



# FAIRFAX COUNTY

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## PROPOSED ZONING ORDINANCE AMENDMENT

### STAFF REPORT Minor and Editorial Revisions

November 1, 2022

#### Hearing Dates

Planning Commission: December 8, 2022

Board of Supervisors: January 24, 2023

#### Staff Contact

Carmen Bishop, Deputy Zoning Administrator



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



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**Background**

On March 23, 2021, the Board of Supervisors adopted a new and modernized Zoning Ordinance (zMOD) that took effect on July 1, 2021. Since that time, in using the new Ordinance, a number of necessary minor and editorial revisions have been identified. A first round of revisions was adopted on February 22, 2022, and the proposed amendment is a second iteration of similar changes. Most of the proposed revisions are typographical or editorial in nature and do not result in any substantive changes.

**Proposed Changes**

The proposed changes are described in the table below and are shown under Proposed Text.

	<b>Reference (Section or subsection)</b>	<b>Description of Change</b>
1	2103 – Lot and Building Standards tables for commercial districts	Add a note to the front setback requirement in each table with a cross-reference to subsection 3102.3.C(2)(a) for the front setback applicable in commercial revitalization districts. This change is for reference for the reader and does not revise any requirements.
2	2105.1.C(2) – General standards for Planned Districts	Correct a typographical error by deleting “of.”
3	3102.3.E(2)(b) – Commercial Revitalization Districts	Correct a typographical error and correct the last sentence of this subsection to clarify that it pertains to the fee for parking reductions, which is contained in Appendix Q of the County Code.
4	4102.3.D(1), 5101.5.D, 8100.7.D, 9102 (Manufactured Home Park), and 9103 (Short-Term Lodging) – Mobile home	Replace references to “mobile home” with manufactured home, consistent with references throughout the Ordinance. These references were inadvertently missed during the adoption of the new Ordinance in 2021.
5	4102.1.H(6); 4102.4.C(1)(c); 4102.4.J(2); 4102.4.Q(14), (15), and (16); 4102.5.A(7); 4102.5.NN(7); 4102.7.A(5)(e); 4102.7.A(6)(b) - Table 4102.3; 4102.7.F(5); 4102.7.J(7)(b); 5100.2.D(11)(f)4; 8101.3.F(2) – Setback	Replace the references to minimum “yard” requirements with minimum “setback” requirements to be consistent with the previous changes made as part of zMOD.
6	4102.4.X(2) – Light Utility Facility	Correct a typographical error in a cross-reference.

	<b>Reference (Section or subsection)</b>	<b>Description of Change</b>
7	4102.4.Y(1)(e) – Wireless Facility	Restore the provision that a wireless facility is not subject to lot size requirements and bulk regulations, consistent with the previous Zoning Ordinance. This was an inadvertent omission.
8	4102.7.L – Residence for Manager or Employee	Revise this accessory use, consistent with Sect. 2-501 of the previous Zoning Ordinance, to clarify when a residence for a manager or employee may be allowed with an administrative permit and to allow the Board or BZA to approve more than one residence for a manager or employee for a nonresidential use only in conjunction with the approval of another special exception or special permit use.
9	4102.7.N(4)(g) – Short-term lodging	Clarify that short-term lodging is not permitted on a lot with an accessory living unit, neither within the accessory living unit nor in the principal unit.
10	4102.8.C – Construction Site Office and Storage	Delete subsection (7) because it repeats a portion of subsection (1).
11	5100.2.D(4)(b) – Rear setback on corner lots	Clarify that for corner lots developed with a single-family detached dwelling as of July 1, 2021, the minimum side setback dimension is applicable for determining rear setback coverage in accordance with subsection 4102.7.A(5). This is consistent with previous Zoning Administrator interpretation.
12	5100.2.D(4)(c)1 and 3 – Sight distance requirements on corner lots	Correct a typographical error in (c)1 and clarify the sight distance requirement for corner lots in (c)3. The area that must be maintained clear of structures is the area described in the previous subsection 2, between the two horizontal planes, not the entire sight distance triangle.
13	5100.2.D(5)(b)3 – Permitted extensions into minimum required setbacks	Delete “any” before stairs to clarify that only uncovered stairs are permitted to extend into the setbacks.
14	5100.2.D(7)(a) – Setbacks on through lots	Clarify that the two yards between the principal building and the streets are front yards.
15	5100.2.D(11)(e)1.b, 5104.1.A(2), 5104.3.B, and Table 5108.2 – Section/subsection	Correct the terms to “Section” or “subsection” in accordance with the Ordinance structure as specified in subsection 1104.4.
16	5101.8.A(2)(b)1.c – Administration of ADU Program	Correct a typographical error in a cross-reference.

	<b>Reference (Section or subsection)</b>	<b>Description of Change</b>
17	Table 5109.1 – Maximum illumination for sports facilities	Increase the maximum allowed footcandles (fc) for recreational tennis courts from 40 to 50 fc. The current standard was adopted in 2003, and since that time, the United States Tennis Association and the Illuminating Engineering Society of North America have increased the recommended lighting for recreational tennis courts to 50 fc. The Park Authority’s athletic field lighting guidelines also recommend up to 50 fc.
18	6100.2.B(3) – Front yard driveway surfacing	Correct this provision to indicate that the limitations on the amount of driveway surfacing apply only on lots that are 36,000 square feet or less and developed with single-family detached dwellings. This was an inadvertent change during adoption of the new Ordinance when the previous provision was separated into two subsections.
19	6100.4.C – Transit Station Areas (Table 6100.3)	Add a reference in Table 6100.3 to the shopping center parking rate table (Table 6100.2), which includes the parking rates for TSAs. This was an inadvertent omission.
20	8100.1.B(1)(j)8 – Written notice of public hearings	Clarify that the owners of property subject to the approval of an original application must receive written notice of a proposed amendment.
21	8100.2.F(3)(i) – PRC plan approval	Clarify that a minor modification is allowed for a PRC plan.
22	8100.7.C(1) – Minor site plans	Correct a typographical error in a cross-reference.
23	8100.10.A(2)(b)3 – Appeals	Correct a typographical error in a cross-reference.

