

LEXINGTON PLANNING COMMISSION

May 25, 2023 - 5:00 P.M

**Rockbridge County Administrative Offices – First Floor Meeting Room
150 South Main Street, Lexington, VA 24450**

AGENDA

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**
Minutes from May 11, 2023*
- 4. CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
 - A. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U).
 - 1) Staff Report* and continued Commission Discussion
 - 2) Public Comment
- 6. OTHER BUSINESS**
 - A. Zoning and Planning Report – If applicable
 - B. Key Annual PC Milestones: Ongoing. Remaining items:
 - 1) Zoning Text Amendments: Ongoing. Remaining items:
 - a. Cottage Housing
 - b. What else, if any?
 - 2) Comp Plan Review: Ongoing
 - 3) Major Project Update
- 7. CITY COUNCIL REPORT**
- 8. ADJOURN**

*indicates attachment

MINUTES

The Lexington Planning Commission
Thursday, May 11, 2023 – 5:00 p.m.
Rockbridge County Administrative Offices – First Floor Meeting Room
150 South Main Street, Lexington, VA 24450

Planning Commission:

Presiding: Blake Shester, Chair
 Present: Pat Bradley
 John Driscoll
 Gladys Hopkins (left at 6:15 p.m.)
 Shannon Spencer
 Leslie Straughan, Council Liaison
 Matt Tuchler, Vice-Chair

City Staff:

Arne Glaeser, Planning Director
 Kate Beard, Administrative Assistant

CALL TO ORDER

Chair Shester called the meeting to order at 5:01 p.m. and welcomed Commissioner Gladys Hopkins to the Planning Commission.

AGENDA

J. Driscoll requested an item be added to the Other Business section of the agenda to discuss succession planning for the Commission. The agenda was unanimously approved with that amendment. (J. Driscoll / S. Spencer)

MINUTES

The minutes from the April 27, 2023 meeting were unanimously approved as presented. (L. Straughan / P. Bradley)

CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

NEW BUSINESS

A. ZOA 2023-02: An application by the City of Lexington to amend Article IV. Zoning District Regulations. of the Zoning Ordinance to amend the lot width requirements for multi-family dwelling units.

- 1) Staff Report – A. Glaeser explained that, because the resolution to initiate this amendment was only approved by City Council at its most recent meeting, this public hearing was being held a second time at the City Attorney's request, in order to put the process in proper order. He indicated the staff report was largely the same as it was for the April 13th discussion, with the exception that the staff recommendation was changed to support applying the solution developed and supported by the Planning Commission during the previous discussion. At J. Driscoll's request, A. Glaeser confirmed this was a change to the minimum lot width requirement in the Lot Requirements table that would only affect multi-family dwelling units in the R-M and R-LC zoning districts. Responding to questions from Commissioners Shester and Tuchler, A. Glaeser indicated he did not believe amending the

lot width requirement would necessitate revisiting the CUP application for the Spotswood parcel.

- 2) Public Comment – Tom Contos, 301 McLaughlin Street, spoke about the written comments he submitted prior to the meeting, directing the Commissioners attention to the final page in particular. His comments are attached as Appendix A. Mr. Contos responded to some Commissioners’ questions, suggested eliminating the lot width requirement entirely, and provided information about a legal case involving conditional zoning.

- 3) Commission Discussion & Decision –

B. Shester reminded the Commission that when this amendment was considered on April 13th, the Commission decided to retain both a lot width and a lot area requirement, but to address the mechanism scaling the lot width based on number of units that was unique to Lexington and problematic. He asked that the Commission focus its discussion on that single topic. L. Straughan pointed out that the issue with the lot width became apparent during the Spotswood project approval which was the first multi-family development approved in about 20 years. She advocated for retaining an amended lot width requirement to prevent pipe stem lots, and supported the solution developed at the April 13th meeting. Following additional discussion about pipe stem lots and family subdivisions, J. Driscoll voiced support for amending the lot width requirement, as recommended at the April 13th meeting, and prioritizing a review of all of the City’s lot requirements over all other zoning ordinance amendments. S. Spencer agreed. P. Bradley indicated he had not come to grips with the purpose of the width requirement and added he believed that if a multi-family development came in as a conditional use permit, this amendment might not make a difference, given the considerational factors for the approval of a CUP. He added that for there to be much infill development in Lexington, given the way the city is laid out, it would likely have to be through pipe stem lots. He suggested it might be worthwhile as a legal question to determine whether a conditional use permit gives the ability to ignore established zoning. **S. Spencer moved to approve ZOA 2023-02 to amend Article IV Section 6. Lot Requirements such that the minimum lot width requirement for multi-family dwelling units in the R-M and R-LC zoning districts is 100 feet. L. Straughan seconded and the motion passed unanimously. (7-0)** Chair Shester concluded the discussion by stating that taking a closer look at all of the Lot Requirements may be warranted.

