of gross floor area, intensity of use, and physical character, but which has kitchen and bath facilities separate from the principal dwelling and may have a separate entrance

TWO-FAMILY FLAT

- **Flat, definition:** A dwelling used exclusively as a residence for two (2) families living independently of each other.
- Permitted in Residential Flat (RF), Residential Apartment (RA) zones and commercial mixed-use zones.
- **Occupancy**
 - A Certificate of Occupancy (CofO) is required for a flat.
 - A Zoning inspection is required for ownership change if the most recent CofO was issued more than 10 years ago.
- **License**
 - Prior to renting out an accessory apartment, property owner must obtain a Residential Rental Business License from DCRA

TWO-FAMILY FLAT

- **Accessory buildings** permitted to house a separate dwelling (principal dwelling unit) (U 301.1c)
- The accessory building was in existence on January 1, 2013;
- No expansion or addition may be made to the accessory building to accommodate an apartment except as a special exception

TWO-FAMILY FLAT

- There shall be **permanent access** to the accessory building dwelling from a dedicated and improved right of way; and
- Permanent access shall be provided by one (1) of the following:
 - (A) An easement for a permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side Subtitle U-33 setback recorded in the land records of the District of Columbia;
 - (B) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or (
 - (C) On an improved alley no less than fifteen feet (15 ft.) in width and within a distance of three hundred (300) linear feet of a public street;
 - (D) An accessory building that houses a principal dwelling unit shall not have a roof deck;

TWO-FAMILY FLAT

- (E) An accessory building constructed as a matter-of-right after January 1, 2013, and that is located within a required setback shall not be used as, or converted to, a dwelling unit for a period of five (5) years after the approval of the building permit for the accessory building, unless approved as a special exception;
- F) An accessory building that houses a principal dwelling unit shall not be used simultaneously for any accessory use other than as a private vehicle garage for a dwelling unit on the lot, storage, or as an artist studio; and
- (G) Any proposed expansion of an accessory building for residential purposes shall be permitted only as a special exception approval pursuant to Subtitle X, and shall be evaluated against the standards of this section.

Accessory Apartment

General Use Rules: U-253

- **Zones**

- Accessory apartments are permitted in Residential (**R**) zones that allow only a single principal dwelling unit (such as R-1-A, R-1-B, R-2, and R-3)
 - *Not applicable:* RF, RA, and more intensive zones, where multiple principal units are permitted as a matter of right. In these zones, certificates of occupancy (CofOs) are needed to document the dwelling unit density

- **Number**

- One accessory apartment allowed per property

Accessory Apartment Standards Generally

- **Occupancy**
 - Either principal or accessory unit must be owner occupied for the duration of the use. Maximum of 3 people allowed in the accessory apartment (exceptions for R-19 and R-20 zones)
- **License**
 - Prior to renting out an accessory apartment, property owner must obtain a Residential Rental Business License from DCRA
- There is no C of O for accessory apartments or additional parking requirement
- Zoning relief needed to deviate from conditions
- Specific rules for accessory apartments located in principal dwellings as opposed to accessory buildings

When Located in the Principal Building – Matter of Right Conditions

- **Minimum Principal Dwelling Size:**

- The house must have a minimum gross floor area (GFA), exclusive of garage space, as follows:

Zones	Min. GFA
R-1-A R-1-B R-19	2,000 sq. ft.
R-2, R-3 R-10, R-13, R-17, and R-20	1,200 sq. ft.



Source: DC Office of Zoning

When Located in the Principal Building – Matter of Right Conditions

- **Maximum Unit Size**

- The accessory apartment cannot occupy more than 35% of the house's GFA

- **New Entrances**

- If an additional entrance is created to a house it shall not be located on a wall of the house that faces a street (different rules apply in the R-3, R-13, R-17 and R-20 zones)



Source: DC Office of Zoning

When Located in the Accessory Building – Matter of Right Conditions

- **Access**

- Requires permanent access to the accessory building apartment use;
- Access shall be provided by 1 of the following:
 - A permanent passage, open to the sky, no narrower than 8 ft in width, and extending from the accessory building to a public street through a side setback or shared recorded easement between properties;
 - Through an improved public alley with a minimum width 24 ft that connects to a public street; or
 - The accessory building is within 300 ft. of a public street accessible through an improved public alley with a minimum width of 15 ft



Source: DC Office of Zoning

When Located in the Accessory Building – Matter of Right Conditions

- **Simultaneous Uses**

- An accessory building that houses an apartment shall not be used simultaneously for any accessory use other than as a private vehicle garage, an artist studio, or storage for a dwelling unit on the lot