	<b>Reference (Section or subsection)</b>	<b>Description of Change</b>
24	8102 – Fee Schedule, Special Event (Table 8102.1)	Establish a fee of \$4,090 [ <b>advertised range: \$910 - \$16,375</b> ] for a special permit application for a Special Event. A Special Event is a temporary, outdoor activity, such as a fair or festival. Special permit approval by the Board of Zoning Appeals is required when the event extends longer than the maximum of 21 days that can be approved by an administrative permit. Since a specific fee was not established, the general fee for a special permit of \$16,375 applies. The proposed application fee of \$4,090 is 25% of the general fee, recognizing the temporary nature of the use with no permanent structures. However, these events are typically commercial and for-profit and are often approved for multiple years. These longer-term special events do require staff coordination with other agencies and often include the erection of temporary structures that require review by the building official and fire marshal. In accordance with a motion by the Board of Supervisors on May 24, 2022, a separate report will be provided to evaluate the 21-day administrative permit process as well as longer-term interim uses.
25	8102 – Fee Schedule	Revise the heading for Amendments to Pending Applications and Extensions of Time to include Previously Approved applications as well, since those fees are also included in this portion of the fee schedule.
26	8104.3.B(3) – Nonconformities	Correct an inadvertent change. The provision for reconstruction of a dwelling should refer to the setback (i.e., the location of the dwelling on the lot) before the casualty, not the minimum required setback.
27	9102 – Development Plan, Generalized	Correct a typographical error in a cross-reference.
28	9102 – Lot	Revise the definition of a lot, consistent with long-standing interpretation, to state that it must be a contiguous parcel(s) of land, which may include more than one lot.

	<b>Reference (Section or subsection)</b>	<b>Description of Change</b>
29	9103.2, 9103.7, 4102.2.A(1), 4102.2.D(1), 4102.7.K – State Code changes relating to the housing of livestock	The State Code was amended in 2022 to include the housing of livestock in the definition of an agricultural operation. Livestock, under the State Code, includes horses or ponies. Therefore, the Zoning Ordinance needs to be updated to be consistent with the State Code. Changes are proposed to the definitions and standards for a Riding or Board Stable and a Limited Riding or Boarding Stable to acknowledge that where a total of at least seven acres are dedicated to the housing of horses or ponies, it is an Agricultural Operation. The definition and standards for an Agricultural Operation are also proposed to be revised to include the new State Code reference to the housing of livestock. Under the Zoning Ordinance, an Agricultural Operation requires a minimum of seven acres to be devoted to the agricultural activity.
30	4102.4.F(1), 9103.4.A – Community Swim, Tennis, and Recreation Club	Revise the definition and standard for consistency, requiring membership to be limited primarily to residents of a designated area.
31	9103.4.D – Transit Facility	Correct a typographical error and move the definition of Regional Rail Transit Facility to be a sub-definition nested under Transit Facility.
32	9103.5 – Animal-Related Services and Kennel	Revise the definitions for the Animal-Related Services use category and a Kennel, consistent with previous interpretations, to include recreation and exercise areas provided for a fee, such as a private dog park. This does not apply to public uses or accessory private amenities, such as an off-leash dog area provided for a multifamily building. A kennel is permitted by special exception (SE) in the R-A through R-1 Districts; it is allowed by right when indoors in C-5 through C-8 and I-3 through I-6, or by SE in those districts if there are outdoor components; and the use is allowed in all P districts when shown on an approved development plan or by SE.
33	9103.7 – Accessory Structure	Revise the definition of an accessory structure to include that it must be customarily found in association with the principal building or use. This requirement is included in the definition of an accessory use and, under the previous Zoning Ordinance, applied to accessory structures as well.

## Summary

The proposed amendment corrects a number of typographical and editorial errors in the new Ordinance, resolves inconsistencies, and provides further clarification. It is recommended that the amendment become effective at 12:01 a.m. on the day following adoption.

## Proposed Text

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

3 **#1 INSTRUCTION: Add a note in the Lot and Building Standards tables for each commercial zoning**  
4 **district to include a reference to subsection 3102.3.C(2)(a) for the front setback and renumber Notes**  
5 **as needed. Table 2103.1 is shown below for illustration, but the change applies to the following**  
**tables as well: 2103.2, 2103.3, 2103.4, 2103.5, 2103.6, 2103.7, and 2103.8.**

**Table 2103.1: C-1 Lot and Building Standards [1]**

Lot area, minimum [2]	20,000 sq. ft.
<b>A</b> Lot width, minimum [2]	100 feet
Landscaped open space, minimum [3]	50 percent of the gross area
<b>B</b> Front setback, minimum [4]	Setback equal to building height
<b>C</b> Side setback, minimum	No requirement
<b>D</b> Rear setback, minimum	25 feet
<b>E</b> Building height, maximum	35 feet
Floor area ratio, maximum	0.25

