June 30, 2026
ACCESSORY LIVING UNITS

BACKGROUND

Since the previous presentation to the Board of Supervisors (Board) Land Use Policy Committee (LUPC) on December 2, 2025, staff has continued to research and conduct community engagement on accessory living units (ALUs), in accordance with the Zoning Ordinance Work Program.[1] Links to previous meetings and other documents are included on the Accessory Living Units – Proposed Zoning Ordinance Amendment webpage.[2] A summary of the current regulations, application numbers, and jurisdictional research are included in the white paper provided as part of the previous LUPC meeting.[3]

State legislation creating statewide regulations for the development and use of ALUs (referenced in the legislation as accessory dwelling units) passed the General Assembly this year and goes into effect on July 1, 2027.[4] However, the legislation exempted any locality that adopted an ordinance before January 1, 2026; therefore, the legislation does not apply to Fairfax County. References to standards in the legislation are included in this document for information and context. A summary of and link to the state legislation is attached.

COMMUNITY FEEDBACK

Feedback was solicited through a community survey conducted earlier this year, community meetings, emails, and other correspondence and discussions. A summary of the community survey results is included on the ALU webpage as part of the presentations for the April 2026 community meetings and the full results are available on the webpage.[5] Various perspectives

[1] Zoning Ordinance Work Program: https://www.fairfaxcounty.gov/planning-development/zoning-ordinance/work-program

[2] Accessory Living Units – Proposed Zoning Ordinance Amendment webpage: https://www.fairfaxcounty.gov/planning-development/zoning-ordinance/amendments/accessory-living-units

[3] Accessory Living Units Background and Preliminary Concepts, December 2, 2025: https://www.fairfaxcounty.gov/boardofsupervisors/sites/boardofsupervisors/files/Assets/Documents/PDF/ALU-White-Paper_LUPC-Dec-2025-AD-12.1.25.pdf

[4] Senate Bill 531: https://lis.blob.core.windows.net/files/1223191.PDF

[5] Summary of community survey results (slides 6 – 17): https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/Assets/Documents/zoning%20ordinance/proposed%20amendments/ALU-presentation-april-2026.pdf

Community survey responses: https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/Assets/Documents/zoning%20ordinance/proposed%20amendments/ALU-Survey-Responses.pdf

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and comments have been offered regarding the proposed amendment. Support has been expressed for expanding opportunities for ALUs as an important option for housing affordability, to allow aging parents or caregivers to live near family, for seniors to age in place, and to provide more flexible and equitable housing options. Concerns have also been noted about increased density and impacts to neighborhood character, parking, traffic, septic systems, and other infrastructure, as well as corporate investment in dwellings. Specific feedback received is further discussed below by topic area.

HOA Covenants/Short-Term Lodging Questions

Feedback about the process has included questions about homeowner association (HOA) and other private restrictions that may limit the ability to establish an ALU. Comments have been expressed in support of and in opposition to HOA limitations. However, in accordance with the Code of Virginia and Zoning Ordinance provisions, the County may not require the approval of a property owners association or consider private agreements or other provisions in the implementation and enforcement of the Zoning Ordinance (Section 1106 of the Zoning Ordinance and Va. Code Sect. 15.2-110).

Questions have been raised about the use of ALUs for short-term lodging. Short-term lodging is a separate use under the Zoning Ordinance that requires issuance of an AP and is subject to the standards in subsection 4102.7.O. The Zoning Ordinance prohibits short-term lodging on a lot with an ALU.

POTENTIAL APPROACHES AND STAFF PROPOSALS

Concepts for revising the ALU Zoning Ordinance standards are outlined below. Draft changes are based on experience in implementing the standards adopted in 2021, best practices from jurisdictional research, and feedback received from the Board, industry, and community. Overall, the proposed changes are intended to streamline the process and allow more flexibility in living arrangements while maintaining appropriate standards. Given the range of feedback, various options are described below and summarized in tables with the preliminary staff proposal indicated. The options are also shown in the draft text provided in Attachment 1. As with any proposed amendment, retaining the current Zoning Ordinance regulations is an option, and the current regulations are included in the tables for reference.

