

AN ORDINANCE TO AMEND ARTICLES III, IV, XI AND XX OF THE CITY OF LEXINGTON ZONING ORDINANCE TO AMEND ACCESSORY APARTMENTS TO ALLOW AND PROVIDE STANDARDS FOR ATTACHED AND DETACHED ACCESSORY DWELLING UNITS

WHEREAS, the Planning Commission and Mayor and City Council have determined that the regulations allowing accessory dwelling units in separate structures in appropriate residential areas should be reviewed as directed by strategy HO 1.2 of the Lexington Comprehensive Plan; and

WHEREAS, this Ordinance amending the Zoning Ordinance was properly initiated by motion of the Planning Commission, as required by Virginia Code § 15.2-2286(A)(7); and

WHEREAS, the applicable provisions of Title 15.2 of the Code of Virginia and § 420-17 of the Zoning Ordinance pertaining to the procedure by which amendments to the Zoning Ordinance are to be considered have been followed, including, but not limited to, the proper advertisement and notice of public hearings on the proposed amendment, and consideration of the amendment by the Planning Commission with a recommendation forwarded therefrom; and

WHEREAS, the Mayor and City Council have carefully considered the proposed amendments, the recommendation from the Planning Commission and testimony received at public hearings, and find that the proposed amendments are required by public necessity, convenience, general welfare and good zoning practice, consistent with § 15.2-2286(A)(7), and will serve to promote the health, safety and general welfare of the inhabitants of the City;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Mayor and Council of the City of Lexington, Virginia, pursuant to their authority, that the following amendments to the City’s Zoning Ordinance be adopted:

1.

Article III. Use Matrix §420-3. Use Matrix of the Lexington City Code, to be amended by the addition of the following terms and associated definitions, to be incorporated in said Section in their respective alphabetical order:

§420-3. Use Matrix. Residential.

Replace *Accessory Apartment* use with *Accessory Dwelling Unit – Attached*.

Add *Accessory Dwelling Unit – Detached* to be allowed conditionally in the R-1, R-2, R-M, and R-LC zoning districts.

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3 §420.-4.6. Lot Requirements.

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
R-1	8,000 sq. ft.; 12,000 sq. ft. for two-family dwellings	60 feet; 80 feet for two-family dwellings	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet; 25 feet for detached accessory dwelling units ¹	15 feet	10 feet ¹	25 feet for main buildings; 5 feet for accessory buildings; Detached accessory dwelling units – 15 feet, or 10 feet when abutting an alley ¹
R-2	15,000 sq. ft.	80 feet	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet; 25 feet for detached accessory dwelling units ¹	25 feet	15 feet ¹	25 feet for main buildings; 5 feet for accessory buildings; Detached accessory dwelling units – 20 feet, or 10 feet when abutting an alley ¹
R-M	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	60 feet; Two- family dwellings-80 feet; Townhouses-20 feet each unit; Multi-family- 100 feet	45 feet; 25 feet for detached accessory dwelling units ¹	25 feet	10 feet; 20 feet for multi- family	25 feet; 30 feet for multi-family

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
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-100 feet; 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 for detached accessory dwelling units ¹	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
C-1	None	None	45 feet; public and governmental buildings up to 60 feet w/CUP	None	10 feet when abutting a residential district	10 feet when abutting a residential district
C-2	None	None	45 feet	30 feet	30 feet when abutting a residential district	30 feet when abutting a residential district
PD-MU	3 acres		see §420-5.10		for setbacks see §420-5.9	
POS	0 sq. ft.	0 feet	15 feet; 35 feet if ≥ 10 feet from a property line	5 feet ²	5 feet ²	5 feet ²

1 ¹Standards for accessory dwelling units located in legal nonconforming accessory buildings can be found at §240-11.1.8.

2 ²Structures located in designated cemeteries and designed to contain human remains, such as but not limited to, mausoleums, columbaria, crypts, and niche walls, are not subject to P-OS yard setback regulations.

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Article XI. Use and Design Standards

§420-11.1. Residential Uses.

1. Accessory Dwelling Unit (ADU).

A. Purpose. In Lexington, accessory dwellings are intended to provide additional housing options. Accessory dwelling units (ADUs) increase options for households with changing family structures, and they can generate supplemental income to homeowners, helping increase housing affordability for owners and renters alike. These requirements formally recognize previously established apartments, and they 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. An accessory dwelling unit cannot be constructed without the primary dwelling existing on the parcel.
2. No more than one ADU shall be allowed per parcel containing a primary dwelling.
3. Accessory dwelling units must comply with all applicable and current building code regulations.

