



County of Fairfax, Virginia

MEMORANDUM

DATE: January 25, 2023
TO: Board of Supervisors
FROM: Leslie B. Johnson, Zoning Administrator *Leslie B. Johnson*
SUBJECT: Report on Accessory Living Units and Home-Based Businesses

This memorandum is in response to a follow-on motion approved by the Board of Supervisors (Board) with the adoption of the new Zoning Ordinance that went into effect on July 1, 2021. The motion directed staff to:

Provide a report on accessory living units and home-based businesses to the Board within 18 months of the effective date of the new Ordinance that includes information on the number, type, general geographic location, processing time, information on any related submitted complaints, violations, and resolutions by the Department of Code Compliance, and any other relevant information. For home-based businesses, the report should also include information on the time from acceptance to a decision by the BZA, the number of deferrals, the average number of speakers participating in the public hearing and whether they are in favor or in opposition, the types of businesses, and the number of customers.

The new Zoning Ordinance modernized the provisions for accessory living units (ALUs) and home-based businesses (HBBs). This memorandum provides an update on the implementation of these provisions. This document has two sections, A. Accessory Living Units and B. Home-Based Businesses, and for each section, includes the following:

1. Adopted Standards and Processes
2. Administrative and Special Permits Received
3. Complaint Information
4. Implementation Highlights and Challenges

A. ACCESSORY LIVING UNITS (ALUs)

An ALU is a secondary dwelling unit established in conjunction with and clearly subordinate to a single-family detached dwelling unit. These living spaces include areas for eating, cooking, sleeping, living, and sanitation.

1. Adopted Standards and Processes

[Subsection 4102.7.B](#) includes the use-specific standards for ALUs. Most notably, the revised standards allow for an administrative approval of ALUs that meet the standards while also allowing a special permit request to modify certain standards. In addition, the new Zoning Ordinance removed the previous requirement that an occupant of either the principal dwelling or the ALU be 55 years or older or a person with a disability.



All ALUs, regardless of approval process, are subject to the following:

- An ALU is only allowed in conjunction with a single-family detached dwelling and is limited to one per dwelling;
- The ALU is limited to no more than two bedrooms and two people;
- The principal dwelling or ALU must be owner-occupied;
- The principal dwelling must meet the listed occupancy standards;
- All building, safety, health, and sanitation standards must be met, and any dwellings served by well or septic require Health Department approval;
- The ALU must contain a working multi-purpose fire extinguisher, interconnected smoke detectors, and, when required, interconnected carbon monoxide detectors;
- Off-street parking must be provided – one additional space for administrative permits and as determined by the Board of Zoning Appeals (BZA) for special permits;
- A copy of the approved permit must be recorded in the land records;
- Permits are issued for an initial two-year period and may be extended by the Zoning Administrator for succeeding periods of up to five years based on the record of compliance; and
- If the standards are no longer being met, the ALU may no longer be occupied as a secondary dwelling, but removal of facilities (such as kitchen appliances) is not required.

ALUs eligible for an **administrative permit** are subject to the following additional standards:

- The ALU must be interior and wholly contained within the single-family dwelling with direct access through a finished, temperature controlled, and fully enclosed space;
- Any new external entrances must be located on the side or rear of the dwelling, and any new garage or carport must be directly adjacent to the existing garage or carport served by the same associated driveway and curb cut;
- The size may not exceed 800 square feet or 40% of the gross floor area of the principal dwelling (whichever is less), or the entirety of the basement or cellar existing as of July 1, 2021; and

An applicant may submit a **special permit** application to permit the following ALU modifications by the BZA:

- A detached ALU (limited to a maximum size of 1,200 square feet) on lots containing at least two acres;
- New external entrances on the front of the dwelling or street access not provided by the same driveway or curb cut;
- Increase in size beyond 800 square feet or 40% of the gross floor area of the dwelling for an interior ALU; and
- Waiver of the additional parking space requirement.

