



**MEMORANDUM**

**TO:** Timothy J. Baroody, City Manager  
**FROM:** Chuck Johnston, Director, Community Planning & Building Department  
Mike Craig, Senior Planner  
**DATE:** January 5, 2023 (for the January 10 meeting)  
**RE:** Initiating amendments to the Unified Development Ordinance to permit and establish regulations governing the use of Accessory Dwelling Units associated with single-family detached dwelling units.

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**ISSUE**

Should the City Council initiate amendments to the Unified Development Ordinance § 72-84, Definitions, § 72-41.1, Principal Use Standards, § 72-42.5, Table of Common Accessory Uses, § 72-42.6 Specific Standards for Certain Accessory Uses, to Establish Regulations Governing the Use of Accessory Dwelling Units.

**RECOMMENDATION**

Initiate the public hearing process for the proposed amendments to the UDO.

**BACKGROUND**

The 2015 Comprehensive Plan, as amended, cites the following in Chapter Seven, *Residential Neighborhoods and Housing*:

Goal 8, *Variety of Housing*

Provide a variety housing opportunities throughout the City that respect the character of the community.

Policy 15

Encourage infill development that is compatible with established neighborhoods, in terms of scale and massing.

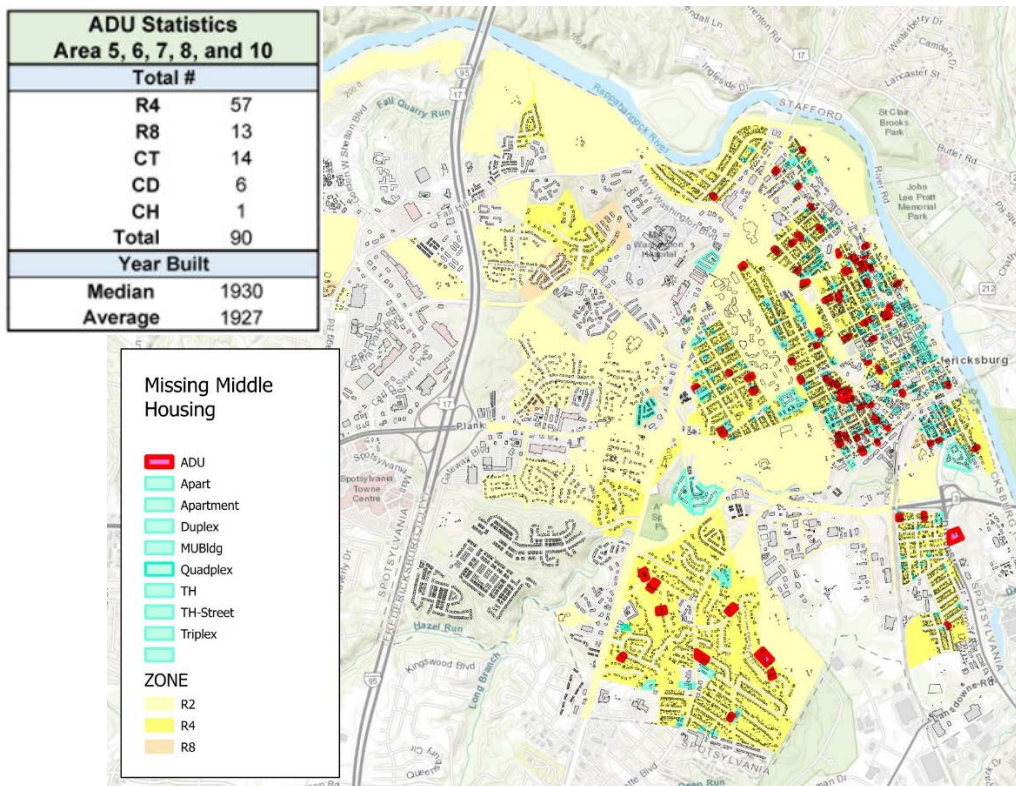
The proposed amendments establish a regulatory framework to govern the use of Accessory Dwelling Units (ADUs) within the City. Specifically, this amendment to the UDO will create new standards to permit ADUs in certain zoning districts, located either within principal single-family dwellings or in accessory structures. This amendment will offer flexibility to homeowners and promote more inclusive housing options in the City, while providing appropriate regulatory safeguards to mitigate impacts to existing neighborhoods.

