

# **ORDINANCE 20-18**

## **AN ORDINANCE AMENDING THE COUNTY OF LEXINGTON ZONING ORDINANCE**



**WHEREAS, County Council finds that certain amendments need to be made to the County of Lexington Zoning Ordinance; and**

**NOW, THEREFORE, Be it ordained by County Council in its meeting duly assembled that the County of Lexington Zoning Ordinance is amended as follows:**

## **ARTICLE 2 – APPLICATION OF REGULATIONS**

### **Chapter 1. Schedule of Permitted Uses**

#### **21.10 Description of Principal Activities**

Residential Detached are single dwelling units (DUs) in a single structure which are surrounded by yards or other open area.

Residential Detached (Limited) are single dwelling units (DUs) in a single structure which are located within specific developments typically on smaller or reduced sized lots. This land use maybe commonly referred to as a patio home, garden home, or courtyard home. For the purpose of this Ordinance, the exterior of Residential Detached (Limited) activities shall be predominately brick, stone, fiber cement, stucco or similar permanent material. Vinyl siding, concrete and/or cinder exteriors are not permissible for this land use activity. Single family or other detached residential uses that do not meet or conform to the criteria of this land use shall be regulated as a Residential Detached land use activity. \*Reference Article 12 for specific regulations pertaining to Residential Detached (Limited) land use activities.

Residential Attached – Duplex are two dwelling units (DUs) in a single structure separated by a common wall.

Residential Attached – Townhouse a row of three or more attached dwelling units (DUs) in a single structure with each individual unit separated by a common wall that is located on a common property line. Each dwelling unit has an individual outside entrance. For the purpose of this ordinance, this land use activity cannot exceed two stories. Residential Attached land use activities consisting of three or more dwelling units that do not meet the criteria of this land use shall be regulated as Residential Attached – Multifamily.

Residential Attached – Multifamily are three or more dwelling units (DUs) typically located within a single or multiple structures, are generally multi-story, usually have common parking and amenity areas, and are referred to as apartments or condominiums.

#### **21.30 Permitted Uses by District**

##### **21.31 Chart of Permitted Activities by District**

Those activities that are marked by an asterisk (\*) are allowed only when granted a special exception by the Board of Zoning Appeals as outlined in Article 15 of this Ordinance.

R1	R2	R3	D	RA	RD	LC	C1	C2	ID	LR	ACTIVITIES
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Residential Detached (Limited) *
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Residential Detached
		✓			✓		✓	✓	✓	✓	Residential Attached - Duplex
		✓			✓		✓	✓	✓	✓	Residential Attached - Townhouse
					✓			✓	✓	✓	Residential Attached - Multifamily

## Chapter 2. General Requirements

### 22.00 Street Classifications and Access

#### 22.01 New Streets Created, Streets Relocated, and/or Streets Closed

Whenever new streets are added to the roadway system within the zoning jurisdiction of Lexington County, these streets shall be classified according to the criteria specified within this Section. Roadways requiring street classifications shall be limited to approved public or privately maintained roads, as recognized and regulated by the Lexington County Subdivision Ordinance, Lexington County Land Development Manual, and Lexington County Public Works. Named driveways may be classified in the same manner as public and private roadways, upon request of the Lexington County Planning and GIS Department or Lexington County Council. Whenever a street is relocated, the current street classification shall remain with the relocation. Whenever a street is formally closed, the street classification of the closed street will no longer be valid and the Zoning Administrator will recommend the zoning district classification for the property, based upon the current zoning district boundaries and surrounding land uses. The Zoning Administrator, upon the approval and confirmation of the classifications by the Planning Commission, shall cause same to be placed upon the Zoning Map.

#### 22.02 Chart of Permitted Access by Street Classification

The following chart designates the street classifications necessary to access each of the major activities. A principal activity which is restricted from access to a specific street classification may not locate where the activity is reachable only through the use of a street with such a restricted classification.

