

**ADOPTION OF AN AMENDMENT TO CHAPTER 112
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, October 7, 2014, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:**

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by adding a new FOOD TRUCK definition in its proper alphabetical sequence and modifying the FAST FOOD RESTAURANT definition to read as follows:

FOOD TRUCK: Any readily movable mobile food service establishment, to include vehicles that are self-propelled, pushed or pulled to a specific location.

FAST FOOD RESTAURANT: Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in ready-to-consume state for consumption either within the restaurant, within a motor vehicle parked on the premises, or off-premises, and whose design or principal method of operation included one or more of the following characteristics:

1. Food, frozen desserts, or beverages are served in edible containers or in paper, plastic or other disposable containers. Eating utensils, if provided, are disposable.
2. Food, frozen desserts, or beverages are usually served over a general service counter for the customer to carry to a seating facility within the restaurant, to a motor vehicle or off-premises. If consumed on premises, customers generally are expected to clear their own tables and dispose of their trash.
3. Forty-five (45) percent or more of the gross floor area of the establishment is devoted to food preparation, storage and related activities which space is not accessible to the general public.
4. Food, frozen desserts, or beverages are served to the occupants of motor vehicles while seated therein, such as through a drive-in window.

For the purposes of this Ordinance, a fast food restaurant shall not be deemed an eating establishment. A FOOD TRUCK that does not comply with the provisions set forth in Sect. 2-510 shall be deemed a fast food restaurant.

Amend Article 2, General Regulations, Part 5, Qualifying Use, Structure Regulations, Sect. 2-510, Sales From Vehicles, to read as follows:

1. The sale or offering for sale of goods or services from any vehicle shall be deemed to be a commercial use. Food trucks shall be subject to Paragraph 2 through 4 below. All other sale of goods or services from any vehicle shall be subject to all the regulations prescribed for the zoning district in which the same is conducted, but this regulation shall not be deemed to prohibit any vending from vehicles on public streets that is not otherwise prohibited by law.
2. Food trucks shall be permitted as an accessory use in any industrial or commercial district, in the commercial areas of a P district, or on any construction site with an active building permit and ongoing construction activity, subject to compliance with the provisions of this section. Any food truck shall be in substantial conformance with any proffered condition, development plan, special permit or

special exception approval. If any proffered condition, development plan, special permit or special exception approval specifically precludes food trucks or otherwise regulates food trucks, including but not limited to the location, hours of operation and/or number of food trucks, the zoning approval shall govern that aspect of the food truck location or operation in lieu of the following provisions. Unless otherwise specified in any zoning approval, all provisions of this section shall apply to any food truck location. Food trucks may be operated from an approved location, subject to compliance with the standards set forth in Par. 3 below, and the following:

- A. The owner of property on which a food truck may be located shall file a food truck location permit application with the Zoning Administrator on forms furnished by the County.
 - B. Each year, the owner and/or operator of any food truck doing business in the County shall file a food truck operation application with the Zoning Administrator on forms furnished by the County. Such permit application shall be accompanied by the written consent of the private property owner or authorized agent authorizing the food truck to be located on their approved food truck location and by a copy of the property owner's food truck location permit. If a food truck operates on more than one (1) site, only one (1) food truck operation application shall be required to be obtained from the Zoning Administrator for such food truck, provided that the property owner on any additional sites has obtained a food truck location permit for that site, the food truck operator has written consent from the property owner or authorized agent to operate on that site, and the food truck is operating in conformance with that approval. The operation of any food truck shall also be subject to all Health Department and Department of Cable and Consumer Services permits/licenses.
 - C. Each food truck location and food truck operation permit application shall be accompanied by a filing fee of \$100 made payable to the County of Fairfax. Upon the finding that the application complies with the standards set forth in Par. 3 below, the Zoning Administrator shall approve the permit application, setting forth conditions that protect the public health, safety and welfare and adequately protect adjoining properties from any adverse impacts of the food truck, which may include, but are not limited to, hours of operation, location, parking, vehicular access, and safety requirements.
 - D. Any food truck location permit or food truck operation permit shall be revocable by the Zoning Administrator because of the failure of the property owner and/or the food truck operator to comply with any of the provisions of this section.
3. In addition to Par. 2 above, food trucks shall be located and operated in compliance with the following standards:
- A. Food trucks shall be located on private property with the written consent of the property owner or authorized agent holding an approved food truck location permit.
 - B. Food trucks shall only be permitted in conjunction with a principal use consisting of a minimum

of 25,000 square feet of gross floor area or on a construction site with an active building permit and on-going construction activity.

- C. Food trucks shall operate for a maximum of four (4) hours in any one (1) day at any one (1) location, including set-up and break-down.
 - D. A maximum of three (3) food trucks shall be permitted at any one (1) location at the same time, provided that additional food trucks may be permitted in conjunction with temporary special permits or other special events regulated by any proffered condition, development condition, special permit or special exception.
 - E. Food trucks shall not be located in any fire lane, travel lane, entrance/exit or any required parking space.
 - F. Food trucks shall be located on a level, paved, or gravel surface with safe pedestrian access. The vicinity around the food truck shall be kept clean and free of debris. Trash receptacles shall be provided.
4. Notwithstanding Paragraphs 2 and 3 above, food trucks may also be permitted on County or Park Authority owned and controlled property or in conjunction with the approval of a temporary special permit, provided that such food trucks comply with all applicable regulations, including the Health Department and the Department of Cable and Consumer Services requirements.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, Sect. 10-102, Permitted Accessory Uses, by modifying Par. 16 and by adding a new Par. 33, to read as follows:

Accessory uses and structures shall include, but are not limited to, the following uses and structures; provided that such use or structure shall be in accordance with the definition of Accessory Use contained in Article 20:

16. Parking of one (1) commercial vehicle per dwelling unit in an R district subject to the following limitations:
- A. No food truck, solid waste collection vehicle, tractor and/or trailer of a tractor-trailer, dump truck, construction equipment, cement-mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district.
 - B. Any commercial vehicle parked in an R district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.
33. Food trucks, as regulated by Sect. 2-510.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by modifying Par. 5 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be 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 shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

5. Fees for food trucks, home occupations, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, respectively.

On October 7, 2014, the Board adopted this amendment with an effective date of October 8, 2014. On October 28, 2014, the Board of Supervisors approved a motion to revise the editing instructions for adding food trucks to Sect. 10-102 which related only to the ordering of the items in the section and did not make any substantive changes. As such, the effective date of this amendment remains October 8, 2014 at 12:01 a.m.

GIVEN under my hand this 28th day of October, 2014.



CATHERINE A. CHIANESE
Clerk to the Board of Supervisors