**Notes:**

- [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.  
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.  
[3] Open space is calculated in accordance with subsection 5100.3.A(3).  
[4] Refer to subsection 3102.3.C(2)(a) for front setback provisions in Commercial Revitalization Districts.  
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

6  
7 **#2 INSTRUCTION: Revise subsection 2105.1.C(2) to delete “of,” as shown below.**

- 8  
9 (2) The planned development must be ~~of~~ designed to achieve the stated purpose of the  
10 planned development district more than would development under a conventional  
11 zoning district.  
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1 **#3 INSTRUCTION:** Revise subsection 3102.3.E(2)(b) to specify that the fee for a parking reduction is  
2 contained in Appendix Q and to correct a typographical error, as shown below.  
3

4 **(2) Parking**

5 The off-street parking, loading, and private street requirements of Article 6 apply,  
6 except as follows:

7 **(a)** In the Richmond Highway CRD, the minimum off-street parking requirements  
8 for all nonresidential uses may be reduced by 20 percent.

9 **(b)** In all other CRDs, the minimum off-street parking requirements for  
10 nonresidential uses may be reduced by up to 20 percent by the Board, subject  
11 to conditions it deems appropriate. The applicant must demonstrate to the  
12 Board that the reduction furthers the goals of the CRD as set forth in the  
13 Comprehensive Plan, including economic vitality, appearance and function. A  
14 request for this reduction in minimum off-street parking requirements may also  
15 be considered in conjunction with a rezoning or special exception application.  
16 The parking reduction fee established in ~~Section 8102~~ Appendix Q of the County  
17 Code is not applicable.  
18

19 **#4 INSTRUCTION:** Revise subsections 4102.3.D(1), 5101.5.D, 8100.7.D, 9102 (Manufactured Home  
20 Park), and 9103 (Short-Term Lodging) to replace “mobile” with “manufactured.”  
21

22 **4102.3.D(1):**

23 **D. Manufactured Home**

24 **Standards applicable to all manufactured homes:**

25 A manufactured home that is to be used as a dwelling is allowed only:

26 **(1)** In a ~~mobile~~ manufactured home park in the R-MHP District in accordance with  
27 subsection 2102.14, provided that the manufactured home must be licensed in  
28 accordance with Chapter 32 of the County Code and bear a certification label or have  
29 other verification consistent with the requirements of the U.S. Department of Housing  
30 and Urban Development that the manufactured home is constructed in conformance  
31 with the Federal Manufactured Home Construction and Safety Standards in effect on  
32 the date of manufacture;  
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1 **5101.5.D:**

2 **D. Provisions for Manufactured Home Parks**

3 To encourage the redevelopment of manufactured home parks to house low and moderate  
4 income families in Fairfax County, in conjunction with the review and approval of a rezoning  
5 application and proffered generalized development plan, the Board may grant an increase in  
6 the number of ~~mobile~~ manufactured homes or dwelling units per acre permitted in the R-  
7 MHP District by a factor of 50 percent. Where deemed necessary, as part of that approval  
8 for the provision of moderately-priced housing units, the Board may waive other regulations  
9 of the R-MHP District and the provisions of subsection 5100.2.E(2) related to lots comprised  
10 of marine clays.

11 **8100.7.D:**

12 **D. Uses Exempt from a Site Plan or a Minor Site Plan**

13 Unless otherwise required by proffered conditions or development conditions of an  
14 approved rezoning, special exception, special permit, or variance, the following uses are not  
15 subject to the requirement for a site plan or a minor site plan. Such uses, however, are still  
16 subject to all other applicable provisions of this Ordinance, the Public Facilities Manual, and  
17 the County Code.

- 18 **(1)** Single-family detached dwellings and their related accessory uses and structures.  
19 **(2)** Additions to single-family attached dwellings and ~~mobile~~ manufactured homes, and  
20 related accessory uses and structures.  
21 **(3)** Installation of new ~~mobile~~ manufactured homes on existing pads within an existing  
22 ~~mobile~~ manufactured home park.

23 **9102:**

24 **Manufactured Home Park**

25 A parcel of land designed for use by one or more manufactured homes that provides the  
26 infrastructure and utilities necessary for single-family occupancy of those homes. This term does  
27 not include sales lots on which unoccupied ~~mobile~~ manufactured homes, whether new or used,  
28 are parked for the purposes of inspection and sale.

29 **9103:**

30 **Short-Term Lodging**

31 The provision of a room or space that is suitable or intended for transient occupancy, in exchange  
32 for a charge for the lodging. This use does not include an accessory living unit, bed and breakfast,  
33 hotel or motel, or family health care structure. For purposes of subsection 4102.7.N, Short-Term  
34 Lodging, the following definitions apply:

35 **Authorized Agent**

36 An adult designated by a short-term lodging operator who consents to be available to  
37 address any issues or emergencies that may arise during any short-term lodging stay.

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**Permanent Resident**

A person who occupies or intends to occupy a dwelling or ~~mobile~~ manufactured home for at least 185 days out of the calendar year for the purposes of establishing the dwelling or ~~mobile~~ manufactured home as that person’s primary residence. A person may have only one permanent residence.

**Short-Term Lodging Operator**

An owner or tenant of a property who offers that property for short-term lodging.

**#5 INSTRUCTION:** Revise subsections 4102.1.H(6); 4102.4.C(1)(c); 4102.4.J(2); 4102.4.Q(14), (15), and (16); 4102.5.A(7); 4102.5.NN(7); 4102.7.A(5)(e); 4102.7.A(6)(b) - Table 4102.3; 4102.7.F(5); 4102.7.J(7)(b); 5100.2.D(11)(f)4; and 8101.3.F(2) to replace “yard” with “setback,” as shown below.