By Right ALUs

Currently, an interior ALU that meets the applicable standards is allowed by right, but an administrative permit (AP) is required. This is a separate zoning permit that is processed concurrently with any related building permits, but does require an additional fee and may be perceived as a barrier. Staff's recommended approach is to remove the requirement for a zoning AP for interior ALUs and for detached ALUs on lots over 36,000 square feet (SF) in size

that meet the standards. Detached ALUs are discussed further below. Establishing an ALU often includes construction to configure rooms and install appliances. As such, review for compliance with the Zoning Ordinance standards could still take place as part of the review of the building permit, even with elimination of the separate AP (streamlining the process, removing the separate application fee, and reducing a perceived regulatory barrier). ALUs that require only a trade permit (such as an electrical permit for installation of a stove) would not receive a zoning review, but are also much more likely to meet the by right standards. These ALUs would continue to be required to meet the Zoning Ordinance standards, like all other by-right uses. For situations where no new building permit is needed, a review could take place upon request if a property owner would like documentation that the proposed ALU complies with the Zoning Ordinance, or upon receipt of a complaint. The draft text also includes codification of the second kitchen certification to facilitate building permit reviews. Removal of the AP requirement would not allow for tracking of the number of ALUs County-wide; however, removal of the perceived regulatory barrier of an additional permit could encourage more ALUs to be established in the County.

- **Renewal and recordation**: The by-right/no AP approach would include deletion of the permit renewal and recordation requirements, as there would no longer be a separate zoning permit involved. These requirements could also be removed if the AP process is retained. An ALU approval is currently issued to the property owner for an initial period of two years. The owner must then renew the permit, which can be for subsequent periods of up to five years. The two-year timeframe was intended to allow for another review after a short period of time since the AP standards were new in 2021; however, implementation of the standards has generally been smooth. While review for compliance with the Zoning Ordinance standards should be part of the review to establish an ALU as part of any related special permit, AP, or building permit application, ongoing reviews and tracking appear to represent an unnecessary step in the process.

  The Zoning Ordinance currently requires an ALU approval to be recorded in the land records. Initially, it was thought that the requirement would provide notice to a future property owner of the ALU approval; however, since the permit does not transfer to a new owner, it has likely resulted in misunderstandings and an unnecessary step in the process. The only other use standard in the Zoning Ordinance for recording an approval in the land records is for farmworker housing. As such, staff recommends removing this requirement.

  In previous presentations, application numbers have been documented showing that some AP approvals had not been renewed. Questions were raised about the status of those expired approvals and whether they represent unpermitted ALUs. Since then, staff has re-reviewed all AP approvals and has sent renewal letters to holders of those that have expired.

- **Owner Occupancy:** As part of the by-right/no AP approach, it is also recommended to remove the owner-occupancy requirement, as there would not be a zoning permit or renewal when owner occupancy would be checked. The Zoning Ordinance currently requires the owner to live on a property with an ALU, either in the principal unit or in the ALU. Feedback has been received that this requirement may serve to support property maintenance and reduce investor-owned properties, and in the community survey, 65% indicated that the owner should be required to live on the property. However, feedback has also been provided that there are situations where not requiring owner-occupancy would be desirable, such as with military or other federal deployments. In addition, concerns have been raised regarding the impact an ongoing owner-occupancy restriction has on financing, as financial institutions and lenders may be reluctant to provide financing due to the limitation it places on successive owners who will not be able to rent out or lease their dwelling, which might be necessary as a result of a divorce, job transfer, or death.[6] Staff has also received feedback that the non-transferability of an approval to a new owner can be a deterrent to the ongoing use of an ALU, reducing their effectiveness as a viable housing option. Concerns have been raised regarding general upkeep and property maintenance if owner occupancy is not required; however, property maintenance is subject to code enforcement and varies among individual owners and renters. Further, dwellings without ALUs are not required to be owner occupied.

  The state legislation allows localities to require owner occupancy only when an ALU application is submitted. Similarly, most nearby jurisdictions do not have an owner -occupancy requirement, or the requirement is only when the permit is issued, not as an ongoing condition. While the "at establishment" option could not be used with the by-right/no AP approach, it could be an option if the AP process is retained.

Table 1: By Right/no AP Options

Topic	Options	Staff proposal
Administrative Permit process	**Current**: AP process for interior ALUs.	
	Option: Remove separate permit for interior ALUs and detached ALUs on lots 36,000 SF and larger. Zoning review would take place as part of any related building permit application or upon request.	✓

[6] AARP Accessory Dwelling Units Model State Act and Local Ordinance: https://www.aarp.org/content/dam/aarp/livable-communities/housing/2021/AARP%20ADU%20Model%20State%20Act%20and%20Local%20Ordinance-0212021-08.pdf#page=44

Topic	Options	Staff proposal
Owner occupancy	**Current**: Owner must live on the property, either in the principal dwelling or in the ALU.	
	Option: Remove owner-occupancy requirement.	✓
Renewal	**Current**: Renewal requirement with two years for initial renewal and up to five years for subsequent.	
	Option: Remove renewal requirement.	✓
Recordation	**Current**: Recordation requirement.	
	Option: Remove recordation requirement.	✓

