County of Fairfax, Virginia
Planning Commission Meeting
April 22, 2026
Planning Commission Action

PROPOSED ZONING ORDINANCE AMENDMENT – MINOR AND EDITORIAL REVISIONS AND CHANGES TO REFLECT VIRGINIA CODE UPDATES
(Countywide)

PLANNING COMMISSION RECOMMENDATIONS:
On April 22, 2026, the Planning Commission voted 8-0-1 (Commissioners Cortina, Hancock, and Sargeant were absent from the meeting. Chair Niedzielski-Eichner abstained from the vote) to recommend to the Board of Supervisors adoption of the proposed Zoning Ordinance Amendment for Minor and Editorial Revisions and Changes to Reflect Virginia Code Updates, as set forth in the Staff Report dated March 3, 2026, with the staff recommended options, and that the amendment become effective at 12:01 a.m., the day following adoption.

ATTACHED DOCUMENTS:
Staff Report dated March 3, 2026

CD

FAIRFAX COUNTY

PROPOSED ZONING ORDINANCE AMENDMENT

STAFF REPORT

Minor and Editorial Revisions and Changes to Reflect Virginia Code Updates

March 3, 2026

Hearing Dates
Planning Commission: April 22, 2026, at 7:30 p.m.
Board of Supervisors: May 5, 2026, at 4:00 p.m.

Staff Contact
Pamela Pineros, Planner II

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).

PLANNING & DEVELOPMENT

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Background

The proposed amendment includes minor and editorial revisions including updates in accordance with 2025 changes to the Virginia Code, as outlined in Topic #2 of the current Zoning Ordinance Work Program. This is an annual Work Program item that is intended to keep the Zoning Ordinance up to date by identifying revisions necessary to correct errors, resolving inconsistencies, providing clarifications and improving readability, as well as proposing other changes that are limited in scope, including revisions due to changes in the Virginia Code.

Proposed Changes

The proposed changes are described in the table below. Where necessary, additional information on certain items has been provided following the table, as noted. The table is generally organized in numerical order based on the section of the Zoning Ordinance, except where certain like items are grouped together. The proposed text (beginning on page 10) is provided in the same order as this table.

#	Section/Subsection	Description of Change
1	1104.3 – Ordinance Structure	Remove romanette (i, ii, iii…) numbering from subsection organization, as romanettes are only used in the Ordinance within subsections and not as their own separate subsection.
2	Zoning District – Reference to Other Standards Tables: Subsection 2102.1.D, 2102.2.C, 2102.3.C, 2102.4.C, 2102.5.D, 2102.6.D, 2102.7.D, 2102.8.D, 2102.9.D, 2102.10.D, 2102.11.D, 2102.12.D, 2102.13.D, 2102.14.D, 2103.1.C, 2103.2.C, 2103.3.C, 2103.4.C, 2103.5.C, 2103.6.C, 2103.7.C, 2103.8.C, 2104.1.C, 2104.2.C, 2104.3.C, 2104.4.C, 2104.5.C, 2104.6.C, 2105.7.D.	Correct the cross-reference for private street requirements from Article 6, Parking and Loading to Article 5, Section 5107.
3	3101.3.D – Historic Overlay Districts (HOD) – Establishment of Districts	Adds “historic” to the criteria for establishing an HOD, consistent with other subsections.

#	Section/Subsection	Description of Change
4	4102.5.O – Massage Therapy Establishment	Revise standards for all massage therapy establishments based on adopted changes to new County Code 28.2. Chapter 28.2-1-4 of the County Code identifies certain uses that are excluded from massage establishment licensing requirements, such as when massage therapy is provided in barbershops, beauty salons, and nursing homes; because these uses are considered principal uses in which massage is provided as an accessory activity, rather than as a principal massage therapy establishment, they do not need to be specifically excluded in the Zoning Ordinance.
5	4102.5.BB – Use Standards – Commercial Uses – Zoo or Aquarium	Replaces the reference to Animal Services Division of Police Department with Fairfax County Animal Services.
6	4102.6.A(4) – Data Center	Adds language under the standard for a minimum distance between data center buildings and equipment and residential to clarify that an R District does not include property developed with an international airport and related uses. This change is consistent with the provision adopted in the recent Zoning Ordinance amendment for electrical substations.
7	4102.7.F(11)(d) – Family Healthcare Structure 5109.4.A(6) – Outdoor Lighting 8100.7.F(7)(a) – Site Plans and Minor Site Plans 8101.1.B – General Requirements for All Applications 8101.5.A(2) – Building Permits 8102.1 – Fee Schedule	Remove references to the required submission of copies of a plan or plat, as paper copies are no longer needed or used due to online submission of documents through PLUS. Remove issuance of paper receipts, as fees are now paid and documented online through PLUS.
8	5100.2.D(8) – Setback Regulations	Eliminates the requirement for the Zoning Administrator to determine whether development is prevented by the application of required setbacks for certain uses from specific highways and railroad tracks on lots created before August 14, 1978. Instead, any lot recorded before that date is automatically exempt from the additional setback. **See additional discussion below.**

#	Section/Subsection	Description of Change
9	5100.2.D(11)(e)1.a – Setback Regulations	Allows a special permit (SP) to amend setbacks previously shown on any variance approved before July 10, 2006, if the request would otherwise meet the current SP standards for a reduction of setbacks. This change permits all setback reductions to be reviewed by the same currently applicable criteria regardless of previous approvals. **See additional discussion below.**
10	5101.4.B(5)(c) – Affordable Dwelling Unit Calculations	Corrects subsection cross-references.
11	5102 – Earthborn Vibration Standards	Adds language stating that vibration standards do not apply to temporary activities of short duration, as previously determined by the Zoning Administrator. **See additional discussion below.**
12	5108.6.A(2) – Landscaping and Screening—Waivers and Modifications	Adds language clarifying that transitional screening, barrier, and parking lot landscaping requirements may be modified or waived by the Board of Supervisors when deemed appropriate OR for interim uses of a specified duration. With the reorganization of this Section during the Landscaping and Screening Zoning Ordinance Amendment (112.2-2024-4), the modification for "when deemed appropriate" was grouped with the modification for interim uses, and this has created confusion. The reorganization was not intended to remove the Board's ability to modify landscaping when it deemed it appropriate.
13	5109.3.A(2) – Outdoor Lighting	Deletes the provision for administrative modification of the color temperature standard. Given the newness of that standard, the administrative modification provision was intended to address potential unique site and use-specific conditions. Since the color temperature standard was adopted on February 11, 2020, however, only one request for a modification has been submitted, and it was not based on unique site conditions. Given five-plus years of experience in applying the standard, staff considers the modification provision to be unnecessary.
14	6100 – Off-Street Parking subsections 6100.1.A(2), 6100.1.B(1)(c), 6100.1.D(1), 6100.2.C(2)(b), 6100.2.C(3), 6100.2.D(1)(f), 6100.2.D(2), 6100.2.D(4), 6100.5.E(1)(b), 6100.5.E(3), 6100.5.E(5)(c)1, 6100.5.F(1), 6100.6.A(1), 6100.6.B(3), 6100.6.D	Minor edits for clarity, cross-reference updates, and grammar related to parking.