Administrative Permit Fee and Process: An administrative permit includes a \$200 application fee, and staff reviews the submission materials to confirm that all use-specific standards have been met. Often, creating an ALU involves construction and installation of appliances. For the building permit(s) and ALU administrative permit to proceed in tandem, staff requires submission of the ALU permit and conducts a preliminary review before issuance of the associated building permit. Then, the status of the ALU permit in the PLUS system is set to “waiting” until completion and final inspection of the construction and submission of the fire alarm system certification form. Upon final inspection, the ALU permit is issued allowing for occupancy of the ALU. This process ensures that required safety improvements and inspections take place prior to the final approval of the ALU administrative permit.

Special Permit Fee and Process: A special permit requires a \$435 fee and a public hearing by the BZA. If the BZA approves the special permit, the ALU may be occupied immediately upon approval if all construction, permits, and other requirements (such as installation of an interconnected fire alarm system for interior ALUs as required by the Building Code) have been met. However, similar to the administrative permit, the ALU may not be occupied until all required permits have been approved; a development condition is typically included to this effect.

2. Administrative Permits and Special Permits Received

Between July 1, 2021, and December 1, 2022, a total of 149 ALU applications have been submitted. Of these, 128 (86%) were applications for an administrative permit (AP).

Administrative Permit Applications: The status as of December 1, 2022, of the AP applications is shown below:

AP Applications by Status	
Status	Number
Approved	37
Denied	11
Voided or Withdrawn	11
In Review	20
Waiting for Information or Other Approvals	49 ¹
TOTAL	128

Table 1: Administrative Permits by Status

Of the 128 applications submitted for review, 81 have either been approved or determined to meet the ALU standards but require issuance of other permits, such as building or electrical permits and completion of construction associated with those permits before the ALU permit can be issued. The processing times shown in Table 2 below represent the active review time as reported in the PLUS system, and do not include the time in the “waiting” status. The review time generally reflects the complexity of the review, which often requires multiple exchanges of information between the applicant and staff and the submission of revised application materials. The longer review times, those beyond 60 days, do not accurately reflect staff review times, because with the new PLUS system, staff did not consistently change the status in PLUS to “waiting” during construction or when waiting for submission or revision of application materials. However, once this issue was identified, staff has been more consistent in placing applications in the waiting status as appropriate. Table 3 shows the distribution of applications by magisterial district.

¹ Forty-four applications in this status had been reviewed by zoning and found to meet the standards (following initial zoning sign-off, building permits and related inspections are needed before the ALU permit can be issued), and five applications required additional information from the applicant before the zoning review could be completed.

AP Approvals Processing Time	
Number of Days ²	Total # of Approvals
0 - 30	16
31 - 60	5
61 - 120	5
121+	11

Table 2: Administrative Permit Processing Time

AP Applications by Magisterial District	
District	Total #
Dranesville	23
Mason	16
Braddock	15
Franconia	15
Springfield	15
Providence	14
Hunter Mill	11
Mount Vernon	10
Sully	9

Table 3: Administrative Permits by Magisterial District

Special Permit Applications: The status as of December 1, 2022, of the special permit (SP) applications is shown below:

SP Applications				
Appl #	District	Status	Request	Total Time ³
SP-2022-DR-00024	Dranesville	Approved	Detached ALU	138 days
SP-2021-PR-00049	Providence	Approved	Increase in Size	99 days ⁴
SP-2021-SP-00097	Springfield	Approved	Detached ALU	127 days
SP-2021-SP-00115	Springfield	Approved	Detached ALU	84 days
SP-2022-BR-00100	Braddock	Approved	Increase in Size	147 days
SP-2022-DR-00021	Dranesville	Approved	Increase in Size	135 days ⁵
SP-2022-MA-00087	Mason	In Review	Increase in Size	118 days
SP-2022-PR-00109	Providence	Approved	Increase in Size	84 days
SP-2022-SP-00113	Springfield	In Review	Detached ALU	167 days
SP-2021-SP-00143	Springfield	In Review	Detached ALU	229 days

Table 4: Special Permit Applications for ALUs

Of the seven applications with a total time that is, or will be, significantly beyond the general timeframe of 90 days for SP applications, three were due to scheduling issues, and four were to allow time for the applicant to address staff concerns about the application. As indicated in the footnotes, the BZA deferred the decision on one of the seven cases that have had a public hearing, and two cases had speakers, most in opposition. In addition to the applications listed here, three SP applications have been submitted but have not yet been accepted, and two applications were withdrawn.

