



County of Fairfax, Virginia

MEMORANDUM

DATE: January 19, 2021

TO: Fairfax County Planning Commission

FROM: Leslie B. Johnson, Zoning Administrator *LBJ*

SUBJECT: Strike-through and Underlined Edits to zMOD Public Hearing Draft

On November 24, 2020, the zMOD Public Hearing Draft and accompanying Executive Summary were released, and on December 1, 2020, the Board of Supervisors authorized the scheduling of public hearings. Since this time, staff has continued to review the document and has proposed additional edits for further clarification, to resolve inconsistencies, and to incorporate suggested edits resulting from stakeholder feedback. This memorandum provides a list of the edits and corresponding page numbers of changes that have been incorporated into the attached revised zMOD Public Hearing Annotated Draft. The most substantive edit is the addition of standards for flags and flagpoles, as discussed in the table below under Article 4. Attachment 1 includes the zMOD Public Hearing Annotated Draft with strike-through and underlined edits. Text that has been deleted is shown with a ~~strike-through~~; text that has been added is shown with an underline. The proposed edits are summarized below:

Summary of Proposed Edits to Public Hearing Draft	
Location in Attached Annotated Draft	Proposed Edit
Article 1 – General Provisions	
Page 5 Lines 3 and 18	Chapter 112.1: Updated Sections 1100 and 1104 to refer to the new County Code Chapter number for the Zoning Ordinance.
Article 2 – Zoning Districts	
No edits	
Article 3 – Overlay and Commercial Revitalization Districts	
Pages 150 – 158	Historic Overlay Districts: Replaced “except as follows” with “subject to the following limitations” in the list of allowed uses for each applicable HOD. This is a minor wording change for clarity.
Article 4 – Use Regulations	
Use Table 4101.1 Page 191	Farmers Market: Added farmers market as a permitted use in the R-A District which was included in ZO-19-481 and inadvertently omitted in the previous draft.



<p>Use Table 4101.2 Page 199</p>	<p>Smoking Lounge: The use table for planned districts has been revised to allow a smoking lounge in the Village Center and Convention/Conference Center areas of the PRC District if shown on the approved development plan or by SE in addition to the Town Center area. A smoking lounge is intended to allow for recreational smoking establishments that do not have any other entertainment and close by 10:00 p.m.</p>
<p>Page 220 Line 18</p>	<p>Group Household: The standard for the special permit to provide for a sufficient number of parking spaces has been revised to remove the reference to “staff” because the group household use does not include staff.</p>
<p>Page 246 Line 26</p>	<p>Animal Shelter or Kennel: The standard that allows for the walking of boarded animals during the night when they are otherwise required to be indoors has been revised to allow “leashed” walking of animals.</p>
<p>Page 286 Line 22</p>	<p>Vehicle Storage or Impoundment Yard: Replaced “inoperable” with “inoperative” for consistency with the current Ordinance and other references throughout.</p>
<p>Page 296 Lines 8 and 12</p>	<p>Basketball Standards and Gardening: Clarified that the front setback for these structures applies from any front lot line or street line.</p>
<p>Page 296 Line 5</p> <p>Page 305 Lines 13 – 27</p> <p>Page 484 Line 29</p> <p>Page 645 Lines 8 – 10</p>	<p>Flags and Flagpoles: A separate subsection specifically addressing flags and flagpoles has been added to the general standards for accessory uses and structures. This is based on recent research indicating that many jurisdictions regulate the height, size, number, and setbacks for flags and flagpoles. Before the 2019 Zoning Ordinance amendment to the sign regulations, up to three flags were permitted, but these flags were limited to U.S., State, and corporate flags. While the number of flags was carried forward with the amendment, the regulations that specifically permitted certain types of flags were deleted due to issues with content neutrality.</p> <p>Currently, the Zoning Ordinance regulates flags and flagpoles as follows: up to three flags are allowed per lot with no size limitation; flagpoles are exempt from height requirements; flagpoles may be located in a front yard; and in a side or rear yard, flagpoles are subject to the location regulations for freestanding accessory structures. Based on a review of the regulations of surrounding jurisdictions and the sizes of available flags and flagpoles, staff recommends the following standards: 1) the height of a flagpole is limited to 25 feet for a lot developed with a single-family dwelling and 60 feet for all other uses; 2) freestanding flagpoles must be setback five feet from any front lot line or street line and must comply with the location regulations in a side or rear yard; 3) up to two flags are allowed on a lot developed with a single-family dwelling and up to three flags for all other uses; and 4) flags may be up to 24 square feet in size on a lot developed with a single-family dwelling and 96 square feet for all other uses. Small “garden” flags are typically less than two square feet in size, and these would be exempt from the limit of two flags for a single-family dwelling lot. The draft also proposes changes to the flag definition, including the addition of “regardless of content” and the deletion of “or attached at the top of a pole and draped.”</p> <p>The draft text includes several ranges for Board consideration, which will be included in the legal advertisement before the Board public hearing. Other related sections have been edited for consistency and clarification. Staff is continuing to research this topic which may result in additional proposed changes.</p>
<p>Page 303 Lines 21 – 28</p>	<p>Gatepost: Replaced “gate post” with the one word “gatepost.”</p>
<p>Page 304 Line 25</p>	<p>Vehicle Storage: Added the clarification that fitted vehicle covers must be “specifically designed for this purpose.”</p>