#	Section/Subsection	Description of Change
15	7100.4 – Minor Signs	Removes the allowance of an additional yard sign for a single-family dwelling undergoing active construction or renovation. **See additional discussion below.**
16	7101.3.A(1)(c)5 – Signs in Commercial and Industrial Districts	Adds language clarifying that internal building connections must be fully enclosed for multiple buildings to be considered a single building for purposes of building frontage and sign area calculations. Staff frequently receives questions from applicants regarding whether building connections may be counted toward building frontage when calculating permitted sign area. This change provides clear guidance by specifying that only connections that are temperature-controlled, and fully enclosed qualify as internal connections. The proposed change does not reduce or limit allowable sign area; rather, it clarifies how sign area may be distributed depending on whether structures are treated as two separate buildings or as a single building if connected by an enclosed internal connection.
17	8100 – Review Procedures, 8100.10(A)(4) – Appeal Processing, 9100 – Interpretations	Per HB 2330, effective July 1, 2025, additional authority was granted to localities to permit notice of certain land use actions by first-class mail instead of certified mail, as well as to align with current practices and Virginia Code requirements. Other minor edits for clarity are also made throughout. **See additional discussion below.**
18	8100.7.D(17)(a) – Site Plans and Minor Site Plans 8101.4.B(29) – Site Plans 5104.1.C(1) – General Limitations on the Removal and Addition of Soil 5105.3.A(1) – Floodplain Regulations 9102– General Terms	Minor edits for clarity and to correct cross-references and references to correct County Code chapters. Change to 5105.3.A(1) fixes an unintended error created during the reorganization of this subsection under zMOD.
19	8100.10.A.(2)(b) – Appeals	Per SB 1422, effective July 1, 2025, additional authority was granted to localities to allow violations involving the storage or disposal of nonagricultural excavation material, waste, or debris to fall under a ten day appeal period rather than the standard 30-day appeal period. **See additional discussion below.**

#	Section/Subsection	Description of Change
20	8101.2.E – Zoning Map Amendments (Rezonings)	Adds a rezoning submission requirement that information related to phased developments be provided at the time of application submission. This is currently required in the PTC District, and phased developments are becoming more frequent in other zoning districts.
21	8101.3.D (12) – Special Exceptions, Special Permits, and Variances	Requires a note stating the required number of ADUs be provided on special exception Plats for independent living facilities.
22	8106.3 – Penalties	Adds language establishing enhanced civil penalties for zoning violations on multifamily properties based on SB 1267. **See additional discussion below.**
23	9102 – General Terms	Removes definition for net floor area, as that term is no longer used in the Zoning Ordinance.
24	9102 – General Terms	Revises the definition of Yard, Front to clarify that the front yard is determined by a line drawn parallel to the front street line and revise the corresponding graphic depicting yards.
25	9103 – Uses – Kennel Subsection 3101.8.B(1); Table 3103.1: Noise Compatibility Table; Table 4101.1: Use Table for Residential, Commercial, and Industrial Uses; Table 4101.2: Use Table for Planned Development Districts; subsection 4102.4.P(4)(b); subsection 4102.5.A; subsection 4102.5.C; subsection 4102.7.J; Table 6100.2: Minimum Required Off-Street Vehicle Parking Spaces; and Section 9103 – definitions of animal shelter and zoo or aquarium.	Revises definition name from “Kennel” to new name “Animal Boarding, Breeding, or Recreation Establishment” to more clearly describe the use and all associated activities that are currently listed in the definition. Clarify longstanding interpretation that breeding also includes selling the offspring (not just the act of breeding itself). Adds “reptiles and amphibians” to list of animals based on recent requests received. Removes the word “domestic,” as this term has gotten confused with the term “domesticated” and is not needed. Replaces “kennel” with “animal boarding, breeding, or recreation establishment” throughout.
26	9103 – Uses – Residence for Manager or Employee	Revises definition to remove mention of where a residence for a manager/employee must be located. This would allow a detached dwelling (especially if existing) to be allowed in association with the person’s on-site occupation in another building without the requirement that it meet the detached accessory structure standards. This is already allowed for religious assembly uses and is often seen with other institutional and commercial uses, such as private schools and funeral homes.

Revisions to Highway and Railroad Setback Applicability (5100.2.D(8)–Setback Regulations):

Currently, all principal buildings must be set back 200 feet (for residential buildings) and 75 feet (for commercial and industrial buildings) from the rights-of-way of interstate highways, the Dulles International Airport Access Highway, and the combined Dulles International Airport Access Highway and Dulles Toll Road. However, the Zoning Administrator may approve a modification of this setback to not less than the minimum required by the Zoning District for lots recorded prior to August 14, 1978, if it is determined that the setbacks would "prevent development of the lot in accordance with the provisions of this Ordinance." This provision was originally included with the adoption of the 1978 Zoning Ordinance to allow modifications for what was then a new provision of the Zoning Ordinance. It has been difficult to administer, however, because it does not specify standards or criteria that must be met. Essentially, any lot where proposed construction of a structure is impacted by this setback can effectively argue that the setback "prevents development" in some capacity. Therefore, the proposed change automatically exempts lots recorded before that date from the additional setback requirements and no longer requires a determination based on whether the setback would prevent development on the lot. The change does not increase permitted development intensity and ensures that older, legally created lots are not unduly penalized by requiring additional setbacks when located adjacent to a railroad or interstate highways.

Special Permit for Reduction of Setbacks Shown on a Variance Plat (5100.2.D(11)(e)1.a–Setback Regulations):

Prior to 2006, setback reductions generally required approval of a variance. On July 10, 2006, a Zoning Ordinance amendment took effect that allowed the Board of Zoning Appeals to approve special permit applications to reduce setbacks by up to 50 percent. However, the current Ordinance requires setback modifications that were previously approved by variance, where the setbacks were shown on a variance plat, to obtain approval of a variance amendment rather than allowing the applicant to take advantage of the special permit application. The proposed change allows any setback request subject to a variance approval that predates the 2006 Zoning Ordinance amendment to be reviewed under the special permit criteria rather than the more restrictive variance standards. This promotes consistency and allows similarly situated properties to be evaluated using the same review framework. It does not expand the scope of relief available beyond what is already permitted under the special permit process.

Earthborn Vibration Standards (5102–Earthborn Vibration Standards):

The vibration standards were adopted in 1978 to regulate ongoing operational vibrations generated by permanent land uses and were not intended to address vibrations from short-term construction activities related to site development. Since adoption, questions have arisen during the review of site plans involving temporary construction activities where vibration levels may exceed the ordinance standards despite posing no risk of structural damage and being consistent with accepted engineering practices. The proposed change adds a new subsection clarifying that the earthborn vibration standards in the ordinance do not apply to vibration generated by temporary activities of short duration, such as construction, demolition, or maintenance work. This proposed edit codifies prior zoning interpretations, aligns the ordinance with its original intent, and provides regulatory clarity for applicants, staff, and the public while preserving the County's ability to address construction-related impacts through

geotechnical review, proffered conditions, and oversight by the Department of Land Development Services.

Minor Signs (7100.4–Minor Signs):

Minor sign provisions were last comprehensively revised in 2019, as part of amendment, ZO-19-479, at which time properties containing individual single-family dwelling units undergoing construction or renovation were allowed additional temporary signage. Specifically, one additional yard sign not exceeding four square feet in area or a height of four feet is allowed during the construction or renovation. The sign may not be displayed before commencement of the improvement or renovation work, and it must be removed within seven days after the work is completed, or within six months from the start of the display (whichever is less). This four-square-foot sign is in addition to the 12 square feet of yard signs allowed on any lot developed with a residential use, effectively allowing 16 square feet of signage during the construction or renovation period. Since this provision was adopted, enforcement of these provisions has proven difficult because no sign permit is required to establish the time period for the start of display, and the date a sign is installed cannot be readily verified without investigation.

This proposed change would remove the additional signage that can be displayed during construction, but it continues to allow residential properties or properties under construction with a residential use to have up to 12 square feet of yard signs, with no one sign exceeding four square feet in area or four feet in height. This change simplifies the ordinance, improves enforceability, and maintains existing limits on total sign area while allowing reasonable opportunities for signage during residential construction activity. Staff has also provided the Board with the option to increase the total maximum amount of yard sign area to 16 square feet, which would allow an additional four square feet of signage on an individual property at any time (including when construction or renovation is occurring on the property).

HB 2330–Virginia Code Update – Notice Requirements (8100–Review Procedures, 8100.10(A)(4)):

The proposed change revises notice provisions throughout subsection 8100 – Review Procedures to incorporate additional authority created by HB 2330, allowing certain land use action notices to be sent by first-class mail rather than certified mail. The change also clarifies that when a public hearing has been opened, public testimony has been received, and the hearing is continued for cause, written notice to adjacent property owners must be re-mailed to ensure adequate public notice of the continued hearing. Staff believes these changes are appropriate as they align the ordinance with current practices and Virginia Code requirements, reduce administrative burden and cost, and improve notice to affected parties. Additional edits for clarity are also included. Adoption of this provision is optional and is presented for the Board's consideration should it choose to exercise this authority.