² Time from submittal to issuance of permit.

³ This is the time from acceptance to BZA decision. For applications still under review, it is from the date of application acceptance to the scheduled BZA hearing date.

⁴ There were five speakers at the public hearing, all in opposition.

⁵ The total time of 135 days included one three-week deferral of the decision by the BZA. There were seven speakers in opposition and two in favor of the application.

Overall, a total of 44 ALU applications (including 37 APs and seven SPs) have been approved under the new regulations. Over a similar 17-month time period from February 1, 2020, to June 30, 2021, nine ALU special permit applications were approved. This increase in ALU applications is consistent with expected results from removing the age/disability requirement and creating an administrative process with administrative standards.

3. Complaint Information

Following adoption of the new Ordinance, the Department of Code Compliance (DCC) created a report to track complaint information specific to ALUs and HBBs. As shown in Table 5, DCC received 81 complaints potentially related to ALUs from July 1, 2021, to October 15, 2022. These complaints generally fell into the broad categories listed below. Certain complaints mentioned multiple issues, but only one category was selected based on the main concern identified in the complaint. As shown in the table below, of the 41 cases that have been closed, 59 percent were determined to be unfounded. None of the complaints were for properties with a previous ALU approval. Three complaints resulted in applications for an ALU administrative permit, two of which were subsequently approved, and one denied. None of the complaints resulted in an application for a special permit.

Complaints Received from 7/1/21 to 10/15/22					
Nature of Complaint	Total #	Compliance	Unfounded	Under Investigation	Other ⁶
Occupancy issues or rental	28	2	6	16	4
General secondary dwelling	26	7	2	16	1
Unpermitted work or safety concerns	15	5	4	6	0
Occupancy of detached structure	9	3	5	1	0
Parking issues	3	0	2	1	0

Table 5: ALU Complaints

Complaint categories are summarized below:

- **Occupancy issues or rental:** The largest number of complaints related to the property exceeding the occupancy standards or suspected rental of a portion of the dwelling. These complaints often mentioned multiple unrelated people living in the dwelling or the advertisement of rental or apartment units online.
- **General secondary dwelling:** The next largest number of complaints mentioned a second dwelling being present on the property. These complaints did not include any other description or specific details beyond “multiple dwelling,” “second kitchen,” or other similar descriptions.
- **Unpermitted work or safety concerns:** DCC received 14 complaints related to an area being used as an ALU without proper permits or general safety concerns associated with the dwelling. The complaints in this category included examples such as a second kitchen being present without receiving permits, as well as fire safety concerns (including lack of emergency egress).
- **Occupancy of detached structures:** Complaints also included those specifically mentioning occupancy of a detached structure as a dwelling unit, including garages, sheds, and other structures separate from the principal dwelling.

⁶ This includes three instances where a complaint was closed due to the inability to access the property and two complaints that were closed for administrative purposes.

- **Parking issues:** Three complaints mentioned an excessive number of vehicles or use of on-street parking related to a potential ALU.

Complaints were distributed throughout the County as shown below:

Complaints by Magisterial District	
District	Total #
Franconia	17
Mount Vernon	15
Mason	14
Sully	11
Providence	8
Braddock	6
Dranesville	4
Springfield	4
Hunter Mill	2

Table 6: ALU Complaints by Magisterial District

4. Implementation Highlights and Challenges

Overall, as expected, the new ALU provisions have resulted in a modest number of ALUs. The processing of the administrative permit and special permit applications has been relatively smooth, but several challenges and topics have been identified:

- a) **Determining whether an arrangement constitutes an ALU.** When building permit applications are submitted with all of the components of a secondary dwelling unit (living, sleeping, eating, cooking, and sanitation), and the applicant is advised that an ALU permit is required, some applicants want to modify the proposal to avoid having to obtain an ALU permit, even an administrative one. In order to not be defined as an ALU, the area cannot contain all of the components of a secondary dwelling unit. In these cases, the applicant often proposes to have a wet bar instead of a kitchen. The reasons that have been expressed for wanting to avoid pursuing an ALU permit include the Building Code requirement for having a monitored fire alarm system, and the Zoning Ordinance limitations on ALUs, such as size.
- b) **Determining whether the ALU is interior or detached.** Some applicants would prefer to have a detached ALU, but either want to avoid the required special permit process or do not meet the minimum lot size of two acres. Therefore, applications have been submitted where the ALU is tenuously attached to the principal dwelling through a variety of connections, such as an open breezeway, a skywalk, an unfinished garage, or a closet. Examples of submissions that more closely resemble two dwellings rather than one cohesive dwelling are shown in Figures 1 – 3 below. The standards are intended to provide for an interior ALU that is designed such that it continues to have the appearance of one dwelling unit on the lot, as required by the Zoning Ordinance. As outlined above, an interior ALU is required to “have direct access to the principal dwelling through an interior space that is finished, temperature controlled, and fully enclosed.” Also, any new external entrances must be on the side or rear of the dwelling and a proposed garage or carport must be adjacent to any existing garage or carport.



Figure 1: ALU Design with Two-Dwelling Appearance



Figure 2: ALU Design with Two-Dwelling Appearance

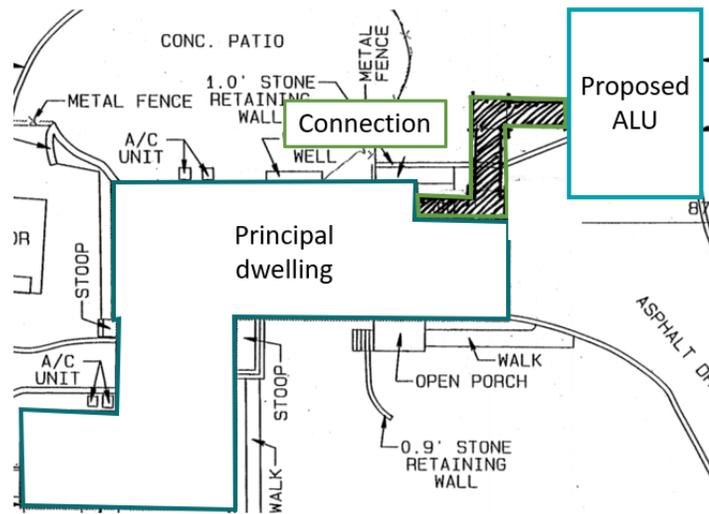


Figure 3: ALU Design with Two-Dwelling Appearance

- c) **Navigating a complex Building Code.** As outlined in a memorandum to the Board of June 29, 2021 (Attachment 3), a new Building Code went into effect at the same time as the new Zoning Ordinance that requires interior ALUs to have fire-resistant rated wall and floor assemblies or a household fire alarm system with a dual power supply and third-party monitoring through a company providing such services. For the household fire alarm system, Land Development Services staff in conjunction with the Fire Marshal's office developed a certification form for an applicant to show compliance with this requirement. As noted above, applicants have expressed that this requirement adds an on-going monthly expense and an extra procedural step.

Survey Results: Staff sent an online survey to all applicants with approved ALU administrative permits to obtain additional feedback about the process. Responses were limited, with only a total of **15 received**. Given the small sample size, the responses may not be representative. The results were mixed with 28% of those responding to that question (four out of a total of 14 responses) reporting the process as difficult or very difficult to navigate. The responses indicated that over half of the ALUs are occupied by someone aged 55 or greater; half of the ALUs are rented to someone with no relationship to the occupants of the principal dwelling; and most of the ALUs are located in the basement. The survey responses indicated that 43% of the ALUs that are rented have a monthly rent between \$1,500 to \$1,999, which is comparable to units located in rental complexes, which in 2020 averaged \$1,583 for a one-bedroom unit and \$1,909 for a two-bedroom unit.⁷ The responses reported an average of 2.7 vehicles per dwelling unit. Although general data on the number of vehicles by dwelling unit type is not available, in Fairfax County in 2020, across all dwelling unit types, 42.7% of households owned two vehicles, and 15.6% of households owned three vehicles.⁸ Based on these numbers, we believe that the reported average of 2.7 vehicles per unit with an administrative ALU is likely comparable to the overall average number of vehicles per single-family detached dwelling unit in the County. A more complete summary of the survey responses is included in Attachment 1.