If a street right-of-way has been annexed by a municipality, the access necessary for a major activity will be determined by using the street classification in existence before the annexation.

There are limits placed on some activities allowed to access a Limited Local (LL) street classification. The last column in the chart describes the specific nature of these limits expressed in maximum number of dwelling units (DU) per acre.

A	C	L	RL6	RL5	RL4	RL2	RL1	B	LL & Max. Limits	ACTIVITIES
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Residential Detached (Limited)
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Residential Detached
✓	✓	✓	✓	✓				✓	✓ 6 DU/acre	Residential Attached - Duplex
✓	✓	✓	✓					✓	✓ 6 DU/acre	Residential Attached - Townhouse
✓	✓	✓						✓		Residential Attached - Multifamily

## 22.20 Parking

Vehicular parking and storage shall comply with the following minimum requirements. For the purpose of this Ordinance, accessory off-street parking is considered a support function of the principal activity on a zone lot. If, for any reason, the required minimum parking spaces cannot be accommodated on the same lot as the principal activity, then the Board of Zoning Appeals may entertain a variance request to permit off-site parking provided such site is no more than 500 feet removed from the lot on which the principal activity is conducted.

An automotive parking space is determined to consist of a space no less than 9 feet by 18 feet for standard size vehicles and no less than 7 feet by 15 feet for compact cars if so marked. No more than 25 percent of the parking requirements of this Ordinance may be satisfied with compact car spaces.

When determining parking area requirements for uses other than a Detached Residential activity accessed by a Local street, portions of the public right-of-way or street may not be considered as permissible for maneuvering incidental to parking.

The required ratios of parking per activity shall be as indicated in the chart below. When an activity is composed of two or more separate uses, the parking ratios for each separate activity shall be calculated and applied in the aggregate to the entire tract. It is important to remember that these are minimums and therefore may not be adequate for a particular proposed activity.

### ACTIVITY

### MINIMUM NUMBER OF PARKING SPACES

Residential Detached	3 per dwelling unit
Residential Detached (Limited)	2 per dwelling unit
Residential Attached	2 per dwelling unit

For the purpose of this Ordinance, additional parking areas located within a residential development common area shall be regulated as a Group Assembly (Limited) land use and must conform to all applicable Lexington County development related ordinances and regulations.

## 22.30 Residential Density

Residential types of activities are subject to maximum density limits to support the contemplated activity. Density is to be measured as the total area of land within the property boundaries, including those which are permanently under water or subject to inundation, or which are contained in an easement, proposed roads, area dedicated for stormwater management, open space, amenity areas, or other similar grant of use. However, density calculations shall not include rights-of-way for existing roads.

The allowable density of residential development, excluding Residential Detached and Mobile Home land uses, shall be in accord with the following listings for the zoning districts and street classifications, the most restrictive of which shall apply. **All Residential Detached, excluding Limited, and Mobile Home land use activities shall have a maximum residential density of four (4) dwelling units per exact acre, unless the zoning district or street classification density allowance is more restrictive.** Minimum lot areas are then established via this table in conjunction with adherence to the buffering restrictions of Article 2, Chapter 3 and requirements of the Lexington County Subdivision Ordinance, Lexington County Landscape and Open Space Ordinance, Lexington County Building Code Ordinance, and Lexington County Land Development Manual. Nothing contained herein shall be construed so as to circumvent the specific lot area requirements of SCDHEC regulations for individual wells and septic tanks.

<u>ZONING DISTRICT</u>	<u>DENSITY (dwelling units per exact acre)</u>
R3	20
R2	8
R1, D, RA	4

  

<u>STREET CLASSIFICATION</u>	<u>DENSITY (dwelling units per exact acre)</u>
Arterial (A) Four Lanes	20
Arterial (A) Two Lanes	12
Collector (C) Four Lanes	12
Collector (C) Two Lanes	8
Collector (C) Unpaved	6
Local (L) Paved	6
Local (L) Unpaved	4
Residential Local Six (RL6)	6
Residential Local Five (RL5)	5
Residential Local Four (RL4)	4
Residential Local Two (RL2)	2
Residential Local One (RL1)	1
Boulevard (B) Four Lanes	12
Boulevard (B) Two Lanes	8

A lot in existence prior to the adoption of this Ordinance, which does not comply with the requirements of this section, shall be allowed to support one dwelling unit without regard to density or lot area, provided the activity complies with all other zoning requirements and any applicable health and safety standards.

