



FAIRFAX COUNTY

PROPOSED ZONING ORDINANCE AMENDMENT

STAFF REPORT

Minor and Editorial Revisions and Changes to Reflect Virginia Code Updates

February 6, 2024

Hearing Dates

Planning Commission: February 28, 2024, at 7:30 p.m.

Board of Supervisors: March 19, 2024, at 4:00 p.m.

Staff Contact

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Americans with Disabilities Act (ADA): Reasonable Accommodation is available upon 48 hours advance notice. For additional Information on ADA call 703-324-1334 or 711 (Virginia Relay Center).



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Background

The proposed amendment includes minor and editorial revisions including updates in accordance with state law, as outlined in Item #7 of the [Zoning Ordinance Work Program](#). The proposed changes address the items specifically noted in the Work Program regarding the timing of published notices, an update to BZA membership, and wastewater submission requirements. Other changes address items from the [Priority 2 Work Program](#), including the fence height allowed for wireless facilities approved with a special exception, personal service establishment permissions in C-1 through C-4, accessory retail in warehouses, revising the definition of shopping center, and the short-term lodging appeal period. Clarifications and other revisions that are typographical or editorial in nature are also included.

Proposed Changes

The proposed changes are described in the table below and are similarly numbered in the Proposed Text beginning on page 8 below.

1	2105.3.B(4)(b) – PRC Planned Residential Community District 2105.5.A – PRM Planned Residential Mixed-Use District 4102.8.H(2)(c) – Portable Storage Container 8100.2.E(4)(a)1b – Ordinance Text and Zoning Map (Rezoning) Amendments 8101.4.B(41) – Site Plans and Minor Site Plans And any other provision where multiple family is referenced.	Revise “stacked townhouse” to read “stacked townhouse dwelling” and revise “multiple family dwelling” to read “multifamily dwelling” for consistency in the use names throughout the Zoning Ordinance.
2	2105.3.B(4)(d) – PRC Planned Residential Community District	Revise “13 persons” to read “13 persons per acre” for clarification.

3	3103.2.G (Table 3103.1) – Noise Compatibility Table	Revise the Noise Compatibility Table for the Airport Noise Impact Overlay District to indicate that uses, other than residential, in the Agricultural and Related Uses classification are not required to provide acoustical treatment. This change recognizes the exemptions afforded to most agricultural uses under state law. Residential uses will continue to be addressed as outlined under the Residential Uses classification in the table.
4	4101.3 (Table 4101.1) – Use Table for Residential, Commercial, and Industrial Districts	Revise the permissions for personal service establishments from an associated service use to by right in the C-1 through C-4 Districts. This change addresses Item #10B of the Zoning Ordinance Work Program - Priority 2. <i>See additional discussion below.</i>
5	4102.1.I – Standards for Administrative Permit Approvals	Include a standard to indicate that the Zoning Administrator may deny the renewal of an administrative permit if it does not meet Zoning Ordinance provisions or if there is evidence of noncompliance by the applicant. While the Zoning Administrator already has this authority, the additional language makes it clear for enforcement purposes.
6	4102.2.D(6) – Stable, Riding or Boarding	Correct a typographical error in a cross-reference.
7	4102.4.Q(17) – Independent Living Facility 4102.4.Q(17)(c) - Independent Living Facility 4102.4.Q(17)(e) - Independent Living Facility	Under the Independent Living Facility, replace “low-income residents” with “residents” and replace “tenants” with “residents.”
8	4102.4.Y – Wireless Facility Standards 4102.7.A(7)(b)5 – Fences and Walls	Revise the standards for wireless facilities approved by special exception to allow a fence or wall that is an integral part of the wireless facility to exceed the maximum fence or wall height permitted by Table 4102.4. This addresses Item #2 of the Zoning Ordinance Work Program – Priority 2. The change is consistent with current staff interpretation that the fencing is considered part of the wireless facility, and since the facility is exempt from Zoning Ordinance bulk regulations, fences may exceed Ordinance height limits.
9	4102.5.A – Animal Shelter or Kennel Standards	Include a standard to clarify that in Planned Districts, any outdoor component associated with an animal shelter or kennel must specifically be shown on the approved development plan. As part of this change, an outdoor component will also be allowed in the PCC District, when specifically shown on an approved development plan, consistent with other P districts.

10	4102.6.D – Warehouse	Include a standard to allow accessory retail for a warehouse use approved by special exception (SE) in the I-3 District. This addresses Item #10C of the Zoning Ordinance Work Program - Priority 2. Currently, accessory retail sales are only allowed for warehouses that are permitted by right in I-4, I-5, and I-6, ranging from 25 to 60 percent, but there is no allowance for accessory retail to be approved as part of the SE in the I-3 District; the I-3 District is the only district where an SE for a warehouse use is required. The change creates consistency across warehouse uses.
11	4102.7.A(8) – Gates and Gateposts	Clarify that gates and gateposts, as limited by subsection 4102.7.A(8), can be located in any part of the front yard and that gates and gateposts located in side and rear yards are regulated by the maximum fence or wall height standards.
12	5100.2.D(4)(a)1 – Setback Regulations	Clarify that the minimum front setback applies within the two or more front yards on a corner lot.
13	5100.2.O(3)(a) – Cluster Subdivisions	Correct a typographical error.
	5100.2.O(3)(b) – Cluster Subdivisions	Correct a cross-reference.
14	8100.1.B(1) – Required Notice for Public Hearings	Revise the Required Notice for Public Hearings information to clarify that the public notice regulations must be in accordance with state law. This proposed change addresses Item #7A of the Zoning Ordinance Work Program. <i>See additional discussion below.</i>
15	8100.10.A(1)(a) – Appeals 8100.10.A(2)(a) – Appeals 8100.10.A(2)(b) – Appeals	Clarify that, to be accepted, an appeal application must be complete and include all submission materials as specified in Section 8101. Clarify that appeals must be filed within 30 days from the issuance date of the decision being appealed. Add short-term lodging to the types of violations that are subject to a 10-day period for filing an appeal application. This change is consistent with current practice and addresses Item #27B of the Zoning Ordinance Work Program – Priority 2.

