

FAIRFAX COUNTY ZMOD - SYNOPSIS OF COMMENTS

In 2017, Fairfax County launched a major initiative to modernize its Zoning Ordinance that was first established 40 years ago. Dubbed “zMOD,” the effort will help the County carry out its strategic plan to grow and diversify its economy. The first phase of the zMOD Project focuses on three areas:

- *Prioritizing key Zoning Ordinance amendments for updates*
- *Restructuring the ordinance to make it more user friendly, such as including more charts, tables and links, as well as more easily understandable language*
- *Updating and revising land use categories for permitted, special exception, and special permit land uses and their regulations*
- *Improving the County’s overall process for how the zoning ordinance is updated*

*This document provides a synopsis of comments received through **May 16, 2018**, including emails, additional written responses to the formal January survey questions, and those received during the public, stakeholder and staff meetings held during the Kickoff week of January 23 – 25, 2018, and the Structure week of May 7 – 9, 2018. Comments that are related to updating the Zoning Ordinance have been included, and they have been condensed, summarized, and grouped by general topics. Some comments included relate to broader County-wide policies and some extend beyond the scope of the first phase of the zMOD Project. These are included for general information only. This synopsis will be updated periodically as future meetings are held and additional comments are received.*

Affordable Housing

- The affordable dwelling unit provisions need to be clarified.
- Workforce dwelling units also need to be addressed.
- More affordable housing is needed for families and seniors.
- Residential studios should have been approved and should be revisited.
- How will low-cost housing be distributed throughout the County?
- The current ADU Ordinance really only applies to townhouses based on the construction type.

Comprehensive Plan

- The Comprehensive Plan and Zoning Ordinance definitions don’t match; there are conflicts between the Zoning Ordinance and the Comprehensive Plan. Will the Comprehensive Plan be reviewed? It functions as a “shadow” ordinance.
- Zoning should be more connected to the Plan policy goals.

Definitions

- When you hover over a term, the definition should appear in a window without having to go to a separate section.
- Delete definitions of terms that aren’t used.
- The Ordinance should include more definitions. This would help with enforcement and appeals. All uses should be defined.
- Take use limitations out of definitions. Clean up the definitions and make sure they are not interchangeable.
- There are no definitions for storage structure, kitchen or family. The same uses are called different things in different districts (e.g., catering v. manufacturing).

- Mid- and high-rise definitions are not well-defined, as well as two-over-two dwelling units.

Effective Date/Grandfathering

- Need to address when the new Zoning Ordinance goes into effect and grandfathering.
- Concerned about an increase in nonconforming uses.
- Don't do what Loudoun did and have more than one ordinance ... only have one.
- The nonconforming provisions of the Ordinance are confusing. Clarify what is nonconforming and not nonconforming.
- Do not make the changes applicable to existing uses.

Environment

- Limit development that borders parks, natural areas, or storm drainage areas.
- Save plenty of open space because the County may be 100% developed in 20 years. Add a formula for green open space.
- Setbacks should be reviewed for impacts on stormwater runoff.
- Do not allow exceptions from environmental requirements. Think about the long-term health of the environment.
- Transitional screening and barrier matrix: types of public schools need to be defined; and requirements for mixed use (e.g., ground floor retail with residential above) should be clarified. In addition, many uses are not included in the matrix.
- Transitional screening and barrier regulations need work. They are commonly waived or modified.
- The Zoning Ordinance still uses the old soil mapping for density penalties when the other County Ordinances and Codes use the new mapping information (see Sect. 2-308).