### Chapter 3. Buffering Restrictions

#### 23.30 Setbacks

Setbacks delineate certain open spaces on lots. These spaces are linear distances measured from property lines inward. Buildings or other principal structures, or areas, comprising the principal activity of the lot may not encroach this space. A setback may accept an accessory activity, unless superseded by a buffer. Accessory buildings to residential activities must maintain a minimum 5-foot setback from adjoining property lines. The chart in Section 23.60 lists two types of setbacks based on the type of activity and location. They are measured either from a road right-of-way or an adjoining property line. Setbacks abutting existing roads shall be measured from the proposed right-of-way as shown in the Right-of-Way Plan if that width is greater than the existing right-of-way. However, for Residential Detached or Mobile Home activities being established on an existing dead-end road, which has limited potential for future widening, the existing road right-of-way shall be used. Mechanical equipment, steps, ramps, and/or landings necessary for building access, or other necessary utilities, attached to a principal structure shall not be taken into consideration when determining the setback. Land use activities where setbacks are not required

cannot encroach upon properties not approved for the activity or encroach upon a designated road right-of-way, unless otherwise permitted in this Ordinance.

### 23.60 Chart of Maximum Buffering Restrictions

The columnar chart below lists the maximum buffering restrictions defined in this chapter as they apply to the list of principal activities. The procedure for determining the actual buffering restrictions that will apply to a particular project or site shall be as outlined in the following paragraphs.

A request for a zoning permit which utilizes the maximum buffering restrictions as published shall be approved with respect to the requirements of this chapter. A request for a zoning permit which proposes to utilize buffering restrictions less than the maximum numbers listed must employ the following procedure:

If the owner of any protected property wished to sanction the selection of a lesser specific restriction, to include business sign setback requirements from adjoining properties, such consent shall be noted on a form provided by Lexington County. This consent shall become valid only upon verification by the Zoning Administrator and attachment to the applicable zoning permit.

If the process outlined above does not produce the buffering restriction desired by the applicant requesting a zoning permit, the applicant may apply to the Board of Zoning Appeals for a decision following the variance procedures outlined in Chapter 2 of Article 15 – Administration. Once the Board renders a decision, the applicant may not utilize the process outlined in the previous paragraph unless significant aspects of the permit request have been modified or the ownership of the protected property has changed.

ACTIVITIES		HEIGHT (#/1)	BUFFER	SETBACKS from		SCREENING	
				Adjoining Property	Road R. O. W.	Total	Partial
Mobile Homes	R	1		10	10		
	I	3		10	10		
Residential Detached (Limited)	R	1		10	15		
	I	3		10	15		
Residential Detached *ROW setbacks shall be 30' for attached garages, carports, or other covered parking areas. In the event the principle residence does not have an attached garage or carport, the entire structure must setback 30' from the ROW.	R	1		10	20/30*		
	I	3		10	20/30*		
Residential Attached – Duplex * There is no setback for units separated by a common property line.	R	1		5*	10		
	I	3		5*	10		

ACTIVITIES		HEIGHT (#1)	BUFFER	SETBACKS from		SCREENING	
				Adjoining Property	Road R. O. W.	Total	Partial
Residential Attached – Townhouse * There is no setback for units separated by a common property line.	R	1		10*	30		
	I	3		10*	30		
Residential Attached – Multifamily	R	½	30	75	30	100	150
	I	3					
Group Assembly (Limited) * Amenity areas part of larger residential developments and located within the development may utilize the buffering restrictions of the most intensive residential use in such development.	R	¼	50*	100*	40*	100*	150*
	I	3					

## ARTICLE 12 – RESIDENTIAL (LIMITED) DEVELOPMENTS

### Chapter 1. General Provisions

#### 121.00 Purpose

The purpose of this Article is to provide options to incorporate the unique need for smaller, more compact residential detached developments, amongst the increased traditional single-family residential growth and development within the unincorporated areas of Lexington County.