16	8101 – Submission Requirements	<p>Add minimum sanitary sewer information to the submission requirements for generalized development plans, conceptual and final development plans, PRC development plans, PRC plans, and certain SE and SP plats. This change is in accordance with Item #7C of the Zoning Ordinance Work Program. <i>See additional discussion below.</i></p> <p>Revise submission requirements to remove references to requests for physical copies of application materials as all application materials are currently being submitted digitally via PLUS. In addition, remove “digital” when referencing digital photographs as all photographs are submitted digitally via PLUS.</p>
17	8103.2 – Planning Commission	Revise to reflect updates to Planning Commission bylaws.
18	8103.3.D – Board of Zoning Appeals	Include language to reflect that the BZA may have up to three alternate members in addition to seven permanent members. This change addresses Item #7B of the Zoning Ordinance Work Program.
19	9102 – Definition of Shopping Center	Revise the definition of a shopping center to include retail in a mixed-use building for consistency with current practice and interpretation. This change would allow, for example, first floor retail in a residential building to use the parking rates for a shopping center. This is in accordance with Item #12 of the Zoning Ordinance Work Program – Priority 2.
20	<p>9103 – Definition of Specialized Instruction Center</p> <p>9103 – Definition of Health and Exercise Facility, Small</p>	Include examples of uses in the definitions of a specialized instruction center and a small health and exercise facility. For example, tutoring, art, and music lessons are considered a specialized instruction center, while martial arts, yoga, and cycling classes are considered a health and exercise facility.
21	Any cross-references to subsections in the Zoning Ordinance with typographical errors, for example, not including the word “subsection” or not providing the complete subsection reference where there is a partial reference may be revised.	<p>Add “subsection” where subsection is missing in a cross-reference.</p> <p>Complete cross-reference where only a partial subsection is referenced.</p>

Revisions to Personal Service Establishment Permissions

The expansion of personal service establishment permissions, as noted in item 4 in the above table, is in accordance with Item #10B of the Priority 2 Zoning Ordinance Work Program. The change would allow personal service establishments by right in the C-1 through C-4 Districts. Personal service establishments include barber shops and beauty salons, tattoo parlors, laundromats, tailors, and other similar places of business. Currently, personal service establishments are permitted if considered an associated service use in accordance with the standards in [subsection 4102.1.G](#) of the Zoning Ordinance. An associated service use is primarily designed to serve the tenants of the building. The associated service use standards limit the use to 2,500 square feet, a combined maximum of up to 10 percent of the gross floor area of the building, and require a personal service use to be located in an office building complex. Staff have received inquiries for proposed personal service establishments in the C-1 through C-4 Districts that are unable to meet the restrictive associated service use standards. The proposed change recognizes that personal service establishments are already often provided (and are permitted) as an accessory use within other uses permitted in the C-1 through C-4 Districts, such as massage therapy establishments and small health and exercise facilities. As such, allowing by-right personal service establishments in the C-1 through C-4 Districts is compatible with current permitted uses and provides additional flexibility and options for the repurposing of office spaces.

Submission Requirements: Sanitary Sewer Information

Including minimum sanitary sewer information in the submission requirements for rezoning, special exception, special permit, and development plan applications is in accordance with Item #7C in the Zoning Ordinance Work Program. The proposed revisions have been coordinated with the Department of Public Works and Environmental Services (DPWES) and would codify a sanitary sewer (wastewater) checklist that is currently being used voluntarily as part of the zoning application review process. The checklist was developed as a result of extensive outreach by the Wastewater Planning and Monitoring Division of DPWES, including monthly meetings initiated in early 2022 with the development community. The proposed submission requirements do not apply where there would be no net increase in sewage flow due to the proposed land use or change, or if the site is served by an individual sewage disposal system (septic system). In addition, certain application types that primarily affect homeowners, such as a special permit for an accessory living unit, home-based business, home day care, increase in fence height, or a reduction in setback requirements, would not be subject to the proposed submission requirement. It should be noted that the Zoning Ordinance allows submission requirements to be modified or waived where the requirement is not necessary for review of the application.

State Code Changes for Required Notice for Public Hearings

Revisions to the Required Notice for Public Hearings subsection are proposed to state that public notice requirements must be in accordance with state law. This proposed change addresses Item #7A of the Zoning Ordinance Work Program. Senate Bill 1151 (2023 General Assembly) updated the timing of published notices in the newspaper for public hearings, removed the requirement for a descriptive summary in advertisements for public hearings, and included other changes to notice provisions recommended by the Virginia Code Commission. The Supreme Court has held that a “descriptive summary” means “a statement that covers the main points concisely, but without detailed explanation, in a manner that serves to describe an object for the knowledge and understanding of others.”