SB 1422–Virginia Code Update - Appeal Period for Nonagricultural Excavation Violations (8100.10.A.(2)(b)–Appeals):

Under the existing ordinance, certain zoning violations are subject to a shortened 10-day appeal period rather than the 30-day appeal period applicable to most violations; however, under SB 1422, effective July 1, 2025, localities have additional authority to apply a ten-day appeal period to violations related to the storage or disposal of nonagricultural excavation material, waste, or debris to support timely

enforcement and remediation of nonagricultural material storage. The Department of Code Compliance (DCC) seldom receives complaints or issues notices of violation on this topic. Adoption of this provision is optional and is presented for the Board's consideration should it choose to exercise this authority.

SB 1267–Virginia Code Update - Penalties on properties developed with Multifamily Dwellings (8106.3–Penalties):

Under SB 1267, effective July 1, 2025, localities are granted additional authority to update the penalty provisions of the Zoning Ordinance to establish enhanced civil penalties for certain zoning violations occurring on properties developed with multifamily dwellings. Under this provision, a civil penalty of $1,000 may be assessed for a second offense and $1,500 for a third or subsequent offense, and the maximum aggregate civil penalty for violations arising from the same set of operative facts may increase from $5,000 to $6,000 for multifamily properties.

Staff has added language that would apply the enhanced penalty only when the violation is occurring outside of an individual unit (for example, the multifamily dwelling development owner or management company may incur the increased fine for a violation related to parking lot lighting, but an individual tenant receiving a violation related to the number of dogs within their unit would not be subject to a higher fine than any other single-family property owner or tenant). In consultation with DCC staff, there may be limited value in applying this authority—in researching hundreds of violations issued over the past year, DCC found only one violation pertaining to a multifamily dwelling development and that was resolved without needing to pursue civil penalties in General District Court; three other cases were related to violations occurring within specific units in a multifamily dwelling development. Adoption of this provision is optional and is presented for the Board's consideration should it choose to exercise this authority.

Summary

Overall, the proposed amendment corrects several typographical and editorial errors, resolves inconsistencies, and further clarifies use standards, definitions, codifies current practices, and provides updates as permitted by amendments to the Virginia Code. Staff recommends that this amendment take effect 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. Options for consideration are provided (in parentheses, italics, and bold). When an option is presented as a range, the Board may approve any number within the advertised range. The proposed changes are based on provisions of the adopted Zoning Ordinance in effect as of December 10, 2025.

INSTRUCTION #1: Revise subsection 1104.3 to remove romanette (i, ii, iii…) subsections from the ordinance structure.

1104. Ordinance Structure

…

3. For purposes of further organization, each section may be subdivided into subsections ~~which are~~ represented by such numbers as 1, 2, 3; which may be further subdivided as A, B, C...(1), (2), (3)...and (a), (b), (c)~~…and (i), (ii), (iii), etc.~~

INSTRUCTION #2: Revise cross reference in the Reference to Other Standards tables in subsection 2102.1.D, 2102.2.C, 2102.3.C, 2102.4.C, 2102.5.D, 2102.6.D, 2102.7.D, 2102.8.D, 2102.9.D, 2102.10.D, 2102.11.D, 2102.12.D, 2102.13.D, 2102.14.D, 2103.1.C, 2103.2.C, 2103.3.C, 2103.4.C, 2103.5.C, 2103.6.C, 2103.7.C, 2103.8.C, 2104.1.C, 2104.2.C, 2104.3.C, 2104.4.C, 2104.5.C, 2104.6.C, and 2105.7.D. to list private street requirements as a separate standard and change the reference from Article 6 to Article 5, Section 5107.

D. Reference to Other Standards

General regulations that may supplement the regulations above:	
Use regulations	Article 4
Lot, bulk, and open space regulations	Article 5, Section 5100
Private street requirements	Article 5, Section 5107
Off-street parking~~,~~ and loading ~~and private street requirements~~	Article 6
Signs	Article 7
Site plan provisions	Article 8, subsection 8100.7

INSTRUCTION #3: Revise subsection 3101.3.D to add the word "historic" to the list of attributes the Board must identify with regard to each property in a new HOD.

3. Establishment of Districts

…

D. As part of establishing an HOD, the Board must include a declaration that the buildings, structures, or sites to be preserved are of historical, architectural, archaeological, or cultural significance worthy of protection against destruction and encroachment, and must identify, where applicable, whether each property included in the district is historic, contributing or non-contributing. The Board's action will amend the Zoning Map and include regulations and development policies that the Board deems necessary.

INSTRUCTION #4: Revise subsection 4102.5.O to align massage therapy establishment standards with adopted changes to County Code.

4102. Use Standards

…

Personal and Business Services

O. Massage Therapy Establishment

Standards for all massage therapy establishments:

A massage therapy establishment is permitted in accordance with Chapter 28.~~1~~2 of the County Code, which requires massages to be performed by a licensed massage therapist operating from a licensed massage establishment; however, a massage therapy establishment may also ~~provide the following massages~~ include locations where massages are administered only to the upper body while the client is fully clothed and seated in a chair, which is excluded ~~in~~ from the licensing requirements of Chapter 28.~~1~~2-1-4~~:~~.

~~**(1)** Massage administered to the scalp, face, neck, shoulders, arms, hands or feet;~~

~~**(2)** Massage administered to the upper body while the client is fully clothed and seated in a chair;~~

~~**(3)** Massage administered in a medical care facility, hospital, medical clinic, nursing facility or similar facility, or in the office of a physician, chiropractor, osteopath, physical therapist, or nurse, licensed by the State; and~~

~~**(4)** Massage at a massage therapy program that has been approved by the Virginia Board of Education or the Virginia State Council of Higher Education, only if the individual administering the massage is a student enrolled at the school and receives no compensation for the massage.~~

INSTRUCTION #5: Revise subsection 4102.5.BB to replace the reference to Animal Services Division of Police Department with Fairfax County Animal Services.

4102. Use Standards

…

BB. Zoo or Aquarium

Standards applicable to all zoos and aquariums:

(1) ~~The Animal Services Division of the Police Department~~ Fairfax County Animal Services must be granted access to the premises and any necessary records to review the operation of the zoo or aquarium on a quarterly basis and is authorized to conduct unannounced inspections of facilities during daylight hours.

(2) The keeping of animals, including wild or exotic animals as defined in Chapter 41.1 of the County Code, is allowed only if ~~the Animal Services Division of the Police Department~~ Fairfax County Animal Services determines that the animal does not pose a risk to public health, safety, and welfare and that there will be adequate feed, water, shelter, veterinary care, and space in the primary enclosure for the particular type of animal depending upon its age, size, and weight.

INSTRUCTION #6: Revise subsection 4102.6.A(4) to add language that indicates an R district does not include a property developed with an international airport and related uses for data center setbacks.

A. Data Center

…

(4) Minimum Distance from Residential

…

(d) For the purpose of this provision, an R district does not include an area within a public street right-of-way or a property that is developed with an international airport and its related uses.

INSTRUCTION #7: Revise subsections 4102.7.F(11)(d), 5109.4.A(6), 8100.7.F(7)(a), 8101.1.B, and 8101.5.A(2) to remove the reference to submitting copies; revise subsection 8102.1 to remove issuance of paper receipts.

Subsection 4102.7.F(11)(d):

F. Family Health Care Structure

Standards when permitted by administrative permit:

…

(11) The following materials must be submitted with an application to the Zoning Administrator:

…

(d) ~~Three copies of a~~A plat drawn to a designated scale of not less than 1" = 50', which may be prepared by the applicant, that contains the following information:

1. The dimensions of the lot, the boundary lines of the lot, and the land area;

2. The dimensions, height, and distance to all lot lines of any existing structure on the lot and of the proposed temporary family health care structure; and

3. The signature and certification number, if applicable, of the person preparing the plat.

Subsection 5109.4.A(6):

4. Lighting Standards for Certain Uses

A. Vehicle Fueling Stations and Vehicle Sales, Rental, and Service

…

(6) If a site plan approval is not required, ~~and~~ the photometric plan ~~is submitted as a separate submission, five copies of a photometric plan~~ must be submitted separately to the Director for review and approval and is subject to a fee as provided for in subsection 8100.7.