#### 121.10 Jurisdiction

The regulations set forth herein shall apply to any property located within the jurisdiction of this Ordinance that is proposed to be developed as a Residential Detached (Limited) land use development.

#### 121.10 Definition

Residential Detached (Limited) are single dwelling units (DUs) in a single structure which are located within specific developments typically on smaller or reduced sized lots. This land use maybe commonly referred to as a patio home, garden home, or courtyard home. For the purpose of this Ordinance, the exterior of Residential Detached (Limited) activities shall be predominately brick, stone, fiber cement, stucco or similar permanent material. Vinyl siding, concrete and/or cinder exteriors are not permissible for this land use activity. Single family or other detached residential uses that do not meet or conform to the criteria of this land use shall be regulated as a Residential Detached land use activity.

### **121.20 Application of Regulations**

Upon the effective date of these regulations, Residential Detached (Limited) land use activities shall only be developed or expanded in accordance with the applicable restrictions contained herein.

### **121.40 Special Exception Review**

**121.41** A request for a permit for a Residential Detached (Limited) development will require special exception approval from the Board of Zoning Appeals. The basis for such approval is a demonstration by the applicant that the developer can design and implement the Residential Detached (Limited) development in a manner that addresses the regulations and unique conditions that are created with small and/or compact lot residential developments. It will be the responsibility of the applicant to make evident to the Board that the following criteria can be met:

- a. As demonstration that the proposed development will conform to provisions of this Article;
- b. As demonstration that the proposed development will be harmonious with the surrounding properties and community; and
- c. The developer's ability to manage the overall development process, to include but not limited to, permitting, project management, and construction.

**121.42** For the Board to rule on a Residential Detached (Limited) development request based on these criteria, the following information must be submitted for consideration with the application:

- a. A detailed site plan illustrating the appropriate development area, lot sizes, density, setbacks, lot coverage and open space have been addressed;
- b. The means for addressing the minimum parking standards within the development;
- c. Exterior architectural renderings of the proposed dwelling units, to include color elevation renderings of each side of the proposed products to be constructed; and,
- d. Statements from applicable subdivision, landscape and open space, building, addressing, land development, and emergency management officials that the initial site plan would conform to applicable regulations and ordinances. A full approval from each of these disciplines is not required; however, direction that the proposed development would not be in conflict of these regulations and ordinances.
- e. Traffic and/or roadway improvements, anticipated through Lexington County Public Works or SCDOT.

### **121.50 Zoning Permit**

It shall be the responsibility of the developer to construct and develop Residential Detached (Limited) land uses in accordance with regulations set for within this Article and in accordance with the approved zoning plan for the development. A separate Zoning Permit shall be required for each overall Residential Detached (Limited) development prior to the onset of site development.

### **121.60 Adherence to Other Regulations**

The regulations contained herein are in addition to other applicable ordinances or requirements,



such as, but not limited to the Lexington County Landscape and Open Space Ordinance, Lexington County Building Code Ordinance, Lexington County Stormwater Ordinance, Lexington County Land Development Manual, Lexington County Subdivision Ordinance, other regulations set forth within this Ordinance, or SCDHEC regulations.

Whenever the provisions of the Article impose regulations that are in conflict with those of other County ordinances or other governmental agencies, the more restrictive regulations shall apply.

