

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	March 2, 2020
Action Required:	Resolution Adoption
Presenter:	John Blair, City Attorney
Staff Contacts:	Lisa Robertson, Chief Deputy City Attorney John Sales, Housing Program Coordinator Brian Haluska, Principal Planner John Blair, City Attorney
Title:	<b>Planning Commission Referral of Accessory Dwelling Unit, Middle Density Zoning, and Affordable Dwelling Unit Zoning Text Amendments</b>

**Background:**

On February 20, 2020, the Charlottesville City Council conducted a work session on zoning text amendments that could enhance the City's efforts to provide affordable housing to its residents. John Sales, Lisa Robertson, and Brian Haluska presented a variety of policy tools that the Council could enact in the short term geared towards the provision of more affordable housing.

The Council expressed its receptiveness to further consideration of zoning text amendments which would change accessory dwelling unit and middle density zoning regulations. Additionally, the Council expressed an interest in enacting an affordable dwelling unit ordinance which would codify the City's current efforts to provide additional affordable housing.

**Discussion:**

Charlottesville City Code Section 34-41 requires the City Council to refer amendments to the City's zoning ordinance to the Planning Commission for a recommendation. The Planning Commission will have 100 days to consider the proposed amendments and provide its recommendation to the Council.

**Budgetary Impact:**

None.

**Alternatives:**

The Council could decline to adopt the Resolution

**Attachments:**

Proposed Zoning Text Amendment

**RESOLUTION REFERRING PROPOSED AFFORDABLE  
DWELLING UNIT ORDINANCE, ACCESSORY DWELLING UNIT  
ZONING TEXT AMENDMENT, AND MIDDLE DENSITY ZONING  
TEXT AMENDMENT TO THE PLANNING COMMISSION**

**WHEREAS**, the Charlottesville City Council conducted a work session on February 20, 2020, to receive information about zoning text amendments that could enhance the City of Charlottesville's efforts to increase affordable housing; and

**WHEREAS**, the Council expressed interest in further consideration of zoning text amendments to amend accessory dwelling unit regulations and to increase the supply of middle density housing within the City of Charlottesville; and

**WHEREAS**, the Council expressed interest in adopting an affordable dwelling unit ordinance as part of its zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Charlottesville, Virginia, pursuant to Charlottesville City Code Section 34-41, hereby refers the attached proposed zoning text amendments and affordable dwelling unit ordinance to the Charlottesville Planning Commission for recommendations to the Council within one hundred days of the adoption of this resolution.

## ORDINANCE

### ESTABLISHING A CITY-WIDE AFFORDABLE HOUSING PROGRAM

**WHEREAS**, the Virginia General Assembly has declared within Va. Code §15.2-958 that the preservation of existing housing in safe and sanitary condition, and the production of new housing for persons of low and moderate income, are public purposes and uses for which public money may be spent, and that such preservation and production are governmental functions of concern to the Commonwealth; and

**WHEREAS**, the General Assembly has expressly authorized the City of Charlottesville, by ordinance, to provide for an affordable housing dwelling unit program; and

**WHEREAS**, City Council finds and determines that public necessity, convenience, general welfare, and good zoning practice require amendment of the City's zoning ordinance to include provisions establishing and implementing an affordable housing program; and

**WHEREAS**, City Council further finds and determines that this Ordinance has been designed to give reasonable consideration to the purposes articulated within Virginia Code §15.2-2283 as well as the matters specified in Virginia Code §15.2-2284;

**NOW, THEREFORE be it ordained by the Council of the City of Charlottesville that Chapter 34 of the Code of the City of Charlottesville (1990), as amended, is hereby amended and re-enacted, as follows:**

### **1. A NEW ARTICLE I-A IS HEREBY ADDED, TITLED "AFFORDABLE HOUSING", AS FOLLOWS:**

#### **ARTICLE I-A. AFFORDABLE HOUSING DIVISION 1. AFFORDABLE HOUSING PROGRAM**

##### **Sec. 34-\_\_\_ Affordable Housing Program established; purpose.**

(a) The City of Charlottesville hereby establishes an affordable housing dwelling unit program, to be referred to as the City's "Affordable Housing Program".