Pages 311, 312 Lines 36 – 4	Electric Vehicle Charging: Clarified the standard to indicate that plantings in parking lot landscaping may be relocated as long as the internal and peripheral parking lot landscaping requirements continue to be met.
Page 316 Lines 4, 14, and 16 – 18	Home-Based Business: Corrected the subsection cross-references. Language has been added to the 15-minute requirement between appointments to clarify that scheduled appointments may not overlap.
Page 324 Lines 19 and 20	Wayside Stand: Deleted the reference to the sale of products from a home-based business for consistency with the proposed standards for a home-based business which do not allow on-site retail sales. Additional revisions to wayside stands will be included in the separately pending amendment for agritourism.
Page 325 Lines 6 – 16	Temporary Uses: The general standard for the submission and review of administrative permits for temporary uses has been edited for clarity and to reference additional items that may be included in the review, including sanitation and site layout.
Pages 325 – 330	Community Garden, Farmers Market, Food Trucks: Edited for clarity the standard regarding location on property owned by the County, Park Authority, and Schools. Re-ordered certain standards for food trucks. Also, added “per approved location” to the limit of 12 times per year for food trucks at nonresidential uses in residential districts.
Article 5 – Development Standards	
Page 339 Line 6	Height Regulations: Deleted the exemptions for monuments and flagpoles. A monument may be considered either a statue as part of landscaping or a freestanding accessory structure. See the discussion above under Article 4 for flagpoles.
Page 341 Lines 21 – 25	Setback Regulations: A clarification has been added that the BZA may modify setbacks for existing structures as part of the approval of another special permit. This is currently allowed under Sect. 8-921 and was inadvertently omitted in the previous draft.
Page 374 Lines 19 – 22 and 31 – 33	Access Easements: Clarified that the standards apply when a lot contains an access easement in addition to when a lot is bordered by an access easement. Also added a clarification on how the setback is measured.
Article 6 – Parking and Loading	
No edits	
Article 7 - Signs	
Page 493 Lines 9, 11, 16, 26 – 27, and 33 – 34	Signs in Residential Districts: Deleted the words “types of” and “and size” from the heading of subsection 7101.2 to now say “Signs Allowed in Residential Districts.” Added stacked townhouse development to the entrance and rental signs allowed for multifamily developments. Added congregational living facilities, religious group living, and residence halls to the types of nonresidential uses allowed to have building-mounted and freestanding signs. Clarified that the Board or BZA can further limit the size, location, height, type, and duration of signs, and that this limitation applies to certain uses outlined in subsection 7101.2.
Page 494 Line 9	Signs in Commercial and Industrial Districts: Deleted the words “types of” and “and size” from heading to now say “Signs Allowed in Commercial and Industrial Districts.”
Article 8 – Administration, Procedures, and Enforcement	
Page 534 Footnote	Variance Standards: Included a footnote to reference an update included in the November 24, 2020 draft that was made per the State Code regarding reasonable accommodations.

Pages 573 – 583	SE, SP, VC Submission Requirements: Reorganized the additional or modified submission requirements for specific application types in subsections 8101.3.D, E, and F in alphabetical order to be consistent with other sections of the Zoning Ordinance. This reorganization is not shown in strike-through and underline.
Page 591 Lines 32 and 33	Administrative Permit Submission Requirements: Added additional examples of submission requirements that may be requested by the Zoning Administrator, including parking, access, hours of operation, and provisions for sanitation and safety.
Page 610 Line 16	Health Care Advisory Board: Added “including hearings” to the meetings that the Health Care Advisory Board may hold to reflect current practice.
Article 9 – Definitions and Ordinance Interpretations	
Page 625 Line 12	Interpretations: Removed “plot” being interpreted as “lot,” as this is outdated terminology.
Page 659 Line 16	Specialized Instruction Center: Included “performing arts” as one of the use examples in the definition.
Page 659 Line 23	Cemetery: Edited the definition to make columbarium and crematory singular.
Page 660 Line 6	Funeral Home: Revised definition to add reference to a columbarium, which is permitted in the use-specific standards.
Page 661 Lines 13 – 16, 18 and 19	Medical Care Facility: Removed outdated language from definition in consultation with the Health Care Advisory Board.
Page 676 Line 24	Goods Distribution Hub: Added “or other vehicle” to definition to allow for different types of vehicles other than trucks to transport goods.
Page 683 Lines 8 and 9	Home-Based Business: Deleted the language from the definition that the business must be conducted by a resident. The use-specific standards specify who may be involved in a home-based business.
Throughout Ordinance	
Nonresidential: Deleted hyphen.	
Typographical errors: Deleted extra spaces and fixed typographical and formatting errors.	

If you have any additional questions, please contact Carmen Bishop and Casey Judge at 703-324-1314 or DPDzMODComments@fairfaxcounty.gov.

ATTACHMENT:

Attachment 1: [zMOD Public Hearing Draft with Strike-through and Underlined Edits](#)

cc: Fairfax County Board of Supervisors
 Bryan J. Hill, County Executive
 Rachel Flynn, Deputy County Executive
 Barbara Byron, Director, Department of Planning and Development
 Jill Cooper, Director, Clerk Services