



## Proposed zMOD Changes - Accessory Living Units (ALUs) Frequently Asked Questions

The responses below are intended to clarify the proposed regulations for accessory living units (currently known as accessory dwelling units) that may be adopted as part of zMOD. They do not address the current regulations. A table comparing current and proposed regulations and a table with information on the regulations of surrounding jurisdictions are included below the list of questions.

1) Will all accessory living units be allowed by right?

No, it is proposed that only an interior ALU (within the principal dwelling, such as in the basement) that meets all applicable standards 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 would continue to require a minimum of two acres and special permit approval from the BZA.

2) Will this proposal lift the age or disability requirement for those living in the main dwelling AND the occupants of the accessory living unit?

Under today's regulations, someone either in the principal dwelling or the accessory unit must be 55+ years old or a person with a disability. The proposal includes an option for the Board of Supervisors to consider removing this requirement for all occupants.

3) 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 would 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.

4) Do I need to provide extra parking?

Yes, for an administrative permit for an interior unit to be approved, the applicant will need to 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 will be required and on a private street, four spaces will be 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 will continue to be 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.

5) 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.

6) Do the changes allow anybody to 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 would continue to require a special permit application and a public hearing with the Board of Zoning Appeals.



- 7) How many accessory living units can somebody have?  
There may only be one principal dwelling and one accessory living unit on a lot.
- 8) 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, staff recommends limiting the size to 800 square feet or 40% of the principal dwelling, whichever is less. In a detached unit, staff recommends limiting the size to 1,200 square feet. Advertised size ranges from 500 – 1,200 square feet for interior ALUs and 700 - 1,500 square feet for detached ALUs have been included for Board consideration. In addition, an option has been included for the Board to consider allowing interior ALUs to use the entire basement.
- 9) 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.
- 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(16)) 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 is proposed to be reduced from the current 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. Consistent with the current Zoning Ordinance, 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?  
Staff recommends a \$200 fee for the administrative permit and \$435 (which is the current fee) for a special permit. A range would be advertised so the Board will have flexibility during the adoption process. 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 issued.



16) 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.

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

Yes, as long as the home-based business meets the standards (see the [Home-Based Business FAQ document](#)). The number of customers permitted is cumulative and applies to the entire site. If customers will be coming to the site, a designated parking space must be identified and made available for customer parking in addition to the parking space serving the ALU.

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

Current special permits that have been approved are available through the [My Neighborhood](#) application. Future permits will also be available through this portal as well.

19) Why are you making these changes as a part of zMOD? Why can't they be pulled out as a separate amendment?

The scope of Phase I of zMOD includes the review and modernization of land uses and their associated regulations. The current accessory dwelling unit provisions were added to our Zoning Ordinance in 1983 and have been reviewed as part of this update. Many of the standards in today's Ordinance have been brought forward and additional standards have been added; the objective nature of these standards allows them to be applied administratively, and they are intended to mitigate the impacts on the community. The advertised options allow the Board to consider retaining the current special permit requirements.

See the latest Public Hearing Draft on our [zMOD website](#) for a list of all proposed ALU standards.

The tables below provide a comparison of the current and proposed standards and a summary of the different regulations by jurisdiction.



## Accessory Living Units – Existing vs. Proposed zMOD Standards

Current 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	Yes – either 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
Public Hearing Draft Accessory Living Unit Regulations								
Age/Disability	Size	Approval Process	Location of Unit	Owner-Occupied	Max # of People	Parking	Renewal	Entrances
No change	Interior: 800 SF or 40% of the principal structure, whichever is less <sup>1</sup>  Detached: 1,200 SF <sup>2</sup>	Interior: Administrative Permit <sup>3</sup>  Detached: No change	No change	No change	No change	Interior: Must provide one additional off-street parking space above minimum required parking <sup>4</sup>  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 <sup>6</sup>  Interior: any proposed garage/carport must be located immediately adjacent to any existing garage/carport and use the same driveway

<sup>1</sup> Advertised range from 500 – 1,200 SF or 40% of the principal structure, whichever is less. An option is included to allow the Board to consider allowing an interior ALU to exceed this size if the ALU is in the basement or cellar.

<sup>2</sup> Advertised range from 700 – 1,500 SF

<sup>3</sup> An option has been included to allow the Board to consider retaining the current special permit requirement.

<sup>4</sup> For example, a single-family detached dwelling on a public street is required to provide two off-street parking spaces. This standard would require there to be a total of three off-street parking spaces in order to have an ALU administrative permit. If three spaces could not be accommodated, a special permit could be requested.

<sup>6</sup> Modification of the entrance and access standards may be approved by special permit.

## Accessory Dwelling Unit Regulations Summary by Jurisdiction

Accessory Dwelling Units by Jurisdiction								
	Age/ Disability Limit?	Size	Process	Location	Owner- Occupied	Max # of People	Parking	Number of Units
Fairfax (Existing)	55+/ person with a disability	35% of principal structure	Special permit with public hearing	Interior; Detached with 2+ acres	Yes	2	Determined by BZA	222 approved accessory dwelling units since 1983 (average of six applications per year)
Arlington	None	Footprint of 560- 650 SF; Up to 750 SF interior space; Entire basement if wholly within	Administrative process with affidavit	Interior; Detached with 5- ft setback and 25- ft height	Yes	3	Maintain 1-2 spaces or create 1 space if none exist	32 attached and 38 detached accessory dwellings from October 2018 to October 29, 2020
D.C.	None	Only allowed if principal structure exceeds 1,200 SF - then allows 35%	Administrative process	Interior; Detached anywhere in rear and out of side setback and 20-ft height	Yes	3	None	217 permits since Zoning Ordinance was amended in 2016 (44 permits in 2019 and 82 permits in 2020)
Montgomery County	None	Interior: 1,200 SF  Detached: 50% of the footprint of the principal dwelling; 10% of the lot area; or 1,200 square feet of gross floor area.	Administrative process with affidavit	Interior; Detached must meet lot coverage, setback and height requirements	Yes	2 over 18 years old	1 on-site parking space required in addition to any spaces required for the dwelling. No parking if within one mile of metro or MARC	Approximately 50 permits per year
Loudoun County	None	70% or 2,500 SF, whichever is less	Administrative process	Interior and Detached allowed	No	None	1 space	219 permits issued since 2010
City of Alexandria	None	Interior: 1/3 the dwelling's gross floor area; Detached: 1/3 of the principal dwelling's first floor or: 350 SF for lots 2,500 SF or less; 500 SF for lots larger than 2,500 SF	Administrative process; special exception for detached structures that don't meet bulk or setback requirements	Interior and Detached allowed	Yes	3	No additional spaces required; no required parking can be removed to accommodate construction	New policy adopted January 23, 2021