(b) The purpose of the Affordable Housing Program is to establish a range of measures that may be applied one at a time, or in combination, to create affordable housing opportunities within the City of Charlottesville. The Affordable Housing Program shall address housing needs, promote a full range of housing choices, and encourage the construction and continued existence of housing

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affordable to low- and moderate-income residents, determined in accordance with the definitions set forth within this section.

(c) To assist in achieving its affordable housing goals, the City shall maintain a dedicated housing fund within its capital improvements program fund, to be known as the Charlottesville Affordable Housing Fund ("CAHF").

(1) Any funds received by the City in connection with its Affordable Housing Program shall be used only for achieving the City's affordable housing goals.

(2) It shall be unlawful for any person who accepts a grant or loan of funding from the CAHF to use the funding for a purpose other than the preservation of existing housing in safe and sanitary condition, or the production of new housing for persons of low and moderate income, as specified within the council resolution, appropriation or grant agreement by which such funding was provided.

(d) The Affordable Housing Program shall be implemented by an administrator appointed by the City Manager (hereinafter "Program administrator"). City Council hereby designates the Program administrator to perform the functions and to have the authority as set forth following below:

(1) The Program administrator shall administer the Affordable Housing Program in accordance with this and other city ordinances, in a manner that promotes the City's Affordable Housing Program goals.

(2) The Program administrator shall have the following duties, responsibilities and authority:

(i) to establish regulations necessary for the administration of the city's Affordable Housing Program, and standards of compliance with the requirements of the Program;

(ii) in the name of the City, to take all actions necessary to administer the Affordable Housing Program, including enforcement of ordinances, regulations and standards of compliance;

(iii) to enter into contracts, in the name of the City, in accordance with applicable public procurement requirements, for administration of the Affordable Housing Program, and for goods or services necessary or desirable for administration of the Program;

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(iv) to recommend affordable dwelling unit sales and rental prices to City Council for approval on a biennial basis, and to administratively adjust the sales prices not more than semiannually. Affordable dwelling unit sales and rental prices shall be based on a determination of all ordinary, necessary and reasonable housing development costs required to construct the affordable dwelling unit prototype dwellings by private industry. The Program administrator shall develop recommended sales and rental prices, or semiannual administrative adjustments, with input from the City's housing advisory board. The recommended sales and rental prices shall be posted on the city's website for a period of not less than 14 business days. Written comments received will be reviewed with the housing advisory board, and after consideration of the board's recommendations as to the comments, the Program administrator shall make the final decision as to the amount(s) of any semiannual administrative adjustment, or the sales or rental prices to be transmitted to Council for biennial approval. For purposes of this paragraph, the term "housing development costs" shall have the meaning set forth within Va. Code §36-55.26, provided that any sales price(s) shall not include the cost of land, on-site sales commissions, marketing expenses, or pre-paid expenses required at settlement. The established sales and rental prices may include, among other costs, builder-paid permanent mortgage placement costs, buy-down fees and closing costs.

(A) Sales and rental prices for affordable dwelling units shall be established such that a developer would not be precluded from recouping the cost of construction and certain development costs, exclusive of the cost of land acquisition and costs voluntarily incurred but not authorized by this ordinance.

(B) Resales and re-rentals of affordable dwelling units shall be subject to the sales or rental prices, respectively, established pursuant to this section, for a period of not less than 15 years nor more than 50 years after the initial sale of such unit ("required affordability period"), as may be required within a particular program component.

(C) Regulations established by the Program administrator shall set standards by which compliance with the requirements of this ordinance shall be demonstrated by landowners initially, and periodically throughout the required affordability period.