B. Amendments to the By-laws of the Lexington Planning Commission

- 1) Staff Report and Commission Discussion – Director Glaeser directed the Commission’s attention to a hand out provided at the start of the meeting containing the amendments to the by-laws recommended by the City Attorney and Planning Director, as well as some additional amendments proposed by Commissioner Driscoll earlier in the day. He explained the proposed amendment to the Conflicts of Interest section was recommended by the City Attorney so as to conform to Virginia Code and the amended Lexington City Council Code of Ethics. He also recommended an addition to the by-laws to specify the edition of Robert’s Rules of Order used by the Commission for parliamentary procedure. He then pointed out the changes to the Purpose section proposed by J. Driscoll. He noted

the City Code citations should be updated and suggested Commissioner Driscoll explain his suggested text amendments. J. Driscoll suggested adding text specifically empowering the Commission to make amendments to the Subdivision and Zoning Ordinances and to add language enlarging the description of the Commission's role with respect to the Comprehensive Plan. Responding to a question from L. Straughan, A. Glaeser confirmed the zoning ordinance and Virginia Code give the Commission authority to initiate a zoning ordinance amendment, but noted the subdivision ordinance only specifies that it can be amended, in accordance with three sections of the state code, by City Council. He also noted §10-7 of the Lexington City Code lays out the Commission's specific responsibilities with respect to the Comprehensive Plan, and he cautioned against elaborating on these in the by-laws. J. Driscoll reported on research he had done on the purpose section in by-laws of other jurisdictions and suggested the Commission consider amendments to the purpose section at its next meeting, after additional research could be completed. After additional discussion, **P. Bradley moved to amend the By-laws of the Lexington Planning Commission as follows: 1) Article II. Section 2.(a) - change the chapter citation to 360 and add the clause *and with regard to applications for amendments to the existing ordinance*; 2) Section 2.(b) – change the chapter citation to 420 and add the clause *and amendments to the existing ordinance*; 3) Section 2.(c) – change the section citation to 10-7 and add the sentence *Make recommendations to City Council on revisions, updates, and adoption of the Comprehensive Plan in accordance with Section 10-7 of the City Code*; 4) Article IV. Section 1.(e) as presented; and 5) Section 1.(h) as presented. J. Driscoll seconded and the motion passed unanimously. (6-0)**

C. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U.)

M. Tuchler moved to table this item until the next meeting of Planning Commission on May 25, 2023. S. Spencer seconded and the motion passed unanimously. (6-0)

OTHER BUSINESS

A. Zoning and Planning Report – Director Glaeser reported the following:

- He worked with a kayak rental company on the location and size of two signs in Jordans Point Park for that new rental operation.
- He attended a CSPDC meeting regarding a regional application for an electric vehicle charging station grant. Lexington will join the regional application for which there will be additional grant rounds in the next three years.
- He attended a Public Works meeting with one of their on-call consultants who will help with the T.A.P. grant applications to implement portions of the Bike/Ped Plan.

Due to the recent number of lengthy written comments submitted the day before or day of a meeting, Director Glaeser requested the Commission consider setting a deadline for submissions to be forwarded to Commissioners prior to a meeting. He said any comments submitted after the deadline would still be printed and made available at the meeting, and members of the public would be encouraged to attend the meeting and speak during the public

comment section. There was general agreement to establish a deadline of 4:00 p.m. on the Tuesday prior to a meeting, after which written comments could not be guaranteed to be forwarded for review prior to the Thursday meeting. Chair Shester emphasized that all public comment was welcome and encouraged.

- B. Planning Commission future composition – J. Driscoll noted there would be at least one vacancy on the Commission at the end of July and encouraged his fellow Commissioners to recruit new members.

