

ORDINANCE NO. _____ - 2021

AN ORDINANCE AMENDING ARTICLES 1-11, 3-12(a)-(o), 5-4(a)(2), 8-5(c)(10), 8-5(d)(14), 8-9(c)(9), 8-10(c)(9), 8-12(c)(1), 22B-3(8), 23-3(d), 23A-5(c) AND 23A-5(d)(10) OF THE ZONING ORDINANCE TO INCLUDE GENERAL ZONING PROVISIONS FOR THE INCORPORATION AND REGULATION OF ACCESSORY DWELLING UNITS (ADU'S). (LFUCG PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Articles 1-11, 3-12(a)-(o), 5-4(a)(2), 8-5(c)(10), 8-5(d)(14), 8-9(c)(9), 8-10(c)(9), 8-12(c)(1), 22B, 23-3, 23A(5)(c)(2) and 23A-5(d)(3) of the zoning ordinance. Planning Commission did recommend APPROVAL of the Staff Alternative Text by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission and the Planning and Public Safety Committee made additional recommendations to remove newly constructed detached structures and the Council adopted the same; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1-11 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to include one new definition as follows:

DWELLING UNIT, ACCESSORY (ADU) – A smaller, secondary independent housekeeping establishment located on the same lot as a principal dwelling.

ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. There are two types of ADUs:

- (a) Converted Detached structures. Examples include garages or other accessory structures.
- (b) Attached units. Attached units are connected to or part of the principal dwelling. Examples include converted living space, attached garages, basements or attics; additions; or a combination thereof.

Section 2 – That Article 3 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to create a new section 3-12(a)-(o) as follows:

3-12 GENERAL REGULATIONS FOR ACCESSORY DWELLING UNITS (ADUs) –

Shall be as follows:

- (a) Pre-Application Conference – Prior to filing an application for a building permit for an ADU, the applicant shall meet with appropriate staff members of the Division of Planning to discuss the proposed permit. The purpose of this conference is to discuss, at the earliest stages, the requirements, procedures and issues related to the proposed ADU, and to provide guidance for the property owner relative to the Homeowner’s Guide to Accessory Dwelling Units (ADU Manual).

It is intended that this conference will help to alleviate possible conflicts by early recognition of existing conditions, necessary facilities, and the recommendations of the ADU Manual pertaining to design, layout, and other considerations. The applicant shall arrange the conference, which shall be held not less than five (5) working days nor more than three (3) months prior to submitting the application.

The staff shall keep a record of the conference date and include the information in the records of the building permit file. The Division of Planning shall not accept an application for a zoning compliance permit for an ADU for which a pre-application conference has not been held.

- (b) Construction:

An ADU may be created through an alteration of an existing structure, addition to an existing structure, or conversion of an existing structure to an ADU while simultaneously constructing a new primary dwelling unit on the site, unless further restricted under 3-12(p).

- (c) Number of Units:

One (1) ADU is permitted per single family dwelling per lot.

- (d) Minimum Lot Size:

None.

- (e) Maximum ADU Size:

800 square feet, except,

Conversion: There is no limit on the size for the conversion of an existing

basement to an ADU, so long as the conversion remains within the footprint of the structure.

(f) Maximum Floor Area (FAR) and Lot Coverage:

For an attached ADU, the maximum FAR and lot coverage shall be that of the underlying zone.

(g) Yard requirements:

For an attached ADU, the yard requirements shall be those required for a principal structure in the underlying zone.

(h) Maximum Height:

For an attached ADU, the maximum height shall be that of the underlying zone.

(i) Off-Street Parking:

For ADUs located in a zone with a maximum parking requirement, one (1) additional space may be permitted.

(j) Short-Term Rentals (as defined in the Code of Ordinances)

(1) The use of an ADU as a short-term rental shall only be allowed as a conditional use.

(2) If either dwelling unit is used as a short-term rental, as defined in the Code of Ordinances, the property owner is required to occupy one of the dwelling units.

(k) Design Standards

Entrances: Only one (1) pedestrian entrance to the structure may be located on the primary wall plane of the dwelling unit.

Exterior Stairs: Any exterior stairs to serve as the primary entrance to an ADU within the principal structure shall be located on the side or rear of such the primary dwelling.

(l) Alterations of existing structures: If a detached ADU is created from an existing detached accessory structure that does not meet one or more of the standards within Article 3-12, the structure is exempt from the standard(s) it does not meet as per Article 3-2.

However, as per Article 4-4, any alterations that would result in the structure becoming less conforming to those standards it does not meet is not allowed.

(m) Maximum Occupancy Limit – A maximum of two (2) persons and any children related to either of them or under their care through a duly authorized custodial relationship may reside in the ADU.

(n) Owner Occupancy:

The owner of the property must occupy either the principal dwelling unit or the ADU as the owner's permanent residence.

(o) Deed Restriction:

A deed restriction shall be submitted prior to the issuance of a zoning compliance permit which states that the owner(s) agree to restrict use of the principal and ADU in compliance with the requirements of Article 3-12.

At the request of the property owner and after an inspection verifying that the ADU has been removed from the owner's property, LFUCG shall record a release of any previously recorded deed restriction for that ADU.

(p) Special Provisions:

Detached Accessory Dwelling Units are only permitted in detached structures which:

- (1) Were constructed prior to October 31, 2021; or
- (2) Had on file with the Lexington-Fayette Urban County Government, prior to October 31, 2021 an application for a building permit.

Section 3 – That Article 5-4(a) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to create new section 5-4(a)(2) as follows:

5-4(a)(2) ACCESSORY DWELLING UNITS – The building permit for an accessory dwelling unit shall not be issued unless and until the Division of Planning has issued a Zoning Compliance Permit.

Section 4 – That Article 8-5(c)(10) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created as follows:

10. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance

Section 5 – That Article 8-5(d)(14) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created as follows:

14. The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.

Section 6 – That Article 8-9(c)(9) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created as follows:

9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.

Section 7 – That Article 8-10(c)(9) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created 8-10(c)9 as follows:

9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.

Section 8 – That Article 8-12(c)(1) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

1. Items 1 through 3 and 6 through 10 of the permitted accessory uses in the R-1A zone.

Section 9 – That Article 22B-3(8) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to remove the definition of ACCESSORY DWELLING UNIT (ADU).

Section 10 – That Article 23-3(d) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to remove the definition of ACCESSORY DWELLING UNIT.

Section 11 – That Article 23A-5(c)(2) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

2. Accessory Dwelling Units, as regulated in Article 3-12.

Section 12 – That Article 23A-5(d)(10) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created as follows:

3. The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.

Section 13 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK, URBAN COUNTY COUNCIL
PUBLISHED:

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