Glazebrook v. Bd. of Supervisors, 587 S.E.2d 589, 591-92 (Va. 2003). The descriptive summary must also provide geographic boundaries, when applicable, to allow the public to ascertain the areas that would

be affected. *Gas Mart Corp. v. Bd. of Supervisors*, 611 S.E.2d 340, 347 (Va. 2005). In practice, this has often resulted in the County advertising lengthy and detailed descriptions of proposed changes—not just the main points—even though full staff reports and text were available online and in person. While a descriptive summary is no longer required, the newspaper advertisement would continue to include the proposed action and where additional information and staff reports are available for review. Detailed staff reports will remain accessible online. No changes are proposed to the provisions requiring posted notices on the property and abutting streets, or for the provisions relating to written notices to adjacent property owners.

Summary

Overall, the proposed amendment corrects a number of typographical and editorial errors, resolves inconsistencies, provides further clarification on certain points, and reflects updates to state law. The proposed amendment also addresses several items in the Zoning Ordinance Work Program. It is recommended that the amendment become effective at 12:01 a.m. on the day following adoption.

Proposed Text

In the revisions shown below, text to be deleted is identified with ~~strike-through~~ and text to be added is underlined. The item numbers in the INSTRUCTION boxes correspond to the numbers in the table above.

#1 INSTRUCTION: Revise subsection 2105.3.B(4)(b) to add “dwelling” after “stacked townhouse” and revise subsections 2105.3.B(4)(b), 2105.5.A, 4102.8.H(2)(c), 8100.2.E(4)(a)1b, and 8101.4.B(41) to replace “multiple family” with “multifamily,” as shown below. Similarly, replace any other instances of “multiple family” with “multifamily” throughout the Zoning Ordinance.

2105.3.B(4)(b):

- (b) In computing density, the following factors are used: A factor of 3.0 persons per single family detached dwelling; 2.7 persons per single-family attached dwelling or stacked townhouse dwelling; and 2.1 persons per ~~multiple family~~ multifamily dwelling.

2105.5.A:

A. Purpose

The PRM District provides for high density, ~~multiple family~~ multifamily residential development (generally with a minimum density of 40 dwelling units per acre) and for mixed use development consisting primarily of ~~multiple family~~ multifamily residential development (generally with a density of at least 20 dwelling units per acre), with secondary office or other commercial uses.

...

4102.8.H(2)(c):

- (c) On lots developed with single-family attached, stacked townhouse, or ~~multiple family~~ multifamily dwellings, for a period not to exceed seven consecutive days within a six-month period.

8100.2.E(4)(a)1b:

1. For single section developments, or multiple section developments where required recreational facilities are to be provided in the first section of the development, facilities must have an executed security package before:
 - a. Final subdivision plat approval for single-family dwelling developments; or
 - b. Issuance of construction permits for ~~multiple family~~ multifamily dwelling developments, single-family attached dwelling developments not subject to subdivision approval, or combination single-family attached dwellings subject to subdivision approval and ~~multiple family~~ multifamily dwelling developments.

8101.4.B(41):

- (41)** Identification that the development is subject to the Affordable Dwelling Unit Program provisions of Section 5101, with the specific lots or dwelling units that are affordable dwelling units designated on the site plan. However, in the case of a ~~multiple family~~ multifamily development which is under single ownership and is a rental project, the affordable dwelling units need not be specifically identified; instead, the number of affordable dwelling units by bedroom count and the number of market -rate dwelling units by bedroom count must be noted on the site plan. For multiple section developments where not all the required affordable dwellings units are to be provided in the first section of the development, the site plan for the first section and all subsequent sections must contain a notation identifying in which section(s) the affordable dwelling units will be or have been provided and a total of all affordable dwelling units for which such site plan(s) have been approved. Additionally, at the time of site plan submission, the owner or applicant must submit an affidavit that includes:

#2 INSTRUCTION: Revise subsection 2105.3.B(4)(d) to add “per acre” after “13 persons.”

- (d)** In computing average density on any development plan, subsequent PRC plan, or final plat of a part of a PRC District, the density may include any excess in land area over that required to support an average density of 13 persons per acre in any previously recorded final plat. As each plan and subsequent final plat is submitted, the overall density of all areas shown on recorded final plats within the PRC District is recomputed so that the average density within the recorded plats of sections of the PRC District will never exceed a density of 13 persons per acre.

#3 INSTRUCTION: Revise Table 3103.1 to include a 'P' for uses in the Agricultural and Related Uses classification and to include Agritourism as a use.