Subsection 8100.7.F(7)(a):

F. Staff Review and Action

…

(7) As-Built Site Plans

(a) Upon satisfactory completion, an as-built site plan and the corresponding filing fee must be submitted to the Director for review and approval for conformance with the approved site

plan. ~~The Director will determine the number of copies that must be submitted. The Director may require the submission of the plan electronically in lieu of prints.~~ The plan must be prepared in accordance with the Public Facilities Manual.

Subsection 8101.1.B:

8101. Submission Requirements

1. General Requirements for All Applications

…

~~**B.** Staff may request one or more paper copies of any of the materials at any point in the process.~~

Subsection 8101.5.A(2):

5. Building Permits

A. Plan Requirements

…

(2) When the building or structure does not require site plan approval but will require approval of a site-related plan (e.g., grading plan or conservation plan) in accordance with subsections 5104.1.A and 5104.1.B, a plan, certified by a land surveyor, engineer, landscape architect, or architect authorized by the State to practice as such, must be submitted that includes siltation and erosion control measures in conformance with Chapter 124.1 of the Code, and contains the information listed in subsection (3) below~~. The required number of copies of the form and plan will be determined by the Director~~; or

Subsection 8102.1

8102. Fee Schedule

1. Fee Schedule

All applications and appeals provided for in this Ordinance and requests for zoning compliance letters must be accompanied by the filing fee set forth in the following table unless otherwise waived by the Board for good cause shown; except that no fee is required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees must be made payable to the County of Fairfax. ~~Receipts for fees paid will be issued in duplicate, and one of the duplicates will be maintained on file with the Department of Planning and Development.~~

INSTRUCTION #8: Revise subsection 5100.2.D(8) to remove the requirement for the Zoning Administrator to modify the 200-foot residential building setback and 75-foot commercial and industrial building setback from specific highways and railroads tracks for lots created before August 14, 1978.

D. Setback Regulations

…

(8) Setbacks from Specific Highways and Railroad Tracks

The following minimum distances must be maintained between all principal buildings and rights-of-way:

(a) All principal buildings must be setback from the rights-of-way of interstate highways, the Dulles International Airport Access Highway, and the combined Dulles International Airport Access Highway and Dulles Toll Road, as follows:

1. Principal residential buildings - 200 feet

2. Commercial and industrial buildings - 75 feet

(b) Principal residential buildings must be setback a minimum of 200 feet from all railroad tracks, except for those tracks associated with regional rail transit facilities.

(c) The setbacks required in this subsection do not apply to a minor adjustment of lot lines in accordance with subsection 5100.2.J(1)(b).

(d) The Board may approve deviations from the provisions of subsections (a) and (b) above in conjunction with the approval of a rezoning or the BZA may approve a variance if it finds that the deviations will further the intent of this Ordinance, the Comprehensive Plan, and other adopted County policies.

(e) The setbacks required in this subsection ~~may be modified by the Zoning Administrator to not less than those required by the zoning district for:~~ do not apply to lots that were recorded before August 14, 1978.

~~***1.*** A lot that has been recorded before August 14, 1978; and~~

~~***2.*** Where the setbacks required in this subsection would prevent development of the lot in accordance with the provisions of this Ordinance.~~

INSTRUCTION #9: Revise subsection 5100.2.D(11)(e), add a new subsection 1.b, and re-letter as appropriate to allow a special permit to amend setback reductions for variances approved before July 10, 2006, if the request would otherwise meet the current provisions for a setback reduction permitted by a special permit.

(e) Special Permit Approval for Reduction of Setback Requirements

The BZA may approve a special permit to allow a reduction of setback requirements subject to the following:

1. Only the following setback requirements are subject to special permit approval:

a. Minimum required setbacks ~~in the residential, commercial, industrial, and planned development districts~~ set forth in Article 2 if (i) no proffered conditions or development conditions related to setbacks apply; and (ii) no setbacks are depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, or special permit plat~~, or variance plat~~.

b. Minimum required setbacks set forth in Article 2 shown on any variance plat approved before July 10, 2006.

~~***b.***~~ ***c.*** Setback regulations for pipestem lots and lots contiguous to pipestem driveways set forth in subsection 5100.2.L(2).

~~***c.***~~ ***d.*** Accessory structure location requirements set forth in subsection 4102.7.A(6).

~~***d.***~~ ***e.*** Regulations on permitted extensions into a minimum setback as set forth in subsection 5100.2.D(5).

INSTRUCTION 10: Revise subsection 5101.4.B(5)(c) to correct the cross-reference from "a" to "b."

5101. Affordable Dwelling Unit Program

…

4. Affordable Dwelling Unit Calculations

…

(5) Required affordable dwelling units must comply with the following:

…

(c) The requirement for affordable dwelling units may not exceed either 6.25 percent in accordance with subsection (~~a~~b)1 above or 5.0 percent in accordance with subsection (~~a~~b)2 above, as applicable, for those developments in which a 17 percent increase in density has been applied to the density range specified in the Comprehensive Plan.

INSTRUCTION #11: Revise Section 5102.2.C to add a new paragraph (4) that adds language stating that vibration standards do not apply to temporary activities.

5102. Earthborn Vibration Standards

…

C. Vibration Standards

…

(4) Exceptions for Temporary Activities

The vibration standards set forth in this Section do not apply to earthborn vibration resulting from temporary activities of short duration, including but not limited to construction, demolition, or maintenance work.

INSTRUCTION #12: Revise subsection 5108.6.A(2) to add language clarifying that transitional screening, barrier, and parking lot landscaping requirements may also be modified or waived where deemed appropriate or for interim uses of a specified duration.

6. Waivers and Modifications

A. The Board, in conjunction with the approval of proffered conditions, a PRC plan, a special exception, or through a General Waiver associated with a site plan, or the BZA in conjunction with the approval of a special permit, may modify or waive the requirements of this Section as follows:

(1) The transitional screening, ~~and~~ barrier, and parking lot landscaping requirements may be waived or modified (a) if the topography of the lot providing the ~~transitional screening~~ landscaping and the adjacent lot being protected is such that ~~transitional screening~~ landscaping or a barrier would not be effective~~.;~~ (b) for interim uses of a specified duration; or (c) where deemed appropriate when the modification or waiver does not create a harmful effect on the existing or planned development of adjacent properties.

~~**(2)** Parking lot landscaping planting requirements for interim uses of a specified duration, or where deemed appropriate, may be modified when the modification or waiver does not create a harmful effect on the existing and planned development of adjacent properties.~~

~~**(3)**~~**(2)** Parking lot landscaping may be modified to allow the planting of less than one planting area for every ten contiguous parking spaces when the resulting configuration results in the appropriate amount of shade for vehicles parked in the parking lot.

~~**(4)**~~**(3)** When there is a conflict between the required landscaping of subsection 5108.3, subsection 5108.4, and subsection 5108.5 and the location of a new utility easement, the required landscaping may be modified if the required landscaping cannot be accommodated on the remaining available site area as a result of the building placement and lot configuration.

INSTRUCTION #13: Revise Subsection 5109.3.A(2) to remove "unless otherwise approved by the Director."

3. General Provisions

Except as provided in 5109.4.B below, or exempted in 5109.2 above, all outdoor lighting fixtures must comply with the following:

A. Lighting Fixtures and Mounting

…

(2) Except for signs, all light sources may not exceed a maximum Correlated Color Temperature (CCT) of 3,000K ~~unless otherwise approved by the Director~~. However, sports fields or courts that are subject to a sports illumination plan may have a maximum CCT of up to 5,700K.

…

INSTRUCTION #14: Revise subsections 6100.1.A(2), 6100.1.B(1)(c), 6100.1.D(1), 6100.2.C(2)(b), 6100.2.C(3), 6100.2.D(1)(f), 6100.2.D(2), 6100.2.D(4), 6100.5.E(1)(b), 6100.5.E(3), 6100.5.E(5)(c)1, 6100.5.F(1), 6100.6.A(1), 6100.6.B(3), and 6100.6.D for clarity, cross-reference updates, and readability.

