

Topic:	Affordable Housing
Resource Type:	Regulation
State:	Virginia
Jurisdiction Type:	Municipal
Municipality:	City of Fairfax
Year:	2021
Title:	Accessory Living Units
Document Last Updated in Database:	August 2021

ADUs in Fairfax County previously were only permitted in single family detached homes where approved by the Board of Zoning Appeals. The occupant of the main house or ADU was required to be at least 55 years old or have a disability. Only single-family residences are permitted to have an ADU and only interior ADUs are permitted as-of-right. The homeowner must live in one of the units and there must be at least one parking space for the ADU. The ADU can have a maximum of two bedrooms.



Accessory Living Units (ALUs) Frequently Asked Questions

The responses below are intended to clarify the regulations for accessory living units (previously known as accessory dwelling units) adopted as part of zMOD, effective July 1, 2021. An overview of the adopted standards can be found in the [Summary of Adopted Accessory Living Unit Provisions](#) document. A table comparing the previous and adopted standards is included below the questions.

- 1) Can any type of dwelling have an accessory living unit, including townhouses and condos?
No, only single-family detached dwellings may have an accessory living unit.
- 2) Are all accessory living units allowed by right?
No, only an interior ALU (within the principal dwelling, such as in the basement) that meets all applicable standards may be approved with an administrative permit issued by the Zoning Administrator. Certain standards, such as a larger size, could be modified with approval of a special permit by the Board of Zoning Appeals (BZA). A detached ALU continues to require a minimum of two acres and special permit approval from the BZA.
- 3) Has the age or disability requirement been removed?
Yes, the Board removed the requirement that someone either in the principal dwelling or the accessory unit be 55+ years old or a person with a disability.
- 4) Can I sell my home with the accessory living unit? How would the new owner know about the requirements?
You may sell your home without removing any of the facilities, but the administrative permit or special permit does not transfer to the new owner. The new owner will have to meet all standards and apply for a new administrative permit or special permit; otherwise, the accessory living unit may not be occupied as a separate unit and may only be used for personal use by the occupants of the principal dwelling. In addition, the owner is required to record a copy of the permit with the land records, so a purchaser would know about the ALU requirements.
- 5) Do I need to provide extra parking?
Yes, for an administrative permit for an interior unit to be approved, the applicant must show that a total of one more space than is required for the dwelling is provided. For a dwelling located on a public street, three off-street parking spaces are required and on a private street, four spaces are required. The parking spaces can be in a driveway, garage, carport, etc. but may not be located on the street. Front yard coverage for driveways is limited to 25 or 30 percent in the R-1 through R-4 Districts. For ALUs approved by special permit, the BZA will determine whether additional parking is required.
- 6) Is there a requirement that the homeowner live in one of the units? Or can they both be rented out?
Yes, the owner of the home must live on the premises either within the principal dwelling or the accessory living unit. Only one (either the principal or the accessory unit) may be rented out.
- 7) Can anybody have a detached accessory living unit?
No, only properties with at least two acres may apply for a detached accessory living unit. All detached units require a special permit application and a public hearing with the Board of Zoning Appeals.



- 8) How many accessory living units can somebody have?
Only one principal dwelling unit and one accessory living unit are permitted on a lot.
- 9) How many people can live in an accessory living unit? How big can the unit be?
A maximum of two people may live in an ALU, and the space is limited to no more than two bedrooms. In an interior unit, the size is limited to 800 square feet or 40% of the principal dwelling, whichever is less. The principal dwelling unit is subject to the occupancy limitations in subsection 4102.3.A. The ALU may occupy the entire basement or cellar up to the size of the basement or cellar as of the July 1, 2021, effective date. In addition, the size also may be exceeded with special permit approval. In a detached unit, the size is limited to 1,200 square feet.
- 10) Can an accessory living unit be used for short-term lodging?
No, there is a standard that specifically prohibits these units from being used for short-term lodging purposes.
- 11) Other jurisdictions use the term 'ADU.' Is this the same thing?
In Fairfax County, the abbreviation 'ADU' is used for a different use, affordable dwelling units. ADUs are separate units dedicated under the County's Affordable Dwelling Unit Ordinance, where an accessory living unit is a subordinate unit provided in conjunction with a single-family detached dwelling. The 'ADU' abbreviation should not be used when referencing accessory living units.
- 12) How are the standards enforced? Does the County inspect ALUs for zoning compliance?
Both an administrative permit (see subsection 4102.1.I) and a special permit (see subsection 4102.7.B(18)) are enforced in the same way and require the owner to allow for inspections by County personnel with reasonable notice. These inspections could be by the Department of Code Compliance in response to a complaint, or they can be scheduled by inspectors with the Department of Planning and Development (DPD). Prior to approving the renewal, DPD staff will inspect the unit to ensure all requirements continue to be met. The initial renewal timeframe has been reduced from the previous Zoning Ordinance requirements of five years to two years, and subsequent renewals could be up to five years, based on the record of compliance.
- 13) Can a homeowner have two roomers or boarders (renters) AND an accessory living unit with two occupants?
No, if a dwelling has an accessory living unit, there cannot be two additional roomers or boarders. A dwelling that does NOT have an accessory living unit and is occupied by a family is permitted to have two roomers or boarders.
- 14) How much will this permit cost? Is this a one-time fee?
The administrative permit fee is \$200, and the special permit fee is \$435. This fee is a one-time fee, but a \$70 fee would be charged for every permit renewal.
- 15) Are there any additional requirements if the property is on a well or septic system?
Yes, if the property is served by a well or septic system, Health Department approval will be required prior to an administrative permit or special permit being approved.
- 16) Are there any additional building code requirements?
Yes, depending on the layout and facilities included in the ALU, there may be additional building code requirements. Emergency egress windows may be required for basement bedrooms. Any interior or exterior construction may require approval of a building permit. In addition, depending on the type of cooking device in the ALU, either fire rated floor and wall assemblies or a fire alarm system with third-party monitoring that