Table 3103.1: Noise Compatibility Table

For KEY to table, refer to subsection 3103.2.E, Use Limitations

Use	Noise Impact Areas (DNL dBA)		
	75+	70-75	65-70
AGRICULTURAL AND RELATED USES			
Agricultural Operation	<u>P</u>	<u>P</u>	<u>P</u>
<i>Growing of crops</i>	<u>P</u>	<u>P</u>	<u>P</u>
<i>Livestock</i>	<u>NP</u>	<u>P3*</u>	<u>P</u>
<i>Residential use</i>	<u>NP</u>	<u>P2</u>	<u>P3</u>
<u>Agritourism</u>	<u>P</u>	<u>P</u>	<u>P</u>
Farm Winery, Limited Brewery, or Limited Distillery	<u>P2*P</u>	<u>P3*P</u>	<u>P</u>
Stable, Riding or Boarding	<u>NP</u>	<u>P3*P</u>	<u>P</u>

#4 INSTRUCTION: Revise Table 4101.1 to revise the permissions for personal service establishments from an associated service use to permitted in the C-1 through C-4 Districts.

TABLE 0.1: Use Table for Residential, Commercial, and Industrial Districts																													
P = permitted; SE = special exception; SP = special permit; <i>blank cell</i> = not allowed																													
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit																													
Use	Residential Districts														Commercial Districts								Industrial Districts						Use-Specific Standards NOTE: General Standards also apply
	R-A	R-C	R-E	R-1	R-2	R-3	R-4	R-5	R-8	R-12	R-16	R-20	R-30	R-MHP	C-1	C-2	C-3	C-4	C-5	C-6	C-7	C-8	I-1	I-2	I-3	I-4	I-5	I-6	
COMMERCIAL USES																													
Error! Reference source not found.: businesses that primarily provide routine business support functions for the day-to-day operations of other businesses or frequent or recurrent needed services of a personal nature to individuals																													
Personal Service														A+	A+	A+	A+	P	P	P	P			A+	A+	A+	A+	A+	Error! Reference source not found. Error! Reference source not found.

#5 INSTRUCTION: Revise subsection 4102.1.I to include a standard to indicate that the Zoning Administrator may deny the renewal of an administrative permit if it does not meet Zoning Ordinance provisions or if there is evidence of noncompliance by the applicant, as shown below.

I. Standards for Administrative Permit Approvals

- (1) The County may inspect the property during reasonable hours and in accordance with subsection 8106.2.D.
- (2) The Zoning Administrator may revoke an administrative permit at any time or deny the renewal of such permit if the owner or operator of the use fails to comply with all requirements of the law with respect to maintenance and conduct of the use and all conditions imposed by the Zoning Administrator in connection with the permit.
- (3) The Zoning Administrator will issue a notice ~~of revocation~~ to the owner or operator, hand-delivered or mailed, return receipt requested, setting forth the grounds upon which the permit was revoked or not renewed and the date and time the revocation or nonrenewal took effect, and describing the appeals procedure. Upon receipt of the notice, operation of the activity must cease.
- (4) These provisions do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of this Ordinance.

#6 INSTRUCTION: Revise subsection 4102.2.D(6) to correct a typographical error in a cross-reference, as shown below.

- (6) The Board or BZA may modify or waive the setback requirements of subsection ~~(3)~~(4) or ~~(4)~~(5) above as follows:

#7 INSTRUCTION: Revise subsections 4102.4.Q(17), 4102.4.Q(17)(c), and 4102.4.Q(17)(e), to replace “low-income residents”, “low-income tenants” and “tenants” with “residents,” as shown below.

4102.4.Q(17):

- (17) The following additional standards also apply to any independent living facility that rents dwelling units to ~~low-income residents (“tenants”)~~ where at least 70 percent of the dwelling units are to be provided for residents whose annual household income does not exceed 50 percent of the AMI and not more than 30 percent of the dwelling units are provided for ~~tenants~~ residents whose annual income does not exceed 70 percent of the AMI:

4102.4.Q(17)(c):

- (c) The owner or manager is responsible for monitoring the income level of ~~tenants~~ residents at the time of initiation and renewal of any lease term and is responsible for any reporting of such information in accordance with the requirements of the FFHA, and must establish that any live-in aide or resident care provider continues to meet the applicable requirements of this Section. The owner or manager is also responsible for completing all verification of occupancy requirements set forth in 42 U.S.C. § 3607(b) and 24 C.F.R. § 100.307 annually. The results of all such monitoring and occupancy verification must be provided to the Zoning Administrator, or designee, on an annual basis to assure on-going compliance with the tenancy and income limits. Such report must include the dwelling unit number and address, date of lease renewal, term of lease renewal, and ~~tenant’s~~ resident’s income. Should a ~~tenant-resident~~ become over-qualified with regard to income at any time during a lease term, the ~~tenant-resident~~ must vacate the unit at the end of the lease term in effect at the time of such over-qualification or within nine months of such over-qualification, whichever time period is longer.

4102.4.Q(17)(e):

- (e) Such independent living facilities ~~for low-income tenants~~ are not subject to Section 5101, the ADU Program or the Board’s policy for Workforce Dwelling Units.

#8 INSTRUCTION: Include new subsection 4102.4.Y(6)(d) and revise subsection 4102.7.A(7)(b)5 to allow a fence or wall that is an integral part of a wireless facility approved by special exception to exceed the maximum fence or wall height in Table 4102.4.

4102.4.Y(6)

- (d) In addition, a fence or wall that is an integral part of a wireless facility may exceed the maximum fence or wall height in accordance with subsection 4102.7.A(7)(b)5.

4102.7.A(7)(b)5:

5. A fence or wall that is an integral part of an electric substation or a wireless facility may exceed the maximum fence or wall height in Table 4102.4 above.