Format/Organization/Writing

- Language should be clear and not subject to interpretation. Layman's terms should be used so the Ordinance is understandable to homeowners and to a diverse audience. For instance, use "setbacks" instead of "minimum required yards."
- You shouldn't have to go to different parts of the Ordinance to find answers. Simplicity of navigation is needed. Provide a clearer table of contents.
- More graphics, hyperlinks, and flowcharts would be good additions to the Ordinance.
- Hyperlinks taking you to different pages can be confusing. In addition, hyperlinks and graphics will make the Ordinance longer, not shorter.
- The Ordinance should be searchable in a single document.
- Grouping should be used to make it easier to find things.
- Regulations should be combined in a section (e.g., Art. 2, 16 and 18).
- Put uses, bulk standards and parking in tables. Currently, setbacks are hard to understand and to find. Tables should be provided which are based on use (e.g., where can I build a child care center?) and on location (e.g., what can I do with my property?).
- Will the Ordinance be in paper and electronic?
- Some regulations are better understood with graphics, such as, 1) what constitutes an office park with internal access; and 2) setbacks measured to the closest point for an accessory structure, but to the wall for a dwelling unit.
- Try not to use equations, like shape factor.

- Important to have an up-to-date index.
- Include a FAQ's section at the beginning of the Ordinance.
- Include a summary or reference chart at the beginning of each section.
- Would like to see a form-based code, except for truly noxious uses.
- Integrate GIS into the Ordinance (Prince George's County is a good example).
- The illustrations and appendices are old and unclear.
- Make sure the Ordinance works well on various devices, including iPads.
- The length of the Ordinance does not matter, in and of itself.

Map

- The Zoning map is confusing about R-O-W designation and County oversight/responsibility.

Overlay Districts

- Historic Overlay: Appendix 1 needs to be updated; the ARB has new by-laws; exemptions should be allowed for historic properties so they can be modernized instead of torn down. "Major thoroughfare" differs between zoning, preservation, and practice. It is used to determine if something goes to the ARB for review.
- The overlay districts are confusing, especially if there are multiple.
- If the HC and SC Overlay Districts are not going to be located in the Overlay section, make sure there is a reference in that section as to where they are located.

Parking/Loading

- Address tandem parking and the requirement for "convenient" access to a street.
- Does valet parking provide convenient access to a street?
- Do electric vehicle charging spaces count as parking?
- Require more parking for new buildings, especially for higher density mixed use and condo buildings.
- Residential parking comments: Clarify parking rules in residential areas. Allow trailers and increase the size of commercial vehicles allowed in residential areas - the current Ordinance discourages people who work in middle-income trades from living in Fairfax. Increase residential (not visitor) parking in neighborhoods near the Metro.
- Reduce parking for commercial uses and move it behind buildings.
- Accurate parking requirements are critical.
- Personal service establishments take up too much parking when located in office buildings.
- Equipment, van, and car rentals can create issues when determining parking requirements.
- High school parking needs can be easily underestimated.
- The loading standards are too high and the space sizes are not current.

Process

- Article 17 needs to be reviewed regarding what needs a site plan or minor site plan.
- Include process information (SE, SP, etc.) in the Ordinance.
- Which uses require SP vs. SE should be reviewed.
- Applicants (especially in certain SP cases) are allowed to use old plats which don't show all of the factual information needed.

- County doesn't require engineers to show easements under 25 feet in width.
- Temporary special permits need to be revisited.
- Need to make it easy to find out what forms are applicable for each process and who to contact based on the question.
- Enforcement comments: zoning should be uniformly and strictly enforced; there should be fines for not building what was approved.
- Simplify the process for approving accessory dwelling units for elder care.
- Expand the criteria for minor modifications to special permits.
- Include information and guidance on the administrative procedures.
- Don't make entitlement processes faster. Currently, neighbors often don't hear about an application until after the applicant has spent a lot of time and money on the plans and process. Involving stakeholders early in the process could reduce conflict.
- Simplify processes for homeowners and small businesses. Not everyone is a developer and one size does not fit all.
- Rezoning to Planned Districts may not be appropriate for areas not exempt from the proffer legislation because dialog relating to creativity in the layout is limited.