complies with NFPA 72, National Fire Alarm and Signaling Code, may be required. Click [here](#) for more information about building code requirements.

17) What if my HOA doesn't allow ALUs?

Properties are sometimes subject to easements, covenants, or other agreements and these may be more restrictive than the Zoning Ordinance. If the Ordinance is more restrictive, then its provision will govern. Private agreements are not enforced by the County and the State Code does not allow the County to withhold issuing a permit based on HOA or other private agreements. The application form for an administrative permit will advise an applicant to check as to whether any HOA or other private agreements apply to their property.

18) Can an ALU occupant have a home-based business? Is additional parking required?

Yes, as long as the home-based business meets the applicable use-specific standards.

19) How can I find out about ALUs in my neighborhood?

Current special permits that have been approved are available through the [Land Development Information History website](#). This site allows you to search for a specific address, or expand the search to the block, subdivision, or quad level. Select "Zoning Applications" to view approved special permits. Administrative permits submitted on July 1, 2021, will be available through the [PLUS system](#). In addition, Weekly Application Status reports for applications received and accepted for review by the Zoning Evaluation Division are available here: <https://www.fairfaxcounty.gov/planning-development/zoning/application-status>. Similar reports are available through the PLUS system for administrative permits.

20) I already have an approved special permit under the previous Ordinance, and my renewal is coming up. How do these changes affect me?

Special permits approved under the previous Ordinance will continue to remain valid as long as they are renewed in a timely manner and do not expire. You must continue to operate under your previous approval and development conditions unless you apply for an administrative permit or special permit amendment to take advantage of the new standards. For example, if the occupant of your interior ALU is the person satisfying the age or disability requirement, and you wanted to rent the unit to somebody who does not meet the age or disability requirement under your previous approval, you would need to apply for an administrative permit. The ALU would then be subject to all new ALU standards. However, if your unit was a detached ALU on a lot greater than two acres and you wanted to take advantage of the new standards, you would need to amend your special permit, and the approval would also be subject to the new ALU standards.

21) How do I apply for an administrative permit?

[Applications for administrative permits](#) may be made after July 1, 2021. Additional information is posted about how to apply for an ALU through the new online [PLUS system](#).

If you have additional questions, please email zMOD staff at DPDzMODComments@fairfaxcounty.gov. You may also follow us on [Facebook](#).



Accessory Living Units – Previous vs. Adopted zMOD Standards

Previous Accessory Dwelling Unit Regulations								
Age/Disability	Size	Approval Process	Location of Unit	Owner-Occupied	Max # of People	Parking	Renewal	Entrances
55+/ person with a disability	35% of principal structure	Special permit with public hearing	Interior; or Detached with 2+ acres	Either the principal or accessory unit must be owner-occupied	Two	Determined by BZA	Every five years with Zoning Administrator approval	Must be located on side or rear unless BZA approves alternative location
Adopted Accessory Living Unit Regulations								
Age/Disability	Size	Approval Process	Location of Unit	Owner-Occupied	Max # of People	Parking	Renewal	Entrances
No requirement	Interior: 800 SF or 40% of the principal structure, whichever is less; or entire basement or cellar up to the size existing on July 1, 2021 Detached: 1,200 SF	Interior: Administrative Permit or special permit to modify certain standards Detached: No change	No change	No change	No change	Interior: Must provide one additional off-street parking space above minimum required parking Detached: No change	Initial renewal: two years; subsequent renewals up to every five years based on record of compliance	Location on side or rear applies to new entrances Interior: any proposed garage/carport must be located immediately adjacent to any existing garage/carport and use the same driveway