- 1 4. Unless otherwise provided in § 420-4.6, the parcel must meet the
2 minimum lot requirements for a single family residence in the zoning
3 district.
- 4 5. Accessory dwelling units may be created within or attached to an
5 existing primary dwelling located on a lot that is smaller than the
6 minimum lot size and/or narrower than the minimum lot width provided
7 the lot is a lot of record (i.e. legally nonconforming).
- 8 6. The owner of the principal building or lot shall be the occupant of the
9 principal dwelling or of the accessory dwelling unit.
- 10 7. The separate sale of an accessory dwelling unit is prohibited.
- 11 8. Allowable square feet for accessory dwelling units shall be calculated
12 as the sum of the total horizontal areas of all floors of the building,
13 measured from the interior faces of exterior walls. Rooms with
14 structural headroom of less than 6' 6" shall not be counted, nor shall
15 garage space, provided the area of the garage does not exceed the
16 counted floor area. Covered porches, decks, balconies, etc. shall not
17 be counted unless they are enclosed, but shall not exceed 50 percent
18 (50%) of the area of the counted floor area.
- 19 9. Any accessory dwelling units shall comply with the following parking
20 requirements:
 - 21 a. If no parking spaces exist prior to an application for approval of an
22 ADU, 1 off-street space shall be created, provided, however, that if
23 an applicant can demonstrate to the Zoning Administrator that
24 adequate on-street parking exists on the block on which the main
25 dwelling is located, such new space may not be required.
 - 26 b. Where either 1 or 2 spaces exist prior to the issuance of the
27 accessory dwelling permit, all such space(s) shall be maintained.
 - 28 c. Where more than 2 spaces exist prior to issuance of the accessory
29 dwelling permit, at least two spaces shall be maintained.
- 30 10. Notwithstanding any provision in § 420-11.3.22. of the City Code to the
31 contrary, a primary dwelling or accessory dwelling unit on a lot may be
32 used as a short term residential rental business as follows:
 - 33 a. Only one short term rental unit shall be allowed per parcel. The unit
34 must be registered as a short term residential rental business as
35 required by § 420-11.3.22 of the City Code.
 - 36 b. If the Host under § 420-11.3.22.A. is the lot owner, then (1) the lot
37 owner must occupy the primary dwelling or the accessory dwelling
38 unit as his or her principal place of residence and domicile as
39 required in § 420-11.3.22. and (2) the registered short term rental
40 unit must be used as a short term residential rental business as
41 required in § 420-11.3.22.

- 1 unit may be located in either the primary dwelling or the accessory
2 dwelling unit.
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- 4 c. If the Host under § 420-11.3.22.A. is a long-term lessee rather than
5 the lot owner, then (1) the lot owner must occupy either the primary
6 dwelling or the accessory dwelling unit as required by § 420-
7 11.1.C.6., (2) the Host must occupy the other dwelling unit as his or
8 her principal place of residence and domicile as required in § 420-
9 11.3.22., and (3) the Host's dwelling must be the location of the
10 registered short term rental unit.
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- 12 d. A short term rental unit located in the primary dwelling may be used
13 either as a Type A or Type B short term rental business. A short
14 term rental unit located in an accessory dwelling unit may be used
15 only as a Type B short term rental business.
16
- 17 e. The Host of a short term rental unit that is located in an accessory
18 dwelling unit, is subject to this subsection, and is located in the R-1,
19 R-2, or R-M residential zoning district may not rent the unit for more
20 than forty-five (45) nights in each calendar year.
21
- 22 f. The Host must comply with all other applicable requirements of §
23 420-11.1.1 and § 420-11.3.22.
- 24 D. Accessory Dwelling Unit – Attached standards. Attached Accessory
25 Dwelling Units shall be subject to the following additional standards:
- 26 1. The gross floor area of an attached accessory dwelling unit may not
27 exceed fifty (50) percent of the gross floor area of the principal
28 structure in which it is located.
- 29 2. No attached accessory dwelling unit with an entrance above the first
30 floor shall have exterior stairs to that entrance on the side of the lot
31 fronting a street. Accessory dwelling units facing an alley as
32 determined by the Zoning Administrator may have external stairs on
33 the side of the lot facing the alley.
- 34 E. Accessory Dwelling Unit – Detached standards. Detached Accessory
35 Dwelling Units shall be subject to the following additional standards:
- 36 1. The maximum gross floor area of a detached accessory dwelling unit
37 shall be as follows:
- 38 a. If the gross floor area of the primary dwelling on the property
39 exceeds 1,000 square feet, the gross floor area of a detached
40 accessory dwelling unit may not exceed sixty (60) percent of the
41 gross floor area of the primary dwelling nor more than 1,000 square
42 feet.