Repurposing

- Need to review emerging uses.
- Need to look at a faster process for repurposing vacant buildings.
- Need to look at uses in historic structures, including through the Resident Curator Program.

Uses

General

- Increase flexibility. Fewer, broader categories are OK, but some uses will need limitations.
- Add terms to existing use categories; don't create a lot of new categories.
- If SE uses become by right, standard SE conditions should become use limitations in the Ordinance. Common waivers and modifications should also be reviewed.
- Expanded development opportunities may affect the standard of living, such as residential property values and availability of green space.
- Don't focus on trendy new uses, and don't make them by right which avoids citizen input.
- Do not make more uses by right which removes citizen input at the beginning of the process.
- Special exceptions are excessively used. Eliminate special exceptions and special permits; they only add bureaucratic hurdles and a popularity contest.
- List the forbidden uses, not just the permitted ones.
- Permitted use categories should include "all other uses not specifically prohibited or which require an SE or SP."
- Simplifying and generalizing uses could remove important details that are important for enforcement. Keep the teeth in the Ordinance.
- The Zoning Ordinance needs to continue to protect residential from incompatible uses.
- Don't change the predictability of the districts.

Accessory Uses & Structures

- Bulk regulations: structures and sheds should have the same regulations and height limit; accessory structure setbacks are too strict; relax the shed options for corner lots; sheds, decks and pools are major issues; permitted extensions in 2-412 should be edited; the maximum height of tree houses should be addressed; reduce restrictions on accessory structures, sheds and fences on residential properties.
- The sight distance triangle when it comes to fences should be revised to reflect VDOT's standards.
- What is considered "accessory" should be defined with numerical limits or percentage.
- The current 200 SF limit on sheds is circumvented by calling larger structures "workshops."
- The size of a shed should match the building code size, which requires a shed to get a building permit at 256 SF, not 200 SF.
- Accessory uses and structures need to be "fixed"; the regulations are complicated and confusing.
- Currently, a lot of uses are called accessory that should be permitted as principal uses, including signage.
- Clarify what is considered a detached accessory structure as opposed to an addition to the principal structure. Also, detached structures should not be permitted in the front yard on a residential lot.
- What is the difference between an accessory use and an accessory service use? Delete accessory service uses.
- Reduce maximum 30% coverage.
- Define outdoor storage better.
- Take a look at how you are treating Child Care Centers for Occasional Care given the great need for child care options in the County.
- Accessory Service Uses should be removed entirely.
- Dwelling and shed heights should be measured the same way.

Agriculture & Animals

- Agriculture, including Urban Agriculture and Agritourism, is not addressed well in the Ordinance.
- Animal units (including chickens) and restrictions should be clarified and revisited. Eliminate the arbitrary 2-acre minimum for certain types of animals. Make the special permit process easier.
- Do not allow wineries/vineyards or micro-breweries in residential areas because of impacts to the water supply and heavy vehicles on roads.
- Farmers markets and temporary special permits need to be reviewed. Focus on operational characteristics. They run year-round now. The regulations are out of date.
- Is local food production agriculture or production?
- Provide for food security. Support local food production and renewable energy zones.
- Dog training lessons should be allowed, similar to horseback riding.
- Small-scale production (commercial) of animal products (e.g., bees for honey; chickens for eggs/meat) should be permitted.
- Allow vegetable gardens in front yards.
- Allow greenhouse farming on commercial roofs.
- Support equestrian uses.

Churches & Quasi-Public/Institutional Uses

- Churches and their accessory uses need to be addressed.
- Do not allow churches, temples, schools, etc. in residential areas; do not allow worship in dwellings in residential districts.
- Do not reduce the 5 acre minimum for institutional uses in low R Districts.
- Add a maximum impervious surface standard for churches in the RC District, e.g., 5%.
- Public benefit associations are over-regulated.
- For child care centers, do they really need to have on-site outdoor play areas? Or can we revise to require “accessible” outdoor play area?