ARTICLE 6 - PARKING AND LOADING

Subsection 6100.1.A(2):

A. Generally

…

(2) For redevelopment that retains some use or structure and eliminates some on-site parking during the redevelopment process, a temporary adjustment or relocation of the minimum required off-street parking spaces may be approved either by the Board, in conjunction with a rezoning or special exception, or by the Director, in conjunction with a site plan. As conditions to ~~any~~ such an approval, the applicant must demonstrate that adequate measures will be taken to ensure the continuation of safe and adequate parking on the property~~,~~. ~~and~~ T~~t~~he Board or the Director ~~will~~ may impose time limitations.

Subsection 6100.1.B(1)(c):

B. Change in Use or Expansion of an Existing Structure or Use

…

(c) When a site contains two or more uses, the increase referenced in subsection 6100.1(B)(1)(b) ~~are~~ is measured cumulatively for all uses on the site, not each individual use.

Subsection 6100.1.D(1):

D. Parking Tabulation

(1) A vehicle and bicycle parking tabulation ~~and a bicycle parking tabulation in conformance with Section 6102 approved by the Director and~~ demonstrating compliance with the minimum required off-street vehicle and bicycle parking for all uses on a lot is required in any of the following situations:

(a) A site plan or minor site plan is submitted in accordance with subsection 8101.4.

(b) A change in use resulting in an increased parking requirement, in accordance with subsection 6100.1.B, from that shown on the approved site plan or minor site plan.

Subsection 6100.2.C(2)(b):

C. Off-Street Parking Design and Layout

…

(2) Accessible Parking

(a) All accessible off-street parking spaces and related access aisles and accessible routes must comply with the USBC and the Public Facilities Manual.

(b) Each accessible off-street parking space must be designated as reserved for persons with disabilities by an above grade sign in conformance with the design and content specifications of the USBC and the Public Facilities Manual.

Subsection 6100.2.C(3):

C. Off-Street Parking Design and Layout

…

(3) Pedestrian Routes

To encourage parking lot design that enhances pedestrian safety and access, pedestrian routes must be provided in accordance with this subsection. Such routes allow a person to use a direct pedestrian pathway instead of a vehicle travel aisle to reach the principal building. This requirement does not apply to parking lots with 50 or fewer spaces or to parking structures. These requirements do not supersede the USBC requirements for site and building accessibility. The pedestrian route:

Subsections 6100.2.D(1)(f), 6100.2.D(2), and 6100.2.D(4):

D. Tandem Parking

(1) Tandem parking is allowed for the following:

…

(f) Valet parking, except that if located off-site, ~~it must be subject to~~ an agreement with the off-site property owner is required, subject to the Director's approval~~,~~. The agreement must

address the ~~regarding~~ administration and termination of the valet parking by the operator or user.

(2) Except for the uses and activities in subsection 6100.2.D.(1)(a), (b), ~~and~~ (c), and (f), the development plan or site plan must depict the number and location of tandem spaces.

…

(4) The Director may approve tandem parking that does not conform~~ing~~ with the above requirements if the spaces are determined to be sufficiently usable and accessible.

Subsections 6100.5.E(1)(b), 6100.5.E(3), and 6100.5.E(5)(c)1:

E. PTC District – Off-Street Parking

(1) The number of off-street parking spaces provided for a development in the PTC District must be established with a parking plan that is accompanied by an application for rezoning to the PTC District.

…

(b) Where parking is to be provided in phases in accordance with a phased development proposal, the parking plan must provide the information set forth above in subsection 6100.5.E(1)(a) for each proposed phase. If the total development parking will be constructed in early phases of the project, shared parking spaces for the remaining phases must be identified when it is demonstrated that such additional parking in the early phase(s) is necessary due to construction requirements or in furtherance of the objectives of the Comprehensive Plan. When parking is provided in this manner, the development must provide shared parking for the later phases of the project to the satisfaction of the Board. Additionally, when an existing use is proposed to be retained as an interim use, the parking accessory to any such interim uses must conform to the rates ~~set forth above~~ in Table 6100.10. In all cases, parking at the build out phase of the development must conform to the total number of spaces approved for the entire development.

…

(3) After the parking plan is approved, no additional parking is required for a change in use~~,~~ if the mix of uses is in substantial conformance with the approved final development plan.

…

(5) A property not zoned to the PTC District may opt in to ~~into~~ the PTC District parking requirements in 6100.5.E. under the following criteria:

(a) The property is located in an area identified in the Comprehensive Plan as the Tysons Urban Center.

(b) The property is located in an area identified in the Comprehensive Plan as a Transit Oriented District or a Transit Development District wherein the TOD District rates in Table 6100.10 will apply.

(c) A parking plan must be submitted meeting the requirements of subsection 6100.5.E(1)(a)~~, and~~;. The request requires approval by the Director if part of a site plan or parking redesignation plan; however, if a proffer or development condition specifies the number of spaces to be provided on a site, Board approval is required.

~~***1.*** If part of a rezoning, development plan, PRC plan or special exception plat, or proffer or condition amendment if this specifies the number of spaces to be provided on a site, then the request requires Board approval.~~

~~**2.** If part of site plan or parking redesignation plan, then the request requires approval by the Director.~~

Subsection 6100.5.F(1):

F. PTC District Special Exception for Increase in Parking

(1) The Board may approve a special exception to allow an increase in parking in the PTC District above the parking maximums in Table 6100.10 when the applicant ~~has demonstrated~~ demonstrates to the Board's satisfaction that:

…

Subsection 6100.6.A(1):

6. Adjustments to Minimum Required Off-Street Parking

A. Generally

(1) Adjustments to the minimum parking requirements may be approved by the Board, including those not approved by the Director in subsection 6100.6.A(2). The Board may approve an adjustment in conjunction with the approval of a rezoning or special exception in accordance with subsections 6100.6.B through G. Adjustments as used in this subsection indicate a reduced parking requirement. The applicant must demonstrate to the Board's satisfaction that:

…

Subsections 6100.6.D:

6. Adjustments to Minimum Required Off-Street Parking

…

D. Affordable Housing

A parking adjustment may be approved upon demonstration ~~by an applicant~~ that all dwelling units within a building will serve individuals with incomes at or below 70 percent of the Area Median Income for the Washington Metropolitan Statistical Area, based on income averaging.

INSTRUCTION #15: Revise subsection 7100.4 to remove separate permissions and sign area for single family dwellings under renovation and giving the Board a range of 12-16 square feet of signage total.

4. Minor Signs

…

~~**D.** For an individual single-family dwelling unit undergoing construction, improvement, or renovation, one sign, not to exceed four square feet in area or a height of four feet is allowed. No sign can be displayed before commencement of the improvement or renovation work, and the sign must be removed within seven days after the improvement or renovation is completed, or within six months from the start of display, whichever is less.~~

~~**(1)** For the purpose of this subsection, commencement of the improvement or renovation work includes the following:~~

~~**(a)** Clearing, grading, or excavation work to prepare the site for construction;~~

~~(b) Active demolition of structures or features internal to the dwelling as part of a renovation project;~~

~~(c) Delivery and staging of materials or equipment on-site, including both interior and exterior staging; or~~

~~(d) Any other similar activity involving active engagement in improvements on the property.~~

~~E.~~D. Yard signs on any lot that is developed with a residential use or under active construction for a residential use cannot exceed 12 square feet in total area ***(advertised range: 12 – 16 square feet)***, with no single sign exceeding four square feet in area or a height of four feet.

INSTRUCTION #16: Revise subsection 7101.3.A(1)(c)5 to add language that describes any internal connection.

3. Signs in Commercial and Industrial Districts

…

(c) Building Frontage

…

5. For the purpose of these provisions, buildings that are located on the same property are considered separate buildings if they have separate posted addresses and do not include any internal connections that are temperature controlled and fully enclosed. Each building is allotted its own sign area based on the linear feet of building frontage associated with its main public entrance.

INSTRUCTION #17: Revise subsection 8100.1 to incorporate the additional permissions allowed by HB 2330, adopted July 2025 as well as to align with current practices and State Code requirements. Other minor edits for clarity are also made throughout. Subsequent revisions to subsections 8100.10 and 9100 are also made based on these changes.

8100. Review Procedures

1. General Requirements for All Applications and Appeals to the BZA

This ~~s~~Section describes the standard procedures and rules that apply to applications and to appeals to the BZA, unless otherwise stated in the Ordinance.

