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ACCESSORY APARTMENTS (secondary dwelling unit)

Description:

An Accessory Apartment (sometimes called an in-law apartment) is a separate independent dwelling unit installed as part of a single-family home, converting the home into two units. The accessory unit is a full, self-contained dwelling unit (includes a kitchen), is typically smaller than the "primary" part of the home, and can be created in a variety of ways: (1) often, the Accessory Apartment is created entirely *within* the framework of an existing home by renovating a portion (for example, basement, garage, several bedrooms) into a full apartment; (2) sometimes a modest apartment is added onto the existing single-family home; or, (3) in response to the growing number of older people, the caregiver adult children of frail parents are building new homes with an in-law apartment included in the design. While residents of both units in the house live independently, the yard, parking area, and sometimes the entrance are shared.

Accessory Apartments provide a successful beneficial housing option for a variety of situations. For example:

- A non-elderly homeowner family lives in the main part of the house, with a frail elderly family member or a younger-aged member, perhaps with disabilities, residing in the accessory unit;
- An elderly homeowner chooses to live in the accessory unit and might rent the main portion of their home to their adult children;
- An elderly homeowner or a younger homeowner with disabilities who has room to spare can convert the home into a shared housing arrangement, with another elderly or younger person or a caregiver aide living in the accessory unit; or
- A homeowner family of any age lives in the main part of the house, with a developmentally disabled adult child residing in the accessory unit.

Regardless of which unit becomes the homeowner's residence, a home with an Accessory Apartment has benefits for both parties, as well as for communities. For the occupants of both units, this housing arrangement allows privacy and independence, which is a major preference of individuals of all ages. For adult homeowners who have relatives who have aging-related or other disabilities, this arrangement substantially supports their ability to provide emotional, instrumental, health care, supportive, and financial assistance for those relatives. For an older homeowner, an Accessory Apartment enables him or her to affordably remain in their own home, in their familiar community setting—receiving supplemental

income, assistance with maintenance, and the sense of security that comes from having others nearby.

For the community, Accessory Apartments are one way to meet the demand for additional affordable housing, with minimal impact on community character or resources. Because Accessory Apartments are constructed as part of an existing house, there is no change in the outward appearance of the house or neighborhood; and no additional land is developed because Accessory Apartments are created from space that is already devoted to a residential lot. In addition, there is little or no demand for additional community resources with the installation of an accessory unit—public services such as schools, fire, and policing, as well as material/natural resources such as water, sewer, roads, etc. As a result, and considering the high cost of new construction and, in many places, limited sites available for new housing construction, many places are considering Accessory Apartments as they explore new low-cost and low-impact ways to expand their housing supply.

The number of Accessory Apartments in the United States has grown significantly in recent years, due in most part to individual, private initiative by homeowners. The U.S. Bureau of the Census has documented a surprising number of “hidden housing units” in American communities, and some places estimate that as many as 10 to 20 per cent of their original single-family homes now contain second units. It is not surprising, therefore, that communities are increasingly interested in creating land-use mechanisms to both encourage and control their development.

Benefits:

For frail older people and younger-aged people with disabilities

- When individuals lose the ability to live completely independently, an Accessory Apartment is another version of "one's own home," maximizing their ability to continue living privately, independently, and be self-managing for longer periods of time.
- Provides an opportunity for elderly people to exercise a major preference during the frail years—to live near, but not with, family members.
- Proximity to other people facilitates companionship and a sense of security for an older, frail individual or a younger, impaired individual.
- As an elderly or impaired homeowner, installation and rental of an Accessory Apartment provides the homeowner with an additional source of monthly income.

For caregivers

- Close proximity supports the caregiving efforts of relatives to provide emotional and instrumental support, care, and assistance for frail and impaired family members.

- Close proximity relieves caregivers' concerns about the safety, security, and quality of care of frail relatives who are living alone and farther away or living in housing or health care facilities.
- Close, but separate, living quarters allows family members to retain privacy in their home environment while caring for frail or impaired relatives.
- As caregivers consider alternative living environments for a frail or impaired relative, development/installation of an Accessory Apartment is an economical, affordable housing choice compared to constructing a new house or relocation of relatives to housing or health care facilities.