**4102.1.H(6):**

**H. Standards for Alternative Use of Historic Buildings**

- (6) All off-street parking and loading spaces must be located outside of required minimum side and rear ~~yards~~ setbacks that abut a residential district, unless modified by the Board.

**4102.4.C(1)(c):**

**C. Child Care Center**

- (1) The outdoor recreation area required under Chapter 30 of the County Code must:
  - (c) Occupy less than 80 percent of the combined total areas of the required rear and side ~~yards~~ setbacks;

**4102.4.J(2):**

**J. School, Private**

- (2) If a private school provides an outdoor recreation area, it must:
  - (a) Be developable, designed, and usable for active outdoor recreation purposes;
  - (b) Occupy less than 80 percent of the combined total areas of the required rear and side ~~yards~~ setbacks;
  - (c) Be located outside the minimum front setback, unless specifically approved by the Board; and
  - (d) Not include any area covered by a building or required for off-street parking in accordance with Article 6.

**4102.4.Q(14), (15), and (16):**

**Q. Independent Living Facility**

- (14) In residential districts, the maximum building height is 50 feet, except that the maximum building height is 35 feet when the structure is designed to look like a

1 single-family detached dwelling and utilizes the applicable residential district  
2 minimum ~~yard setback~~ requirements set forth below, subject to further limitations by  
3 the Board to ensure neighborhood compatibility. For independent living facilities in  
4 commercial districts, the maximum building height is as set forth in the district in  
5 which they are located.

6 **(15)** For independent living units that are located in a structure designed to look like a  
7 single-family detached dwelling unit and located in the R-E, R-1, R-2, R-3, R-4, R-5, or  
8 R-8 Districts, the Board may permit compliance with the applicable single-family  
9 detached minimum ~~yard setback~~ requirements of the zoning district in which located.  
10 For independent living facilities located in any other structure or district, the minimum  
11 front, side, and rear ~~yard setback~~ requirements must be as follows:

12 **(a)** 50 feet where the yard abuts or is across a street from an area adopted in the  
13 Comprehensive Plan for 0.2 to eight dwelling units per acre.

14 **(b)** 30 feet where the yard abuts or is across a street from an area adopted in the  
15 Comprehensive Plan for a residential use having a density greater than eight  
16 dwelling units per acre or any commercial or industrial use classifications.

17 **(16)** In any event, the Board may modify ~~yard setback~~ requirements in subsection (15)  
18 above to ensure compatibility with the surrounding neighborhood.

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20 **4102.5.A(7):**

21 **A. Animal Shelter or Kennel**

22 **(7)** In approving a special exception, the Board may impose conditions of approval, such  
23 as screening or minimum ~~yard setback~~ requirements, to prevent adverse impact,  
24 emission of noise, or emission of odor that would be detrimental to adjacent  
25 properties.

26  
27 **4102.5.NN(7):**

28 **NN. Vehicle Fueling Station**

29 **(7)** Pump islands and associated canopies may be located in any required ~~yard setback~~.

30  
31 **4102.7.A(5)(e):**

32 **(5) Rear Setback Coverage Limitations**

33 **(e)** An increase in the limitations on coverage of the minimum rear setback in  
34 subsection (a) above may be permitted by special permit in accordance with  
35 subsection 8100.4, except where the lot is located in a planned district that is  
36 subject to proffered ~~yards setbacks~~, in which case an amendment to the  
37 development plan is required. Approval of the special permit by the BZA is  
38 subject to the following:

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1 **4102.7.A(6)(b) - Table 4102.3:**

2

Table 4102.3: Accessory Structure Height and <del>Yard</del> Setback Requirements	
Height of Accessory Structure	Setbacks Required
Up to 8.5 feet	Side: None
	Rear: None
Greater than 8.5 feet to 12 feet	Side: 5 feet [1], [3]
	Rear: 5 feet [2]
Greater than 12 feet	Side: Required side <del>yard</del> setback of district [3]
	Rear: Distance in height from rear lot line

**Notes:**

- [1] This setback does not apply in commercial and industrial districts if there is no minimum side setback for the district.
- [2] This setback does not apply in industrial districts if there is no minimum required rear setback for the district.
- [3] Although the side ~~yard~~ setback requirements do not apply to individual single-family attached units except at peripheral lot lines, the setbacks are required for freestanding accessory structures on single-family attached lots.

3

4 **4102.7.F(5):**

5 **F. Family Health Care Structure**

- 6 (5) Family health care structures are limited to a maximum of 300 square feet of gross  
 7 floor area and must meet the minimum ~~yard~~ setback requirements for single-family  
 8 detached dwellings of the zoning district in which it is located. When located in a  
 9 Planned Development district, the family health care structure is subject to any  
 10 proffered ~~yards~~ setbacks and/or ~~yards~~ setbacks depicted on an approved  
 11 development plan. If there are no proffered ~~yards~~ setbacks or ~~yards~~ setbacks depicted  
 12 on an approved development plan in a Planned Development district, the family  
 13 health care structure will be deemed an alteration to a single-family dwelling unit and  
 14 subject to subsection 8100.2.E(3)(f).

15

16 **4102.7.J(7)(b):**

17 **J. Keeping of Animals**

- 18 (7) The BZA may approve a special permit to modify the provisions of subsections (2)  
 19 through (6) above, in accordance with the following:
- 20 (b) The BZA may impose such conditions, to include screening and minimum ~~yards~~  
 21 setbacks, as may be necessary to ensure that there will be no adverse impact on  
 22 any adjacent property and no emission of noise or odor detrimental to other  
 23 property in the area.