A. Application Processing

(1) Filing of Applications and Appeals

(a) Applications and appeals to the BZA ~~required under this Ordinance~~ must be filed with the Zoning Administrator or the Zoning Administrator's designated agent.

(b) The ~~County~~ Zoning Administrator will not accept an application or appeal unless it complies with this Ordinance. An application or appeal will be officially on file with the County only after it and all required accompanying submissions are submitted to and accepted by the Zoning Administrator or the Zoning Administrator's designated agent. Section 8101 specifies the application and appeal submission requirements. All applications and appeals provided for in this Ordinance must be submitted on forms prescribed by the responsible official, body, or committee.

(c) Any ~~A~~applications~~,~~ or appeals~~, and requests for zoning compliance letters~~ must be accompanied by the applicable filing fee specified in Section 8102 unless otherwise waived

by the Board for good cause shown. No fee is required where the applicant or appellant is the County of Fairfax or any agency, authority, commission, or other body specifically created by the County, State, or Federal Government.

(d) Upon acceptance, the Zoning Administrator will transmit an application or appeal to the officer, body, or agency ~~having~~ with jurisdiction to act on the application.

(2) Scheduling of Applications

Applications and appeals are typically scheduled and considered in the order they are accepted. The clerks of the respective hearing bodies will keep a calendar of cases to be heard.

(3) Amendment of Applications

A request to amend an application must be submitted in writing to the Zoning Administrator. Depending on the nature and extent of the amendment, this request may result in the rescheduling of any required public hearing.

(4) Withdrawing an Unaccepted Application

Withdrawal of an unaccepted application for a rezoning, special exception, special permit, or variance will be in accordance with the following:

(a) An applicant or agent may withdraw an application at any time by giving written notice to the Zoning Administrator. If the application has not been accepted, there will be a full refund of the filing fee paid.

(b) The Zoning Administrator may deem an application administratively withdrawn before acceptance if the applicant refuses or neglects to make a needed correction, addition, or other change after being notified of the need and, after a further 15 days' notice, of the impending administrative withdrawal. This latter notice ~~must be sent by certified mail, return receipt requested,~~ will be mailed to the applicant's last known address. If an unaccepted application is deemed administratively withdrawn, 90 percent of the filing fee paid will be refunded upon request by the applicant.

(5) Withdrawing an Accepted Application

Withdrawal of an accepted application for a rezoning, special exception, special permit, or variance will be in accordance with the following:

(a) The applicant or agent may withdraw an application at any time by giving written notice to the Zoning Administrator. No fee or partial fee will be refunded for an accepted application withdrawn by the applicant.

(b) If it is determined that the application was accepted in error, the Zoning Administrator may deem it administratively withdrawn, give notice mailed to the applicant's last known address, and fully refund the filing fee paid.

(c) If an applicant refuses or neglects to pursue an accepted application, the Zoning Administrator may declare the application administratively withdrawn, but only after giving at least 15 days' notice of intention to do so. This notice ~~must be sent by certified mail, return receipt requested,~~ will be mailed to the applicant's last known address. If an accepted application is administratively withdrawn under this provision, there will be no refund of the filing fee.

~~**(d)** If an application for a rezoning is withdrawn, by request or administratively, after the Board or Planning Commission has begun a public hearing, there may be a limitation on rehearing under subsection 8100.1.D.~~

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 and those required by Virginia law 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 identify 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~~ Published notice is the hearing body's responsibility. Published ~~N~~notice of any hearing must ~~be published at least in accordance~~ comply with the standards specified in Va. Code Sect. 15.2-2204 and ~~such~~ any other applicable state law provisions ~~that may apply~~.

Written Notice to Applicant or Appellant

(d) The clerk to the hearing body or the clerk's designated agent must send written notice of the public hearing to the applicant or appellant when the hearing involves an appeal or an application for a PRC plan, final development plan, special exception, special permit, variance, ~~appeal,~~ or ~~an~~ amendment to the Zoning Map~~. That written notice must be sent by first class or certified mail postmarked~~ at least 20 days before the hearing.

Posted Notice

(e) At least 15 days before the date of the first hearing, the Zoning Administrator ~~must~~ will post notice of the application or appeal hearing on the property. This notice ~~must~~ will be removed within seven days after the last hearing and within seven weeks ~~from~~ after the original posting date.

(f) Notice ~~must~~ will be posted at reasonable intervals as follows:

1. Along every street abutting the property; or,

2. If there is no abutting street, then along the exterior boundary lines of the property and within 300 feet along every street providing access to the property.

(g) The notice ~~must~~ will contain the ~~date,~~ location, date, and time of the public hearing, the nature of the application, the property affected, other information necessary to identify and describe the application, and where further information may be obtained.

(h) ~~Posted notice is not required~~ Notice will not be posted when:

1. The hearing involves an application for more than 25 parcels of land for the following:

a. Amendment to the Zoning Map initiated by ~~resolution of~~ the Planning Commission or Board

b. Special exception

c. Special permit

d. Variance

e. Appeal

2. The hearing involves an appeal concerning no specific property; or

3. The hearing body specifically waives or modifies the requirement.

Written Notice to Property Owners, Adjacent Jurisdictions, Military Installations, and Airports

(i) An appeal or an application for a rezoning, a PRC plan, final development plan, special exception, special permit, or variance~~, or appeal~~ requires the following written notice. The clerk to the hearing body or the clerk's designated agent may send any written notice described below, in lieu of the applicant or appellant:

1. The applicant or appellant must send written notice to the property owner(s) of each parcel involved in the application; and

2. The applicant or appellant must send written notice to all owners of property abutting and immediately across the street from the property, including property that lies in an adjoining city or county.

3. For special permits, variances, and appeals, if written notice as required by paragraph 2 above is not sent to ten different property owners, the applicant or appellant must send additional notices so that at least ten different property ~~the~~ owners ~~of at least ten properties~~ in the immediate vicinity are notified.

4. For all other applications, if written notice as required by paragraph 2 above is not sent to 25 different property owners, then the applicant must send additional notices so that at least 25 different property ~~the~~ owners ~~of at least 25 properties~~ in the immediate vicinity are notified.

5. For the purpose of calculating the number of property owners to be notified according to paragraphs 3 and 4 above, when a property is owned by more than one owner, the co-owners are counted as a single property owner.

~~***5.***~~***6.*** If the application property or property subject to an appeal is an individual manufactured home within a manufactured home park, written notice must be sent ~~the applicant must send written notice~~ to the manufactured home occupants immediately surrounding the application property.

~~***6.***~~***7.*** If the application property or property subject to an appeal is an individual condominium or cooperative unit within a condominium or cooperative building, ~~the applicant must send~~ written notice must be sent to:

a. The condominium unit owners' association or proprietary lessees' association; and

b. Unit owners immediately abutting the application property or on the same floor of the building as the application unit and those unit owners immediately above and below the application unit.

~~***7.***~~***8.*** When the application property or property subject to an appeal abuts or is immediately across the street from a condominium or cooperative property, ~~the applicant must send~~ written notice must be sent as follows:

a. When the application property or property subject to an appeal abuts or is immediately across the street from open space or common ground of a condominium or cooperative~~, the applicant must send~~ written notice must be sent to the condominium unit owners' association or proprietary lessees' association; and

b. Where individual condominium or cooperative units or lots abut or are immediately across the street from the application property or property subject to an appeal, ~~the applicant must send~~ written notice must be sent to the owner of each unit.

~~8.~~9. The hearing body or its representative must also send written notice at least ~~15~~ ten days before the hearing to the chief administrative officer or designee of an adjoining county or municipality if:

a. The application involves a Zoning Map amendment, PRC plan, final development plan, or a special exception or special permit application that proposes a change in use or an increase greater than 50 percent of the bulk or height of an existing or proposed building;

b. The application does not seek to renew a previously approved special exception or special permit; and

c. The application property or a portion of it is located within one-half mile of a boundary of an adjoining county or municipality of the State.

