

INTRODUCED BY: Joanne Masten  
Jeffery W. Hall  
DATE INTRODUCED: August 15, 2023  
PUBLIC HEARING DATE: September 26, 2023  
PUBLIC HEARING TIME: 7:00 p.m.  
ADOPTION DATE: September 26, 2023  
EFFECTIVE DATE: Upon Adoption

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**Ordinance 23-20**  
**Accessory Dwelling Units**

An Ordinance to amend Kent County Code, Vol. II, Chapter 205, Zoning, as amended by revising Article V, Permitted Uses, §205-53 Permitted Use Table and §205-55 Residential Uses; Article VI, Conditions of Approval, §205-68, Residential Uses, Item A, Accessory Dwelling Unit; and Part II, General Legislation to create a new chapter specific to accessory dwelling units, permit accessory dwelling units on all residential lots, and delete the use from the zoning regulations.

**THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:**

**Section 1.** That the Kent County Code, Vol. II, is amended by adding the following underlined language as a new Chapter 101 Accessory Dwelling Units:

**Chapter 101 Accessory Dwelling Units**

§101-1 Purpose.

The purpose of this ordinance is to promote the development of accessory dwelling units (ADUs) within Kent County, to accommodate changing housing needs, increase housing supply in a sustainable manner, and provide affordable housing options. This ordinance seeks to balance the need for additional housing while maintaining the character and integrity of existing neighborhoods.

§101-2 Definitions.

Accessory Dwelling Unit (ADU)

A self-contained dwelling unit that is secondary to the principal dwelling unit on a property and includes independent living facilities, such as a separate entrance, bathroom, and kitchen. The dwelling unit may be attached to the principal dwelling (accessory apartment) or detached on the same lot (cottage).

Floor Area

The sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, cellars, attics and open porches, measured from the exterior faces of the exterior walls.

### §101-3. General Provisions

- A. Accessory dwelling units shall be permitted in all residential zones subject to compliance with other applicable regulations and building codes.
- B. Each property is limited to one accessory dwelling unit, either attached or detached.
- C. Manufactured homes shall not be permitted as accessory dwelling units.
- D. 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.
- E. 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.

### §101-4 Development Standards.

- A. The maximum size of the accessory dwelling unit shall not exceed 50% of the floor area of the principal dwelling unit. Square footage required to meet accessibility standards shall not count toward the total square footage limit.
- B. Detached accessory dwelling units shall be constructed on a slab or crawl space. Basements are not permitted.
- C. Setbacks
  - 1. Attached accessory dwelling units shall comply with the same setbacks as the principal structure.
  - 2. Detached accessory dwelling units shall be placed behind the principal structure and maintain one-half of the principal structure's side and rear setbacks.
- D. Total lot coverage (impervious cover) is limited to fifty (50) percent.

- E. Applications for accessory dwelling units shall also include:
1. Full building plans for entire new structure or addition/renovation
  2. Separate floor layout of all finished levels
  3. Use of all rooms
  4. All entrances/exits.
- F. The Board of Adjustment may consider variances from these provisions in accordance with the standards and procedures established in Chapter 205, Zoning.

**Section 2.** Chapter 205, Article V, Permitted Uses, §205-53 Permitted Use Table is hereby amended by deleting the following bracketed language shown with strike-through marks:

USES	AC	AR	RS-1	RS-5	RM	RMH	BN	BG	OC	IL	IG
<b>RESIDENTIAL USES</b>											
☐	☐	☐	☐	☐	☐	☐					

**Section 3.** Chapter 205, Article V, Permitted Uses, §205-55 Residential Uses is hereby amended by deleting the following bracketed language shown with strike-through marks:

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**Section 4.** Chapter 205, Article VI, Conditions of Approval, §205-68, Residential Uses, Item A, Accessory Dwelling Unit; is hereby amended by deleting the following bracketed language shown with strike-through marks and renumbering accordingly:

**§205-68. Residential Uses**

☐**Section 5. Severability.**

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of

the remaining provisions which can be given effect without the invalid provision or application.


**Section 6. Effective Date.**

This Ordinance shall be effective upon the date of adoption.

ADOPTED BY THE LEVY COURT OF KENT  
COUNTY, DELAWARE

  
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President, Kent County Levy Court

This 26<sup>th</sup> day of September, 2023

ATTEST:   
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Clerk of the Peace

**Synopsis:** The ordinance permits an accessory dwelling unit on all residential lots subject to certain conditions, creates a new chapter 101 of the Kent County Code specific to accessory dwelling units, and removes accessory dwelling units from Chapter 205, Zoning.