(e) to publish an annual report, on or before September 30 of each calendar year, to be posted on the City's website, identifying the funding expended ("expenditures") from the CAHF during the preceding fiscal year, the number of committed affordable dwelling units obtained as a result of

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those expenditures, the number of other affordable dwelling units obtained by those expenditures, and the name(s) of individuals and entities (whether for-profit or nonprofit) who received CAHF funding.

### **Sec. 34-\_\_\_\_\_ Specific Affordable Housing Program Components**

- (a) *The Charlottesville Affordable Housing Fund (CAHF)*—City council has established the Charlottesville Affordable Housing Fund to assist in achieving the city's affordable housing goals. Any monetary contributions received by the City pursuant to the provisions of Sec. 34-12, from proffered development conditions designated to fund affordable housing development, or from private donations for affordable housing development, shall be included within the CAHF. The City Council shall, by resolution, establish financial guidelines and policies for the use of funds within the CAHF, and may disburse such funding in the form of grants or loans.
- (b) *Homeownership grants, workforce housing*—In order to ensure its competitiveness as an employer, the city council may, by resolution, provide for the use of CAHF funds to provide homeownership grants to city employees, employees of the city's school board and employees of the city's constitutional officers, for the purchase of their primary residences within the city. Grants provided by the city pursuant to this section shall be subject to the Virginia Housing and Development Authority's regional sales price and household income limitations for use in its single-family mortgage loan program.
- (1) Individual grants shall not exceed \$25,000 per employee, nor shall lifetime cumulative grants exceed \$25,000 per employee.
  - (2) The Program administrator may establish terms and conditions applicable to administration of such individual homeownership grants, as necessary to ensure the integrity of the homeownership grants program.
  - (3) In addition to the homeownership grants authorized in subsection (b), the city may:
    - (i) in cooperation with the city school division, offer residential housing assistance grants or loans in amounts not to exceed those permitted in subsection (b);
    - (ii) with city school division, enter into public-private partnerships and other arrangements to provide affordable workforce housing alternatives to school division personnel;
    - (iii) provide loans to any low- or moderate-income individual to aid in the purchase of any land, building, dwelling or dwelling unit within the city; and
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(iv) make grants or loans of funds to the owner of any dwelling or dwelling unit within the city, for the purpose of subsidizing, in part, the rental payment(s) due and owing to such owner by a low- or moderate-income person.

**\*\*State law reference: Va. Code §15.2-958.2; Charlottesville City charter sec. 50.7**

(c) *Grants or loans to incentivize the rehabilitation or new construction of low- and moderate-income residential property--*

(1) The City may, by ordinance, make grants or loans to owners of residential rental property occupied, or to be occupied, following rehabilitation or after construction (if new) by individuals of low and moderate income, for the purpose of rehabilitating or producing such property. Any owner who accepts any grant or loan offered pursuant to this section must record a covenant binding upon and running with ownership of the land promising that, upon completion of rehabilitation or construction, at least 20 percent of the dwelling units rehabilitated or constructed will be occupied by low and moderate income persons, for a minimum affordability period of 10 years. The city may, within its approval of any grant or loan, specify a longer affordability period.

(2) In addition:

(i) city council may, by resolution, provide for the installation, construction, or reconstruction of streets, utilities, parks, parking facilities, playgrounds, and other site improvements essential to the development, preservation or rehabilitation planned;

(ii) the city may, by resolution, provide financial assistance to a property owner, or to the occupants of a residential property, to be used for developing or preserving and upgrading apartment buildings and for improving health and safety, conserving energy, preventing erosion, enhancing the neighborhood, and reducing the displacement of low and moderate income residents of the property;

(iii) the city council may, within any ordinance or resolution granting or loaning funds to a property owner pursuant to this subsection, require that a property owner agree to maintain a portion of the property in residential rental use for a period longer than 10 years, and that a specific percentage of the dwelling units on the property must be offered at rents affordable to persons or families of low and moderate income during that extended period of time;