~~***9.*** If the application seeks to amend a previously approved rezoning, PRC plan, final development plan, special exception, or special permit affecting a portion of a property, the hearing body or its representative must also send written notice at least 15 days before a hearing to all owners of property subject to the original application. However, this notice is not required if the Zoning Administrator determines the proposed change is to a component or lot that does not affect the rest of the development.~~

10. The hearing body or its representative must also send written notice at least 30 days before a hearing to the commander of a military installation, military airport, or owner of a public use airport. The notice must advise of the opportunity to submit comments or recommendations. For the purposes of this provision, military installations include~~,~~ but are not limited to military camps, forts, or bases. Public use airports include those licensed airports contained on the list of public use airports that is maintained by the Virginia Department of Aviation. This notice is required if:

a. The application involves a rezoning, a development plan, PRC plan, or a special exception~~,~~ or special permit for a change in use; and

b. The application property or a portion of it is located within 3,000 feet of a boundary of a military installation, military airport (excluding armories operated by the Virginia National Guard), or licensed public use airport.

11. Content and Mailing of Written Notice

a. Every required written notice must state the date, time, place, and subject matter of the hearing~~, and the name of the applicant~~.

b. The notice must be sent to the last known address of the owner(s) as shown in the County's current real estate assessment records and~~, except as specified above or qualified below, must be sent by certified mail, return receipt requested, and~~ postmarked at least 15 days before the hearing, except where a different timeframe is specified above in subsection 8100.1.B(1).

c. ~~The hearing body's representative may send notices by~~ Except as specified above in subsection 8100.1.B(1), notices must be sent by first class mail ~~if that representative affirms by~~ and an affidavit affirming that the mailing has been made must be filed with the hearing body.

d. When notice is sent by the applicant, the affidavit must be filed at least five days prior to the first hearing in the case and must list the persons to whom the notice was sent.

12. Waiver of Challenge to Validity of Proceedings

A party's actual notice of, or active participation in, the proceedings waives that party's right to challenge the validity of the proceedings due to the failure to receive the required written notice. In addition, any person may waive his or her right to the notice in writing to the Zoning Administrator.

C. Conduct of Public Hearings

All public hearings required by this Ordinance must be conducted in accordance with the following:

(1) No public hearing may be held unless the required notice has been provided in accordance with subsection 8100.1.B(1).

(2) All hearings are open to the public. Any person may appear and testify, either in person or by an authorized agent or attorney.

(3) The hearing body by general rule prescribes procedures for the conduct of hearings.

(4) Upon a vote of the majority of members present, the hearing may be continued or deferred as follows:

~~**(a)** If a hearing has been opened, public testimony has been received, and there is cause for continuation of the hearing, no formal notice is required if the hearing is continued to a date certain.~~

~~**(b)**~~**(a)** If a hearing is concluded, but action is deferred until a future date, no formal notice is required before action is taken.

~~**(c)**~~**(b)** If a hearing was deferred before it was opened or if a hearing has been opened, public testimony has been received, and there is cause for continuation, written notice to adjacent property owners required by subsection 8100.1.B(1) must be re-mailed. The notice must be mailed at least five days before the public hearing. ~~If the notice is sent by the hearing body's representative, he or she may send written notice by first class mail if that representative affirms by affidavit that the mailing has been made.~~

(5) ~~Where deemed necessary,~~ ~~J~~joint public hearings may be conducted after ~~giving~~ public notice has been given as required by subsection 8100.1.B and by the Va. Code. If a joint hearing is held, public notice ~~must~~ may be given by only the clerk or clerk's designee of one hearing body. ~~The Board must give public notice when it is one of the hearing bodies.~~

(6) An action may be reconsidered only upon motion of a member voting with the prevailing side on the original vote. A motion to reconsider must be made at the same or immediately subsequent regular meeting~~,~~ and may be seconded by any member. The BZA may not entertain a motion for reconsideration.

D. Limitation on Rehearing

Denied or Withdrawn Applications

If an application for rezoning or proffered condition amendment is denied or withdrawn after the Board has begun a public hearing on it, the Board ~~will~~ may not hear a substantially similar application concerning any of the same property within 12 months of the denial or withdrawal, unless this restriction is waived by the Board.

Subsection 8100.10(A)(4):

10. Appeals

A. Appeal Processing

…

(4) Withdrawal of Application for Appeal

An application for appeal may be withdrawn at any time by the appellant or the appellant's agent by giving written notice to the Zoning Administrator. No fee or partial fee will be refunded for a withdrawn application. If the application has not been accepted, there will be a full refund of the filing fee paid.

Section 9100:

9100. Interpretations

Words and terms used in this Ordinance are to be interpreted as follows:

14. The words "written," "submitted," or "filed" include online submissions.

INSTRUCTION #18: Revise subsections 8100.7.D(17)(a), 8101.4.B(29), 5104.1.C(1), 5105.3.A(1), and Section 9102 for clarity and to correct cross-references and references to correct County Code chapters.

Subsection 8100.7.D(17)(a):

7. Site Plans and Minor Site Plans

…

(17) Antennas and satellite earth stations; accessory outdoor storage and display; and additions and alterations to existing uses and site modifications which may include, but are not limited to, changes or additions to decks, patios, concrete slabs, vestibules, loading docks, mechanical equipment, storage structures, generators, walkways, landscaping, paving, electric vehicle charging stations, and light poles or lighting fixtures. All such uses or activities must not:

(a) Exceed (i) 500 square feet of gross floor area, ~~or~~ (ii) 750 square feet of gross floor area if the addition or alteration is to provide an accessibility improvement or other reasonable accommodation, or ~~exceed~~ (iii) 2,500 square feet or more of disturbed land area as defined in Chapter 124.1 of the County Code;

Subsection 8101.4.B(29):

4. Site Plans and Minor Site Plans

…

(29) A tree conservation plan that addresses the tree conservation and vegetation preservation requirements of Chapters 122 and ~~Chapter~~ 124.1 of the County Code and the policies and requirements of the Public Facilities Manual;

Subsection 5104.1.C(1):

5104. Grading, Erosion, Sediment Control, and Drainage

1. General Limitations on the Removal and Addition of Soil

…

C. Areas Requiring an Approved Plan

For disturbed areas of greater than 2,500 square feet, that do not qualify under B above, sod and soil may be removed or added and grading of land may be permitted by the Director in accordance with the following:

(1) Removal, dumping, filling, or excavation necessary for construction is permitted in accordance with an approved site plan or approved plans and profiles for a subdivision. Grading of land is permitted in accordance with a grading plan approved by the Director. The Director must determine that the amount of soil removal or fill and proposed grading is necessary to establish a use permitted in the zoning district in which the use is located, and that the grading plan provides for even finished grades that meet adjacent property grades and do not substantially alter natural drainage. Such plans must include siltation and erosion control measures in conformance with Chapter ~~104~~ 124.1 of the County Code.

Subsection 5105.3.A(1):

3. Permitted Uses

A. Except as provided in subsection (10) below for cluster subdivisions, the uses and changes to topography identified below may be permitted in a floodplain upon a determination by the Director that the use is permitted in the zoning district in which it is located, and the use or change to topography is in accordance with these floodplain regulations and the Public Facilities Manual. Any use or change to topography not meeting the qualifications below may be permitted by the Board with the approval of a special exception.

(1) Changes to topography that do not require major fill. For the purpose of this subsection, major fill includes any fill, regardless of amount, in an area greater than 5,000 square feet, or any fill in excess of 278 cubic yards below the existing 100-year flood elevation in an area of 5,000 square feet or less. The cumulative area of any fill and pavement permitted under (1) and (3) through (6) may not exceed an area of 5,000 square feet for all uses on a lot.

Section 9102:

Land Disturbance Permit

A permit that allows land disturbing activity in accordance with Chapter ~~104~~ 124.1 of the Code.

INSTRUCTION #19: Revise subsection 8100.10.A(2)(b) to add a violation related to storage or disposal of nonagricultural excavation material to the ten-day appeal period.

10. Appeals

…

(2) Time Limit on Filing

(a) Except as set forth below, all appeals must be filed within 30 days from the 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:

…

10. Storage or disposal of nonagricultural excavation material, waste, or debris.

INSTRUCTION #20: Revise subsection 8101.2.E to add a new paragraph expanding a rezoning submission requirement that applied only to PTC districts so it applies to all districts regarding information related to phased developments and re-numbering.