B. HOME-BASED BUSINESSES (HBBs)

1. Adopted Standards and Processes

The new Zoning Ordinance revised the permissions and standards for HBBs (see [subsection 4102.7.H](#)). The standards address the process for approval and include regulations intended to minimize potential impacts on the neighborhood. As an accessory use, an HBB must be conducted on the lot (in the dwelling or in an accessory structure) that is the HBB operator's primary residence. The following types of businesses are allowed as an HBB:⁹

- Health and exercise facility (such as yoga or other exercise classes)
- Specialized instruction center (such as tutoring, music, or other teaching activities)
- Repair of small household items such as musical instruments, sewing machines, and watches
- Office
- Sewing or tailoring
- Music, photography, and art studios
- Retail sales (no customers may come to the home)

⁷ Source: Fairfax County Department of Management and Budget, <https://www.fairfaxcounty.gov/demographics/rental-housing-complex-summary>

⁸ Source: 2020 American Community Survey

⁹ HBBs do not include home day care facilities or short-term lodging, which are separate uses in the Zoning Ordinance.

- Small-scale production (only items created on-site and home-based food production; no customers may come to the home)
- Barbershop or beauty parlor (special permit only)

Approval Process: All types of HBBs (except for a barbershop or beauty parlor) may be permitted with an administrative permit, although special permit approval from the BZA is required for most types of businesses to have customers come to the home (see below). Special permit approval from the BZA is also required to modify other limitations, such as to allow a larger area, more employees or different work hours, or to allow outdoor activities such as swimming or soccer lessons. The application fee for an administrative permit is \$100; the application fee for a special permit is \$435. The approval is not transferable and is for the original applicant and location only.

Customers and Parking: Only teaching activities (the first two types of businesses in the list above) are allowed to have customers come to the home with an administrative permit. Up to four students at a time and eight in a day are allowed, during the hours of 8:00 AM to 9:00 PM. Except for retail sales and small-scale production, other types of HBBs may have customers come to the home with approval of a special permit from the BZA. The Zoning Ordinance does not include a process for allowing customers to come to the home for retail sales or small-scale production. One parking space must be designated as available for any on-site customer or clients, and as part of a special permit application, the BZA may require additional parking.

Employees: With an administrative permit, one nonresident employee is allowed in a single-family detached dwelling during the hours of 7:00 AM to 6:00 PM. A special permit is required for additional employees or longer hours, or to allow any employees in other dwelling unit types (e.g., townhouse, apartment).

Exterior Appearance, Size, and Other Standards: There must be no exterior evidence of an HBB (other than yard signs that are allowed for any residence). No outdoor storage or display is allowed. The maximum size of the area used by the HBB is 400 square feet with an administrative permit. Deliveries or distribution vehicles must not exceed 28 feet in length and may not include semitrailers. Flammable or hazardous materials are limited, and Health Department approval is required if the property is served by a private well or septic system.

2. Administrative Permits and Special Permits Received

Between July 1, 2021, and December 1, 2022, a total of 381 HBB applications have been submitted. Of these, 366 (95%) were applications for an administrative permit (AP).

Administrative Permit Applications: The status as of December 1, 2022, of the AP applications is shown below:

AP Applications by Status	
Status	Number
Approved	328
Denied	7
Voided or Withdrawn	21
In Review	10
TOTAL	366

Table 7: Administrative Permits by Status

This represents an increase of 20 percent as compared to the number of home occupation permits that were issued during the previous 17-month period (305 home occupation permits

issued from February 1, 2020, to June 30, 2021). As shown in Table 8 below, most APs were approved within two weeks of submittal, some even on the same day. Table 9 lists the types of HBB uses, and Table 10 shows the distribution of applications by magisterial district.