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1 **5100.2.D(11)(f)4:**

2 **(11) Reductions in Setback Requirements**

3 **(f) Special Permit Approval for Certain Additions to Existing Single-Family**  
4 **Detached Dwellings**

- 5 **4.** The total gross floor area resulting from an addition to an existing single-  
6 family detached dwelling may be up to 150 percent of the total gross floor  
7 area of the dwelling that existed at the time of the first expansion  
8 request. The total gross floor area resulting from any subsequent addition  
9 is limited to 150 percent of the gross floor area of the dwelling that  
10 existed at the time of the first expansion request, regardless of whether  
11 that addition complies with the minimum ~~yard~~ setback requirements or is  
12 the subject of a subsequent ~~yard~~ setback reduction special permit. No  
13 more than 50 percent of the gross floor area of an existing single-family  
14 detached dwelling at the time of the first ~~yard~~ setback reduction may be  
15 removed. For the purpose of this subsection, the gross floor area of a  
16 single-family dwelling includes the floor area of any attached garage.

17  
18 **8101.3.F(2):**

19 **F. Additional Submission Requirements for Specific Variance Applications**

20 **(2) Minimum ~~Yards~~ Setbacks for Dwellings**

21 The plat information required by subsections 8101.3.B(1) through B(9), B(11), B(13)  
22 and B(14).

23  
24 **#6 INSTRUCTION:** In subsection 4102.4.X(2), correct the cross-reference to refer to subsection  
25 **4102.4.Y(6), as shown below.**

26 **X. Utility Facility, Light**

- 27 **(2)** New utility distribution or transmission poles with attached facilities, including small  
28 cell facilities, that are more than 50 feet in height, require special exception approval  
29 by the Board subject to subsection 4102.4.X~~Y~~(6).

30  
31 **#7 INSTRUCTION:** Add new subsection 4102.4.Y(1)(e) to specify that wireless facilities are not  
32 **required to comply with lot size or bulk regulations, as shown below.**

33  
34 **Y. Wireless Facility**

- 35 **(1)** The following standards apply to all wireless facilities:  
36 **(e)** Wireless facility uses are not required to comply with the lot size requirements  
37 or the bulk regulations for the zoning district where they are located.  
38  
39

**#8 INSTRUCTION:** Revise subsection 4102.7.L(1) and add new subsection (3) to allow more than one residence for a manager or employee with approval of a special exception or special permit.

## L. Residence for Manager or Employee

### Standards when permitted by administrative permit:

- (1) One An accessory residence for a manager or employee is allowed in conjunction with a nonresidential use. The residence must be only allowed if it is located within the principal structure.

### Standards when permitted by special exception or special permit:

- (2) A residence for manager or employee may be located in a structure detached from the principal structure only if it is approved in conjunction with approval of another SE or SP use and if it complies with the applicable bulk regulations for a principal structure set forth in the specific district in which it is located. Any locational requirements set forth as additional standards for a special exception or special permit use are not applicable to detached structures occupied by dwelling units.
- (3) A nonresidential use may have more than one residence for a manager or employee only if approved in conjunction with approval of another SE or SP use.

**#9 INSTRUCTION:** Revise subsection 4102.7.N(4)(g) to clarify that short-term lodging is not permitted on the same property as an accessory living unit, as shown below.

- (4) The short-term lodging use is subject to the following use limitations:

- (g) Short-term lodging is prohibited in a detached accessory structure, ~~accessory living unit,~~ temporary family health care structure, affordable dwelling unit, ~~or workforce dwelling unit,~~ and on a lot with an accessory living unit.

**#10 INSTRUCTION:** Revise subsection 4102.8.C to delete subsection (7) and renumber the following subsection.

## C. Construction Site Office and Storage

### Standards when permitted by administrative permit:

- (1) An administrative permit may be issued for a period beginning no earlier than 30 days before the commencement of actual construction and terminating no later than 20 days after completion of the last building to be constructed in the project. All buildings, materials, supplies, and debris must be completely removed from the temporary use site before the administrative permit expires.
- ~~(7) The use may commence no earlier than 30 days before the beginning of actual construction.~~

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2 **#11 INSTRUCTION:** Revise subsection 5100.2.D(4)(b) to apply the side setback dimension for rear  
3 setback coverage for corner lots with existing single-family detached dwellings as of July 1, 2021, as  
4 shown below.  
5

6 **(4) Corner Lots**

7 The following regulations apply to corner lots:

8 **(b) Rear Setback**

9 The rear yard must meet the minimum rear setback for the district or as  
10 proffered; however, for single-family detached dwellings that lawfully exist as of  
11 July 1, 2021, and future additions to these dwellings in the R-E, R-1, R-2, R-3, R-  
12 4, R-5, and R-8 Districts, the rear setback may continue to equal the dimension  
13 for the minimum side setback in effect before adoption of this Ordinance. On  
14 corner lots with dwellings lawfully existing as of July 1, 2021, in the zoning  
15 districts identified in this subsection, the minimum side setback dimension is  
16 used to determine the area subject to rear setback coverage limitations in  
17 accordance with subsection 4102.7.A(5).  
18

19 **#12 INSTRUCTION:** Revise subsection 5100.2.D(4)(c)1 to correct a typographical error and revise  
20 subsection 5100.2.D(4)(c)3 to clarify the area to be maintained clear within the sight distance  
21 triangle, as shown below.