Table 2: Options if AP Process is Retained

Topic	Options	Staff proposal
Administrative Permit process	**Current**: AP process for interior ALUs.	--
Owner occupancy	**Current**: Owner must live on the property, either in the principal dwelling or in the ALU.	
	Option 1: Remove owner-occupancy requirement.	✓
	Option 2: Require owner-occupancy at the time the ALU is created or established, but not as a continuing requirement.	
Renewal	**Current**: ALU permit issued for initial two-year period with subsequent renewals for up to five years.	
	Option 1: Remove renewal requirement.	✓
	Option 2: Keep renewal requirement but change timeframe to five years for initial and subsequent renewals.	
Recordation	**Current**: Recordation requirement.	
	Option: Remove recordation requirement.	✓

Detached ALUs

Currently, an SP is required for a detached ALU and only with a 2-acre minimum lot size. Community feedback has been split on the topic of maintaining or eliminating the SP (public hearing) process. In the community survey, 51% of respondents expressed support for allowing a detached ALU that meets all required standards to be allowed without a public hearing. The nearby jurisdictions that were reviewed do not require a public hearing for detached ALUs. Similarly, the state legislation requires detached accessory dwellings to be approved with an

administrative permit. Staff has also heard reluctance from builders to undertake ALU projects that are subject to the uncertainty of a public hearing approval process.

- **Minimum lot size:** Currently, a minimum lot size of two acres is required for a detached ALU. However, only 4.7% of the single-family detached dwellings in the County are on lots of two acres or more, limiting the effectiveness of detached ALUs as a viable housing option.[7] Also, none of the other jurisdictions that were reviewed has a minimum lot size requirement. Feedback on this topic was requested as part of the community survey and the April community meetings with questions about sample lots in the R-1, R-2, and R-3 Districts. The survey responses are shown in the table below.

Table 3: Percent of Respondents in Support of Allowing a Detached ALU

District (Minimum Lot Size)	Total	With AP	With SP
R-1 (36,000 SF)	71%	50%	21%
R-2 (15,000 SF)	61%	40%	21%
R-3 (10,500 SF)	53%	33%	20%

The draft text includes a proposed reduction of the minimum lot size to 15,000 square feet, with a range for consideration from 10,500 square feet to two acres. Currently, 39% of the single-family detached dwellings in the County are on lots 15,000 square feet or more.

Staff proposes allowing a detached ALU on lots 36,000 square feet and larger to be approved administratively – either as part of the building permit approval (by-right/no AP approach) or with an administrative permit. Staff proposes to allow detached ALUs on lots between 15,000 and 36,000 square feet with an SP, based on a site-specific review.

- **ALU Size**: The Zoning Ordinance allows a detached ALU to be up to 1,200 square feet, with no ability for the BZA to consider a larger size. While 1,200 square feet is a reasonable maximum size for a two-bedroom ALU, there have been circumstances where an existing structure was being renovated for an ALU and the size exceeded 1,200 square feet. Re-using an existing structure can have environmental and other benefits. Therefore, it is recommended that the BZA be permitted to modify the maximum size as part of an SP process.
- **Maximum height and setbacks:** Currently, on lots that are 36,000 square feet or smaller, freestanding accessory structures are limited to a maximum height of 20 feet, measured from the highest point of the structure to the lowest point on the finished ground level, and an increase in height may be approved with an SP. On larger lots, while there is no specific maximum height for an accessory structure, the structure still needs to be subordinate to

[7] Percentage based on the number and lots size for single-family detached dwellings in the conventional districts that allow single-family detached dwellings and the corresponding planned districts.

the principal dwelling. It is recommended that detached ALUs be subject to the general standards for other freestanding accessory structures, including the maximum height of 20 feet on lots less than 36,000 square feet in size. This height limit along with setbacks and location standards serves to minimize the view of accessory structures from surrounding lots. An accessory structure is not allowed in a front yard on a lot that is 36,000 square feet or smaller, and if the structure is over 12 feet in height, it must be located out of the side setback (e.g., 20 feet in the R-1 District) and a distance equal to the height of the structure from the rear lot line. For lots larger than 36,000 square feet, the draft text specifies that as an accessory structure, a detached ALU must be subordinate to the principal dwelling and limited to a maximum height of 35 feet (the maximum height for the principal dwelling), but the height would be measured as other accessory structures are – from the lowest point on the ground to the highest point of the structure.