Commercial Uses

- Mixed use “convenience store malls” (convenience store/gas station/restaurant/drive-through) need to be addressed.
- Distribution centers, like Amazon.
- Indoor recreation is confusing. It includes everything from archery to hookah.
- Vending and automated machines, such as outdoor Amazon lockers should be addressed.
- Quasi-retail uses that change over time need to be addressed (e.g., retail and restaurant).
- Public entertainment/bars, small music venues.
- Day care facilities.
- Wineries & breweries. More flexibility for craft beer industry.
- Be careful about the types of commercial that are allowed next to residential.
- Allow neighborhood stores in residential areas
- There should be restrictions on alcoholic beverage manufacturing in or near residential.
- More grocery stores.
- Indoor swimming pools.
- Food trucks. Current regulations on food trucks and shared commercial kitchens are too restrictive.
- Mobile businesses.
- Allow innovation centers/incubators/accelerators.
- Restrict gas station locations.
- Look at hip and unique land use types, such as those in Austin: open bars, open coffee shops, Torchy’s Tacos.
- The SE for pawnshops is too burdensome.
- Commercial/industrial uses should be more comprehensive, based on the Bureau of Labor Statistics Occupation Outlook Handbook.
- Data centers are poorly defined.
- Only noxious uses should require a special exception or special permit in C or I Districts. For example, a billiard hall should not require an additional public hearing.
- Review the shopping center definition.
- Auto-oriented uses should be better defined.
- Concentrations of “fast-food” restaurants should be limited to protect public health.

Continuing Care/Senior Living

- This needs to be clarified when there is a mix of uses.
- Senior daycare and the delivery of services to those aging in place need to be addressed. Adult daycare should have outdoor space, adequate parking and access to support facilities.

- How do affordable dwelling units fit into continuing care communities?
- Continuing care should be a separate use.
- There should be clear standards for assisted living facilities.
- Are assisted living, nursing, and continuing care communities residential or commercial?

Dwellings

- Comments on housing types: allow more flexible housing options; address accessory dwelling units, multi-generational housing, in-law suites, servant’s quarters, granny pods, co-housing, and seniors co-habiting to save funds, tiny homes, temporary homes (yurts), smaller one-level homes, and manufactured homes; allow accessory dwelling units near transit stations; permit accessory dwelling units by-right (with use limitations) in lower-density residential areas; allow more small scale (4-10 units) multifamily to increase affordability; allow cottage zoning; restrict the types of housing that can be built; increase handicapped-accessible dwellings.
- Clarify single family attached/multi-family/2-over-2s (stacked townhouses). For instance, do 2-over-2s need a trash enclosure like multi-family?
- Make it easier to add a second kitchen.
- Cluster subdivisions are by right in some districts and by SE in others. Cluster subdivision regulations in Sect. 2-421 are convoluted. Cluster and PDH issues are related. PDH District – density increases for open space are not used, and non-residential uses need to be addressed.
- Short-term rentals (short-term lodging): comments on STLs in dwellings ranged from STLs should be permitted without regulation to STLs should not be permitted at all in residential neighborhoods. Also, need to address multi-family short-term lodging (“apartment hotels”).
- Protect residential areas from commercial uses, including home child care, emerging uses, accessory dwelling units, and short-term rentals.
- Too many additions and too much hardscape – paving over of the community.
- Occupancy limits need to be reviewed. Comments included: allow a grace period for babies; tighten up occupancy standards and enforce them; improve ways to eliminate boarding houses; make it easier to enforce because it’s difficult to determine familial ties; allow more than 4 unrelated persons; base occupancy on acreage and square footage of the dwelling; and allow one adult renter/bedroom plus 2 people for larger rooms (master bedroom).
- Group residential and group homes should be clarified. Also, there should be a minimum distance between them.
- Delete the 1-foot offset requirement for townhomes.
- Do not increase densities.
- Review density standards.
- Require commercial fire suppression in new residential construction.
- Flexibility for changes to residential structures/properties.
- Infill homes should not be built without concern for the existing house designs of the neighborhood. There are problems with “McMansions” in neighborhoods.
- Drug rehabilitation homes should not be allowed in residential areas without public comment.
- Passive house standards.
- Prohibit change from commercial to residential.
- Do not allow single family detached in high density residential zones.
- Allow flexibility for home-school co-ops to meet in dwellings.
- Setbacks should be reviewed: make it easier to construct a detached garage or an enclosed entry in older neighborhoods; reduce setback for R-3 to increase opportunities for renovation