22 **(c) Sight Distance Requirements on Corner Lots**

23 Sight distance on corner lots must be maintained in accordance with the  
24 following standards:

- 25 **1.** The sight distance triangle is formed by the ~~by the~~ street lines of a lot and  
26 a line drawn between points established in accordance with the following  
27 (see Figure 5100.1 below):
- 28 **a.** For a lot having an interior angle of 90 degrees or more at the street  
29 corner: Points must be 30 feet from the property lines extended.
  - 30 **b.** For a lot having an interior angle of less than 90 degrees at the  
31 street corner: Points must be 30 feet from the property lines  
32 extended, plus one foot for every ten degrees or fraction by which  
33 such angle is less than 90 degrees.
- 34 **2.** Sight distance must be maintained between two horizontal planes, one of  
35 which is three and one-half feet, and the other ten feet above the  
36 established grade of either street (see Figure 5100.1 below).
- 37 **3.** This sight distance ~~triangle~~ triangle area, as described in subsection 2 above, must  
38 be maintained clear of structures and plantings, except for a post, column,  
39 or trunk of a tree (not to include branches or foliage) equal or lesser than  
40 one foot in diameter.

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2 **#13 INSTRUCTION: Revise subsection 5100.2.D(5)(b)3 to delete “any,” as shown below.**  
3

- 4                   **3.** Open fire escapes, smokeproof enclosures, uncovered stoops and ~~any~~  
5 stairs, heating, ventilation, and air conditioning (HVAC) equipment, pool  
6 pumps, generators, and similar required features and equipment whether  
7 attached or detached may extend up to five feet into any minimum  
8 required setback if the individual feature is not more than ten feet in  
9 width and is not located within five feet of any lot line.  
10

11 **#14 INSTRUCTION: Revise subsection 5100.2.D(7)(a) to clarify that there are two front yards, as  
12 shown below.**

13                   **(7) Setbacks on Through Lots**

- 14                   **(a)** ~~The minimum front setback on a through lot applies to the two yards lying~~  
15 ~~between the principal building and the two or more abutting public streets are~~  
16 ~~front yards and the minimum front setback applies,~~ except as qualified in  
17 subsection (6) above for residential lots having reverse frontage, and when one  
18 of the public streets is an alley.  
19

20 **#15 INSTRUCTION: Make the following revisions: a) In subsection 5100.2.D(11)(e)1.b, replace the**  
21 **term ‘Section’ with ‘subsection’ in reference to subsection 5100.2.L(2); b) In subsections 5104.1.A(2)**  
22 **and 5104.3.B, replace the term ‘subsection’ with ‘Section’ in reference to Section 5105; and c) In the**  
23 **heading for Table 5108.2, replace the term ‘Section’ with ‘subsection’ in reference to subsection**  
24 **5108.6.A(1).**  
25

26  
27 **#16 INSTRUCTION: Revise subsection 5101.8.A(2)(b)1.c to correct the cross-reference, as shown**  
28 **below.**  
29

- 30                   **1.** The written notice may be sent by the owner at any time after the  
31 issuance of a building permit for the affordable dwelling unit and approval  
32 of the sales price for the unit by the County Executive. The Notice of  
33 Availability must:
- 34                   **a.** Be in the form prescribed by the Redevelopment and Housing  
35 Authority;
  - 36                   **b.** Advise the Authority that a particular affordable dwelling unit or  
37 units are or will be completed and ready for purchase;
  - 38                   **c.** Include the information described in subsection ~~B1~~ 5101.8.A(2)(a)1  
39 above; and

- 1                                    *d.* Provide marketing materials concerning the units and the  
2 development to be used in the sale of the units.  
3

4 **#17 INSTRUCTION: Revise Table 5109.1 to increase the maximum footcandles for recreational tennis**  
5 **courts to 50 fc, as shown below.**  
6

**TABLE 5109.1: Maximum Permitted Levels of Illumination for  
Outdoor Recreation and Sports Facilities**

Facility or Use	Specific Lighted Area	Maximum Illumination Maintained (footcandles)
...		
Tennis courts (college and high school)		60
Tennis courts (recreational)		40 <u>50</u>

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8  
9 **#18 INSTRUCTION: Revise subsection 6100.2.B(3) to clarify that the limitations on the amount of the**  
10 **front yard that may be surfaced area for a driveway or vehicle parking apply to lots containing**  
11 **36,000 square feet or less and developed with single-family detached dwellings, as shown below.**  
12

- 13                    (3) On a lot with a single-family detached dwelling and containing 36,000 square feet or  
14 less, in ~~in~~ the R-1 and R-2 Districts, no more than 25 percent of any front yard and in  
15 the R-3 and R-4 Districts, no more than 30 percent of any front yard may be surfaced  
16 area for a driveway or vehicle or trailer parking area. Surfaced area materials are  
17 defined in subsection 6100.2.C(3)(b) below. On a pipestem lot, the surfaced area  
18 within the pipestem driveway is not included in this limitation. In addition, these  
19 limitations may be exceeded for a surfaced area that is:
- 20                    (a) Limited to two side-by-side parking spaces if the surfaced area is not more than  
21 25 feet long and 18 feet wide;
  - 22                    (b) On a lot that has its primary access from a major thoroughfare and consists of  
23 two side-by-side parking spaces and a vehicular turn-around area as long as the  
24 surfaced area is not more than 25 feet long and 18 feet wide and the turn-  
25 around area does not exceed 150 square feet; or
  - 26                    (c) Provided as an accessibility improvement as approved by the Zoning  
27 Administrator.
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**#19 INSTRUCTION: Revise Table 6100.3 to include a reference to Table 6100.2, as shown below.**