For the Community

- Accessory Apartments are a housing option that respond to the needs of multiple community populations, thus helping stabilize a community's resident population—
 - This option is well-suited to someone who does not want, does not need, or cannot afford a large home.
 - An Accessory Apartment tenant can provide services at low cost or in exchange for a portion of rent—making personal assistance and home maintenance services available inexpensively to older people and people with disabilities.
 - Shared expenses (utilities, taxes, home maintenance, and repair) sustain neighborhood stability as older residents and others with disabilities do not have to move from their homes due to affordability issues.
 - Neighborhood stability is also sustained through intergenerational integration, as the demand for community services (fire, police, etc.) and social and health services remain stable.
 - Supporting the efforts of family caregivers reduces demand on a community's formal social and health services networks.
- An Accessory Apartment—
 - Can be created with little or no impact on the character or appearance of a neighborhood.
 - Increases a community's affordable housing supply by converting excess space in a single-family home into another dwelling unit.
 - Reduces development on additional land by using existing housing to create additional residential quarters.

Impediments or barriers to development or implementation:

For the Homeowner

- While Accessory Apartments are considered an affordable housing option, remodeling a home to include one can be expensive. While ongoing rental income and future revenue from the sale of the home will often repay the investment, an initial outlay is required.
- There may be federal and state income tax implications; for example, if the Accessory Apartment is a source of rental income, when a house with an

Accessory Apartment is sold, capital gains taxes may apply to the rental portion of the house.

- The property value of a home that includes an Accessory Apartment may be enhanced, causing the homeowner's real property taxes to increase.
- *Future marketability of the home:* While the desire for homes with Accessory Apartments is increasing in response to the growing frail elderly population, some zoning codes may restrict the use of these apartments. For example, a few communities that permit the installation of Accessory Apartments have regulations requiring that, in a home with an Accessory Apartment, one of those units must be occupied by a person with specified characteristics—such as, the owner of the primary home, a resident of a minimum age, a resident with a disability, or a family member. Recent court decisions have cast doubt on the legality of such restrictions; however, since zoning is a local matter in New York State, regulations such as this may still exist in some places. In these communities, barring a successful legal challenge, such restrictions can have an impact on the future marketability of a house with an Accessory Apartment.

For the Community

- Neighbors may object to the installation of an Accessory Apartment, fearing that an apartment in one house may devalue other properties in the neighborhood. However, to date, no research has shown that the careful and sensitive installation of an Accessory Apartment has had any negative impact on the value of any nearby property.
- Zoning regulations, compliance, and conformity:
 - In many communities, zoning regulations prohibit the installation of Accessory Apartments in single-family neighborhoods. The primary concern voiced when considering the addition of regulations for Accessory Apartments is that the very act of permitting the units will encourage their development and thereby turn a neighborhood that is zoned for single-family dwellings into a two-family dwelling area. The fear is that such an effect will detract from the ambience of the single-family neighborhood. In fact, quite the opposite is often true. Since research has shown that homeowners are installing Accessory Apartments when and where there are no regulations—with no adverse effect on neighborhood ambience—in these places there is no public control over the units. Unless municipal codes and ordinances specifically address Accessory Apartments, it is likely that new units will continue to be created "sub-rosa."

In New York State and across the country, numerous communities have amended zoning ordinances to address community concerns and to assure compliance with community plans, so that the presence of an Accessory Apartment is not noticeable from the street. Zoning regulations can be written to (1) permit the units and (2) also assure the retention of single-family neighborhood character. These regulations include items such as maximum unit size for an Accessory Apartment, maximum lot coverage after

conversion, permitted exterior appearance and alterations, provision for off-street parking, etc. Since zoning is a local matter in New York State, each community should devise zoning ordinance elements in a way that will permit Accessory Apartment conversions as well as allay the concerns of residents. The very existence of regulations will also confer upon the community the ability to enforce compliance with the regulations. Appropriate zoning provisions, therefore, assure that Accessory Apartments are created with community input, regulation, and the ability to be enforced.