Source: D.C. Office of Zoning

- **Other**

- No roof deck allowed
- Additional conditions for R-19 and R-20 zones

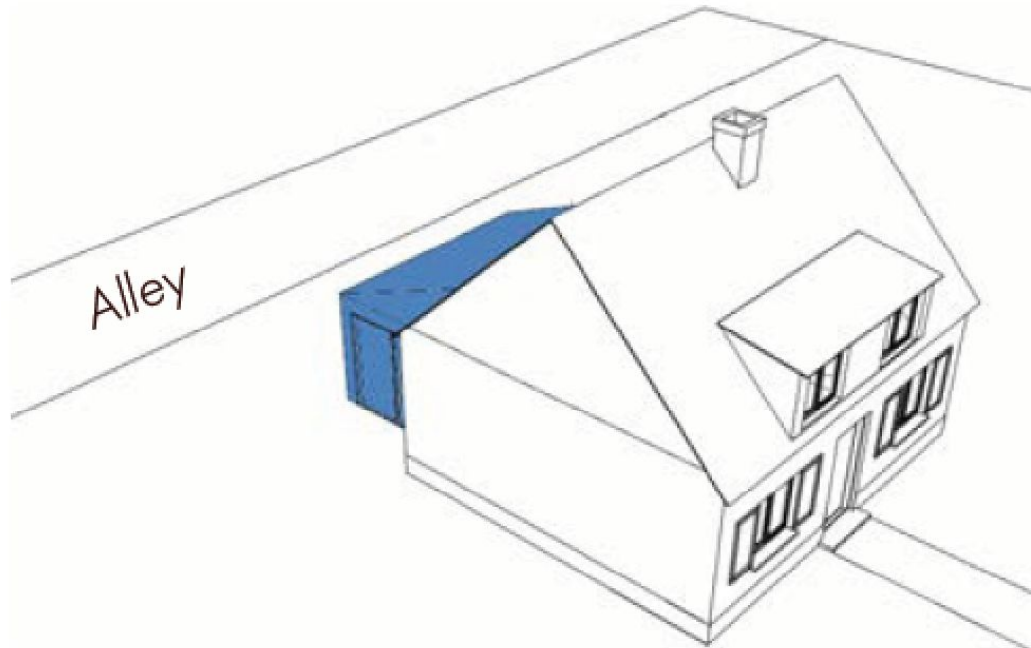


Source: DC Office of Zoning

Development Standards Generally

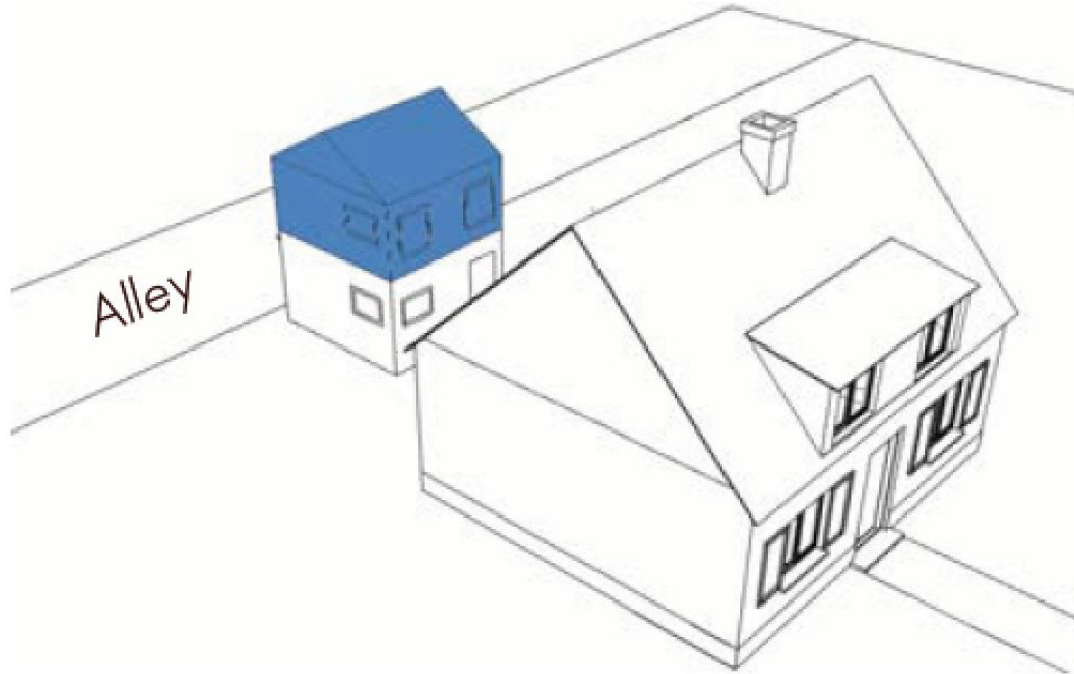
- Beyond meeting the accessory apartment or flat specific use standards, all general development standards regulating height, lot coverage, setbacks, among others, of both the principal dwelling and any accessory building must be complied with
- **Accessory building key standards (D-5001):**
 - Limit of 2 stories, 20 ft in height
 - Setback 12 ft from the alley centerline
 - Maximum building footprint shall be the greater of 30% of the required rear yard or 450 square feet

