

ORDINANCE NO. 148 - 2023

AN ORDINANCE AMENDING ARTICLES 1-11, 3-12, 3-13(c), 8-1(c)(8), 8-2(c)(8), 8-3(c)(8) AND 8-5(c)(2) OF THE ZONING ORDINANCE TO UPDATE THE DEFINITIONS AND RESTRICTIONS REGARDING SECOND KITCHENS, ACCESSORY LIVING QUARTERS AND ACCESSORY DWELLING UNITS. (ADU'S) (URBAN COUNTY PLANNING COMMISSION).

WHEREAS, the Urban County Planning Commission, has initiated a text amendment to Articles 1-11, 3-12, 3-13(c), 8-1(c)(8), 8-2(c)(8), 8-3(c)(8) AND 8-5(c)(2) of the Zoning Ordinance to update the definitions and restrictions regarding second kitchens, accessory living quarters and accessory dwelling units (ADU's); and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Articles 1-11, 3-12, 3-13(c), 8-1(c)(8), 8-2(c)(8), 8-3(c)(8) AND 8-5(c)(2) of the Zoning Ordinance to update the definitions and restrictions regarding second kitchens, accessory living quarters and accessory dwelling units (ADU's), and the Planning Commission did recommend APPROVAL of the staff alternative text by a vote of 7-3; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; 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 be and hereby is amended in part to read as follows:

Sec. 1-11. Definitions.

[...]

Accessory Living Quarters means a portion of a dwelling unit designed for the purpose of shared or intergenerational living that may contain a second kitchen and other components of a dwelling, such as an independent means of egress. A non-separated, continuous, and open access shall exist between the accessory living quarters and remainder of the dwelling unit. Total occupancy of a dwelling unit containing Accessory Living Quarters shall be limited to one family or housekeeping unit.

[...]

Dwelling unit, accessory (ADU) means 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) 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.

[...]

Kitchen facilities means equipment arranged in a room or some other space in a structure which facilitates the preparation of food, including, but not limited to, a combination of two (2) or more of the following: a range, microwave oven, dishwasher, kitchen sink, or refrigerator.

Detached accessory structures shall not be permitted to contain kitchen facilities unless that structure is an accessory dwelling unit. A wet bar, including a single sink with a waste drain and a refrigerator may be installed in an accessory structure, provided there are no bathroom facilities, unless such facilities are separated and independently accessed. A wet bar may not include provisions for cooking, other than a microwave oven.

[...]

Principal structure means a building in which is conducted a principal or conditional use. In any residential zone, any structure containing a dwelling unit (other than an accessory dwelling unit) shall be deemed a principal structure on the lot on which the same is located. Where a non-conforming use is the primary use on the property, the building in which it is located shall be deemed a principal structure.

Section 2 – That Article 3-12 of the Zoning Ordinance is hereby amended to read as follows:

Sec. 3-12. General regulations for accessory dwelling units (ADUs).

- (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 new construction, 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. A modular or manufactured home may be utilized as an ADU, provided it meets all other requirements of this section and is attached to a permanent foundation.
- (c) Number of Units. One (1) ADU is permitted per single family dwelling per lot.
- (d) Minimum Lot Size. None.
- (e) Maximum ADU Size. Eight hundred (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 shall be operated in accordance with Article 3-13.
- (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.

Section 3 - That Article 3-13(c) of the Zoning Ordinance is hereby amended to read as follows:

Sec. 3-13. General regulations for Short Term Rentals (STRs).

- (c) Maximum Occupancy Limit (for accessory uses in residential zones): A maximum of two (2) individuals per bedroom, plus an additional four (4) individuals; or a total of 12 individuals, whichever is less. Any host or other permanent residents of the dwelling unit present during the short-term rental period shall count toward the maximum occupancy. Occupancy for accessory dwelling units used as short-term rentals shall be in accordance with Article 3-12(m).

Section 4 – That Article 8-1(c)(8) of the Zoning Ordinance is hereby amended to read as follows:

Sec. 8-1. Agricultural Rural (A-R) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
 - 8. Accessory Living quarters

Section 5 – That Article 8-2(c)(8) of the Zoning Ordinance is hereby amended to read as follows:

Sec. 8-2. Agricultural Buffer (A-B) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
 - 8. Accessory Living quarters

Section 6 – That Article 8-3(c)(8) of the Zoning Ordinance is hereby amended to read as follows:

Sec. 8-3. Agricultural-Natural Areas (A-N) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

8. Accessory Living quarters

Section 7 – That Article 8-5(c)(2) of the Zoning Ordinance is hereby amended to read as follows:

Sec. 8-5. Single-Family Residential (R-1A) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

2. Accessory Living quarters

Section 8 – That this Ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: Dec. 7, 2023



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: Dec. 14, 2023 - 1t
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