#9 INSTRUCTION: Revise subsection 4102.5.A(3) to clarify that, in Planned Districts, any outdoor component for a kennel must specifically be shown on the approved development plan.

- (3) In a P district, any outdoor component must specifically be shown on the approved development plan. ~~In the PCC District, a kennel must be located in a completely enclosed building.~~

#10 INSTRUCTION: Include a standard to allow accessory retail sales for warehouse uses, when permitted by special exception, in subsection 4102.6.D, as shown below.

Standards when permitted by special exception:

- (3) In the I-3 District, a maximum of 10 percent of the gross floor area of the establishment or 5,000 square feet, whichever is smaller, may be used for retail sales

#11 INSTRUCTION: Revise subsection 4102.7.A(8) to clarify that gates and gateposts may be located in any yard, as shown below.

(8) Gates and Gateposts

Gates and gateposts may be located within any ~~required minimum front setback yard~~ as follows:

- (a) ~~Four gateposts no taller than ten feet. In any front yard:~~
1. Four gateposts no taller than ten feet.
 2. Two gates no taller than eight feet.
 3. Gates and gateposts that are taller than four feet must not exceed 15 percent of the width of the lot.
- (b) ~~Two gates no taller than eight feet.~~ Gates and gateposts located in any side or rear yard are limited to the maximum allowed fence or wall height in accordance with subsection 4102.7.A(7)(b).
- ~~(c) Gates and gateposts that are taller than four feet must not exceed 15 percent of the width of the lot.~~

#12 INSTRUCTION: Revise subsection 5100.2.D(4)(a)1 to clarify that the minimum front setback applies within the two or more front yards on a corner lot.

(1) Corner Lots

The following regulations apply to corner lots:

(a) Lot Lines and Yards

1. The two or more yards lying between the principal building and the intersecting streets are both deemed to be front yards and the minimum front setback applies.
2. The shorter street line is deemed to be the front lot line, regardless of the location of the principal entrance or approach to the main building, and the rear yard is opposite the front lot line.

#13 INSTRUCTION: Correct a typographical error in subsections 5100.2.O(2)(a)2 and 5100.2.O(3)(a), to include “subsection” before the subsection number and correct the cross-reference in subsection 5100.2.O(3)(b) to refer to subsection 8100.5, as shown below.

O. Cluster Subdivisions

(2) Post-July 1, 2004 Rezoning and Special Exceptions

(a) Applications after July 1, 2004, are subject to the following:

1. New cluster subdivisions are not permitted by special exception in the R-2 District or in the R-3 and R-4 Districts with a minimum district size of three and one-half acres or greater;
2. The Board may approve a proffered rezoning to the R-2 District, or a proffered rezoning to a R-3 or R-4 District with a minimum district size of three and one-half acres or greater, for the development of a cluster subdivision without bonus density when the application is for a rezoning to a residential district with a higher permitted maximum density than the existing zoning district. In conjunction with Board approval of that proffered rezoning, all minimum district size, lot area, lot width, shape factor, and open space requirements of the district and all applicable cluster subdivision provisions of Chapter 101 of the County Code must be met without modification or waiver. The provisions of subsection 8100.2.D apply to such approved proffered rezoning.

...

(3) Pre-July 1, 2004 Cluster Subdivisions

- (a) Cluster subdivisions in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts that were approved by proffered rezoning by the Board before July 1, 2004, continue to be subject to the proffered rezoning approval. Amendments to those proffered rezonings may be filed and considered in accordance with the provisions of subsection 8100.2.D. Minor modifications to those subdivisions may be permitted in accordance with subsection 8100.5.
- (b) Special exceptions for cluster subdivisions in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts that were approved by the Board before July 1, 2004, and established remain valid and are subject to the special exception approval, including any approved development conditions. Amendments to special exceptions for these cluster subdivisions may be filed and considered in accordance with subsections 8100.3.D(5) and 5100.2.O. Minor modifications to those subdivisions may be permitted in accordance with subsection ~~8100.3.D(3)(b)~~ 8100.5.

...

#14 INSTRUCTION: Revise subsections 8100.1.B(1)(c) and 8100.1.B(1)(d) to clarify that the public notice regulations must be in accordance with state law, as shown below. Reletter as needed.

B. Scheduling and Notice of Public Hearings

(1) Required Notice for Public Hearings

- (a)** Public hearings required by this Ordinance will be held only when evidence establishes that the notice requirements in this subsection have been satisfied. All required notices must meet the standards specified by state law.
- (b)** The subject of the public hearing is not required to be advertised in full but may be advertised by reference. Every advertisement must contain a ~~descriptive summary~~ of the proposed action and must identify the place(s) within the County where copies of the subject of the public hearing may be examined.

Published Notice

- (c)** Public notice is the hearing body's responsibility. Notice of any hearing must be published in accordance with the standards specified by state law. Public notice of any hearing must be published once a week for two successive weeks in a local newspaper having general circulation in the County. This notice must be published at least six days, but no more than 21 days before the date of the hearing, and there must be at least six days between the first and second publication.
- (d)** ~~The notice must specify the time and place of the hearing and the nature of the matter before the hearing body. The hearing notice for any amendment that imposes or increases levies or fees must also include the information required by state law. The public notice is the hearing body's responsibility.~~

#15 INSTRUCTION: Revise subsection 8100.10.A(1)(a) to clarify that, as specified in Section 8101, an appeal application must be complete and include all submission materials, as shown below. Revise subsection 8100.10.A(2)(a) to clarify that appeals must be filed within 30 days from the issuance date. Revise subsection 8100.10.A(2)(b) to include short-term lodging to the types of violations requiring a 10-day time period for filing an appeal application.

