



ARLINGTON COUNTY, VIRGINIA

ZOA-2019-07

(Detached Accessory Dwellings)

Adopted May 18, 2019

Effective July 1, 2019

At the County Board regular meeting on May 18, 2019, on a motion duly made by County Board member Libby Garvey and seconded by County Board member Erik Gutshall, the Arlington County Board unanimously adopted the following ordinance, effective July 1, 2019, to amend, reenact, and recodify §12.9.2 and §16.2.4 of the Arlington County Zoning Ordinance to permit new detached accessory dwellings; clarify standards for the establishment of detached accessory dwellings in existing accessory buildings; and make other technical changes to improve clarity, with an effective date of July 1, 2019; and in order to promote the creation and preservation of affordable housing suitable for a reasonable proportion of the current and future needs of the planning district within which the locality is situated; facilitate the creation of a convenient, attractive, and harmonious community; and for other reasons required by the public necessity, convenience, general welfare, and good zoning practice.

Approved amendments are shown with **bold underline** to denote new text, and **~~bold strikethrough~~** to denote deleted text.

Where paragraphs are added or deleted, all subsequent paragraphs are renumbered accordingly, and all references throughout the Ordinance are updated accordingly.

Article 12. Use Standards

§12.9. Accessory Use Standards

§12.9.2. Accessory dwellings

Accessory dwellings are allowed in R districts, subject to issuance of a permit by the zoning administrator and subject to the following:

A. Standards

1. Accessory dwellings may be within or attached to one-family dwellings, or in detached accessory buildings on lots containing one-family dwellings, subject to the following limitations:
 - (a) An accessory dwelling shall not be permitted on a lot with a family/caregiver suite.
 - (b) Not more than one accessory dwelling shall be permitted on a lot.
2. Accessory dwellings shall be located in accordance with all requirements of Article 3 *Density and Dimensional Standards*, provided, however, accessory dwellings shall be allowed within a nonconforming dwelling or detached accessory building, in accordance with all requirements of Article 16 *Nonconformities*. In addition, accessory dwellings shall be subject to the following limitations:
 - (a) Detached accessory buildings existing prior to ~~May 18, 2019~~ **November 27, 2017**, may be altered to make interior alterations, whether structural or non-structural, in accordance with all requirements of Article 16, to create an accessory dwelling. ~~that conforms with all provisions of this §12.9.2. No accessory dwelling shall be located in a detached accessory building built after November 27, 2017.~~
 - (b) Any detached accessory building approved after May 18, 2019 containing an accessory dwelling shall comply with all requirements of Article 3, and with setbacks as follows:
 - (1) On interior lots, the nearest wall of the accessory building shall not be located closer than five feet to a side or rear lot line;
 - (2) On corner lots, the nearest wall of the accessory building shall not be located closer than five feet to any side lot line, and the nearest edge of the eave of the accessory building shall not be located closer than 10 feet to any rear lot line; and
 - (3) The nearest wall of the accessory building shall not be located closer than 25 feet from any street or officially designated street right-of-way line.
 - (c)(b) Detached accessory buildings approved after May 18, 2019 containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.
 - (d) No detached accessory building approved after May 18, 2019 with a footprint larger than 560 square feet in R-5 and R-6 districts, and 650 square feet in any

other district, shall be used to contain an accessory dwelling, and the gross floor area shall be as specified in subsection (e) below.

(e)(e) The gross floor area of an accessory dwelling shall not exceed the following:

- (1)** The size of the basement for an attached accessory dwelling that is wholly within a basement.
- (2)** All other accessory dwellings shall exceed neither:
 - (i)** 750 sq. ft. nor 35 percent of the combined floor area of the main and accessory dwelling, for an attached or detached accessory dwelling where the GFA of the main dwelling is at least 1,000 sq. ft.
 - (ii)** 500 sq. ft. nor 45 percent of the combined gross floor area of the main and accessory dwelling, for an attached or detached accessory dwelling where the GFA of the main dwelling is less than 1,000 sq. ft.

(f)(e) No accessory dwelling **within a main dwelling** with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. **No accessory dwelling within an accessory building with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to May 18, 2019.**

(g)(e) Parking requirements for accessory dwellings shall be as specified and regulated in §14.3.