AP Approvals Processing Time	
Number of Days ¹⁰	Total # of Approvals
0 - 14	281
15 - 30	37
31+	10

Table 8: Administrative Permit Processing Time

AP Applications Approved by Type	
Type	Number
Office	193
Retail sales	47
Small-scale production	48
Music, photography, art studio	17
Health and exercise	10
Repairing small household items	5
Specialized instruction center	4
Sewing or tailoring	4

Table 9: Administrative Permits by Type

AP Applications by Magisterial District	
District	Total #
Springfield	49
Mt. Vernon	49
Providence	47
Braddock	46
Sully	46
Franconia	40
Hunter Mill	35
Dranesville	27
Mason	27

Table 10: Administrative Permits by District

Special Permit Applications: The status as of December 1, 2022, of the special permit (SP) applications is shown below:

¹⁰ Time from submittal to completion

SP Applications							
Appl #	District	Status	Type	Customers	Size of HBB	Parking	Total Time ¹¹
SP-2021-BR-00052	Braddock	Approved	Office	1/time 5/day	250 SF	Driveway	103 days
SP-2021-LE-00148	Franconia	Approved	Hair salon	1/time 4/day	429 SF	Driveway	90 days
SP-2021-MA-00057	Mason	Approved	Office	1/time 2/day	160 SF	Driveway	91 days
SP-2022-PR-00001	Providence	Approved	Office	1/time 3/day	120 SF	Garage	82 days
SP-2022-LE-00098	Franconia	In Review ¹²	Hair salon	1/time 3/day	377 SF	Driveway	84 days
SP-2022-SU-00174	Sully	In Review	Office	1/time 8/day	401 SF	Driveway	103 days ¹³

Table 11: HBB Special Permit Applications

The processing time has generally been comparable to the 90 days that is typical for SP applications. No deferrals were needed for the applications that had a public hearing. There has been only one speaker at a public hearing, and that one was in favor of the application. The SPs listed above were needed in order to permit customers, and one also increased the size of the area used by the HBB beyond the 400 square feet allowed with an AP. In addition, eight SP applications have been submitted but have not yet been accepted, and one has been withdrawn.

3. Complaint Information

Most of the complaints about HBBs that have been submitted to DCC identified a type of business observed on the property. As shown in Table 12 below, a total of 144 complaints were submitted between July 1, 2021, and October 15, 2022. Only one of the complaints related to a previously approved HBB. In that case, the business had expanded to another dwelling and following the investigation, the violator left the property to come into compliance and no further complaints were received. Seven of the complaints were resolved by the violator subsequently applying for an HBB permit and no further complaints were received for that property.

Some, but not all, of the complaints also noted a particular issue such as outdoor storage, noise, commercial or construction vehicles, or customers. The 92 complaints that identified an issue noted the following:

- Outdoor storage – 42 percent (including storage of vehicles associated with vehicle sales and service)
- Commercial or construction vehicles, parking – 27 percent
- Customers, employees – 16 percent
- Noise – 8 percent
- Chemicals, odor – 5 percent
- Signage – 1 percent

¹¹ Time from acceptance to BZA decision

¹² Update: Application was approved on December 7, 2022.

¹³ Estimated time. Application accepted on November 4, 2022, and BZA hearing scheduled for February 15, 2023.

Complaints Received from 7/1/21 to 10/15/22				
Type of use reported	Total #	Compliance	Unfounded	Under Investigation
Vehicle sales, rental, and service	42	10	19	13
Contractor's office and shop	35	12	11	12
General complaint about business	30	13	12	5
Home-based food production	8	4	4	0
Kennel	7	3	3	1
Personal service	6	2	2	2
Retail sales	5	3	0	2
Office	2	0	2	0
Specialized equipment and heavy vehicle sale, rental, or service	2	1	1	0
Continuing care facility	1	0	1	0
Group residential facility	1	0	0	1
Outdoor recreation	1	1	0	0
Short-term lodging	1	1	0	0
Specialized instruction center	1	1	0	0
Storage yard	1	0	1	0
Warehouse	1	0	1	0
TOTAL	144	53	55	36