A. Appeal Processing

(1) Initiation

- (a)** The ~~applicant-appellant~~ must submit materials in accordance with Section 8101. To be accepted, an application must be complete and include all required materials.
- (b)** An appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, commission, or authority of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance. An appeal that relates to a proffered condition, however, must be taken to the Board as provided for in subsection 8100.2.D(3)(d).

(2) Time Limit on Filing

- (a)** Except as set forth below, all appeals must be filed within 30 days from the issuance date of the decision appealed by filing an appeal application with the Zoning Administrator and the BZA.
- (b)** Appeals from notices of violation involving the following violations must be filed within ten days from the date of the notice by filing an appeal application with the Zoning Administrator and the BZA:
 - 1.** Occupancy of a dwelling unit in violation of subsection 4102.3.A.
 - 2.** Parking a commercial vehicle in an R district or a residential area of a P district in violation of subsections 4102.1.B(2) and 4102.1.E(4).
 - 3.** Parking of vehicles on an unsurfaced area in the front yard of a single-family detached dwelling in the R-1, R-2, R-3, or R-4 Districts in violation of subsection 6100.2.B(1).
 - 4.** Parking of inoperative vehicles, as provided in Chapter 110 of the County Code, in violation of subsection 4102.7.A(13).
 - 5.** Installation, alteration, refacing, or relocation of a sign on private property in violation of subsection 7100.3.A(1).
 - 6.** Installation of any minor sign in violation of subsection 7100.4.
 - 7.** Installation of prohibited signs on private property in violation of subsection 7100.5.B and subsections 7100.5.C(1) and 7100.5.C(5).
 - 8.** Operating short-term lodging in violation of subsection 4102.7.N.
 - 89.** Other short-term, recurring violations similar to those listed above as determined by the Zoning Administrator.

- (c) All appeal applications must specify the grounds for the appeal.

#16 INSTRUCTION: In subsection 8101.1, add a new subsection H, Sanitary Sewer Information, to the submission requirements for generalized development plans, conceptual and final development plans, PRC development plans, PRC plans, and certain SE and SP plats. Also, remove references to requests for physical copies of application materials. Renumber subsections as needed.

1. General Requirements for All Applications

- A. Submission requirements for appeals and applications in Section 8100 are included in this section. Submission requirements are generally divided into three categories: (i) administrative and property documentation; (ii) plan or plat requirements; and (iii) supporting reports and studies.
- B. ~~Regardless of the number of copies specified below, if the application is submitted electronically, only one copy of each submission requirement is needed, unless otherwise determined by the Zoning Administrator or Director. Staff may request one or more paper copies of any of the materials at any point in the process.~~
- C. All applications, except for Minor Site Plans and Site Plans, must include a complete application ~~signed~~certified by the applicant ~~on forms provided by the County.~~

...

H. Sanitary Sewer Information:

For all generalized development plans, conceptual and final development plans, PRC development plans, PRC plans, and, except where noted, for special exception and special permit plats, the following sanitary sewer information must be included on the plan or plat. This requirement does not apply when there is no net increase in sewage flow due to the proposed land use or change, or if the site is served by an individual sewage disposal system:

- (1) The approximate location of existing and proposed public sewers; and if located off-site, the distance of the public sewer from the site.
- (2) A statement indicating whether the site will connect to public sewer by a lateral or an extension of public sewer to the site.
- (3) A statement indicating the type of wastewater including domestic, non-domestic, mixed-use, or cooling tower waste. For non-domestic, mixed-use, and cooling tower waste, information on proposed pretreatment of wastewater must be included.
- (4) A hydraulic analysis, based on additional peak flow generated from the site, must be provided by the applicant if the project meets any of the below criteria.
 - (a) Generates a peak flow increase between 10,000 to 50,000 gallons a day and is served with sewer pipes of eight inches to 12 inches in diameter;
 - (b) Generates a peak flow increase from greater than 50,000 to 400,000 gallons per day and is served with sewer pipes of less than 21 inches in diameter;
 - (c) Generates a peak flow increase greater than 400,000 gallons per day and is served with sewer pipes less than 27 inches in diameter.

- (5) A statement and plan for any needed sanitary sewer improvements.

2. Zoning Map Amendments (Rezoning)

A. Administrative and Property Documentation

The following information is required for any rezoning application submitted by property owners, contract purchasers, or a condominium, or their agents:

- (1) ~~Four copies of a~~ A certified plat of the property with the following information:
- (a) Boundaries of the property, with bearings and distances of: (i) the perimeter property lines, and (ii) each existing and proposed zoning district;
 - (b) Total area of the property and each existing and proposed zoning district in square feet or acres;
 - (c) Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat;
 - (d) Location of all existing building and structures;
 - (e) Names and route number of all boundary roads or streets, and width of existing rights-of-way; and
 - (f) Seal and signature of person preparing the plat.
- (2) ~~Four copies of a~~ A legal description of the property, including metes and bounds of each zoning district proposed.
- (3) ~~One copy of the portion of the~~ A current Fairfax County Zoning Map showing the boundaries of the subject site clearly outlined, covering the area generally within a 500-foot radius of the proposed use.