**TABLE 6100.3: Transit Station Area Minimum Required Off-Street Vehicle Parking Spaces**

Use	Minimum Parking Requirement
Dwelling, Multifamily and Stacked Townhouse	0 or 1 bedroom: 1.3 spaces per unit 2 bedrooms: 1.5 spaces per unit 3 or more bedrooms: 1.6 spaces per unit
Office	0 to 0.25 miles from a metro station entrance along an accessible route: 2 spaces per 1,000 square feet of gross floor area More than 0.25 miles from a metro station entrance along an accessible route: 2.3 spaces per 1,000 square feet gross floor area
All other commercial uses, except restaurants	80 percent of the parking rate established in Tables <u>6100.1</u> or <u>6100.2</u>
All other uses	As established in Table 6100.1

**#20 INSTRUCTION: Revise subsection 8100.1.B(1)(j)8 to clarify the owners of property under the original application must receive notice of an amendment, as shown below.**

8. 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 ~~approval of an~~ 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.

**#21 INSTRUCTION: Revise subsection 8100.2.F(3)(i) to clarify that a minor modification of a PRC plan is allowed.**

- (i) Minor modifications to ~~an approved rezoning and development plan may be permitted in a~~ PRC plans, may be approved in accordance with subsection 8100.5, ~~when the Zoning Administrator determines that they substantially conform to the approved rezoning and development plan and do not materially alter the character of the development.~~

**#22 INSTRUCTION:** Correct the cross-reference in subsection 8100.7.C(1) to refer to subsection 8100.7.E, as shown below.

**C. Uses and Activities Eligible for Minor Site Plans**

- (1) A minor site plan may be submitted in lieu of a site plan for a use listed below when the Director determines that the use will not require the improvements set forth in subsection ~~8101.4.A~~ 8100.7.E, that the improvements already exist, that the improvements may be made without a formal site plan, or that the improvements are not required in accordance with the Commercial Revitalization District provisions.

**#23 INSTRUCTION:** Correct the cross-reference in subsection 8100.10.A(2)(b)3 to refer to subsection 6100.2.B(2) for parking on unsurfaced areas.

3. Parking of vehicles on an unsurfaced area in the front yard of a single-family detached dwelling in the R-1, R-2, R-3, or R-4 Districts in violation of subsection ~~6100.2.A(3)~~ 6100.2.B(2).

**#24 INSTRUCTION:** Add a special permit application fee of \$4,090 [advertised range: \$910 - \$16,375] for Special Events in the Fee Schedule in Section 8102.

**TABLE 8102.1: FEE SCHEDULE**

This table includes standard fees related to approvals under the Zoning Ordinance. Additional fees may apply related to review or approval by other County departments or governmental or quasi-governmental agencies, or in accordance with Appendix Q of the County Code.

APPLICATION TYPE		FEE [1]
<b>SPECIAL PERMITS [2]</b>		
Standard fees for special permit approvals are listed below.		
General Fee Unless Otherwise Listed		\$16,375
<b>Accessory and Temporary Uses</b>		
Accessory Living Unit	Special Permit	\$435
	Renewal Fee	\$70
Community Garden		\$435
Home Day Care Facility		\$435
Home-Based Business		\$435

Special Event for longer than 21 days	\$4,090 [advertised range: \$910 - \$16,375]
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**#25 INSTRUCTION:** In the Fee Schedule in Section 8102, Table 8102.1, modify the heading shown below to include previously approved applications.

TABLE 8102.1: FEE SCHEDULE	
This table includes standard fees related to approvals under the Zoning Ordinance. Additional fees may apply related to review or approval by other County departments or governmental or quasi-governmental agencies, or in accordance with Appendix Q of the County Code.	
APPLICATION TYPE	FEE [1]
AMENDMENTS TO PENDING <u>AND PREVIOUSLY APPROVED</u> APPLICATIONS AND EXTENSIONS OF TIME [4][5]	

**#26 INSTRUCTION:** Revise subsection 8104.3.B(3) to delete “required,” as shown below.

- (3) A dwelling reconstructed under this section may not result in any setback that is less than the ~~required~~ setback in existence immediately before the casualty or that complies with the current minimum required setbacks, whichever is applicable. The Board may approve a special exception in accordance with subsection 5100.2.D(5)(d) to allow an extension into the minimum required setback for single-family detached dwellings that are destroyed by casualty.

**#27 INSTRUCTION:** Revise the definition for a generalized development plan in Section 9102 to correct the cross-reference from subsection 8100.7 to 8100.1.

**Development Plan, Generalized**

A required submission at the time of filing for an amendment to the Zoning Map for all districts other than a P district that generally characterizes the planned development of the subject lot. A generalized development plan must be prepared and approved in accordance with subsection 8100.71.

**#28 INSTRUCTION:** Revise the definition of a Lot in Section 9102, to include a requirement for it to be a contiguous parcel of land, as shown below.

**Lot**

A contiguous parcel(s) of land that is designated at the time of application for a special permit, a special exception, building permit, residential use permit, or nonresidential use permit, as a tract all of which is to be used, developed, or built on as a unit under one ownership. A parcel(s) of land will be deemed to be a lot, regardless of whether its boundaries coincide with the boundaries of lots or parcels shown on any map of record.

**#29 INSTRUCTION:** Revise the following subsections as shown below for the housing of livestock, including horses or ponies, as an agricultural operation: 9103.2 (definitions of Agricultural Operation and Riding or Boarding Stable), 9103.7 (definition of Limited Riding or Boarding Stable), 4102.2.A(1), and 4102.7.K(1), and add new subsection (1) under 4102.2.D.