Table 4: Detached ALU Options

Topic	Options	Staff proposal
Special Permit (SP) process and minimum lot size for a detached ALU	**Current**: SP for all detached ALUs and 2-acre minimum.	
	Option: Allow detached ALUs by right/no AP on lots 36,000 SF and greater; Allow detached ALU on lots between 15,000 and 36,000 SF with SP approval.	✓
Maximum size of a detached ALU	**Current**: 1,200 SF.	
	Option: Keep the maximum size of 1,200 SF and add the maximum of 40% of the principal dwelling, whichever is less (consistent with an interior ALU); and add the ability for the BZA to approve a larger size.	✓
Maximum height of a detached ALU	**Current**: No specific height, except 20 feet for a freestanding accessory structure on lots 36,000 SF in size or less; the BZA may approve an increase in height.	
	Option: Apply the general standards for freestanding accessory structures (e.g., 20-foot height limit on lots less than 36,000 SF in size), with the ability to request a taller height with SP approval, and specify a maximum height of 35 feet and subordinate to the principal dwelling for lots larger than 36,000 SF.	✓

Size Limits for Interior ALUs

- **Basement:** The Zoning Ordinance currently allows the use of the entire basement or cellar, regardless of the size, but only if the basement or cellar existed as of May 10, 2023, for an interior ALU. A basement or cellar is generally not visible from the street and, in most instances, is less than 50% of the size of the dwelling. Allowing use of the entire basement

for an ALU often results in a more practical layout, as well. General community feedback has indicated support for allowing the use of the entire basement for an ALU. Staff recommends removing the date limit and permitting the use of the entire basement for all structures.

- **Gross floor area:** Currently, the Zoning Ordinance limits an interior ALU to 800 square feet or 40% of the size of the principal dwelling (whichever is less) with an SP option to allow the BZA to increase the size. Staff proposes increasing the size to 1,200 square feet while maintaining the 40% limitation to ensure the area continues to be accessory and subordinate to the principal dwelling. This size is consistent with the average size approved by SP where often the ALU space is in an existing addition or proposed on top of an existing space (such as a finished area over an existing garage). A 1,200 square foot size is also consistent with size limitations used by other jurisdictions such as Loudoun County and Montgomery County.

Table 5: Interior ALU Options

Topic	Options	Staff proposal
Maximum size of an interior ALU	**Current**: 800 SF or 40% of the principal dwelling, whichever is less; or entire basement existing as of May 10, 2023.	
	Option 1: Increase maximum size to 1,200 SF or 40% of the principal dwelling (whichever is less) and remove the construction date for use of the basement.	✓
	Option 2: Keep current size limits, but remove the construction date for use of the basement.	

Single-family Attached Dwellings

Many of the nearby jurisdictions that were reviewed allow an ALU only with a single-family detached dwelling, but several allow ALUs with duplex or townhouse dwellings as well. Additionally, the state legislation permits detached accessory dwelling units with both detached and attached single family dwellings. In the community survey, 52% responded that an ALU should not be allowed in a townhouse, with parking being a primary concern. Given the parking limitations in many townhouse communities in Fairfax, the draft text maintains the requirement that an ALU be permitted only in association with a single-family detached dwelling unit, but it includes an option to also allow an ALU with a single-family attached dwelling.

Table 6: Single-Family Attached Options

Topic	Options	Staff proposal
Single-family attached dwellings	**Current**: ALUs are not allowed with single-family attached dwellings.	✓
	Option: Allow interior ALUs in single-family attached dwellings by right/no AP.	

Occupancy

Occupancy of an ALU is limited to two persons. A dwelling occupied by two or more persons related by blood or marriage and any number of children may also include up to two roomers or boarders. The difference between the by right occupancy standard and an ALU (given that both allow non-related "tenants") is that an ALU is configured as a separate unit, an independent space that includes separate eating and cooking facilities. Feedback[8] has been provided that various scenarios would benefit from allowing up to three or four persons to occupy an ALU, such as an older couple or a person(s) with a disability with a live-in caregiver, or a couple that has one or two children. The state legislation precludes requiring a family relationship as part of occupancy standards but does not preclude a numerical limit. Most nearby jurisdictions allow three to four persons to occupy an ALU. Staff has proposed to allow three people in an ALU, and a range of two to four people has been provided. In addition, the draft text includes editorial revisions to the occupancy standard for the principal unit to reference the general occupancy standards and note the exceptions. As with other Zoning Ordinance standards, occupancy of a dwelling is enforced on a complaint basis.

Table 7: Occupancy Options

Topic	Options	Staff proposal
Maximum number of persons	**Current**: 2 people in an ALU.	
	Option: Allow up to 3 people (range: 2 – 4) in an ALU.	✓

Parking

Currently, before approval of an administrative permit for an ALU, staff confirms that the property has the required number of off-street parking spaces for the dwelling plus one additional space. Two options are included for consideration. Option 1 would remove the

[8] Occupancy comment: Feedback was also received recommending that the separate occupancy limits be removed from the Zoning Ordinance and instead rely on the building code. However, the occupancy limits for ALUs are connected to the limits in subsection 4102.3.A of the Zoning Ordinance for all dwellings, and as such, removing these standards would need to be part of separate discussion because it would pertain to all dwellings, not only dwellings with ALUs.

review of parking for establishment of an ALU. Option 2 would continue to require that the minimum number of spaces for a single-family detached dwelling be provided but would not require an additional space for an ALU. Option 2 would not allow an ALU on a property that does not have the requisite parking for the single-family detached dwelling (i.e., is noncompliant with today's parking standards).