Table 12: HBB Complaints

Most complaints were for businesses which had not been and could not be approved as an HBB. The issues that prompted most of the complaints involved outdoor evidence of the business, particularly vehicles, other equipment, and outdoor storage. The standards for an HBB do not permit any exterior evidence of the business; and vehicle sales, rental, and service and contractor's office and shop are not allowed as HBBs. The complaints were distributed throughout the County, as shown below:

Complaints by Magisterial District	
District	Total #
Mason	33
Franconia	26
Springfield	18
Braddock	17
Mt. Vernon	17
Providence	12
Hunter Mill	8
Sully	8
Dranesville	5

Table 13: HBB Complaints by District

4. Implementation Highlights and Challenges

The revised standards for HBBs have been generally well-received and processing has been relatively smooth, both for administrative and special permit applications. In particular, the success of the AP applications should be noted for the number and processing time. Like the

ALU permits, the new HBB provisions of the Zoning Ordinance have been processed in PLUS since July 1, 2021, and this allows for a streamlined online submittal and review process.

Survey Results: Staff sent an online survey to all applicants with approved HBB administrative permits to obtain additional feedback about the process. We received a total of **115 responses**. Most of the responses indicated that the process was not difficult to navigate; the HBB is their primary occupation; they do not use on-street parking for themselves or their employee; they do not have deliveries to the dwelling; the permit application was not submitted to bring an existing HBB into compliance; and they would not have customers come to the home, even they were allowed. A more complete summary of the survey responses is included in Attachment 2.

Overall, for both ALUs and HBBs, it is recommended that the standards and implementation be reviewed after another year, with a similar report provided to the Board in early 2024. This will allow staff additional time to monitor these provisions, and provide analysis and recommendations. Please reach out to me or Carmen Bishop with any questions about the information in this report. Questions about enforcement should be directed to the Department of Code Compliance.

Attachments: A/S

cc: Bryan J. Hill, County Executive
Rachel Flynn, Deputy County Executive
Elizabeth D. Teare, County Attorney
Members, Fairfax County Planning Commission
Members, Fairfax County Board of Zoning Appeals
Tracy Strunk, Director, Department of Planning and Development
Gabe Zakkak, Director, Department of Code Compliance
Jay Riat, Fairfax County Building Official
John Walser, Deputy Chief, Fairfax County Fire and Rescue Department
David T. Stoner, Deputy County Attorney
Laura Gori, Senior Assistant County Attorney
Brent Krasner, Branch Chief, Zoning Evaluation Division, DPD
Carmen Bishop, Deputy Zoning Administrator, Zoning Administration Division, DPD
Casey Judge, Principal Planner, Zoning Administration Division, DPD

ALU Survey Results	
Question	Response
What are the ages of the occupants of the ALU?	55% aged 55+ 18% aged 30 to 54 27% aged 18 to 29 0% under 18
What is the relationship of the ALU occupants to those in the principal unit?	50% renter 29% family member 14% friend 7% other
Is someone in the principal dwelling or ALU a person with a disability?	100% no
Where is the ALU located?	86% basement 7% 1 st or 2 nd floor 7% addition to home
How many total vehicles will be associated with the dwelling (principal and ALU)?	2.7 average 0 to 5 range
Will on-street parking be used?	64% no
Will any of the occupants use public transportation?	64% no
What is the anticipated monthly rent (excluding utilities) of the ALU?	43% \$1500 to \$1999 21% no rent 21% \$1000 to \$1499 14% \$500 to \$999
Is the application intended to bring an existing ALU into compliance?	57% no
On a scale of 1 to 5 (5 is most difficult), how did you find the process of applying for an HBB?	Less than 1% very easy 36% easy 36% neutral 14% difficult 14% very difficult