In addition to conformity with zoning ordinances, for public safety and well-being, communities require conformity with other municipal regulations such as housing, building, water and sewer, and fire safety codes and ordinances. Sometimes a regulation written to assure public safety, yet prepared or interpreted without an understanding of the nature of Accessory Apartments, includes specific language that effectively prohibits the units. For example, a code might limit the number of bedrooms on a property in order to regulate water or sewer usage. Yet, if the home will be divided and no additional bedrooms will be added, there would be no additional water or sewer usage on the property. Accommodating the specific language of various codes and regulations is sometimes a matter of expanding knowledge and assuring an understanding about Accessory Apartments; sometimes it is necessary to adjust the language of a regulation so that the units can be permitted while still assuring public safety.

Resource—examples:

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<http://www.huduser.org/Publications/PDF/adu.pdf>.
- Jaime Ross, *Accessory Dwelling Units: A Smart Growth Tool for Providing Affordable Housing*:
<http://www.1000friendsofflorida.org/housing/rossaduarticle.pdf>.
- Leo L. Cram (1993), *Accessory Apartments*. Columbia, MO: University of Missouri Extension:
<http://extension.missouri.edu/publications/DisplayPrinterFriendlyPub.aspx?P=G14>.
- For numerous examples of communities that have instituted Accessory Apartment programs and/or zoning regulations, use an Internet search engine (such as Google) and type in "successful accessory apartment programs."

Resource—written and web:

- Patrick Hare (1981), "Carving Up the American Dream," *Planning*, Vol. 47, No. 7.

- Helen Hedges (1982), *Legal Issues in Accessory Apartments: Zoning and Covenants Restricting Land to Residential Uses*. Washington, DC: American Association of Retired Persons.
- Martin Gellen (1983), *Accessory Apartments and Single-Family Zoning*, Working Paper No. 406. Berkeley, CA: University of California, Institute of Urban and Regional Development.
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- Margie Hyslop (September 3, 2008), "Accessory apartments draw new support," *Gazette.Net—Maryland Community Newspapers Online*: http://ww2.gazette.net/stories/09032008/montnew214356_32498.shtml.
- Edith Netter (April, 1984), "Accommodating Accessory Apartments," *Urban Land*. Washington, DC: The Urban Land Institute.
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- Patricia Pollak and Alice Gorman (December, 1989), *Community-Based Housing for the Elderly: A Zoning Guide for Planners and Municipal Officials*. Chicago, IL: American Planning Association. Available from P. B. Pollak: Liveable.ny@gmail.com.
- Patricia Pollak (1986; 1991), *Secondary Units (Accessory Apartments and ECHO Housing): A Step-by-Step Program Development Guide*. Ithaca, NY: Cornell Cooperative Extension and the New York State Office for the Aging. Available from P. B. Pollak: Liveable.ny@gmail.com.
- Patricia Pollak (August 2, 1990), "Regulatory Impediments to the Development and Placement of Affordable Housing," pp. 358-694, *Hearing, before the Subcommittee on Policy Research and Insurance of the Committee on Banking, Finance and Urban Affairs*. Washington, DC: United States House of Representatives, 101st Congress, 2nd session.
- Patricia Pollak (January, 1989), *Final Report: Removing Regulatory Barriers to Housing Innovation*, Grant # 90-AM-0175/01. Washington, DC: U.S. Department of Health and Human Services, Administration on Aging.
- Patricia Pollak (with Denise DiGregorio) (Winter, 1988), "Aging-In-Place: Housing Options for Seniors," *Journal of Extension*, Vol. 26.

- Patricia Pollak (Fall, 1987), "Housing Options for Seniors Today," *Ageing*, Vol. 356.
- Patricia Pollak (with L. Z. Malakoff) (1984), *Housing Options for Older New Yorkers Sourcebook*. Albany, New York: Cornell Cooperative Extension and the New York State Office for the Aging.
- Smart Growth Vermont, "Accessory Apartments," *Community Planning Toolbox*: <http://www.smartgrowthvermont.org/toolbox/tools/accessoryapartments/>.
- The Community Alliance Blog (April 14, 2008), "Should We Legalize Accessory Apartments?" <http://thecommunityalliance.blogspot.com/2008/04/should-we-legalize-illegal-accessory.html>.
- Mary Vizard (July 7, 1991), "A New Look at Accessory Apartments," *The New York Times*.

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