CITY COUNCIL REPORT -

L. Straughan reported that at its meeting on May 4th, City Council passed the budget and the Capital Improvement Plan.

ADJOURN

The meeting was adjourned at 6:47 pm with unanimous approval. (P. Bradley / S. Spencer)

B. Shester, Chair, Planning Commission

City of Lexington, VA Zoning Ordinance - Lot Requirements

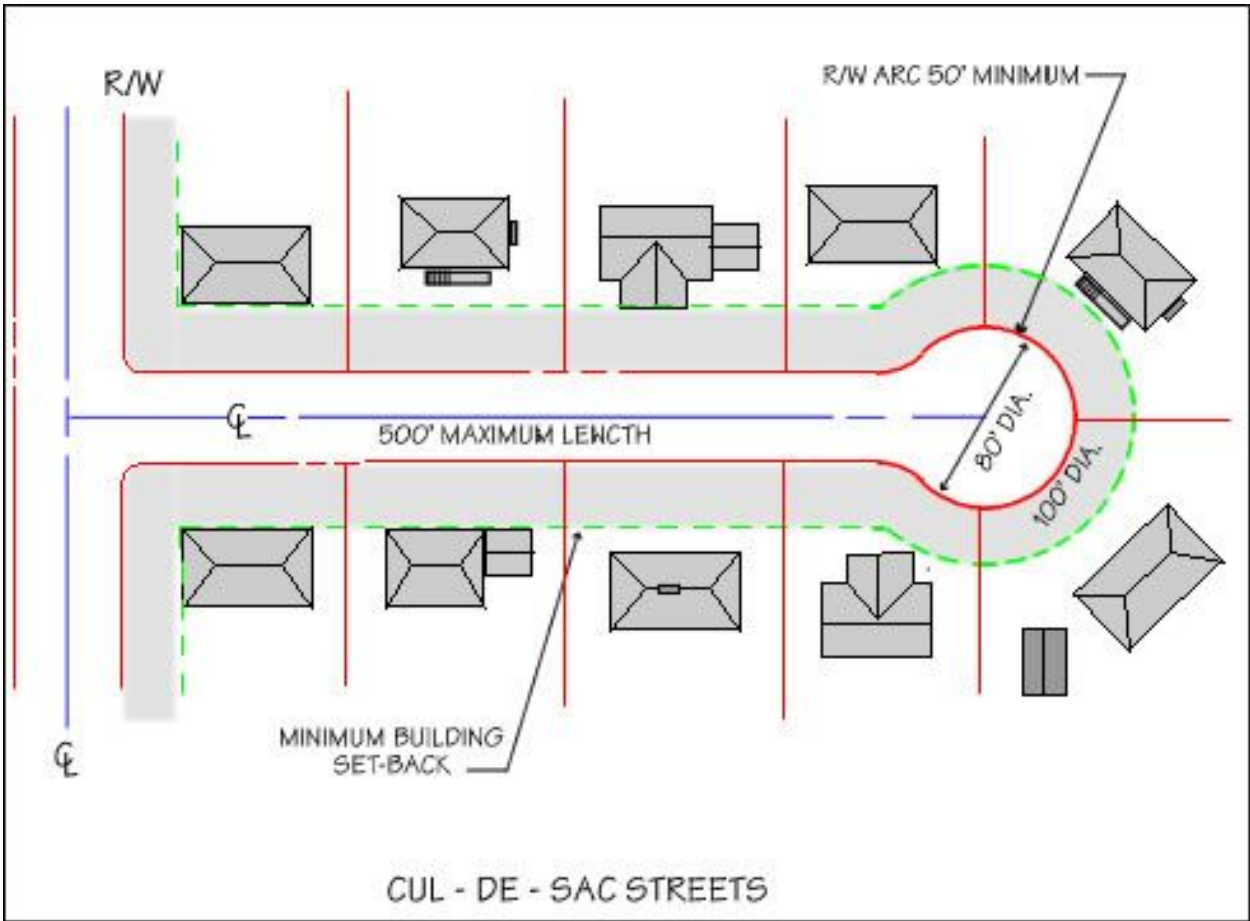
Dear Planning Commission,

I made these notes on Lexington’s lot requirements for my own understanding, and would like to share them with all of you to confirm that everyone is on the same page in reading our lot requirements. I not advocating for any particular position or changes in the ordinance.