#### **121.70 Approved Development Plans**

In the event the developer, or primary party, conveys lots to individual builders, it shall be his/her responsibility to ensure the lots are developed in conjunction with the approved plan. Approved Residential Detached (Limited) developments that either are abandoned and/or partially completed shall be developed as originally approved by the new owner, developer and/or entity of the project, unless favorable approval by the Board of Zoning Appeals through the Special Exception process outlined in this Article. The re-development of approved Residential Detached (Limited) developments shall comply with the applicable provisions of this Ordinance, as well as other ordinances and laws.

### **Chapter 2. Regulations**

#### **122.00 Development Area**

The minimum development area shall be 2.5 acres and the maximum development area shall be 15 acres. The development area shall consist of the acreage of the parent parcel(s) utilized for the proposed Residential Detached (Limited) development. The overall development acreage shall encompass the entire development plan.

#### **122.10 Density, Lot Size, and Lot Coverage**

##### **122.11 Density**

The maximum allowed density limits for Residential Detached (Limited) developments shall comply with Section 22.30 of this Ordinance for the permissible number of dwelling units per zoning district or street classification, adhering to the most restrictive allowance. Regardless of density, a secondary dwelling unit is prohibited within these developments.

##### **122.12 Lot Size**

Each dwelling unit shall have a minimum 4,000 square foot lot size and a maximum of 5,000 square foot lot size. The lot size must be a minimum of 50 feet in width and conform to all applicable requirements of the Lexington County Subdivision Ordinance.

##### **122.13 Lot Coverage**

The maximum lot coverage for dwelling units within Residential Detached (Limited) developments shall be 50 percent (%).

Accessory structures to the principal dwelling, including swimming pools, play grounds, or other personal recreational items do not have to conform to the maximum lot coverage

requirement. There is no maximum lot coverage for proposed amenity areas, utilities, or other permissible non-residential uses located on lots within and intended to serve Residential Detached (Limited) developments.

#### **122.20 Structural Design Standards**

The exterior of all dwelling units shall be predominately of brick, stone, fiber cement, stucco, or similar permanent material, excluding doors, windows, doors, garage doors, window walls, soffits, eaves, trim, porches, and decks. Vinyl siding, concrete and/or cinder block exteriors are not permissible for predominant exterior materials. The development shall have consistent or like exterior designs and permanent exterior materials.

The maximum height of a dwelling shall be two (2) stories and, in no instance, be taller than 30 feet above finished grade.

#### **122.30 Parking Standards**

A minimum of two (2) standard parking spaces is required per dwelling unit. The parking spaces should be located within the lot, not within the road right-of-way. Residential driveways shall be utilized to ensure this minimum parking standard and adequate vehicle stacking is achieved. Dwelling units 1,500 square feet and larger shall have a minimum two-car garage.

Due to the nature of the small and compact lots, the developer shall create a plan to address additional parking needs for the development at a ratio of one (1) additional parking space per four (4) dwelling units. Such plans may include, but not be limited to, privately maintained side or rear alleys, common parking areas, residential driveways designed to accommodate additional vehicles, or intermittent parking along streets. Common parking areas shall be regulated as allowed Group Assembly land use activities within residential developments. The use of mail kiosk areas is encouraged as an area to incorporate additional parking areas.

#### **122.40 Open Space**

Residential Detached (Limited) developments shall provide a minimum of 20 percent open space, as regulated by the Lexington County Landscape and Open Space Ordinance. In the event the development does not meet the minimum standards of the Lexington County Landscape and Open Space (i.e., number of lots), the open space required within this Article shall still be required. The development should work to encompass the entire perimeter of the development in open space and encourage passive recreational opportunities within the designated open space, as allowed by this Ordinance and other applicable ordinances or laws.

#### **122.50 Nonconformity**

- a. Any Residential Detached activity, considered to be and/or meeting the intent of a Residential Detached (Limited) land use, legally established or permitted that do not conform to the provisions of this Article shall be deemed a nonconforming use. The nonconforming use shall be allowed to continue, provided the use complies with all applicable Sections of Article 14.
- b. In the event a nonconforming residential detached activity is destroyed or damaged by fire, natural disaster, or other means, it may be re-established or repaired provided the degree of nonconformity is not increased and it is re-established in the same manner as previously constructed.