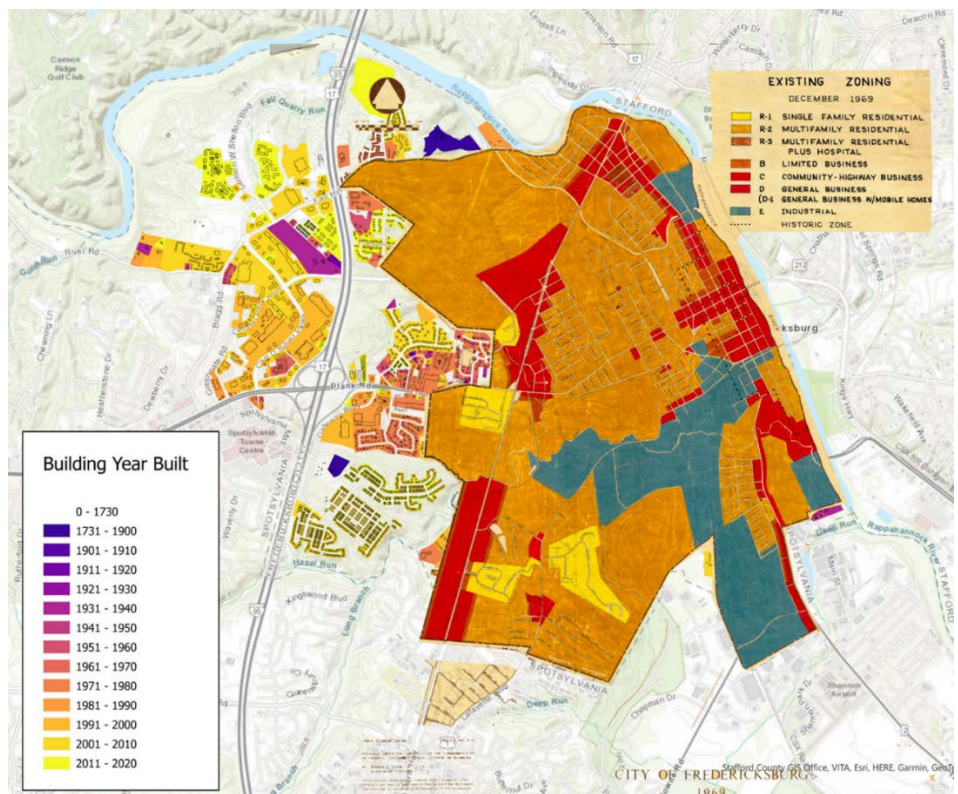
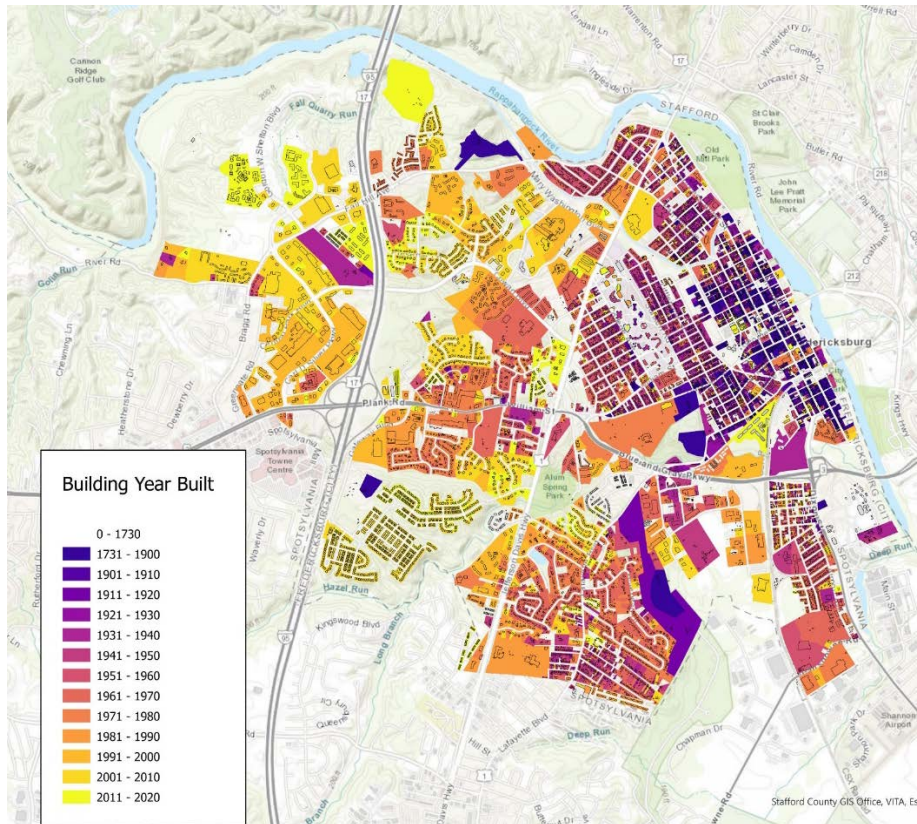
The housing types found in City neighborhoods that were created before zoning regulations, and under zoning regulations in effect before 1970, consisted of a wide range of housing