Thank you, Tom Contos - Architect

Lot term definitions:

Lot Width - “Lot Width” is not what we ordinarily think of as “width”, but represents *the length of the line or curve that defines the front setback for a lot*. In the illustration below, it is the dotted green line which curves with the adjacent street. It can be considered a proxy for street frontage.





Housing with high lot width requirement



Housing with low lot width requirement

What is its purpose of a lot width/street frontage requirement? It can be an urbanistic strategy that prioritizes the development of strong streetscapes. When buildings relate closely to the life of the street, they contribute to urban life, and they optimize the provision of services, utilities, fire-fighting etc.

When developments are turned perpendicular to the street, they create private access drives that tend to isolate the residents and exclude their neighbors. Smaller developments will benefit from a strong lot width requirement, while large developments by their nature may be more internally-focused under the flexibility of a PUD (Weatherburn).

Lot Area:

“Lot area” is the gross square footage of the lot *minus the area of any land subject to major utility easements or flooding*. The purpose of this requirement is to enable land to be bought and sold with some degree of predictability about its development potential and the future character of the neighborhood. It is generally derived empirically by looking at the existing character/density of a neighborhood and adjusting it gradually, if needed, over time. The development potential of land is a strong driver of its value. When we decrease the required lot areas, we increase the development potential and value of land, and while the original owner at the time of up-zoning reaps a windfall, subsequent buyers will pay a premium for the land.

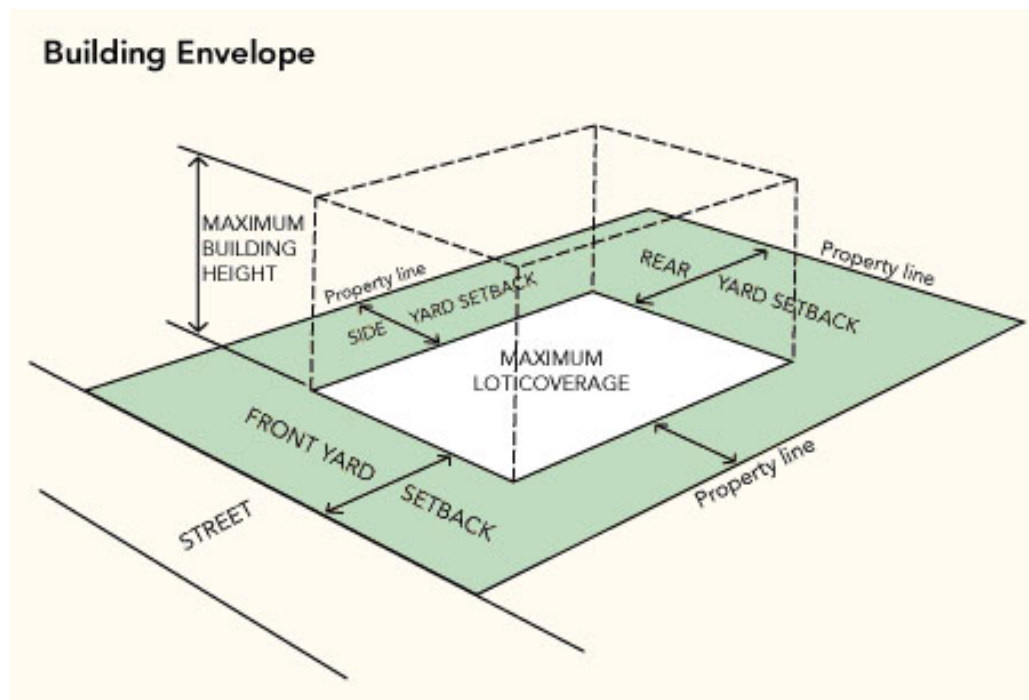
The lot requirement matrix:

For brevity, the zoning ordinance uses a text format and abbreviates some of the requirements, such as “20 feet each unit”, but a better tool for discussion is to unpack the requirements into a spreadsheet format - eliminating the confusion that can arise from the idea of “formulas”. On the following pages are excerpts of Lexington’s existing lot requirements in both formats. The original format is more compact, but the “unpacked” version is an easier tool for discussion. (The three columns to the right are added as commentary.)