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(iv) the city council may, within any ordinance or resolution granting or loaning funds to a property owner pursuant to this subsection, require that the value of any financial assistance given by the city to a property owner shall be proportionate to the value of considerations rendered by the owner pursuant to this subsection; and

(v) city council may, by resolution, establish a loan program, by which the city, or a financial institution partnering with the city, may make loans from the CAHF to low- or moderate-income individual(s), for the purpose of rehabilitating owner-occupied residences, or to assist the individual(s) in the purchase of an owner-occupied residence in designated rehabilitation zones within the city. Grants or loans offered in accordance with this paragraph shall be applied using the income guidelines issued by the Virginia Housing Development Authority for use in its single-family mortgage loan program financed with bonds on which the interest is exempt from federal income taxation. For the purpose of this paragraph, the term "financial institution" shall have the meaning set forth in Virginia Code §6.2-604.

(3) The City's Program administrator shall prepare and publish annually on the city's website an annual report listing each property purchased, constructed, or rehabilitated pursuant to this subsection and the amounts of any grants or loans made by the City therefor.

(4) The city's Program administrator is hereby authorized to reduce the following fees for an entity that is pursuing an affordable housing development:

(i) the local component of building permit fees;

(ii) site plan and subdivision review fees required by chapter 34 or chapter 29; and/or

(iii) local portion of fees required by chapter 10 of this city code, associated with the application and review of erosion and sediment control and stormwater management plans.

The fee reduction granted shall be a percentage calculated by dividing the number of affordable dwelling units to be constructed by the total number of dwelling units within the development. The Program administrator shall keep records of the dollar amount(s) of fees waived pursuant to this provision, and shall include within an annual report published on the city's website: a list of each property benefitted by the fee waiver, the

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dollar value of the waived fees, and the number of affordable dwelling units to be constructed or rehabilitated within the developments for which the waivers have been granted

**\*State law reference: Va. Code §15.2-958**

(d) *Donations to charitable organizations—*

(1) The city council may make appropriations of public funds, of personal property, or of real estate, and by resolution, may make monetary donations from the CAHF, to any charitable institution or association engaged in the provision of affordable housing services to residents of the City. Any appropriation or donation shall be used for purposes identified within the appropriation or resolution.

(2) The city council may, by resolution, make gifts or donations of property, real or personal, or money to any charitable institution or nonprofit or other organization engaged in housing development to provide affordable housing within the City for persons 60 years of age or older. Gifts or donations of property or money to any such charitable, nonprofit or other hospital or nursing home, institution or organization or nonprofit recreational associations or organizations may be made and used for construction purposes, for operating expenses, or both, as described within the resolution.

**\*State law reference: Va. Code §15.2-953**

(3) *Waiver of certain fees for 501(c)(3) organization that provides affordable housing—*  
The City's Program administrator is hereby authorized to waive or reduce the following fees for a 501(c)(3) organization submitting plans for construction of any affordable dwelling units, if the organization has, as its primary purpose, the provision of affordable housing:

(i) the local component of building permit fees;

(ii) site plan and subdivision review fees required by chapter 34 or chapter 29;  
and/or

(iii) local portion of fees required by chapter 10 of this city code, associated with the application and review of erosion and sediment control and stormwater management plans.

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A waiver of fees may be granted only when the 501(c)(3) organization itself is the landowner and applicant for the permit or approval sought from the City. If a proposed development includes, or will include, both affordable dwelling units and market-rate units, then the fees may be reduced by a percentage calculated by dividing the number of units to be constructed by the 501(c)(3) by the total number of dwelling units within the development. The Program administrator shall keep records of the dollar amount(s) of fees waived pursuant to this provision, and shall include within an annual report published on the city's website: a list of each property benefitted by the fee waiver, the dollar value of the waived fees, and the number of affordable dwelling units to be constructed or rehabilitated within the developments for which the waivers have been granted.