and improvements to keep neighborhoods desirable; make it easier to get an exception to setbacks.

- The setbacks and regulations for pipestem, corner, and through lots should be made more understandable.

Electric Vehicle Charging Stations

- This use needs to be addressed.
- Do they count towards parking? Currently we distinguish by the canopy.
- Need to address solar panels and chargers for both residential and commercial uses (for example, cars in parking lots).

Home Businesses

- This is an important topic. For instance, online business, the sharing economy, and the “gig economy” will increase the desire for home businesses and telework establishments.
- Neighbors are affected by noise, trips and parking. Make sure there is adequate on-site parking.
- The restriction on the storage of goods on-site should be reconsidered.
- What constitutes a church in a home has been an issue.
- Home child care should be looked at again. There have been hundreds in the last few years, and it has gotten to where the same conditions are on each one. BZA provides forum for people to speak against something. Parking is an issue.
- Some residential areas don’t have fire hydrants, which can be a safety issue with certain home occupations.
- There is a conflict with state regulations regarding home cooking occupations. A “commercial” kitchen can be purchased at Lowes.
- Home businesses that bring in truck deliveries or include truck parking are problematic.
- Allow more commercial uses of residential structures that are located on main roads.
- Clarify what is a business v. a hobby for working on other people’s vehicles in a residential neighborhood.
- Home professional office comments: It should not require a \$17k special permit; a home professional office, like a chiropractor, should not be allowed in a residential area; professional photography studio, musical and video production should be allowed in a home.
- Barbering should be permitted by right, subject to use limitations.

Industrial

- Uses that need to be reviewed, clarified or defined: contractor’s offices; establishments for production, etc.; business service and supply; transfer stations; and makerspaces.
- There is interest in flex space in industrial areas.
- There is a difference between truly industrial parks and business parks. I-4 and C-3 should be more similar because they have developed that way.
- Regulations need to respond to new security requirements related to updated Dominion infrastructure.
- Utility and public infrastructure should be permitted by right in all districts. Allow local energy production and infrastructure projects like micro-grids and community solar projects.
- The types of things that can be stored in a storage yard is too limited. Also, storage yard and junk yard are too similar; junk yard does not fit the conventional definition.

- Warehouse definition should be reviewed, especially when retail sales or warehousing is accessory to a principal use.
- The standards that apply to electric substations (light public utility use) should be revised to better mitigate impacts on adjacent residential, including expanding the search radius beyond one mile (Par. 3 of Sect. 9-104), mitigating the impact of tall walls (15 – 20’), providing adequate transitional screening, and considering mitigation for “temporary” structures.

Mixed Use

- Add more mixed/combined uses. Mixed use should be by right so it might be more affordable. Consider a form-based and YIMBY code.
- If a by right mixed use district is developed, the only way to use it would be through a rezoning.
- PDC/PRM should be combined, or at least the use mixes should be deleted. Review the PDC use limitations.
- An applicant should be able to make minor changes to their PRC plan without a new PRC application, just like an applicant can file a Final Development Plan Amendment on a Rezoning application.
- The Ordinance should fully support a mix of uses in planned districts with coordinated design. Be forward-thinking about walkable mixed use around green space, like Mosaic.
- Should there be redevelopment zones to go along with Embark?
- Mixed use is OK in designated areas (not stable residential neighborhoods).
- Live/work needs to be defined.
- Increase walkable mixed use areas. Mixed use areas should provide pedestrian access to food and entertainment.
- P-Districts don’t include sufficient amenities anymore.
- There should be a minimum amount of non-residential to be considered mixed use.
- Review the use limitations for commercial in PDH.
- Noise is an issue in mixed use developments.

