

Clarifying Answers to Questions from Casey Judge, Senior Planner, Zoning Administration Division, Fairfax County - February 7, 2021

The current Zoning Ordinance allows rental to two unrelated people in a single-family detached dwelling. Is any permit or approval for such a rental is required? Also, do such rentals generate any additional parking requirements and what are they?

Section 2-502 of our current Ordinance includes the provisions that currently permit a family of any size to have two roomers or boarders by right. A home occupation permit is required by Sect. 10-302 (Par. 7), which is a \$50 permit that is submitted to the County. There are no standards, including no requirement for additional parking. Another kitchen is not permitted for these roomers/boarders, as that would provide all of the components of another “dwelling,” and we would classify that today as an accessory dwelling unit. Another dwelling unit is created when the components of eating, sleeping, living, and sanitation are all provided, and somebody is occupying that space as their residence.

If that’s the case, what is the difference between such a rental and an Accessory Living Unit for two people that currently requires a public hearing and a BZA issued special use permit? Carmen Bishop and Casey Judge, who attended the HRA HOD discussion meeting, said that a second kitchen will be allowed in single-family detached dwellings. Also, zMOD proposes to change the permit requirement to an administratively issued permit, instead of an SP.

The difference is the provision of a kitchen. A second kitchen is currently allowed in dwellings where it’s not used as a dwelling unit (i.e. if somebody has a kitchen in their basement and they use it for entertainment purposes, but nobody occupies that area as their permanent residence).

Would a second kitchen be allowed in **all** single-family detached houses in the County, or only if an ALU permit is applied for? Would such ALU approval be required, if no changes or modifications, requiring a Building Permit are made to the dwelling, and two people just move into what’s there now? Where do you draw the line between a rental for two people, and an ALU for similar two people? Is any permit required to install a second kitchen in a dwelling if there is not change in the occupancy? And if the second kitchen is allowed in all houses, then even that distinction disappears.

The second kitchen is permitted in all dwellings if used for the main occupants of the house; an ALU permit would be required if it’s being occupied as another unit,

whether it's occupied by roomers/boarders, in-laws, somebody providing childcare, etc. A building permit will always be required for installation of the kitchen. An ALU permit will be required as soon as anybody moves into that space and occupies the area as a dwelling unit.

It seems that a more detailed definition of an ALU is needed, to distinguish it from the currently approved rentals that does not seem to require jumping through any hoops. If such rentals will continue to be allowed, who is going to apply for an ALU? I am not saying rentals should be disallowed, but the Zoning Ordinance should clearly define both uses.

Hopefully this explanation is helpful! We understand that our work doesn't stop with adoption of the Ordinance, and we plan to provide educational outreach, including the provision of helpful materials explaining the differences and when an ALU permit is required and when it is not. Always great to think about how we can make this information understandable and accessible