



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

### PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development  
Applicant's Agent: N/A  
Zoning Ordinance: Morgan County Zoning Ordinance Chapter 7.2 Accessory Buildings

#### Summary

Planning staff discussed possible changes with the Board of Commissioners at a planning retreat in October 2021. Accessory Dwellings have been a contentious subject. The proposed language is the result of those discussions.

#### Proposed Language

### **Chapter 7.2 Accessory Dwellings and Accessory Building Apartments**

#### Section 7.2.1 Purpose and Intent

It is the purpose of this chapter to regulate the establishment of accessory dwellings within or in conjunction with single-family dwellings, ~~and apartments within accessory buildings~~, while preserving the character of single-family neighborhoods. The primary purpose of this chapter shall be to permit establishment of additional living quarters within single-family residential neighborhoods in order to make it possible for adult children to provide care and support to a parent or other relatives in need of assistance. A maximum of one accessory dwelling ~~or accessory building apartment~~ shall be permitted as subordinate to a new or existing single-family dwelling if the accessory dwelling ~~or accessory building apartment~~ and lot meet the requirements of this chapter. No accessory dwelling ~~or accessory building apartment~~ shall be constructed prior to the construction of the principal dwelling.

#### Section 7.2.2 Accessory Dwellings

**A detached accessory dwelling may be constructed, as a permitted use, meeting the requirements of this Chapter and the Zoning requirements of Table 4.1 and the Dimensional Requirements of Table 4.2.**

An accessory dwelling may **also** be located within, or constructed as an addition to, a principal dwelling as a permitted use.

Section 7.2.2 Conditional Use Required for Accessory Building Apartments and Detached Accessory Dwellings

Section 7.2.3 Existing Dwelling to be used as an Accessory Dwelling

~~An accessory dwelling may be located within, or constructed as an addition to, a principal dwelling as a permitted use. A detached accessory dwelling or an apartment located within or attached to an accessory building shall require conditional use approval. If an existing dwelling structure meets or exceeds the maximum square footage and an additional separate dwelling exceeding the maximum square footage for an accessory dwelling is desired, the property must be split to allow for a second principal dwelling, or a Variance must be requested in addition to the Conditional Use.~~

Section 7.2.34 Lot Standards.

~~Accessory dwellings and accessory building apartments may be constructed on lots of three (3) acres or more any size provided that all other applicable zoning requirements are met. Compliance with all requirements of the county health department for on-site sewerage and well regulations is required. An accessory dwelling or accessory building apartment shall not be served by a driveway separate from that serving the principal dwelling. Accessory dwelling and accessory building apartments shall share an electrical meter and address as the principal dwelling.~~

Section 7.2.45 Occupancy Standards

~~All lots containing accessory dwellings and accessory building apartments shall be owner occupied. No lot shall be occupied by more than one family. This limitation shall be interpreted to accomplish its purpose, which is to ensure that the approval of an accessory dwelling or accessory building apartment shall not increase the overall density of a single family residential neighborhood. At no time shall the principal dwelling and accessory dwelling be rented separately or as a short-term rental.~~

~~“Owner-occupied” shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and resides at the site more than six months of any given year, and at no time receives rent for the owner-occupied unit.~~

Section 7.2.56 Subdivision

~~The accessory dwelling, accessory building containing an apartment, or the lot on which such accessory dwelling or accessory building apartment is located, shall not be subdivided, or otherwise segregated in ownership from the principal dwelling unit or the land on which the principal dwelling unit is located.~~

### Section 7.2.67 Size and Connectivity

Detached accessory dwellings are limited to a minimum of 300 square feet and a maximum of 1200 ~~800~~ heated-square feet enclosed, heated or unheated. Unenclosed porches do not count towards the unheated area. and 1,000 square feet total (including unheated square footage such as garages and porches).

Detached accessory dwellings may be constructed on a slab or crawlspace foundation only; no basements are permitted allowed. Accessory building apartments are limited to 800 heated square feet and must have 2 hour rated separation from the rest of the accessory building.

An accessory dwelling may be located within the principal dwelling, in areas such as, the basement, or above an attached garage, or attached to a principal dwelling as a wing shall be connected by conditioned space. Accessory dwellings attached to a principal dwelling shall not ~~cannot~~ be attached by a breezeway or unconditioned space such as a garage.

An accessory dwelling shall share the same driveway as well as the same electrical service meter and address as the principal dwelling.

### Section 7.2.78 Architectural Design

The addition of an accessory dwelling, attached or detached, shall be allowed only if the single-family appearance and character of the lot and neighborhood are maintained. The design of the accessory dwelling shall be consistent with the design of the principal dwelling and shall maintain the style, appearance, and character of the principal dwelling, and shall use matching materials, colors, window style, and comparable roof appearance.

Detached accessory dwellings shall ~~must~~ be constructed stick-built on site, utilizing dimensional lumber meeting the requirements of the residential building code; manufactured homes, storage containers, metal buildings or pre-built wood framed structures shall not be used permitted as accessory dwellings.

### Section 7.2.8 Entrances and Stairs

Only one entrance shall be allowed per fronting street. Exterior stairways shall not be constructed on the front of the principal dwelling ~~or accessory building apartment~~.

### Section 7.2.9 Affidavit Recording Requirements

Prior to issuance of a building permit by the Planning and Development office, the applicant shall record the affidavit with the Morgan County Clerk of Court and provide a copy of the recorded affidavit. Said affidavit shall identify the address and legal description of the property and state the following: the property owner resides in either the principal dwelling for more than six months each year, that the owner will notify any prospective purchaser of the property of the limitations and requirements of this chapter, and that the permit will be revoked if the accessory dwelling unit at any time fails to meet the requirements of this chapter. The document shall run

with the land and bind all current and future property owners, and the owner's assigns, beneficiaries, and heirs.

#### Section 7.2.10 Enforcement

Morgan County retains the right (with reasonable notice) to inspect the accessory dwelling or **an existing** accessory building apartment for compliance with **the permit and** this chapter.

#### Staff Comments

The most significant changes are the removal of accessory dwellings from accessory buildings, minimum acreage requirement and the increase of square footage allowed. The proposed language only allows accessory dwellings as detached residential structures or as an addition to the existing home. A minimum acreage was added to allow for ample space for two septic drainage systems (including back-up fields). Square footage increases from 800 square feet to 1200 square feet with an unlimited allowance for open attached square footage such as porches and carports. The primary purpose remains to assist family members and short-term rentals are prohibited.