Parking has been identified as a community concern. In the community survey, 50% of respondents indicated that the current requirement for an additional parking space should remain. Concerns have been noted around areas with limited parking, such as cul-de-sacs and areas with crowded streets. On the other hand, others have noted that there is no limit on the number of vehicles per dwelling for a home without an ALU, that often an ALU is occupied by a family member, and that an older individual may not have a vehicle. It was suggested that parking should not be required near Metro or frequent bus routes or in walkable, mixed-use areas. New state legislation limits the parking requirement to one space per single-family dwelling in designated areas, which include areas within ½-mile of a Metro, bus rapid transit, Amtrak, or other public transportation station or facility, or 0.5 space in multifamily buildings and mixed-use developments. *See* Virginia Code § 15.2-2209.4.

Table 8: Parking Options

Topic	Options	Staff proposal
Parking	**Current:** The number of on-site parking spaces required for the principal dwelling plus 1 additional space.	
	Option 1: Remove parking standard for ALUs.	✓
	Option 2: The number of on-site parking spaces required for the principal dwelling (remove the requirement for 1 additional space).	

Additional Clarifications

Revisions are proposed to clarify when an arrangement constitutes an ALU. Staff has proposed the following changes:

- Graphics depicting typical ALU arrangements to be included in the Zoning Ordinance.
- Clarifying the standards to indicate that an ALU contains living, sleeping, kitchen, and sanitation areas. A "kitchen" includes permanent provisions for food preparation and cooking (such as a stove, oven, or range) and does not include a wet bar with plug-in food preparation appliances (such as a microwave or air fryer). Nearby jurisdictions, including Alexandria, Arlington, City of Fairfax, and Falls Church, include similar definitions including a reference to a kitchen.
- Clarifying that for an interior ALU, one of the purposes is to maintain the appearance of a single-family dwelling, not a duplex. The focus should remain on the external appearance,

rather than the interior layout. In addition, connection requirements are specified, stating that a semi-detached ALU is considered interior if it is connected to the principal dwelling by an interior connection with an external length and width of ten feet. Any semi-detached ALU with a connection exceeding ten feet in length or width would be treated like a detached ALU.

Table 9: Clarification Options

Topic	Options	Staff proposal
Clarify what is considered an ALU	Add graphics depicting typical ALU arrangements and clarify that an ALU is a secondary dwelling unit; is subordinate to a single-family detached dwelling; contains living, sleeping, kitchen, and sanitation areas.	✓
Clarify connections and what is considered an interior ALU	Clarify the intent that a dwelling with an interior (or attached) ALU should continue to have the exterior appearance of a single-family dwelling, not a duplex. Clarify connection requirements and when a semi-detached ALU can be considered an interior ALU for permitting purposes.	✓

Standards Proposed to be Removed

Staff proposes to delete the following standards, as they are found to not be necessary or are already required by another Code:

- "An accessory living unit must meet all applicable regulations for building, safety, health, and sanitation, and the construction of an accessory living unit is not deemed to be a subdivision of the lot on which the dwelling is located."
    - An ALU is already required to meet all other applicable regulations without restating the requirement in the Zoning Ordinance. Regarding subdivision, this is not necessary to state as an ALU is an accessory use to the principal residential dwelling.
- "If the dwelling is served by a well or septic system, the applicant must obtain Health Department approval prior to administrative permit or special permit approval."
    - Comments have been received expressing concerns about ALUs on properties that are served by well or septic systems. All permits involving interior alterations are routed to the Health Department for review. Adding bedrooms always requires additional review of the septic system capacity before approval of the building or alteration permit. An ALU that does not involve the creation of new bedrooms would not require any expansion of an existing septic system.
- "The accessory living unit must have a working multi-purpose fire extinguisher and smoke and carbon monoxide detectors (when required for a fireplace or gas service) that are interconnected with the principal dwelling."

- The Building Code already requires a fire extinguisher in every kitchen area, including an interior ALU. Further, the Building Code also requires a fire alarm system that is installed in a manner that will activate all notification appliances within both dwelling units. This interconnection requirement also applies to carbon monoxide alarms when their installation is required.