HBB Survey Results	
Question	Response
Is your HBB your primary occupation?	63% yes
Will on-street parking be used for yourself or your employee?	85% no
Is the application to bring an existing HBB into compliance?	71% no
The Zoning Ordinance does not allow customers to come to the home with an AP, except for teaching activities. However, if customers were allowed with an AP, would you have customers come to your home?	71% no
How many deliveries to and from the dwelling per week?	64% zero 21% one to two 9% three to four 5% five or more
On a scale of 1 to 5 (5 is most difficult), how did you find the process of applying for an HBB?	14% very easy 34% easy 31% neutral 17% difficult 5% very difficult



County of Fairfax, Virginia

MEMORANDUM

DATE: June 29, 2021

TO: Fairfax County Board of Supervisors

FROM: Leslie B. Johnson, Zoning Administrator
Barbara Byron, Director, Department of Planning and Development

SUBJECT: Update on Implementation of Accessory Living Unit Regulations

Following the adoption of the new Zoning Ordinance on March 23, 2021, the Department of Planning and Development (DPD) has been coordinating with Land Development Services (LDS) and the Fire and Rescue Department on the implementation of the new zoning regulations for accessory living units (ALUs) prior to the effective date of the new Ordinance on July 1, 2021. This implementation will also need to address new Building Code requirements for ALUs.

New Building Code Requirements

The 2018 Uniform Statewide Building Code, which will also be effective July 1, 2021, includes changes to the International Residential Code with new definitions of an accessory dwelling unit and a two-family dwelling. Under this Code, the requirements for fire-resistant rated wall and floor assemblies that are applicable to two-family dwellings (townhouses) will now also be applied to accessory dwelling units, with an alternative option provided to permit the installation of a household fire alarm system that meets the requirements of the NFPA 72, National Fire Alarm and Signaling Code. Until now, the County has not required interior accessory dwelling units to be constructed with fire rated wall and floor assemblies because those units are not considered to be two-family dwellings. A fire alarm system meeting the NFPA 72 requirements must have a dual power supply and a third-party monitoring contract through a company such as ADT and be programmed to generate a monthly test of the communication system.

Staff believes that most applicants for ALUs will choose the option of installing a fire alarm system as the fire alarm system certification process will be a more practical approach to compliance, particularly for existing dwellings, than construction of the fire rated assemblies. To address this, staff from DPD, LDS, and the Fire Marshal's Office, have developed a new process for approval of a fire alarm system certification to ensure compliance with these new building code requirements as efficiently as possible. As further outlined below, applications for ALUs will be submitted through the PLUS system. The fee for the fire alarm certification



will be \$108 and no inspection will be required. Approval of a fire alarm system certification, if required, will be a pre-requisite to final approval of an administrative permit for an ALU. It should be noted that for building code purposes, installation of a stove, cooktop, or oven would trigger the requirement for fire-resistant rated assemblies or a fire alarm system, but appliances such as a microwave or toaster would not.

Application Process

The PLUS system will be in effect on July 1, 2021, for submission of both administrative permit and special permit applications for ALUs. Prior to entering the application system, web pages will outline the application requirements. For the ALU administrative permit, the applicant will submit the online application, which will include identifying any concurrent building permit applications. Properties that are served by a well or septic system will require review and approval by the Health Department. The Zoning Permits Section will complete a preliminary review and the need for a fire alarm system certification or other building permits will be identified. After any permits and the certification are approved, the final ALU administrative permit may be issued. For an ALU receiving special permit approval, obtaining the fire alarm system certification will be included as a development condition if it is determined during the application submission and review that the certification would be required, based on the type of cooking appliance and whether fire-rated assemblies are provided, along with conditions relating to any other required building permits identified (as is current process).

Training and Outreach

Internal and external training is underway. Staff is being trained on the new zoning regulations and the new PLUS system and will be available to answer questions and assist applicants. Public educational programs on ALUs are planned for July 21, 2021, as part of a lunch and learn session focused on this topic, and in the evening of July 14, 2021, as part of a general program on the new Zoning Ordinance. A summary of the regulations and an FAQ page are on the zMOD website and will be supplemented with additional materials in the future. We will continue to monitor applications to resolve issues that may arise and will provide an update to the Board as part of the 18-month review in accordance with the follow-on motion.

If you have any additional questions, please contact us at any time.

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