**\*State law reference: Va. Code §15.2-958.4**

*(e) Reduction of water and sewer fees for affordable housing developments--*The City offers reduced water and sewer facility fees for connecting a unit of affordable housing to the city's water/ sewer system, in accordance with the provisions and definitions set forth within Chapter 31 of the City Code. The City's Director of Utilities shall provide the Program administrator with annual data, reporting the address(es) of each affordable dwelling unit for which reduced water and sewer facility fees have been granted, the number of affordable dwelling units provided at each property, the dollar value of the reduction granted. The Program administrator shall include this information within his or her annual report.

**\*City Code reference: Chapter 31 (Utilities) sections 31-102.1 (water facility fees) and 31-106.1 (sewer facility fees)**

*(f) Affordable dwelling unit advisory board—*

(1) City council shall appoint individuals to serve on an affordable dwelling unit advisory board, to support the Program administrator in the performance of their duties. The advisory board shall have ten (10) members, at least four (4) of whom shall reside within the City. Each member shall be qualified as follows:

(i) two (2) members shall be professionals who have extensive experience in practice within the city, and who are either civil engineers or architects (each of whom shall be registered or certified with the relevant agency of the Commonwealth of Virginia);

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(ii) one (1) member shall be a representative of a lending institution which finances residential development within the city;

(iii) one (1) member shall be a real estate salesperson or broker, licensed in accordance with Virginia law;

(iv) two (2) members shall be residents of the city who have a household income below 80% of the Charlottesville Area Median Income. One of these members may be a member of the governing board of CRHA; and

(v) four (4) additional members, as follows: a residential builder with extensive experience in producing single-family detached and attached dwelling units within the City or Albemarle County; a residential builder with extensive experience in producing multifamily dwellings within the City or Albemarle County; a planner employed within the City's department of neighborhood development services, and a representative of a nonprofit organization that provides housing-related services, such as homeless prevention services.

(2) The affordable dwelling unit advisory board shall perform the following functions:

(i) advise the Program administrator on sales and rental prices of affordable dwelling units;

(ii) advise the Program administrator on the affordable housing program regulations, and requests for modifications of those regulations;

(iii) advise the Program administrator on requests for modifications of this Affordable Housing Program ordinance.

(3) No grants or loans from the CAHF shall be awarded to any individual who serves as a member of the affordable dwelling unit advisory board, or to any legal entity(ies) of which such individual is a member, or in which such individual has a "personal interest", as that term is defined in Virginia Code §2.2-3101, during the individual's tenure on the advisory board.

(g) *City option to purchase*-- For a period of 90 days from the date on which affordable dwelling units are completed and ready for purchase within a housing development that has either received CAHF funding or a zoning affordable housing incentive, the city shall have an exclusive right to purchase up to one-third of the for-sale affordable dwelling units within the development providing such units. The remaining two-thirds of such for-sale affordable units

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shall be offered for sale for a 90 day period, exclusively to individuals who meet household income criteria established by the Program Administrator. The city manager is hereby designated as the agent of city council and is authorized to enter into agreements in the name of the city, for the purchase of affordable dwelling units pursuant to this ordinance, provided that adequate funds have been appropriated and are available within the city's affordable housing fund for such purpose.

(h) *City option to lease*-- The city shall have an exclusive right to lease up to a specified percentage of the rental affordable dwelling units within a housing development that has either received CAHF funding or a zoning affordable housing incentive, during a controlled period of time established within the program regulations. The remaining for-rental affordable dwelling units within a development shall be offered to persons who meet the income criteria established by the Program administrator. The city manager is hereby designated as the agent of city council and is authorized to enter into agreements in the name of the city, for the lease, as lessee, of affordable dwelling units pursuant to this ordinance, provided that adequate funds have been appropriated and are available within the city's affordable housing fund for such purpose.

(i) *Other measures*—The city may undertake other actions authorized or enabled by federal or state laws and regulations; state law; the City Charter; this or any other City ordinance; or City Council resolution or appropriation, when such actions will further the City's affordable housing goals.