configurations and arrangements. In addition to detached single-family homes, accessory dwelling units, duplexes, triplexes, quadplexes, single family courts, townhomes, and small apartment buildings are found in the older neighborhoods of the City. This diversity of unit types constitutes “missing middle” housing. They are termed “missing middle” because they are no longer allowed in neighborhoods with suburban-style zoning allowing only single-family dwellings. They are possible only in higher density multi-family dwelling communities. This “missing middle” development pattern housed Americans for generations, but have been rendered archaic and non-conforming by late 20<sup>th</sup> century zoning rules. A remnant of the missing middle housing patterns is the zoning rule that allows up to two persons to reside in a single-family dwelling that are not related to the primary family. But, the prohibition on accessory dwellings makes it illegal for the unrelated residents to have a full kitchen.

Allowing Accessory Dwelling Units with full kitchens would permit the accommodation of an older relative, near to their family, with some degree of independence. ADUs would allow property owners additional income from someone sharing their living space in order to afford to live in the City. With appropriate controls and added clarity in exactly what constitutes a kitchen, permitting ADUs would reintroduce inclusive “missing middle” housing types and improve the livability of City neighborhoods.

Before zoning regulations were established in the City in the 1950s and up until zoning regulations were substantially revised in 1970, ADUs were allowed and common in the City. Ninety non-conforming ADUs still in existence have been identified in property records and windshield surveys, but there are probably more.





The proposed regulations would:

- permit *accessory dwelling units* by right in: R2, R4, R8, CT, CD, PD-R, PD-MU, PD-MC zoning districts, located either within principal single-family dwellings or in accessory structures.
- Leave unchanged the current standard that total *occupancy* of a property: a family and not more the two unrelated persons (unrelated to the family).
- Allow only one ADU per lot
- Allow one full kitchen in an ADU (in addition to one in principal dwelling)
  - *this would be the principal change*
- ADUs would not be counted when calculating density
- If in principal dwelling, ADUs would be limited to 40% of dwelling's gross floor area or
- If in accessory structure, limited to 400 sq ft (defined by Building Code as a 'Tiny House')
- Any exterior entrance for an ADU in a dwelling would be on the side or rear of the dwelling
- There must be a resident manager

If initiated on January 10, the amendments would be on the Planning Commission February 8 agenda for public hearing. The Commission has 100 days from that meeting (until its May 10 meeting) to make a recommendation back to Council for an additional public hearing and action.

### **CONCLUSION**

The attached ordinance provides for amendments to make legal the many non-conforming Accessory Dwelling Units in the City and enable future ADUs, with very specific parameters so as to ensure neighborhood compatibility. Provision of ADUs provides for an additional dwelling on a single family property with a full kitchen. This provides accommodations for family members as well as not more the two unrelated people, thereby expanding housing options in the City.