B. Accessory dwelling application

The following shall be filed with the zoning administrator with the application for an accessory dwelling permit:

- 1.** A floor plan of the accessory dwelling that also identifies its relationship to the rest of the dwelling, and illustrates the provisions of §12.9.2.A above, and that provides such further details as may be required by the zoning administrator.
- 2.** A certified plat of the lot.
- 3.** Evidence of creation of additional parking space, where required by §14.3.

C. Conditions of approval

- 1.** Before approval of a building permit, the owner shall record a covenant on the property in the land records in a form acceptable to the zoning administrator, which identified the accessory dwelling use and that it is subject to the restrictions imposed by the zoning ordinance.
- 2.** No more than three persons shall occupy the accessory dwelling.
- 3.** The owner of the main dwelling must occupy either the main dwelling or the accessory dwelling as his/her primary residence; provided however, if the owner of the main dwelling does not occupy one of the dwelling units as his/her primary residence, the entire property may be occupied by no more than one family.
- 4.** Before a certificate of occupancy is issued for the accessory dwelling, the owner shall file an affidavit of compliance with the zoning administrator in a form acceptable to the zoning administrator attesting to compliance with the conditions of this section, and shall re-file the affidavit of compliance whenever the following occurs:

- (a) When any structural alterations are made to the accessory dwelling; and
 - (b) Upon change in ownership of the main dwelling.
- 5. The owner shall permit annual inspections of the accessory dwelling by the zoning administrator or his/her designee upon reasonable notice to ensure compliance with the conditions of this section.
- 6. The owner shall cooperate with the zoning administrator and his/her designee in ensuring compliance with the conditions of this section and in the investigation of complaints of violations of this section.
- 7. The owner shall advise all tenants of the accessory dwelling of the annual inspection requirement and obligation to cooperate with the zoning administrator in ensuring compliance with the conditions of this section.
- 8. Accessory uses shall not be allowed in the accessory dwelling except home occupations, including accessory homestay, as permitted and regulated in §12.9.11 and §12.9.12.
- 9. Failure to comply with the conditions in this §12.9.2 will result in revocation of an accessory dwelling permit by the zoning administrator. Revocation of the accessory dwelling permit and certificate of occupancy shall be effective after:
 - (a) A finding by the zoning administrator of violation;
 - (b) Notice with 30 day opportunity to correct the violation; and
 - (c) A finding by the zoning administrator after 30 days that the violation has not been corrected.
 - (d) Notwithstanding §12.9.2.C.9(a), §12.9.2.C.9(b), and §12.9.2.C.9(c) above, if more than three violations of the provisions of this §12.9.2 are found to exist by the zoning administrator within a one-year period, the permit may be revoked.

Article 16. Nonconformities

§16.2. Nonconforming Buildings and Structures

§16.2.4. Additions, enlargements, moving

- A. A nonconforming building or structure shall not be added to or expanded in any manner unless such building or structure, including such additions and expansions, is made to conform to all the regulations of the district in which it is located.
- B. A building or structure which does not comply with the height or lot area regulations shall not be added to or expanded in any manner unless such addition or expansion conforms to all the regulations of the district in which it is located; provided, that the total aggregate floor area included in all such separate additions and expansions does not exceed 50 percent of the floor area contained in the existing building or structure, as of July 15, 1950.
- C. A building or structure lacking sufficient automobile parking space in connection therewith as required in §14.3 may be altered or expanded, provided additional automobile parking space is supplied to meet, for the entire building, requirements of §14.3.
- D. No nonconforming building or structure shall be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all the regulations of the district in which it is located.
- E. The provisions of §16.2.4.A, §16.2.4.B, §16.2.4.C, and §16.2.4.D do not apply to existing nonconforming one-family dwellings **and nonconforming buildings or structures accessory to one-family dwellings** located in the R-5, R-6, R-8, R-10, R-20, and R2-7 districts. The provision of §16.2.4.A does not apply to existing nonconforming two-family dwellings **and nonconforming buildings or structures accessory to two-family dwellings** located in the R2-7 district. **The additions or expansions permitted through §16.2.4.E shall comply with all current provisions of this zoning ordinance, except as provided in §16.2.4.E.1.**
 - 1. **Nonconforming one-family dwellings and two-family dwellings permitted to add on to or expand pursuant to §16.2.4.E may construct**~~The provisions of this section shall not preclude construction~~, within applicable height limits, ~~of~~ an addition over an existing one-family or two-family dwelling encroaching on a required setback or yard area provided there is no more of an encroachment into the required setback or yard than that of the existing wall below it, and providing that new construction may not take place over encroaching garages or porches.