Viewed as a coherent whole, these lot size requirements establish what constitutes a “conforming” lot and building for various uses and numbers of units. Again, they serve to create a predictable and fair market for the trading of real estate, since the development potentials of land are made clear to both buyer and seller.

For instance, a lot containing five townhouses must be 12,000 square feet in area, have 120 feet of street frontage width, and fit the townhouses within the required setback and height envelope. In very limited circumstances the Board of Zoning Appeals (and not Council) can give relief from these requirements upon appeal.

Some cities adopt “density limits” to place a ceiling on building lot coverage or number of units. The common types of density limits are DUA (dwelling units per acre) caps, or FAR (floor-area ratio) limits. As noted by the planning commission and city staff in their March 24, 2022 discussion, Lexington does not have “density limits” as such; the number of units and square footage allowed result solely from the unique characteristics of a particular lot when the lot requirements have been applied.



In this building envelope diagram, the property owner can “fill” the envelope - but if we imposed a FAR limit of 0.25 it would limit the building square footage to 1/4 of the lot area, potentially leaving the envelope “unfilled”. Similarly, if the city were to adopt a DUA limit of 23 DUA, only multi-family projects with 11 or more units would experience a density limitation.

R-LC	Residential use: 8,000 sq. ft.; Two-family dwellings-12,000 sq. ft.; Multi-family-10,000 sq. ft. plus 1,500 sq. ft. for each unit in excess of 4; Townhouses - 2,400 sq. ft. per unit; Non-residential: 8,000 s.f.	Residential uses: 60 feet; Two-family dwellings-80 feet; Townhouses-20 feet each unit; Multi-family-50 feet plus 10 feet for each unit above 4; Non-residential: 60 feet	35 feet, except dwellings may be increased up to 45 feet, provided that each side yard is 20 feet, plus at least one foot for each additional foot of building height over 35 feet.	25 feet	Residential uses: 10 feet, or 20 feet for multi-family Non-residential: 10 feet	Residential uses: 25 feet, or 30 feet for multi-family Non-residential: 25 feet
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Lexington Zoning Ordinance - Lot Requirements											
Use	Number of Units	Lot Area	Lot Width	Front Setback	Side Setback	Rear Setback		Number of Buildings	Effective Density	DUA Limit?	
Single Family	1	8000	60	25	10	25		1 max	always 1	1	
Two Family	2	12000	80	25	10	25		1 max	always 1	1	
Townhouse	3	7200	60	25	10	25		1	18.2	none	
	4	9600	80	25	10	25		1	18.2	none	
	5	12000	100	25	10	25		1	18.2	none	
	6	14400	120	25	10	25		1-2	18.2	none	
	7	16800	140	25	10	25		1-2	18.2	none	
	8	19200	160	25	10	25		1-2	18.2	none	
	9	21600	180	25	10	25		2 min	18.2	none	
	10	24000	200	25	10	25		2 min	18.2	none	
	11	26400	220	25	10	25		2 min	18.2	none	
	12	28800	240	25	10	25		2 min	18.2	none	
	up to - unlimited									always 18.2	
	Multi-Family	3	10000	50	25	20	30		1	13.1	none
4		10000	50	25	20	30		1	17.4	none	
5		11500	60	25	20	30		1	18.9	none	
6		13000	70	25	20	30		1-2	20.1	none	
7		14500	80	25	20	30		1-2	21.0	none	
8		16000	90	25	20	30		1-3	21.8	none	
9		17500	100	25	20	30		1-3	22.4	none	
10		19000	110	25	20	30		1-3	22.9	none	
11		20500	120	25	20	30		1-3	23.4	none	
12		22000	130	25	20	30		1-4	23.8	none	
up to - unlimited										up to - unlimited	
Single family - limited to one per parcel regardless of parcel size and width						Lot Area is the parcel size <i>subject to deductions for utility easements etc</i>					
Single family attached - two single family units attached but on two parcels						Residential density is the number of units per acre rounded up to the next whole number					
Two family - two units on one parcel						Lot width is the length of the line which defines the front setback of the parcel					
Townhouse -a row of 3 to 8 attached single-family						(not necessarily a straight line)					
Multi-family - 3 or more units											

Draft amendments for Accessory Dwelling Units

Proposed Amendments to the Zoning Chapter (*Chapter 420*)

The Lexington Planning Commission is considering a zoning text amendment to potentially allow accessory dwelling units in accessory structures in accordance with strategy HO 1.2 from the Comprehensive Plan. That strategy directs us to review regulations allowing accessory dwelling units in separate structures in appropriate residential areas. Currently, Accessory Apartments are defined in the Zoning Ordinance as a residential use having the external appearance of a single-family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet. The current definition does not allow accessory dwelling units to be located in accessory structures that are detached from the main dwelling unit. The purpose of this zoning text amendment is to explore whether accessory dwelling units can be allowed in accessory structures while not creating negative impacts to our neighborhoods.