- c. Existing, developing, and/or approved residential developments, considering to be and/or meeting the intent of a Residential Detached (Limited) land use, that do not conform to the provisions of this Article shall be allowed to continue. Such developments may expand utilizing the previously incorporated design of the initial development (i.e., setbacks, lot sizes, density, structural design, parking, etc.) provided the degree of nonconformity is not increased, connectivity between the existing and new phase(s) is provided, the developer of the new phase(s) is the same entity as the existing phase(s), and is consistent with a master plan of the overall development submitted in conjunction with the Development Review Meeting and/or submittal of the initial phases. Previous approvals shall be subject to Section 151.10 of this Ordinance relating to vested rights.

## **ARTICLE 14 – NONCONFORMITY**

### **Chapter 2. Legal Nonconformity**

#### **142.40 Expansion of a Legal Nonconformity**

A legal nonconformity which is a disallowed use may be expanded, provided the expansion does not exceed 50 percent of the existing developed area of the site and conforms to all applicable Restrictive Development buffering restrictions. In addition, the entire activity, existing and expansion, must also comply with all applicable vision clearance, parking requirements, screening requirements, and performance standards. Expansion of an actual disallowed use is only permitted if a special exception is granted by the Board of Zoning Appeals. However, an expansion required to meet federal, state, or local health, safety, or access regulations and the like, may be allowed provided the expansion complies with any applicable buffering restrictions, parking requirements, vision clearance requirements and performance standards. Such an expansion must be limited to meeting the required regulation only and may not further expand the actual disallowed use, unless granted a special exception by the Board of Zoning Appeals. The Board of Zoning Appeals shall take in consideration the stated opinions of the surrounding property owners, the surrounding land uses, the existing condition and circumstances of the property in relation to the expansion, the condition of other properties in the immediate area, conformance of the current use and expansion in relation to various zoning requirements, and any other extraordinary conditions or circumstances that may apply when deliberating a special exception request.

A legal nonconformity which is a disallowed use may convert to a less intensive use, provided the activity conforms to all applicable vision clearance, parking requirements, screening requirements, and performance standards. An expansion may only occur as allowed under this Section of the Ordinance.

A legal nonconformity which is an allowed use may be expanded if the degree of nonconformity is not increased. If the expansion does increase the degree of nonconformity, the expansion area must meet all current Zoning requirements.

The required compliance notice shall not pertain for the expansion of legal nonconformities.

Existing, developing, and/or approved residential developments that do not conform to current setbacks and/or density provisions within this Ordinance may expand utilizing the previously approved setbacks and the average overall density, as calculated by total exact acreage of previous phases provided the degree of nonconformity is not increased (i.e., equal or more restrictive density, equal or larger setbacks), connectivity between the existing and new phase(s) is provided, the developer for the expansion of the new phase(s) is the same entity as any of the existing phase(s), and is consistent with a master development plan of the overall development submitted in conjunction with the Development Review Meeting and/or submittal of initial phases. Previous approvals shall also be subject to Section 151.10 of this Ordinance relating to vested rights.

**COUNTY OF LEXINGTON ZONING ORDINANCE**

**NOW THEREFORE BE,** it ordained by the Lexington County Council as follows:

Provisions in any other County Ordinance in conflict with this ordinance are hereby repealed. This Ordinance shall be effective upon its enactment.

Enacted this 11<sup>th</sup> day of May, 2021.

LEXINGTON COUNTY



M. Todd Cullum  
Chairman, County Council

{SEAL}

ATTEST:



Brittany Shumpert, Clerk

First Reading: November 10, 2020 (By Title Only)

Public Hearing: December 8, 2020

Second Reading: April 27, 2021

Planning Commission: March 18, 2021

Third & Final Reading: May 11, 2021

Filed with the Clerk of Court: 6/2/2021