2. Zoning Map Amendments (Rezonings)

…

E. Supporting Reports and Studies

The following additional information must be submitted:

…

(5) If a phased development is proposed, a phasing plan that identifies each phase must be included in the development plan. Each phase should include the following as applicable: (i) the uses and their location, including interim uses; (ii) the streetscape, sidewalks, landscaping, and park/open space; (iii) the location and quantity of all parking, stacking, and loading spaces; (iv) the anticipated sequence for construction; and (v) the on- and off-site infrastructure improvements, including, but not limited to access points, street grid, and public utilities and facilities necessary to achieve the proposed development.

…

~~**(10)**~~**(11)** Rezonings to the PTC District require the following additional information:

(a) A statement as to whether any of the development is located within the TOD and/or Non-TOD Districts, and if within the TOD Districts, the delineation of the one-eighth (1/8), one-quarter (1/4), one-third (1/3), and one-half (1/2) mile distance from the Metro Station entrance, as applicable, as set forth in the Comprehensive Plan.

~~**(b)** The phasing plan, if applicable, that identifies each phase. Such plan must at a minimum specify for each phase of the development: (i) the location and the mix of uses, including interim uses; (ii) the streetscape and landscape treatments to be provided; (iii) the amount and location of all parking, stacking and loading spaces; (iv) the anticipated phasing for construction; and (v) a statement as to how each phase of development will provide the necessary infrastructure and on and off-site public improvements, including, but not limited to parking, grid of streets and public facilities necessary to achieve the redevelopment option set forth in the Comprehensive Plan.~~

…

INSTRUCTION #21: Revise 8101.3.D (12) to add language that requires the number of ADUs be provided on SE plats for independent living facilities.

3. Special Exceptions, Special Permits, and Variances

…

(12) Independent Living Facility

In addition to the plat requirements required by subsection 8101.3.C(2), the plat must include the total gross floor area (including the dwelling unit area and all non-dwelling unit areas), the floor area ratio, and the number of dwelling units and required number of affordable dwelling units.

INSTRUCTION #22: Revise subsection 8106.3 to add language establishing penalties for zoning violations on multifamily properties.

3. Penalties

A. Infractions and Civil Penalties

(1) A violation of this Ordinance, except for the posting of signs on public property or public rights-of-way, is deemed an infraction and is punishable by a civil penalty of $200 for the first violation. Subsequent violations arising from the same set of operative facts are punishable by a civil penalty of $500 for each separate offense.

(2) Any repeat violation on a property developed with multifamily dwellings may be punishable by a civil penalty of $1,000 for a second violation and $1,500 for a third or subsequent violation. For the purposes of subsection 8106.3, the penalties for multifamily dwellings are applied only where the violation is not occurring within an individual unit.

~~**(2)**~~**(3)** Each day during which any violation of the provisions in (1) above is found to have existed constitutes a separate offense. However, in no event will any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor will a series of such violations arising from the same set of operative facts result in civil penalties that exceed a total of $5,000 or $6,000 for a property developed with multifamily dwellings.

~~**(3)**~~**(4)** The designation of a violation of this Ordinance as an infraction in accordance with (1) above is in lieu of criminal sanctions, and such designation precludes the prosecution of a violation as a criminal misdemeanor unless such violation results in injury to any person or persons or the civil penalties under (1) above total $5,000 or more for such violation. If the civil penalties for a violation under (1) above total $5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

…

INSTRUCTION #23: Remove the definition for net floor area in Section 9102.

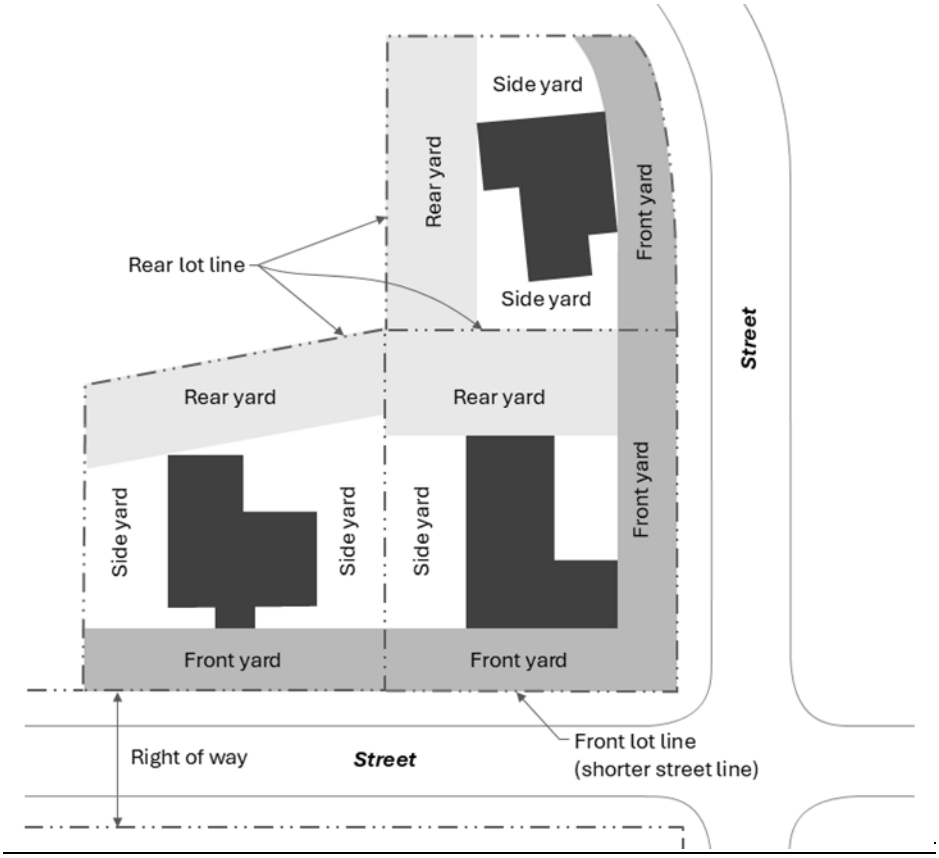
~~**Floor Area, Net**~~

~~The sum of the total horizontal areas of each floor of all buildings on a lot, measured from the interior faces of exterior walls and from the center line of walls separating two or more buildings. The term 'net floor area' will include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products. Net floor area does not include areas designed for permanent uses such as toilets, utility closets, malls (whether or not they are enclosed), truck tunnels, enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where the headroom in 50 percent of that area is less than six feet, six inches. For purposes of determining off-street parking requirements, the term 'net floor area' includes cellars used exclusively for storage.~~

INSTRUCTION #24: Clarify the definition for Front Yard to add that a front yard is parallel to the front lot line in Section 9102. New image for Figure 9102.3: Lot Lines and Yards.

Yard, Front

A yard extending across the full width of a lot and lying between the front lot line and the principal building. The front yard is determined by a line drawn parallel to the front street line. (See Figure 9102.3)



INSTRUCTION #25: In Section 9103, replace "Kennel" with new name "Animal Boarding, Breeding, or Recreation Establishment," clarify that breeding includes selling the animals, add "reptiles and amphibians" to list of animals, and remove the word "domestic." Replace "kennel" with new name "Animal Boarding, Breeding, or Recreation Establishment" in the following Sections and subsections: subsection 3101.8.B(1); Table 3103.1: Noise Compatibility Table; Table 4101.1: Use Table for Residential, Commercial, and Industrial Uses; Table 4101.2: Use Table for Planned Development Districts; subsection 4102.4.P(4)(b); subsection 4102.5.A; subsection 4102.5.C; subsection 4102.7.J; Table 6100.2: Minimum Required Off-Street Vehicle Parking Spaces; and Section 9103 – definitions of animal shelter and zoo or aquarium.

~~Kennel~~ Animal Boarding, Breeding, or Recreation Establishment

An establishment primarily engaged in boarding, keeping, training, breeding and selling, or handling dogs, cats, birds, reptiles, amphibians, or other small ~~domestic~~ animals for a fee. A kennel also includes recreation and exercise areas for dogs and other small domestic animals operated for a fee.

INSTRUCTION #26: Revise definition of Residence for Manager or Employee in Section 9103.

Residence for Manager or Employee

A residence for a manager or employee and their family located ~~in the same building or in an accessory structure~~ on the same lot as their place of occupation.