In this report, staff is proposing a draft outline for the accessory dwelling unit zoning text amendment in an effort to guide the discussion. The following outline is pulled primarily from the *AARP ADU Model State Act and Local Ordinance* and is modified to fit the format of the existing Lexington Zoning Ordinance.

The February 9, 2023 Planning Commission discussion regarding the definition of an accessory dwelling unit raised a number of questions about maximum occupancy, parking requirements, and size limits for accessory dwelling units. In response to that portion of the discussion, staff thought it helpful to provide two examples of accessory dwelling regulations from two other Virginia jurisdictions to show the overall structure of those regulations and how the use and design standards can be organized. Included in the attached “background” document are the accessory dwelling regulations from Arlington and Charlottesville, as well as a zoning map for Lexington.

For the Planning Commission discussion on April 13, 2023, staff recommends the Planning Commission continue with short term rentals, separate sale of ADUs, etc. Subsequent meetings will generally follow the proposed outline and staff will continue to provide examples from other ADU ordinances for each item in the outline.

Article XI. Use and Design Standards.

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

§420-11.1. Residential Uses.

1. Accessory Dwelling Units.

- A. Purpose
- B. Definitions
- C. Authorization of ADUs by zoning district
- D. Number of ADUs allowed per lot in Single-Family Zones
- E. General Standards
 - 1. Minimum Lot Size in Single-Family zones
 - 2. Types of Structures
 - 3. Size of ADUs
 - ~~4. Lot Coverage Limits~~
 - 5. ADU Setbacks
 - ~~6. Floor Area Ratios~~
 - 7. ADU Height Limit
 - 8. Architectural Consistency and Design Review
 - 9. Orientation of Entrance
 - ~~10. ADU Screening, Landscaping and Orientation~~
 - 11. Parking Requirements
 - 12. Short-Term Rentals
 - 13. Separate Sale of ADUs
 - 14. Owner Occupancy (Residency) Standards
 - 15. Other Common Standards Not Recommended for Application to ADUs
- F. Utility Connections and Building Codes
 - 1. Utility Connections
 - 2. Local Building Codes
- G. ADU Application and Review Procedures
 - 1. Application Process
 - 2. Clear and Objective Versus Discretionary Standards
 - 3. Review Procedures
 - 4. Appeals of ADU Decisions
- H. Fees
- I. Legalizing ADUs

A. Purpose

In Lexington, accessory dwellings are intended to provide additional housing options in the City ~~for the benefit and convenience of families and households with changing economic conditions and/or family structure.~~ Accessory dwellings are expected to increase housing opportunities for individuals and households who might have difficulty finding housing in Lexington. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance.

B. Definitions

ACCESSORY DWELLING UNIT - ATTACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

ACCESSORY DWELLING UNIT – DETACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

C. Authorization of ADUs by zoning district

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential- Light Commercial	C-1, Central Business District	C-2, General Commercial District
<i>B = By-right uses, C = Conditional uses</i>								
Use Types								
Residential								
Accessory apartment (interior)			B	B	B	B	B	
Accessory apartment (detached)			C	C	C	C		
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B ¹ , C ²	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		

D. Number of ADUs allowed per lot

No more than one per lot, provided the parcel meets the minimum lot size and the structure meets the minimum setback requirements for the district.

E. General Standards

1. Minimum Lot Size

- a) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling.
- b) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.
- c) The underlying zoning district development standards for lot coverage, height, setbacks and floor area ratio that apply to the primary dwelling shall also include the accessory apartment in the calculation of these standards.

2. Types of Structures

A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit are permitted.