(j) *Program regulations*—Pursuant to sec. 34-82(b)(1) the failure of any person to comply with any Program regulation(s) adopted in accordance with the provisions of this division shall constitute unlawful conduct in violation of this Section 34-\_\_\_\_\_.

## **DIVISION 2. INCENTIVE ZONING PROVISIONS**

### **Sec. 34-\_\_\_\_\_. Accessory Dwelling Density Incentive**

(a) Accessory dwellings are allowed as a matter of right, subject to the provisions of this section, in order to:

- (1) Create new housing units while respecting the look and scale of single-family residential development;
  - (2) Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
  - (3) Allow more efficient use of existing housing stock and infrastructure;
  - (4) Provide a means for residents to remain in their homes and neighborhoods, with the extra income derived from accessory dwelling units; and
  - (5) Provide a broader range of affordable housing.
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(b) Notwithstanding the provisions of §34-420, §34-480, §34-796, the provisions of any PUD Development Plan, §34-1123, or §34-1171: an accessory dwelling shall be allowed by right on any lot containing not more than one principal building or structure, and no dwelling unit within the accessory dwelling shall be counted as part of any density regulation applicable to the lot (or a development that contains the lot), if all of the following requirements are satisfied:

- (1) The principal building or structure must be one of the following: a single-family detached dwelling, a single-family attached dwelling, or a duplex;
  - (2) The principal building or structure must be located within a zoning district *other than* R-1U, R-1SU, R-2U, and R-2SU;
  - (3) The footprint of the accessory dwelling shall not exceed fifty percent (50%) of the area within the footprint of the principal building or structure, if the accessory dwelling contains two dwelling units, or thirty percent (30%), if the accessory dwelling contains one dwelling unit;
  - (4) The height of the accessory dwelling shall not exceed 25 feet;
  - (5) The accessory dwelling shall not be located within any front yard area, and shall be subject to the same minimum yard/ setback requirements as any other accessory building or structure within the applicable zoning district;
  - (6) The lot is subject to a deed restriction (covenant) that requires at least one dwelling unit on the lot to be a for-rent affordable dwelling unit, for a period of at least 20 years. The covenant must be recorded in the city's land records prior to issuance of any building permit that would cover construction of the accessory dwelling;
  - (7) Accessory dwellings are allowed on a lot only in conjunction with a principle building or structure, and shall not exist on a lot prior to the construction of the principle building or structure. The covenant required by (b)(6), above shall require an accessory dwelling to be removed if it becomes the only structure on a lot as the result of a land division, a boundary line adjustment, a separation of ownership, or a demolition of the principal building or structure, unless a principal building or structure has been established on the same lot within 2 years.
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- (8) The lot, and all buildings and structures on the lot, must be owned by one or more individuals, and may not be owned by any limited liability company, corporation, partnership, or any other type of business entity. All of the buildings and structures located on the lot, including accessory dwellings and other accessory buildings and structures, must be owned by the same individual(s);
- (9) Each dwelling unit contained within an accessory dwelling shall be used only for residential occupancy.
- (10) The following standards shall apply to any accessory dwelling that has a height of more than ten (10) feet:
  - i. Exterior finish materials and siding must be of a color that matches the color of the principal building or structure.
  - ii. The predominant roof pitch of the accessory dwelling must be the same as the predominant roof pitch of the principal building or structure.
  - iii. The trim on the accessory dwelling must be of similar type, size and location as that used on the principal building or structure.
- (11) For lots located within a design control district, a proposed accessory dwelling shall remain subject to the overlay district regulations of article II, divisions 2, 3 or 5 of this chapter, as applicable.