Existing Standards to Remain

Existing ALU standards that are proposed to remain as is, or with minor edits, include:

- No more than one ALU is allowed per lot.
- Any new external entrance must be on the side or rear of the dwelling; any proposed garage or carport must be adjacent to any existing garage or carport; any driveway or curb cut must be the same as that which serves the principal dwelling. These standards can be modified by the BZA with SP approval.[9]
- Maximum of two bedrooms.
- Occupancy of the principal dwelling by two or more persons related by blood or marriage and any number of their children; one or two persons with their children; or a group of up to four unrelated persons, functioning as a single household.
- If the ALU standards are no longer met, the ALU may not be occupied as a dwelling unit, and the property must meet occupancy limitations for a single-family dwelling. Kitchen or other facilities do not need to be removed. A reference is added to the second kitchen certification, and this long-standing practice is proposed to be codified under subsection 8100.8 pertaining to the zoning review of building permits.

NEXT STEPS

A meeting with the Planning Commission's (PC) Land Use Process Review Committee is scheduled for July 9, 2026, at 7:30 p.m. Virtual community outreach meetings are scheduled for this summer to discuss the draft text, and the meetings will be broadly advertised. Also, a community meeting toolkit will be posted to facilitate review by homeowner associations and other groups. Authorization and public hearings could take place by the end of 2026. Questions and comments can be directed to Carmen Bishop, at carmen.bishop@fairfaxcounty.gov, and Casey Judge, at casey.judge@fairfaxcounty.gov, or by calling 703-324-1314.

ATTACHMENTS

Attachment 1 – Draft amendment text
Attachment 2 – Summary of 2026 state legislation

[9] Feedback has been received that not all properties can be configured to meet the standard for a new garage or carport to be located next to any existing one and an administrative option should be included for approval. The current standard is objective and can be interpreted and applied administratively.

Accessory Living Units – Draft Text for Discussion
June 30, 2026

Revise the definition of an Accessory Living Unit in Section 9103

Accessory Living Unit
A secondary dwelling unit established in conjunction with and clearly subordinate to a single-family detached dwelling unit. ***[option to delete "detached"]*** An accessory living unit contains living, sleeping, kitchen, and sanitation areas. For the purpose of this provision, a kitchen includes permanent provisions for food preparation and cooking.

Revise subsection 4102.7.B – Accessory Living Unit use-specific standards

B. Accessory Living Unit[1]

Standards applicable to all accessory living units:

(1) An accessory living unit may be allowed as follows:

Table 4102.6 ALU Permissions			
Permissions	**Interior**	**Semi-Detached**	**Detached**
By right if conforms with all applicable standards[2]	Allowed	Allowed if the exterior dimensions of the connection do not exceed a length and width of 10 feet	Allowed on a lot with a minimum of 36,000 square feet ***[10,500 square feet to two acres]***
Special Permit	Allowed to modify standards identified in subsection 4102.7.B(14)	Allowed to modify standards identified in subsection 4102.7.B(14)	Allowed on a lot with a minimum of 15,000 square feet ***[10,500 square feet to two acres]***; and to modify standards identified in subsection 4102.7.B(14)

[1] The standards have been reorganized. For clarity, the renumbering and reorganization is not shown.
[2] Option to retain current requirements for an administrative permit. Also, if the administrative permit for ALUs is removed, additional edits to the Fee Schedule and Use Tables will be needed.

(2) An accessory living unit is ~~permitted~~ allowed only in association with a single-family detached dwelling unit, and no more than one accessory living unit is ~~permitted~~ allowed on a single-family lot.
Option: An interior accessory living unit is ~~permitted~~ allowed only in association with a single-family detached dwelling unit or a single-family attached dwelling unit.~~, and~~ A detached accessory living unit is allowed only in association with a single-family detached dwelling unit. No~~no~~ more than one accessory living unit is ~~permitted~~ allowed on a single-family lot.

(3) ***Option 1: Delete current standard.*** ~~Either the accessory living unit or the principal dwelling unit must be owner-occupied.~~
Option 2: Either the accessory living unit or the principal dwelling unit must be owner-occupied at the time an accessory living unit is established.

(4) The principal single-family dwelling unit may be occupied in accordance with subsections 4102.3.A(1), (2), and (3), except it may not include roomers or boarders. ~~by not more than one of the following:~~
~~**(a)** Two or more persons related by blood or marriage and any number of their natural children, foster children, stepchildren, adopted children, or children in kinship care;~~
~~**(b)** One or two persons with their dependent children, including natural children, foster children, stepchildren, adopted children, or children in kinship care, functioning as a single household; or~~
~~**(c)** A group of not more than four persons not related by blood or marriage, functioning as a single household.~~

(5) The accessory living unit may be occupied by no more than ~~two~~ three ***[two to four]*** people.

(6) The accessory living unit may ~~not contain more than~~ have a maximum of two bedrooms.