### **ATTACHMENTS**

1. Ordinance amending the UDO to provide for Accessory Dwelling Units on single family properties.



January 10, 2023  
Regular Meeting  
Resolution 23-\_\_

**MOTION:**

**SECOND:**

**RE:           Initiating Amendments to the Unified Development Ordinance to Permit and Establish Regulations Governing the Use of Accessory Dwelling Units Associated with Single-family Detached Dwelling Units**

**ACTION:       APPROVED: Ayes: 0; Nays: 0**

The purpose of the proposed amendments is to establish a regulatory framework to govern the use of Accessory Dwelling Units (ADUs) within the City. Specifically, this amendment to the UDO will create new standards to permit ADUs in certain zoning districts, located either within principal single-family dwellings or in accessory structures. This amendment will offer flexibility to homeowners and promote more inclusive housing options in the City, while providing appropriate regulatory safeguards to mitigate impacts to existing neighborhoods.

The housing types found in City neighborhoods that were created before zoning regulations and under zoning regulations in effect before 1970 consisted of a wide range of housing configurations and arrangements. In addition to detached single-family homes, accessory dwelling units, duplexes, triplexes, quadplexes, single family courts, townhomes, and small apartment buildings are found in the older neighborhoods of the City. This diversity of unit types constitutes “missing middle” housing. They are termed “missing middle” because they are no longer allowed in neighborhoods with suburban-style zoning for only single-family dwellings and are possible only in higher density multi-family dwelling communities. This “missing middle” development pattern housed Americans for generations, but have been rendered archaic and non-conforming by late 20<sup>th</sup> century zoning rules. A remnant of the missing middle housing patterns is the zoning rule that allows up to two persons to reside in a single-family dwelling that are not related to the primary family. But, the prohibition on accessory dwellings makes it illegal for the unrelated residents to have a full kitchen.

Allowing Accessory Dwelling Units with full kitchens would allow the accommodation of an older relative, close to their family, with some degree of independence. ADUs would allow property owners additional income from someone sharing their living space in order to afford to live in the City. With appropriate controls and added clarity in exactly what a dwelling unit is, permitting ADUs would reintroduce inclusive “missing middle” housing types and improve the livability of City neighborhoods.

In adopting this resolution, City Council has considered the applicable factors in Virginia Code § 15.2-2284. The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the proposed text amendment.

Therefore, the City Council hereby resolves that:

- The City Council hereby initiates amendments to City Code Chapter 72, the Unified Development Ordinance to amend § 72-84, Definitions, § 72-41.1, Principal Use Standards, § 72-42.5, Table of Common Accessory Uses, § 72-42.6 Specific Standards for Certain Accessory Uses, to Establish Regulations Governing the Use of Accessory Dwelling Units.
- The City Council refers this proposed amendment to the Planning Commission for review, public hearing, and recommendation under the procedures set forth in City Code §72-22.1.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

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***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 23-\_\_ duly adopted at a meeting of the City Council meeting held Date, 2023 at which a quorum was present and voted.*

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***Tonya B. Lacey, MMC***  
***Clerk of Council***



**MOTION:**

draft January 10, 2023

**SECOND:**

Regular Meeting

Ordinance No. 23-\_\_

**RE: Amending the Unified Development Ordinance § 72-84, Definitions, § 72-41.1, Principal Use Standards, § 72-42.5, Table of Common Accessory Uses, § 72-42.6 Specific Standards for Certain Accessory Uses, to Establish Regulations Governing the Use of Accessory Dwelling Units**

**ACTION: APPROVED: Ayes: 0; Nays: 0**

**FIRST READ: \_\_\_\_\_ SECOND READ: \_\_\_\_\_**

**Sec. I. Introduction.**

The purpose of this ordinance is to establish a regulatory framework to govern the use of Accessory Dwelling Units (ADUs) within the City. Specifically, this amendment to the UDO will create new standards to permit ADUs in certain zoning districts, located either within principal single-family dwellings or in accessory structures. This amendment will offer flexibility to homeowners and promote more inclusive housing options in the City, while providing appropriate regulatory safeguards to mitigate impacts to existing neighborhoods.

The City Council adopted a resolution to initiate this text amendment at its meeting on \_\_\_\_\_, 2022. The Planning Commission held its public hearing on the amendment on \_\_\_\_\_, after which it voted to recommend the amendment to the City Council. The City Council held its public hearing on this amendment on \_\_\_\_\_.