**(c) Bonus provisions**

- (1) An accessory dwelling may contain one or two dwelling units.
  - (2) The provisions of §34-1171 shall not apply to an accessory dwelling established and used in accordance with this section, and no provisional use permit shall be required for such accessory dwelling. However, any accessory dwelling shall be in addition to any accessory apartment authorized by zoning district regulations, subject to §34-1171.
  - (3) An accessory dwelling may have a separate exterior entrance, or may have an entrance to an internal common area, accessible to the outside, shared with the principal building or structure.
  - (4) The City may subsidize a landowner's construction of an accessory dwelling, with a loan from its affordable housing fund, in accordance with §34-\_\_\_(c) [*see p. 5 of this*
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*draft; also, Va. Code §15.2-958].* This subsidy will apply in addition to any other financial incentives offered by the City. City subsidies will be available only to individuals who own and occupy at least one of the dwelling units on a lot as their principal residence.

- (5) The principal building or structure on a lot containing an accessory dwelling is not required to be owner occupied, except as provided in (c)(4), above.
- (6) No additional on-site parking space(s) shall be required for an accessory dwelling; however, existing required parking for the principal dwelling must be maintained or replaced on-site.

### **Sec. 34-\_\_\_\_. Middle Density Incentive**

- (a) The purposes of this section are to:
    - (1) Create new housing units while respecting the look and scale of single-family residential development;
    - (2) Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
    - (3) Allow more efficient use of existing housing stock and infrastructure;
    - (4) Provide a means for residents to remain in their homes and neighborhoods; and
    - (5) Provide a broader range of affordable housing.
  - (b) Notwithstanding the provisions of §34-420, §34-480, §34-796, the provisions of any PUD Development Plan, §34-1123, or §34-1171: any residential building or structure existing may be altered to contain multiple dwelling units, if all of the following requirements are satisfied:
    - (1) The residential building or structure to be altered must be one of the following types of buildings: a single-family detached dwelling, a single-family attached dwelling, or a duplex;
    - (2) The residential building or structure to be altered must have been constructed on or prior to \_\_\_\_\_, 2020 [insert date of adoption of the ordinance] must be the principal building or structure on a lot, and must be located in a zoning district other than R-1U, R-1SU, R-2U, and R-2SU;
    - (3) The height of the residential building or structure to be altered may not be increased, but the footprint of the building may be expanded;
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- (4) Following completion of alterations of the residential building or structure: no more than four (4) total dwelling units shall be located on the lot, within any zoning district subject to the provisions of Article III (Residential Zoning Districts) of this chapter, including any dwelling unit(s) contained within an accessory dwelling. Not more than six (6) dwelling units shall be located on the lot, within any other zoning district.
  - (5) No individual who resides within the residential building or structure prior to the alterations shall be displaced. Prior to issuance of any demolition or building permit, the landowner shall provide evidence satisfactory to the Program administrator of a plan for retaining the existing residents following completion of renovation or alteration.
  - (6) No existing building or structure shall be completely demolished; if any partial demolition is necessary, then no new construction shall exceed the height of the building or structure prior to the demolition.
  - (7) Prior to issuance of any demolition, building, electrical or plumbing permit for alteration of the residential building or structure, the landowner shall record a deed restriction (covenant) that requires at least one dwelling unit on the lot to be a for-rent affordable dwelling unit, for a period of at least 20 years.
  - (8) For lots located within a design control district, a proposed accessory dwelling shall remain subject to the overlay district regulations of article II, divisions 2, 3 or 5 of this chapter, as applicable.
- (c) Bonus provisions.
- (1) Any residential building or structure altered to contain multiple dwelling units pursuant to this section shall be a lawful residential building or structure, and shall not be deemed a nonconforming use or a nonconforming structure.
  - (2) Any residential building or structure that is a nonconforming structure prior to alteration shall be exempt from restrictions set forth within Article X, Division 8 of this chapter.
  - (3) The City may subsidize a landowner's alteration of an existing residential building or structure with a loan from its affordable housing fund, in accordance with §34-\_\_\_(c) [*see p. 5 of this draft; also, Va. Code §15.2-958*]. This subsidy
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will apply in addition to any other financial incentives offered by the City. City subsidies will be available only to individuals who own and occupy the residential structure, or an accessory dwelling located on the sale lot, as their principal residence.