(7) The accessory living unit must not exceed:

(a) 1,200 ~~800~~ square feet of gross floor area or 40~~%~~ percent of the gross floor area of the principal dwelling, whichever is less; or

(b) The entirety of the basement or cellar for an interior ALU ~~may be used, up to the size of the basement or cellar as of May 10, 2023~~.

(c) A larger size may be allowed by special permit in accordance with subsection 8100.4.

(8) For the purpose of determining the size of an accessory living unit ~~approved either by administrative permit or special permit~~, regardless of the definition in Article 9, gross floor area includes the area of any basement or cellar having a structural headroom of six feet six inches or more, but does not include a garage.

~~**(9)** An accessory living unit must meet all applicable regulations for building, safety, health, and sanitation, and the construction of an accessory living unit is not deemed to be a subdivision of the lot on which the dwelling is located. If the dwelling is served by a well or septic system, the applicant must obtain Health Department approval prior to administrative permit or special permit approval.~~

~~**(10)** The accessory living unit must have a working multi-purpose fire extinguisher and smoke and carbon monoxide detectors (when required for a fireplace or gas service) that are interconnected with the principal dwelling.~~

(9) Semi-detached and detached accessory living units that are subject to special permit approval, unless modified by the BZA, must comply with the regulations for freestanding accessory structures in subsection 4102.7.A(6). A detached accessory living unit allowed by right is subject to a maximum height of 35 feet, measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure, and must be subordinate to the principal dwelling.

(10) ***Option 1:*** ***Delete current standard.*** ~~As specified in Article 6, a dwelling with an accessory living unit must provide the number of on-site parking spaces required for the principal dwelling unit, plus one additional space. Only one space serving the lot must provide convenient access to the street.~~

Option 2: ~~As specified in Article 6, a dwelling with an accessory living unit must~~ The property must provide the number of on-site parking space(s) required for the principal dwelling unit as specified in Article 6~~, plus one additional space~~. ~~Only one space serving the lot must provide convenient access to the street.~~

(11) ***Option 1:*** ***Delete current standard.*** ~~An administrative permit for an accessory living unit may be issued to the owner for an initial period of two years from the date of approval. An administrative permit may be extended by the Zoning Administrator for succeeding periods of up to five years based on the applicant's record of compliance with the standards in this subsection.~~

Option 2: An administrative or special permit for an accessory living unit may be issued to the owner for an initial period of ~~two~~ five years from the date of approval. An administrative or special permit may be extended by the Zoning Administrator for succeeding periods of ~~up to~~ five years ~~based on the applicant's record of compliance with the standards in this subsection~~ in accordance with subsections 4102.1.I and 8100.4.D(3)(b).

(12) If the applicable standards ~~above~~ are no longer being met, the accessory living unit may not be occupied as a dwelling unit and the property must meet the occupancy limitations of a single-family dwelling in accordance with subsection 4102.3.A. This standard does not require the removal of any kitchen or other facilities, however a second kitchen certification must be submitted to the Zoning Administrator that the area will not be used in a manner that constitutes an accessory living unit.

Standards when permitted by right ~~administrative permit~~: *[option to keep administrative permit]*[3]

Figure 1: Interior Accessory Living Units



(13) In order to maintain the external appearance of a single-family detached dwelling, an interior accessory living unit must meet the following standards.[4] Examples of interior accessory living units are shown in Figure 1.

- **(a)** The ~~An accessory living~~ unit must be ~~wholly contained~~ located within the existing or proposed structure of a single-family detached dwelling unit and must ~~have direct~~ maintain access to the principal dwelling through an interior space that is ~~finished, temperature controlled, and~~ fully enclosed.
- **(b)** A semi-detached unit is allowed and considered interior if the unit is connected to the principal dwelling by a hallway, enclosed breezeway, or other similar feature with an external length and width that is less than ten feet.
- **(c)** Any new external entrance proposed for an accessory living unit must be located on the side or rear façade of the dwelling.
- **(d)** Any proposed garage or carport must be located directly adjacent to any existing garage or carport, and the associated driveway and curb cut must be the same as that which serves the principal dwelling.

~~**(12)** Before occupancy of the accessory living unit, the owner must record a copy of the administrative permit among the land records of Fairfax County. The permit must contain a description of the property and must be indexed in the Grantor Index in the name of the property owner(s).~~

[3] If ALUs are allowed by right, the use tables (Tables 4101.1 and 4101.2) will also be revised to replace "AP" with "A"
[4] If ALUs are allowed in single-family attached dwellings, additional revisions to this standard regarding external appearance will be needed.