- 1 b. If the gross floor area of the primary dwelling on the property is less
2 than 1,000 square feet, the gross floor area of a detached
3 accessory dwelling unit may not exceed 600 square feet.
- 4 2. Detached accessory buildings containing accessory dwellings shall
5 exceed neither 25 feet in height nor 2 stories in height.
- 6 3. Any detached accessory building approved after February 1, 2024,
7 containing an accessory dwelling shall comply with setbacks as
8 follows:
 - 9 a. For lots in the R-1 zoning district, the nearest wall of the accessory
10 building shall not be located closer than ten feet to a side lot line or
11 fifteen feet to a rear lot line;
 - 12 b. For lots in the R-2 zoning district, the nearest wall of the accessory
13 building shall not be located closer than fifteen feet to a side lot line
14 or twenty feet to a rear lot line; and
 - 15 c. When the rear lot line runs along an alley, the minimum rear yard
16 setback for a detached accessory dwelling unit shall be ten feet.
- 17 4. No detached accessory dwelling unit with an entrance above the first
18 floor shall have exterior stairs to that entrance on the side of the lot
19 fronting a street unless the accessory building was built prior to
20 February 1, 2024.
- 21 5. A detached accessory dwelling unit located in the Residential Historic
22 District must be reviewed by the Architectural Review Board for
23 consistency with the Historic District Design Guidelines.
- 24 6. An accessory building in which the accessory dwelling unit is located
25 shall not be required to be separately metered for utilities from the
26 principal single family home.
- 27 7. A modular dwelling affixed to a permanent foundation may be used as
28 an accessory dwelling unit in any zoning district in which an accessory
29 dwelling unit is permitted.
- 30 8. Detached nonconforming accessory buildings existing prior to February
31 1, 2024, may be altered structurally or non-structurally, in accordance
32 with all requirements of Article 16, to create an accessory dwelling
33 provided the detached accessory dwelling unit can meet the following
34 additional requirements:
 - 35 a. A nonconforming structure shall not be extended or enlarged.
 - 36 b. The maximum square footage of the detached accessory dwelling
37 unit may not exceed that of the main dwelling.
 - 38 c. Fenestration, including bay window encroachments, or
39 mechanical/HVAC units must be at least 5 feet from the property
40 line and in accordance with Section 420-4.2 unless it is located on a
41 wall facing an alley or side street.

- 1 d. Exterior doors must be at least 5 feet from the property line
2 adjacent to an alley or side street and at least 10 feet from the
3 property line in all other cases.
- 4 e. There is no maximum height limit on a nonconforming accessory
5 structure to be used as a detached accessory dwelling unit,
6 however no additional height may be added to such a structure.
- 7 f. Except as otherwise provided in Section 420-16-1.C, a
8 nonconforming accessory building may be changed to the
9 accessory dwelling use in compliance with the standards contained
10 in this section.

11 9. Notwithstanding any provision in Chapter 403, Water and Sewers, of
12 the City Code to the contrary, no “detached accessory dwelling unit”
13 under this Article shall be required to have a separate water meter;
14 provided, however, the water and sewer connections for the “detached
15 accessory dwelling unit” shall meet the following requirements:

- 16 a. The water line servicing the “detached accessory dwelling unit”
17 must be connected after the single water meter serving the property
18 but before the water regulator serving the primary dwelling;
- 19 b. The water line servicing the “detached accessory dwelling unit”
20 must have its own dedicated water regulator;
- 21 c. If the aggregate fixture count for the primary dwelling and the
22 “detached accessory dwelling unit” exceeds 42 fixtures, then the
23 single water meter serving the property and the service line must be
24 upgraded to 1”; and
- 25 d. The sewer line for the “detached accessory dwelling unit” must
26 connect to the primary dwelling’s sewer line on the subject parcel
27 with a cleanout being installed at the connection point.

28 Nothing in this section will preclude an owner from connecting a
29 detached accessory dwelling unit’s water or sewer service directly to
30 the City’s water main or sewer line, provided the owner pays the
31 requisite connection charges. In addition, all owners of detached
32 accessory dwelling units (whether or not connected directly to the
33 City’s water main or sewer line) must pay the City’s required system
34 development fee and the minimum monthly service charge.

35 F. Administration.

- 36 1. Illegal accessory dwelling units in detached structures are required to
37 seek approval for the detached accessory dwelling unit through the
38 conditional use permit, and the accessory dwelling unit must meet all
39 requirements thereof.
- 40 2. Legal nonconforming accessory dwelling units may continue to exist as
41 is.

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1 Article XX. Definitions §420-20 *Definitions*. of the Lexington City Code, to
2 be amended by the addition of the following terms and associated definitions, to
3 be incorporated in said Section in their respective alphabetical order:

4 **§ 420-20.1. Definitions.**

5 Delete definition for ACCESSORY APARTMENT.

6 ACCESSORY BUILDING

7 A subordinate structure customarily incidental to and located upon the same
8 lot occupied by the main structure. No such accessory structure shall be used
9 for housekeeping purposes unless the accessory building is in compliance
10 with the detached accessory dwelling unit use and design standards in
11 Section 11.1.1.

12 ACCESSORY DWELLING UNIT - ATTACHED

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

21 ACCESSORY DWELLING UNIT - DETACHED

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

30 Delete definition for BUILDING ACCESSORY.

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34 **Adopted and Effective** this the 15th day of February, 2024

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37 **Approved:** 
38 Frank W. Freidman, Mayor

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41 **Attest:** 
42 Jani Hostetter, Clerk