ACCESSORY BUILDING LOCATION



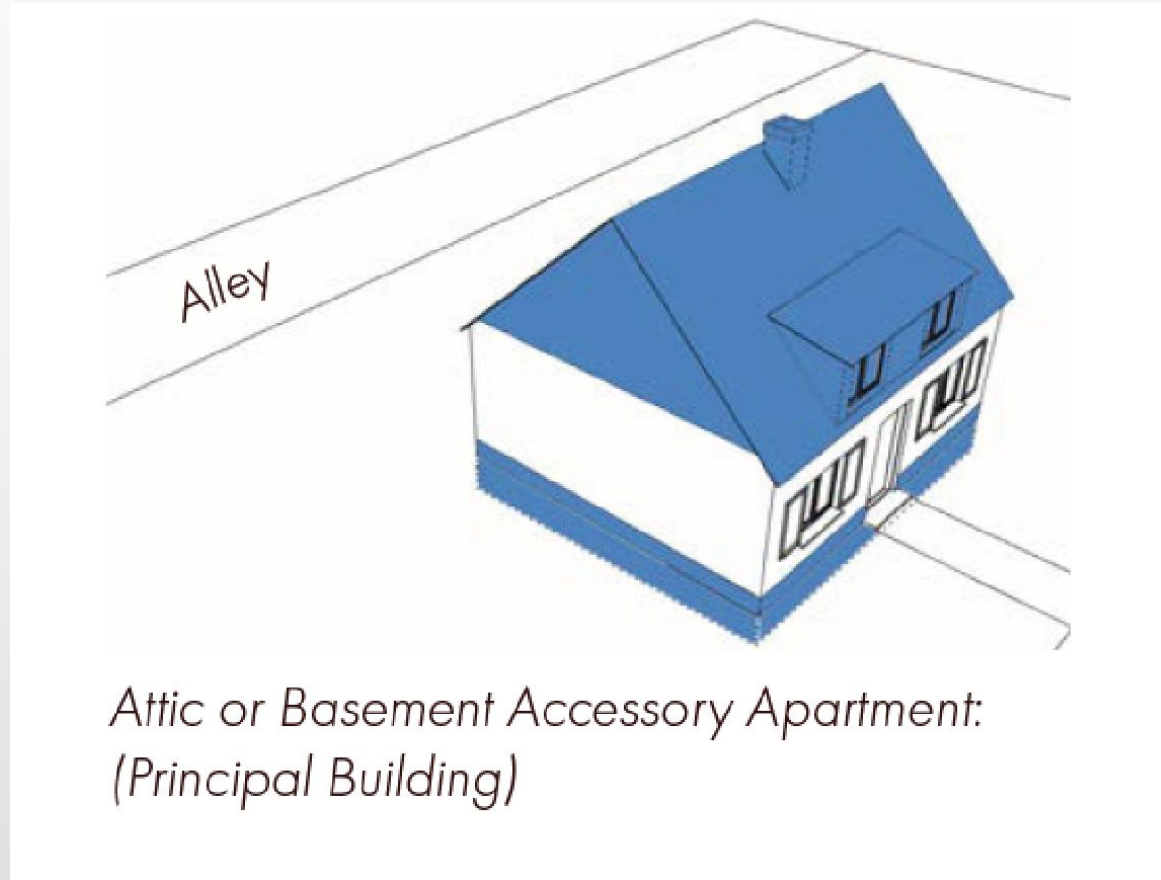
*Attached Accessory Apartment:
(Principal Building)*