Standards when permitted by special permit:

(14) The accessory living unit must conform to all applicable standards ~~for an administrative permit~~ above, except that the BZA may approve a special permit for an accessory living unit to modify one or more of the standards as identified in the subsections below:

(a) Subsection (13) ~~(2)~~, to permit an accessory living unit in:

1. A freestanding structure, but only on a lot of at least 15,000 square feet ~~two acres~~ ***[10,500 square feet – two acres; option to delete minimum lot size]***; or

2. A semi-detached unit with a connection that exceeds ten feet in length;

Figure 2: Freestanding and Semi-Detached Accessory Living Units



(b) Subsection (13)(c) and (d) ~~(3)~~, to modify the location of any external entrance and access from the street;

(c) Subsection (7) ~~(4)(a)~~, to exceed the maximum size ~~for an interior accessory living unit~~; and

(d) Subsection (10) ~~(9)~~, when the required on-site parking is not provided.[5]

~~**(16)** The area devoted to a detached accessory living unit must not exceed 1,200 square feet of gross floor area and must be clearly subordinate to the principal dwelling.~~

~~**(17)** The BZA may require the provision of off-street parking spaces in addition to the requirements specified in Article 6 for a single-family detached dwelling.~~

~~**(18)** The County may inspect the property during reasonable hours and in accordance with subsection 8106.2.D.~~

~~**(19)** Upon the approval of a special permit, the owner will record a copy of the BZA's resolution of approval, including all accompanying conditions among the land records of Fairfax County. The resolution must contain a description of the property and must be indexed in the Grantor Index in the name of the property owner(s).~~

~~**(20)** A special permit for an accessory living unit may only be issued to the owner and approved for an initial period of two years from the date of approval. The special permit may be extended for succeeding periods of up to five years based on the applicant's record of compliance, in accordance with subsection 8100.4.D(3).~~

[5] This standard will be removed if additional parking is no longer required.

Revise subsection 8100.8 to codify the second kitchen certification process:

8. Building Permits

A. Zoning Review of Building Permits

(1) Zoning approval must be obtained from the ~~The~~ Zoning Administrator ~~must give zoning approval~~ before a building permit can be issued. Without ~~that~~ zoning and building permit approval, no building or structure may be constructed, modified, added to, or demolished if Chapter 61 of the County Code requires a building permit.

(2) A second kitchen certification must be submitted with a building permit application that includes an additional kitchen in conjunction with a dwelling. The certification must confirm that (a) the additional kitchen will not be used in a manner that constitutes an accessory living unit and occupancy of the dwelling will comply with subsection 4102.3.A; or (b) the additional kitchen will be used as part of an accessory living unit that complies with subsection 4102.7.B.

Summary of Amendments to Va. Code Sect. 15.2-2292.3

https://lis.blob.core.windows.net/files/1223191.PDF

The Va. Code was amended in 2026 to expand the ability to have accessory dwelling units ("ALUs" in Fairfax). The legislation has an effective date of July 1, 2027. The legislation includes that it does not apply to a locality that adopted an ALU ordinance prior to January 1, 2026. Since the Zoning Ordinance included permissions and standards for ALUs prior to that date, the new legislation does not apply to Fairfax, but it will apply to other localities that did not have accessory dwelling unit regulations. For reference, the legislation is summarized below as compared to the current Fairfax regulations.

Va. Code Sect. 15.2-2209.4 (https://lis.blob.core.windows.net/files/1225324.PDF) was also amended to limit off-street parking requirements in designated areas to no more than one parking space per single-family detached and attached dwellings and 0.5 space in multifamily buildings and mixed use developments. As a result, the County will not be able to require additional parking for an ALU in the designated areas. The designated areas will be further defined as part of a separate proposed Zoning Ordinance amendment. This legislation goes into effect on July 1, 2026.

New state legislation	Fairfax current regulations
Allows ALUs in all single-family districts (detached and attached)	Not allowed in single-family attached dwellings
Administrative permit only; max $500	Administrative permit $285; special permit also required for detached ALUs and to modify standards for interior ALUs $615
May require:	
Rental of 30+ days	Short-term lodging is not allowed on a lot with an ALU
Parking	One additional parking space required with an ALU Note: Beginning July 1, 2026, the additional space cannot be required in certain designated areas.
Size limit of not less than 350 SF on lots <2,500 SF and 500 SF on lots >2,500 SF	800 SF or 40% of principal dwelling, whichever is less, for interior ALU; 1,200 SF for detached ALU
Owner occupancy only at the time of application	Required at all times
ALU to be no more than 500' from the primary dwelling	Not required
No separate sale or subdivision	ALUs are accessory to a principal dwelling

New state legislation	Fairfax current regulations
May NOT require:	
Side/rear setbacks greater than for primary dwelling or accessory structures, whichever is less	Not required
Height, side/rear setbacks, lot size, coverage, frontage that are more restrictive than for primary dwelling	Not required
Street improvements	Not required
Family relationship	Not required