3. Size of ADUs

- a) *Accessory dwelling unit – attached.* The gross floor area of an attached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located nor more than the total of 750 square feet.
- b) *Accessory dwelling unit – detached.* The gross floor area of a detached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the primary dwelling on the property nor more than the total of 800 square feet. Additionally, detached accessory buildings and structures cumulatively shall not occupy more than ~~2~~ (2) percent of a rear yard.

~~4. Lot Coverage Limits~~

5. ADU Setbacks

Any detached accessory building approved after July 1, 2023, containing an accessory dwelling shall comply with setbacks as follows:

- (1) For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen (or ten) feet to a side lot line or fifteen feet to a rear lot line;
- (2) For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty (or fifteen) feet to a side lot line or twenty feet to a rear lot line; and

- (3) When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley or side street.

(Staff notes we will also need to determine if an ADU can be installed in a structure that is nonconforming with respect to setbacks, and if so, what are the restrictions on the expansion of that nonconforming structure?)

~~6. Floor Area Ratios~~

7. ADU Height Limit

Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

8. Architectural Consistency and Design Review

A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.

9. Orientation of Entrance

No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley. No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to the date of the adoption of this ordinance.

~~10. ADU Screening, Landscaping and Orientation~~

11. Parking Requirements

a) **Sample #1**

1. If no parking spaces exist prior to an application for approval of an ADU, 1 space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
2. Where either 1 or 2 spaces exist prior to issuance of the accessory dwelling permit, all such space(s) shall be maintained.
3. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

b) **Sample #2**

1 per accessory dwelling unit in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.

12. Short Term Rentals

One short term rental is allowed per parcel.

13. Separate Sale of ADUs

The separate sale of an accessory dwelling unit is prohibited.

14. Owner Occupancy (Residency Standards)

The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.

15. Other Common Standards Not Recommended for Application to ADUs

Accessory dwellings shall not be included in calculations of density.

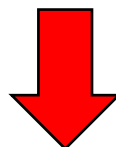
F. Utility Connections and Building Codes

1. Utility Connections

An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single-family home.

2. Local Building Codes

Must comply with all applicable building code regulations.



Continue with 5.25.2023
P.C. discussion here

G. Nonconformities

1. Illegal accessory apartments in detached structures must be approved by a conditional use permit and must meet all code requirements.

a) Sample from Roanoke City

If it is an illegal non-conforming structure, the property owners are required to go through the special exception process. *(A special exception is the same as our conditional use.)*

2. Don't allow accessory apartment in existing accessory structures that do not meet lot requirements (lot size, lot width, front/side/rear yard setbacks).

a) Sample from Bedford County

An accessory apartment may be permitted in a building other than the principal building provided:

- a) the parcel meets the minimum lot size requirement for the district in which it is located.
- b) the building in which it is located complies with all setback requirements for a principal building.

3. Allow accessory apartments in existing, legal, nonconforming structures (if the structure can be shown to be a legal nonconformity).

a) Sample from Arlington County

Accessory dwellings shall be located in accordance with all requirements of Article 3 Density and Dimensional Standards, provided, however, accessory dwellings shall be allowed within a nonconforming dwelling or detached accessory building, in accordance with all requirements of Article 16 Nonconformities. In addition, accessory dwellings shall be subject to the following limitations:

- (a) Detached accessory buildings existing prior to May 18, 2019, may be altered to make interior alterations, whether structural or non-structural, in accordance with all requirements of Article 16, to create an accessory dwelling.
- (b) Any detached accessory building approved after May 18, 2019, containing an accessory dwelling shall comply with all requirements of Article 3, and with setbacks as follows:
 - (1) On interior lots, the nearest wall of the accessory building shall not be located closer than five feet to a side or rear lot line;
 - (2) On corner lots, the nearest wall of the accessory building shall not be located closer than five feet to any side lot line, and the nearest edge of the eave of the accessory building shall not be located closer than 10 feet to any rear lot line; and
 - (3) The nearest wall of the accessory building shall not be located closer than 25 feet from any street or officially designated street right-of-way line. (c) Detached accessory buildings approved after May 18, 2019, containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

b) Sample from Loudon County

A structure existing prior to January 7, 2003, that is:

- 1) located within a County Historic Site (HS) District or Historic and Cultural Conservation (HCC) District under Section 6-1800 et seq.;
- 2) listed or eligible for listing in the Virginia Landmarks Register (VLR) or the National Register of Historic Places (NRHP); or
- 3) listed or eligible for listing as a contributing resource to a VLR or NRHP listed or eligible Historic District, may be used as an accessory dwelling and shall be exempt from the floor area and minimum lot area requirements specified above, provided that any expansion or enlargement of such structure shall not exceed 15% of the total floor area existing prior to January 7, 2003. Documentation shall be provided to the Zoning Administrator demonstrating that the Virginia Department of Historic Resources has confirmed the listing or eligibility of structures.

c) Sample from Fauquier County

Where located in the RA or RC districts on a lot at least five acres in size and where a legally existing dwelling unit built before 2013 is being converted into an ADU, the unit may contain up to 1,400 square feet, or square footage of existing unit, whichever is less.

H. Additional items to consider

a) Sample from Fauquier County

5-104 Standards for an Administrative Permit for an Accessory Dwelling Unit

7. For purposes of this provision, square feet shall be calculated as the sum of the total horizontal areas of all floors of the building, measured from the interior faces of exterior walls. Rooms with structural headroom of less than 6' 6" shall not be counted, nor shall garage space, provided the area of the garage does not exceed the counted floor area. Covered porches, balconies, etc. shall not be counted unless they are enclosed, but shall not exceed 50 percent (50%) of the area of the counted floor area. (staff likes this language to specify what is included in allowed s.f.)

Reiterate the accessory cannot be constructed without the primary dwelling existing on the parcel.

§420-11.1. Residential Uses.

1. Accessory Dwelling Unit (ADU).

A. Purpose. In Lexington, accessory dwellings are intended to provide additional housing options ~~in the City for the benefit and convenience of families and households with changing economic conditions and/or family structure.~~ Accessory dwellings are expected to increase housing opportunities for individuals and households who might have difficulty finding housing in Lexington. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance

B. Definitions. The following words and phrases, as used in this subsection, shall have the following meanings:

“Accessory Dwelling Unit - Attached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

“Accessory Dwelling Unit - Detached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

C. General standards. Accessory Dwelling Units shall be subject to the following minimum standards:

- (1) No more than one ADU shall be allowed per parcel, provided the parcel meets the minimum lot size and the structure meets the minimum setback requirements for the district.
- (2) The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.
- (3) Any accessory dwelling units shall comply with the following parking requirements:
 - i. If no parking spaces exist prior to an application for approval of an ADU, 1 space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
 - ii. Where either 1 or 2 spaces exist prior to the issuance of the accessory dwelling permit, all such space(s) shall be maintained.
 - iii. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

OR

- (3) One parking space per accessory dwelling unit shall be required in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.
 - (4) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling.
 - (5) The underlying zoning district **development standards** for lot coverage, height, setbacks and floor area ratio that apply to the primary dwelling shall also include the accessory dwelling unit in the calculation of these standards.
 - (6) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.
 - (7) Only one short term rental registration shall be allowed per parcel.
 - (8) **Accessory dwelling units shall not be included in calculations of density.**
 - (9) Accessory dwelling units must comply with all applicable building code regulations.
 - (10) The separate sale of an accessory dwelling unit is prohibited.
- D. Accessory Dwelling Unit – Attached standards. Attached Accessory Dwelling Units shall be subject to the following additional standards:
- (1) The gross floor area of an attached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located nor more than the total of 750 square feet.
 - (2) No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley.
- E. Accessory Dwelling Unit – Detached standards. Detached Accessory Dwelling Units shall be subject to the following additional standards:
- (1) The gross floor area of a detached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the primary dwelling on the property nor more than the total of 800 square feet. Additionally, detached accessory buildings and structures cumulatively shall not occupy more than **??** percent of a rear yard.
 - (2) Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1 ½ stories in height.
 - (3) Any detached accessory building approved after _____, containing an accessory dwelling shall comply with setbacks as follows:

- i. For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen (or ten) feet to a side lot line or fifteen feet to a rear lot line;
 - ii. For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty (or fifteen) feet to a side lot line or twenty feet to a rear lot line; and
 - iii. When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley or side street.
- (4) No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to the date of the adoption of this ordinance.
 - (5) A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.
 - (6) An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single family home.
 - (7) A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit is permitted.
- F. Administration.