...

B. Plan Requirements for Residential, Commercial, and Industrial Districts

~~Twenty-three copies of a~~ A Generalized Development Plan (GDP) must be submitted. The GDP and any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The GDP must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. ~~In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted.~~ The GDP must include the following:

...

- (6) Sanitary sewer information in accordance with subsection 8101.1.H. ~~Proposed plan for major sanitary sewer improvements;~~

...

B. Plan Requirements for Planned Districts Except the PRC District

- (1) ~~Twenty-three copies of a~~ **Conceptual Development Plan** (CDP) must be submitted. A CDP is subject to the same requirements as a Generalized Development Plan above, except as modified below:

Rezoning to the PDH, PDC, PRM, or PCC District

...

- (b) The following do not need to be provided for a rezoning to the PDH, PDC, PRM, or PCC District:

~~1. The proposed plan for major sanitary sewer improvements in subsection B(6);~~

21. The distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor in subsection 8101.2.B(19); and

32. The proposed landscaping and screening in accordance with the provisions of Section 5108 in subsection 8101.2.B(21).

Rezoning to the PTC District:

...

- (d) The following do not need to be provided for a rezoning to the PTC District:

~~1. The proposed plan for major sanitary sewer improvements in subsection B(6); and~~

21. In subsection 8101.2.B(21), the limits of clearing and the proposed landscaping and screening in accordance with the provisions of Section 5108.

- (2) ~~Twenty-three copies of a~~ **Final Development Plan** (FDP) must be submitted. The FDP, any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The FDP must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. ~~In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted.~~ The FDP must include the following:

...

- (r) Sanitary sewer information and a stormwater management plan in accordance with subsection 8101.1;

...

D. Plan Requirements for the PRC District:

...

- (2) ~~Twenty-three copies of a~~ **PRC Development Plan** must be submitted. A PRC Development Plan is subject to the same requirements as a Generalized Development Plan in subsection 8101.2.B above, except as modified below:

...

(j) The following subsections are not required: ~~B(6),~~ 8101.2.B(12), 8101.2.B(13), 8101.2.B(17), 8101.2.B(19), and 8101.2.B(20).

- (3) ~~Twenty-three copies of a~~ A PRC Plan must be submitted. The PRC Plan, any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The plan must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. ~~In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted.~~ The PRC Plan must include the following:

...

- (n) Sanitary sewer information and a stormwater management plan in accordance with subsection 8101.1;

...

3. Special Exceptions, Special Permits, and Variances

A. Administrative and Property Documentation

All special exception, special permit, and variance applications require the following:

- (1) ~~One copy of the portion of the~~ A current Fairfax County Zoning Map showing the boundaries of the property clearly outlined, covering the area generally within a 500-foot radius of the proposed use.

...

- (4) Photographs of the property and abutting properties showing existing structures, terrain, and vegetation as viewed from all lot lines and street lines of the application property. All photographs must be clearly dated and labeled with the location and direction from which they were taken. ~~Digital photographs are preferred.~~

B. Plat Requirements

~~Twenty-three copies of a~~ A special exception plat, and ~~ten copies of a~~ special permit or variance plat, including any resubmissions of the plat and supporting graphics, must be submitted and be:

- (1) Drawn to a designated scale of not less than 1" = 50'; but if the proposal cannot be accommodated at a scale of 1' = 50', a scale of not less than 1' = 100' may be used;
- (2) Signed, sealed, and certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State;
- (3) On a maximum sheet size of 24" x 36". ~~One 8 1/2" x 11" reduction must also be provided;~~ and

...

The following additional plat requirements apply to special exception and special permit applications:

- (16) Sanitary sewer information and a stormwater management plan in accordance with subsection 8101.1;

...

D. Additional or Modified Submission Requirements for Specific Special Exception Applications

The following are additional or modified submission requirements for special exception applications for:

...

(13) Light Utility Facility, Heavy Utility Facility, and Wireless Facility

- (a) ~~Four copies of a~~ A map showing the utility system of which the proposed use will be an integral part, together with a written statement outlining the functional relationship of the proposed use to the utility system.

...

E. Additional or Modified Submission Requirements for Specific Special Permit Applications

The following are additional or modified submission requirements for special permit applications for:

(1) Accessory Living Unit

- (a) The plat information required by subsections 8101.3.B(1) through 8101.3.B(9), 8101.3.B(11), 8101.3.B(13) and 8101.3.B(14).
- (b) A dimensioned floor plan depicting the internal layout and gross floor area of both the principal and accessory living unit, with the use of each room and points of egress to the dwelling clearly labeled.
- (c) ~~Digital~~ PPhotographs of the rooms and area used by the accessory living unit, which are clearly dated and labeled.

...

(6) Home-Based Business

- (a) The plat information required by subsections 8101.3.B(1) through 8101.3.B(11), 8101.3.B(13), and 8101.3.B(14).
- (b) A dimensioned floor plan depicting the internal layout of the residence, including identification and gross floor area of all rooms or facilities to be used by the home-based business, as well as ingress and egress from the dwelling.
- (c) ~~Digital~~ PPhotographs of the rooms and facilities used by the home-based business, which are clearly dated and labeled.

