

Initiative: "Supporting building code and zoning ordinance compliance with ADA Title III"

The issue: Building codes and zoning ordinances impact county structure compliance with Title III of the ADA, as well as how homeowners and residents navigate county rules. Not all current building codes and zoning ordinances are obviously compliant, potentially presenting challenges to residents, and opening the door to county liability.

Expected path forward: Work with FFC Land Development Services, etc. to seek an accounting of which ordinances and codes are certified as ADA Title III compliant.

What was learned: FFC regulations that affect construction generally fall into the categories of zoning ordinances, building codes, and site ordinances

- FFC building codes flow directly from the state (Uniform Statewide Building Code, based on the International Building Code). Generally, both compliant and considered a safe harbor.
- FFC has the authority to create and amend non-building codes (site), like zoning and stormwater
- FFC zoning has an overarching provision, Subsection 1106.3, which says that in the case of a zoning ordinance conflicting with an accessibility improvement or reasonable accommodation, the accessibility improvement or reasonable accommodation is allowed.
- FFC's Public Facilities Manual (PFM), contains an accessibility provision, 1-0402, stating that if a specific requirement of the PFM precludes the provision of an accessibility improvement, the improvement will be allowed regardless of the specific requirement of the PFM; essentially, the Director of Land Development Services can authorize deviation provided the deviation does not conflict with state or federal mandates.
- Specific site ordinances referenced within the PFM, but to which 1-0402 does not directly apply, may contain their own relief. Examples include:
 - Chapter 118, section 118-5-3 Additional Exemptions: The following activities shall also be exempt from the provisions of this Chapter to the extent that they are allowed by the Zoning Ordinance and are not prohibited by any other ordinance or law: (a) Within Resource Protection Areas: Water wells, site amenities for passive recreation, historic preservation activities, and archaeological activities, provided that: (3) Except for boardwalks, pathways, paved paths, the location of such activities shall be outside RPAs to the degree possible; (4) No more land shall be disturbed than is necessary to provide for the desired activity. Boardwalks, pathways, and paved paths serving individual residential properties shall be no more than four feet in width except as necessary for handicapped access;...
 - Chapter 124, section 124-6-1 Exemptions. A. Exceptions to the provisions of Articles 4 or 5 of this Chapter may be granted by the Director. An exception may be granted provided that: 1. The exception is the minimum necessary to afford relief; 2. Reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this Chapter are preserved;...

Summary: Encountering significant issues are unlikely, but if they are encountered, they are most likely in the areas of the Chesapeake Bay Preservation Act, Floodplains, and Resource Protection Areas.

Suggested next steps: LDS Site Code Research and Development compiled information on potentially more complicated, site-specific considerations related to accessibility structures and accessibility improvements (included below). ***Suggest requesting LDS incorporate this as a help/guidance page on their website.***

Guidance documents provided by LDS Site Code R&D, and available on the county website, regarding **What an owner would consider before adding an accessible feature, such as a ramp or walkway, to their lot.**

Key considerations when “laying out” a proposed site improvement are the land use and environmental regulations of the county. Information related to yard coverage limitations and What can be done in a floodplain and Resource Protection Area is provided below. When laying out proposed improvements and impervious areas, designers and engineers would consider these regulations and the related stormwater regulations. Some additional resources are: Engineer of the Day is at [Program or Service Detail - Contact Us - Fairfax County, Virginia](#), and [Meet With Staff | Land Development Services \(fairfaxcounty.gov\)](#).

[Yard Coverage | Code Compliance \(fairfaxcounty.gov\)](#)

- The Zoning Ordinance includes yard requirements and limits paving and coverage of front yards.
- The limitation of impervious area may be exceeded for a surfaced area provided as an accessibility improvement as approved by the Zoning Administrator.

[Chesapeake Bay Preservation Ordinance | Land Development Services \(fairfaxcounty.gov\)](#)

- The county has prepared guidance [maps showing estimated locations of the RPAs](#).
- Any development, land disturbing activity or other use within an RPA generally requires prior approval from the county.
- The specific type of application and procedure for obtaining the approval depends on the nature and extent of the proposed encroachment.
- For information regarding a specific project and associated application requirements, please contact a stormwater specialist at 703-324-1720, TTY 711.
- Refer to [FAQs: Resource Protection Areas | Land Development Services \(fairfaxcounty.gov\)](#).

What if there is floodplain in the vicinity of my project?

- If the proposed project is located within 15 feet of a floodplain boundary (or for decks only, **within** the floodplain boundary), a [Floodplain Use Determination](#) (FPUD) is required separate from the RPA request. All proposed uses and development must be reviewed to determine whether the work encroaches within a floodplain and if it complies with the Floodplain Regulations found in Section 5105 of the Zoning Ordinance.
- To determine whether your project is within the floodplain boundary limits, use the [JADE](#) interactive mapping application.

Public Facilities Manual (PFM)

- Sets forth requirements related to new construction, criteria and guidance on streets, utilities, stormwater management, tree conservation, etc.
- PFM variances can be considered by the Director of Land Development Services; however, the Director has no authority to modify State and federal mandates.