In adopting this ordinance, City Council has considered the applicable factors in Virginia Code § 15.2-2284. The City Council has determined that public necessity, convenience, general welfare and good zoning practice favor the requested rezoning.

**Sec. II. City Code Amendment.**

**1. Section 72-84, Definitions, of the Fredericksburg City Code, is hereby amended to add the underlined language as follows:**

**ACCESSORY DWELLING UNIT**

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal single-family detached dwelling unit, whether part of the same structure as the principal single-family detached dwelling unit, or as a detached structure on the same lot.

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**DWELLING**

A building or portion thereof, but not a mobile home, designed or used for residential occupancy, which contains permanent provisions for living, sleeping, eating, cooking, and sanitation. The term shall not be construed to mean a motel, rooming house, hospital, or other accommodation used for transient occupancy.

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*[The following new definitions are inserted after the definition for “Junk Vehicles” and before the definition for “Land.”]*

**KITCHEN**

Any room principally used, intended, or designed to be used for cooking or the preparation of food or drink, which contains a range or oven with utility connections greater than 120 volts or with a range, oven, stovetop suitable for servicing a range or oven, along with any appliances or sinks.

**KITCHENETTE**

Any room or portion of a room intended or designed to be used for cooking or the preparation of food or drink, which does not contain a range or oven with utility connections greater than 110 volts or any range, oven, stovetop, sink, dishwasher, or refrigerator greater than 24 inches in width.

**2. Section 72-41, Principal Use Standards, of the City Code is hereby amended to add the underlined language and delete the language shown in strikethrough as follows:**

**72-41.1 Residential uses.**

G. Dwelling, single-family detached. Single-family detached uses shall comply with the following requirements:

- (1) No more than one single-family detached dwelling may be located on a single lot.
- (2) No single-family detached dwelling unit shall have more than one kitchen.

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**3. Section 72-42.5, Table of Common Accessory Uses, of the City Code is hereby amended to add the underlined language as follows:**

TABLE 72-42.5: TABLE OF COMMON ACCESSORY USES																
P = Allowed by right      S = Special use permit required      blank cell = prohibited																
ACCESSORY USE	ZONING DISTRICT															
	R-2	R-4	R-8	R-12	R-16	R-30	C-T	C-D	C-SC	C-H	I-1	I-2	PD-R	PD-C	PD-MU	PD-MC
<u>Accessory Dwelling Unit</u>	P	P	P	.	.	.	P	P	.	.	.	.	P	.	P	P

**4. Section 72-42.6, Specific Standards for Certain Accessory Uses, of the City Code is hereby amended to add a new subsection (L), Accessory Dwelling Units, as follows:**

**L. Accessory Dwelling Units.**

- (1) An accessory dwelling unit is only permitted in association with a principal single-family detached dwelling unit.
- (2) Only one accessory dwelling unit is permitted per lot.
- (3) An accessory dwelling unit may have no more than one kitchen, in addition to the principal dwelling’s primary kitchen.
- (4) An accessory dwelling unit shall not be calculated as part of the maximum allowable density.
- (5) Together, the occupancy of the principal single-family dwelling and the accessory dwelling unit shall not exceed the definition of a family.
- (6) An accessory dwelling shall not exceed:
  - (i) 400 square feet of heated area if the ADU is located in an accessory structure; or
  - (ii) 40% of the gross floor area of a principal dwelling if the ADU is within the principal dwelling.
- (7) An exterior entrance to an accessory dwelling unit that is located within the principal dwelling shall be permitted only on the side or rear of the principal dwelling.
- (8) Either the principal dwelling or accessory dwelling shall be occupied by a resident manager. The manager shall maintain current contact information on the accessory

dwelling unit permit. The resident manager will be the primary point of contact for any property maintenance or use complaints and will manage the public services provided to the site. The principal and accessory units shall share public utilities and services.

**Sec. III. Effective date.**

This ordinance shall be effectively immediately.

**Votes:**

**Ayes:**

**Nays:**

**Absent from Vote:**

**Absent from Meeting:**

Approved as to form:

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Kathleen Dooley, City Attorney

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***Clerk's Certificate***

*I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 23- duly adopted at a meeting of the City Council meeting held Date, 2023 at which a quorum was present and voted.*

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***Tonya B. Lacey, MMC  
Clerk of Council***