ACCESSORY BUILDING LOCATION



*Free Standing or Converted Garage
Accessory Apartment: (Accessory Building)*

ACCESSORY BUILDING LOCATION



POTENTIAL SEPARATE DWELLING UNIT

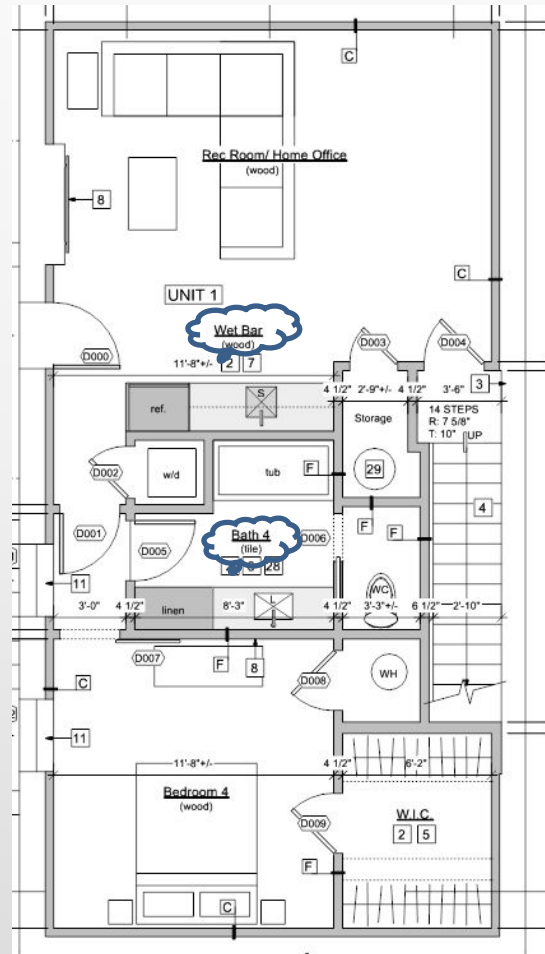
- There are three key characteristics for a separate dwelling unit (see definition):
 - 1) “**independence**” from another dwelling unit – e.g., the habitable room(s) have independent access to the exterior (either directly, or through a common foyer or lobby);
 - 2) “**sanitation**” facilities – e.g., a full bathroom, including a sink and bathtub and/or shower (or plumbing rough-ins for a full bath or shower); and
 - 3) “**eating**” and “**cooking**” facilities – e.g., a kitchen, including stove and sink (separate from the full bath or laundry room sinks), or rough-ins for stoves and sinks (such as a gas line, or line for a stove or plumbing connection for separate sink).

POTENTIAL SEPARATE DWELLING UNIT

- Where all three of the key characteristics are clearly present for a specific area of the residence in the building permit application, the ZA will view this Potential Unit as a separate dwelling unit that must be reviewed for zoning compliance accordingly, irrespective of the representations by a homeowner.
- Where all three key characteristics are present – *except that there is a wet bar instead of a kitchen*, the Zoning Administrator will accept the homeowner's representation that the Potential Unit will not operate as a separate dwelling unit
- The homeowner will need to execute a covenant to be recorded in the District's Land Records affirming that the Potential Unit will not operate as a separate dwelling unit.