- (4) The residential building or structure is not required to be owner-occupied, either prior to or following renovation or alteration, except as required by (c)(3), above.
- (5) Only one (1) dwelling unit within the building or structure shall be counted as part of any density regulation applicable to the lot (or a development that contains the lot).
- (6) Side and rear yard requirements shall be 10 feet, minimum, or as required by the applicable zoning district regulations, whichever is less.
- (7) No additional on-site parking space(s) shall be required for an accessory dwelling; however, existing required parking for the principal dwelling must be maintained or replaced on-site.

**2. THE USE MATRICES IN SECTIONS 34-§34-420, §34-480, §34-796 ARE HEREBY AMENDED AS FOLLOWS:**

*Accessory apartment, ~~internal~~*

*Accessory ~~apartment-external~~ dwelling*

**3. SECTION 34-1171 AND 34-1172 ARE HEREBY AMENDED AS FOLLOWS:**

Replace each use of the term “internal accessory apartment” with “accessory apartment”, and replace each use of the term “exterior accessory apartment” with “accessory dwelling”

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#### **4. ARTICLE X (DEFINITIONS), SECTION 34-1200, IS HEREBY AMENDED, AS FOLLOWS:**

##### **Sec. 34-1200. Definitions**

**\*State law reference: Va. Code 15.2-2305**

*Accessory apartment* means an ~~independent~~ dwelling unit *contained within the structure of a single-family detached dwelling or a single-family attached dwelling*, the presence and use of which is clearly subordinate to *the use of the* a single-family detached dwelling and in which no more than two (2) persons reside. *Also commonly referred to as* ~~When contained within the structure of a single family dwelling, such apartment constitutes~~ an "interior accessory apartment."

*Accessory building, structure ~~or use~~* means a building *or structure ~~or use~~ of secondary importance or function on a lot*, located upon the same lot as the principal use, building, or structure, the use of which is incidental to the use of the principal *building or structure on the same lot*. Garages, carports and storage sheds are common residential accessory buildings and structures. Heating, electrical and mechanical equipment, utility service lines and meters, solar energy systems, and related equipment, are equipment or fixtures used accessory to a building or structure located on the same lot.

*"Accessory dwelling" means a secondary dwelling unit located on a lot which contains, as the principal building or structure: a single-family detached dwelling, a single-family attached dwelling, or a duplex; the accessory dwelling unit is created to be auxiliary to, and is always smaller than, the principal building or structure. An accessory dwelling is a building or structure that is independent of the principal building or structure and that is designed for residential occupancy. An accessory dwelling may be detached from the principal building or structure, or may be connected to the principal building or structure by a common area (such as a covered walkway or a shared parking garage).*

*"Accessory use" means a use or activity that is a subordinate part of a primary use and which is clearly subordinate to and incidental to the primary use of a lot.*

*"Affordable dwelling unit" means a dwelling unit that is reserved for residential occupancy by low- or moderate-income persons.*

*"Affordable housing" shall either (i) have the meaning set forth within a particular Affordable Housing Program component (different definitions may apply to different Program components), or (ii) if no other definition applies, then the term shall refer to housing reserved for residential occupancy by low- or moderate-income persons.*

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**PROPOSED ZONING ORDINANCE AMENDMENTS  
PREPARED BY CITY ATTORNEY'S OFFICE  
FEBRUARY 24, 2020**

*"Housing development" or "housing project" each means any work or undertaking, whether new construction or rehabilitation, which is designed and financed pursuant to the provisions of this chapter for the primary purpose of providing affordable housing for low- or moderate-income persons; such undertaking may include any buildings, land, equipment, facilities, or any other real or personal property which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, and landscaping.*

*"Low- or moderate-income persons" unless otherwise specified within a particular program component, this phrase shall have the same meaning as the phrase "persons and families of low and moderate income" used in Va. Code §36-55.26.*

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