(7) Home Day Care Facility

- (a) The plat information required by subsections 8101.3.B(1) through 8101.3B(11), 8101.3.B(13), and 8101.3.B(14), and the dimensions, size, and location of all outdoor recreation space in relation to all lot lines.
- (b) A dimensioned floor plan identifying all rooms or facilities to be used by the home day care, including gross floor area and points of ingress and egress from the dwelling.
- (c) ~~Digital~~ PPhotographs of the rooms and facilities used by the home day care, which are clearly dated and labeled.

...

6. Residential Use Permits

A. Plan Requirements

For single-family detached dwelling units, ~~five copies of~~ an as-built house location survey plat must be submitted to the Zoning Administrator for review and approval within 30 days of the issuance of the Residential Use Permit. Such plat must be presented on a sheet drawn to a designated scale of not less than 1" = 50' or larger, unless a smaller scale is required to accommodate the development, with the scale clearly indicated. Such plat, regardless of the area of the lot, must be prepared in accordance with the Virginia Administration Code, 18VAC10-20-380, and must also show the following:

...

8. Appeals

A. Supporting Reports and Studies

Appeals filed of an order, requirement, decision, or determination require the following:

- (1) A statement ~~signed~~ certified by the appellant with the following information:
 - (a) A copy of the order, requirement, decision, or determination that is the subject of the appeal;
 - (b) The date when the decision was made; and
 - (c) The appellant's grounds for the appeal and the reasons for the appeal. If the appellant is a County officer, department, board, or bureau, the statement must specify how the appellant is affected; otherwise, the statement must specify how the appellant is an aggrieved person.
- (2) Any other supportive data as the appellant may desire in the record, including plats, plans, drawings, charts, or related material.
- (3) An appellant must also simultaneously submit one copy of the submission requirements to the BZA.

...

#17 INSTRUCTION: Revise 8103.2 to reflect updated Planning Commission bylaws, as shown below.

2. Planning Commission

E. Officers

- (1) The officers of the Planning Commission consist of a Chairperson, a Vice-Chairperson, a Secretary, and a Parliamentarian.
- (2) The officers of the Planning Commission must be elected from the members for a one-year term by the Commission at the ~~third~~second meeting of the calendar year. If an appointment to the membership by the Board is pending, the election will be held at the first meeting following the appointment.
- (3) A candidate receiving a majority vote of ~~the entire membership of the Commission~~ those present and voting will be declared elected. The officer will take office immediately and serve for one year or until a successor takes office.
- (4) Vacancies in office must be filled immediately by regular election procedures.

...

G. Records

The Planning Commission must keep minutes of all its proceedings, showing information presented, the names and, if provided, addresses of all witnesses giving testimony, findings of fact by the Commission, and the vote of each member upon each question, or if absent or failing to vote, such fact. These minutes are part of the public record.

#18 INSTRUCTION: Revise 8103.3.D to include that the BZA may have up to three alternate members in addition to seven permanent members.

H. Membership

- (1) The BZA consists of seven members appointed by the Circuit Court of Fairfax County, Virginia, and the members may receive compensation as may be approved by the Board. The BZA may also include up to three alternate members. All members must be residents of the County.

...

#19 INSTRUCTION: Revise the definition of shopping center in Section 9102 to include retail in a mixed-use building and correct a typographical error.

Shopping Center

Any group of two or more commercial uses which (1) are designed as a single commercial group, whether or not located on the same lot; (2) are under common ownership or are subject to reciprocal parking and ingress and egress agreements or easements; (3) are connected by party walls, partitions, canopies or other structural members to form one continuous structure, or if located in separate buildings, are interconnected by common parking areas, travel lanes, walkways or accessways designed to facilitate customer interchange between the uses on-site; (4) share common points of vehicular access; and (e5) otherwise present the appearance of one continuous commercial area. A group of two or more commercial uses located on the first floor or other lower floors of a residential building that meets the characteristics above is considered a shopping center for the purpose of determining required parking. ~~For the purpose of this Ordinance, a~~ grouping of predominantly office uses which meet these characteristics are not ~~be~~ deemed to be a shopping center.

#20 INSTRUCTION: Revise the definitions of a small health and exercise facility and a specialized instruction center in Section 9103 to include examples of uses, as shown below.

Health and Exercise Facility, Small

An indoor facility having a maximum gross floor area of 6,000 square feet where patrons participate in exercise or similar activities designed to improve and preserve physical fitness, including health clubs, fitness classes, training, and instruction. Examples include yoga studios, cycling classes, karate and martial arts instruction, and other similar uses. Accessory uses to serve the members may include child care, restaurant, retail sales, massage therapy, and personal service. This definition does not include a community center or a specialized instruction center.

Specialized Instruction Center

A center primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, scientific, performing arts, or other special subjects. Examples include tutoring, music lessons, art classes, ballet, and other similar instructional activities. This use does not include a child care center, home day care facility, health and exercise facility, or riding school.

#21 INSTRUCTION: In addition, revise any other cross-references to subsections with typographical errors, for example, not including the word “subsection” or not providing the complete subsection reference where there is a partial reference.