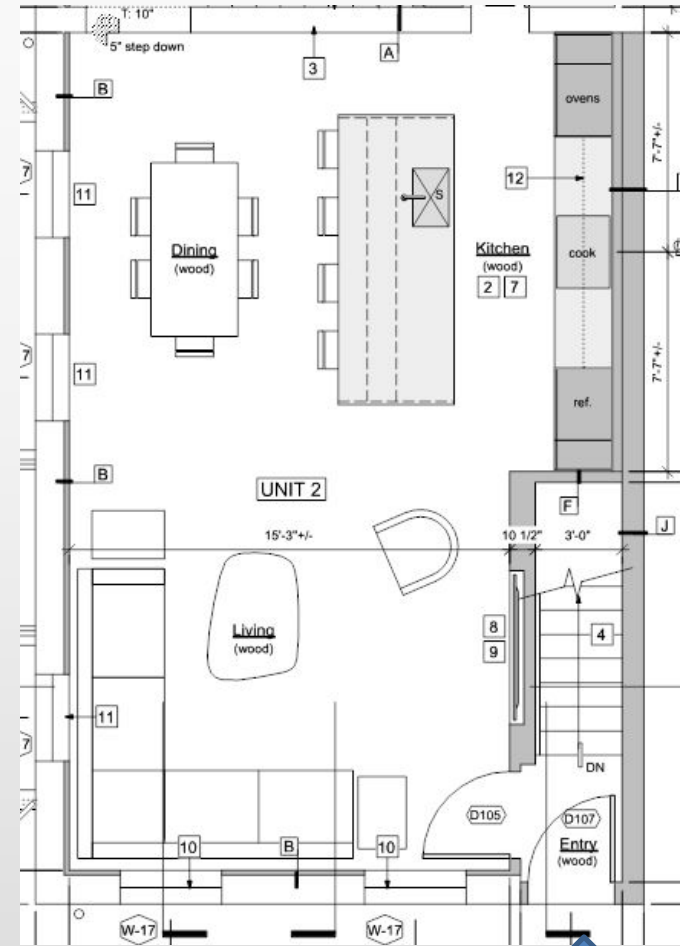
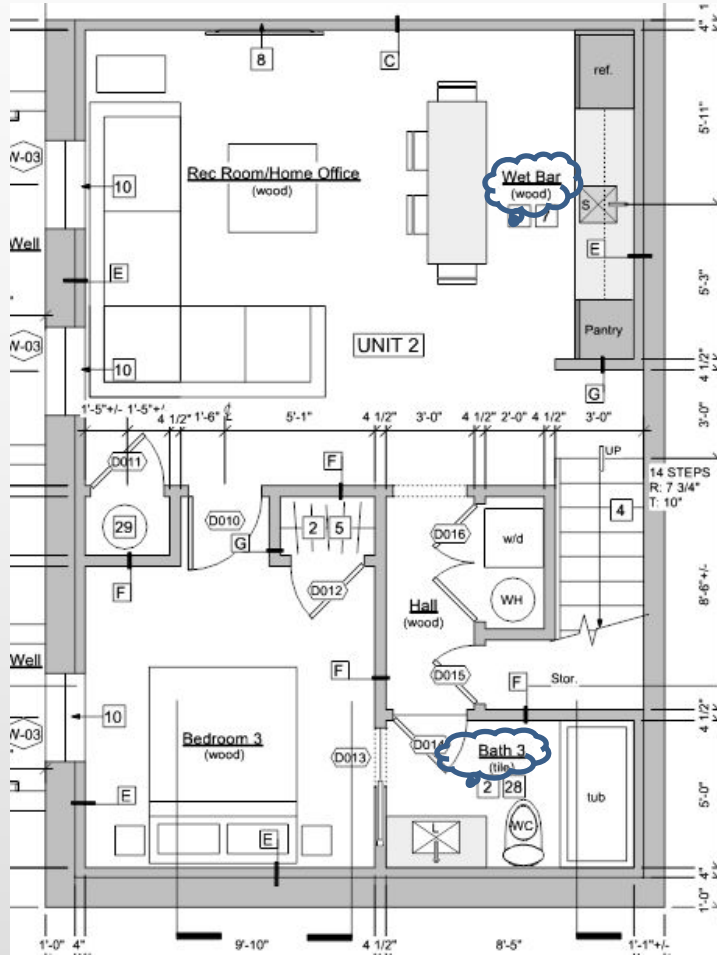
Potential unit with Separate Entrance

Separate entrance



Cellar Level

Potential unit with Shared Entrance



Cellar Level

First Floor

Separate entrance through common vestibule

General Tips

- To learn more information about a property, check the Property Information Verification System (PIVS) for building permit information about a property: <https://pivs.dcra.dc.gov> or make a records request at DCRA: <https://dcra.dc.gov/records-management>.
 - You can also contact the Office of the Zoning Administrator at 202-442-4576 and the DCRA License Center at 202-442-4311 for additional assistance.
- If there is no apparent record of a building permit for an accessory apartment or flat, a building permit may be needed to authorize the accessory apartment or flat use.
- Renting an accessory apartment requires a one-family rental license from the DCRA Business License Center.
- Renting a unit in a flat requires a two-family rental license from the DCRA Business License Center.

Submission Tips

- Properly describe the scope of work, such as “Proposed alteration to existing single dwelling unit to add an accessory apartment in ____ [ex. Basement] area of the home”
- Provide analysis on how the accessory apartment standards are met, including:
 - Clearly label/display graphically the location of the accessory apartment
 - Show the calculation for the 35% maximum of the principal unit GFA
 - Show the means of egress, including labeling/identifying the path of travel to a public street for cases where the accessory apartment is located within an accessory building
- When the accessory apartment is located in the principal building, provide dimensioned plans for all floors (not just the floor location of the accessory apartment), to allow reviewers to determine that all requirements have been satisfied

Website Resources

- Office of Zoning: dcoz.dc.gov
- DCRA: dcra.dc.gov

Questions?



Start Here! Your first step in building
a safe home and thriving business.