**9103.2:**

**Agricultural Operation**

Any operation that is devoted to the bona fide production, harvesting, and sale of crops and other agricultural products, including livestock, dairy, aquaculture, poultry, horticultural, floricultural, viticultural, and silvicultural products, or the housing of livestock, as defined in Va. Code Sect. 3.2-6500. An agricultural operation may include agritourism uses, farm worker housing, and wayside stands as an accessory use.

The definition of agricultural operation does not preclude the keeping of livestock on parcels of two acres or more in size, as permitted by subsection 4102.7.J(3), or gardening and composting, as permitted as an accessory use.

An agricultural operation does not include a garden center, commercial stockyard/feed lot, landscape contracting services, on-site processing of agricultural products, riding or boarding stable, or the above-ground application or storage of sewage sludge.

**Stable, Riding or Boarding**

An establishment where horses or ponies, not including horses or ponies owned by a resident of the property, are kept, maintained, or boarded, or where riding lessons are made available to the general public or members of a private club. These services may be offered for a fee or free of charge. This use may include the hosting of events, competitions, exhibitions, or other displays of equestrian skills. The keeping of horses or ponies as an accessory use in accordance with subsection 4102.7.J and subsection 4102.7.K is not considered a riding or boarding stable. Where a total of seven or more acres are devoted to activities meeting the definition of an agricultural operation, including the housing of horses or ponies, whether boarded or owned by a resident, it is an agricultural operation.

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**9103.7:**

**Limited Riding or Boarding Stable**

A riding or boarding stable operated as accessory to a residence, where horses or ponies, not including those owned by a resident of the property, are kept, maintained, or boarded, or where riding lessons are made available to the general public or members of a private club. These services may be offered for a fee or free of charge. Where a total of seven or more acres are devoted to activities meeting the definition of an agricultural operation, including the housing of horses or ponies, whether boarded or owned by a resident, it is an agricultural operation.

**4102.2.A(1):**

**A. Agricultural Operation**

**Standards when permitted by right:**

- (1) A minimum of seven acres must be dedicated to the production of an agricultural product, as defined in Va. Code Sect. 3.2-6400, or the housing of livestock, as defined in Va. Code Sect. 3.2-6500, unless a larger acreage is required by this Ordinance for a use related to an agricultural operation.

**4102.7.K(1):**

**K. Limited Riding or Boarding Stable**

**Standards when permitted by right:**

- (1) On lots containing two to less than five acres, up to five horses may be boarded, and on lots containing five or more acres, up to eight horses may be boarded. Boarding of horses in excess of these numbers is deemed a riding or boarding stable and requires special exception or special permit approval. However, regardless of the lot size, if a total of seven or more acres are devoted to activities meeting the definition of an agricultural operation, including the housing of horses or ponies, whether boarded or owned by a resident, it is an agricultural operation and subject to the standards in subsection 4102.2.A.

**New 4102.2.D(1):**

**D. Stable, Riding or Boarding**

- (1) Where a total of seven or more acres are devoted to activities meeting the definition of an agricultural operation, including the housing of horses or ponies, whether boarded or owned by a resident, it is an agricultural operation and subject to the standards in subsection 4102.2.A.

**#30 INSTRUCTION:** Revise the standard in subsection 4102.4.F(1) and the definition in subsection 9103.4 for a Community Swim, Tennis, and Recreation Club, as shown below.

**4102.4.F(1):**

**F. Community Swim, Tennis, and Recreation Club**

**Standards when permitted by special permit:**

- (1) This use must limit ~~have~~ a membership primarily ~~limited~~ to residents of a designated area and their guests and must be under the control and direction of a board of managers composed, at least in part, of residents of the area. Additionally, the owner of the facility must be a nonprofit organization.

**9103.4:**

**Community Swim, Tennis, and Recreation Club**

An outdoor facility not operated for profit providing ~~primarily~~ recreation facilities with membership limited primarily to residents of ~~nearby residential~~ a designated areas. This use must be under the control and direction of a board of managers that includes residents of the area served by the facility.

**#31 INSTRUCTION:** In subsection 9103.4.D, correct a typographical error and nest the definition of Regional Rail Transit Facility under Transit Facility, as shown below.

**Transit Facility**

A stations and its associated pedestrian connections, bus bays, parking areas, service yards, and inspection yards associated with rail or non-rail transit systems, including but not limited to WMATA Metrorail and Virginia Railway Express (VRE) facilities. A transit facility does not include a facility containing only administrative offices operated by a transit facility authority or entity.

**Regional Rail Transit Facility**

A transit facility associated with a rapid rail transit system that serves only the Washington metropolitan region or parts thereof, including but not limited to WMATA Metrorail facilities.

**#32 INSTRUCTION:** In subsection 9103.5.A, revise the definitions for the Animal-Related Services category and a Kennel, as shown below.

**A. Animal-Related Services**

The Animal-Related Services use category is characterized by uses related to the provision of medical services, general care, recreation, exercise, and boarding services for household pets and domestic animals.

1           **Kennel**

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

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**#33 INSTRUCTION:** In subsection 9103.7, revise the definition of Accessory Structure, as shown below.

9           **Accessory Structure**

10          A building or structure that:

- 11          1.     Is subordinate in purpose to, and customarily found in association with, a principal building  
12          or a principal use legally existing on the same lot; and  
13          2.     Contributes to the comfort, convenience, or necessity of the occupants, business, or  
14          industry of the principal structure or principal use served on that lot.

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