Outdoor Storage

- Where (districts/uses) outdoor storage is permitted should be charted or clarified in one location in the Ordinance.

Parks/Open Space

- New types of parks, green space, outdoor art and casual gathering spaces. Consider increasing the requirement.
- Zoning should provide for ecological preservation.
- Designate permanent open space as such.
- Protect golf courses and other recreation because once they are gone, they will never come back.
- Allow public recreational uses in all districts.
- Permit sports courts and parks in more zoning districts.
- Require all open space to be at ground level.
- Add the PFM requirement for dedication of floodplain/RPA (8-0203.1A) to the Zoning Ordinance. Not requiring the dedication during the special permit review required an applicant to do a SPA.

Public Uses

- Fairfax Water should be considered a public use. It has been excluded because it was considered more industrial.
- Clarify public uses and related restrictions.

Schools of Special Education/Health Clubs/Fitness Centers

- These uses need to be clarified. The way that “fitness” and “health clubs” have been distinguished is an issue and could be modernized. It is also tied to “schools of special education.” (martial arts, ballet, boutique fitness)

Telecommunication Facilities

- This topic, specifically Section 2-514 of the Ordinance, is difficult to understand.

Temporary Uses

- Allow more flexibility with temporary uses.

Vehicles and Vehicle Sales/Service

- We need places for large and commercial vehicle parking, such as RVs, boats and food trucks.
- The maximum height of vehicles should be specified. Sprinter vans are taller than allowed.
- The vehicle service definitions are overlapping.
- Review the standards for commercial vehicles parked on the street.
- Clarify the special exception use for vehicle sale, rental and ancillary service use because the limitation to rental only for certain districts is buried in the special exception standards in Sect. 9-518.
- Think about emerging technologies and how uses, such as waiting areas for autonomous vehicles, will be treated.

zMOD Process

- Will the Citizen Work Group, Land Use Attorneys Work Group and Industry/Builders Work Group be used throughout the process? Include the Environmental Quality Committee in discussions. An advisory committee with neighborhood representatives should be involved.
- Community outreach: the proposed Ordinance needs to be fully vetted; citizens will need adequate time for review; more time will be needed if other amendments are going forward at the same time; summer is not a good time for public review; need to get multi-cultural input; any proposed zoning restriction should include a cost/benefit analysis for public review. Make sure there is transparency. Questions include: how will outreach be done? Will land use committees be involved? How do HOAs and other groups participate? How will changes be communicated? How will public meetings accommodate larger audiences? Will all meetings be at the Government Center? Will presentations be made to civic associations?
- Coordinate with FCPS.
- Are you working with adjoining jurisdictions?
- Look at best practices from other jurisdictions.
- Is the timeline realistic?
- Concerned about losing land use rights during this modernization process.
- “Test” the Ordinance with a true novice.
- Start fresh – rethink it all!

- Provide a companion “executive summary” document that summarizes proposed revisions, in addition to the footnoted version of the ordinance.
- Other substantive amendments, such as affordable/workforce house, should be done at the same time and not wait until Phase 1 is completed.
- It is important to take the process one step at a time.
- The modernized format should be done first so that controversial content changes don’t impede adoption.
- Topics that have recently been addressed should not be revisited.
- The County Attorney’s Office needs to review.
- The Planning Commission should discuss hot topic issues and review drafts.

Other/Misc.

- Leave things as they are.
- Reduce regulation. Don’t add anything to the too cumbersome Ordinance.
- Simplifying zoning deletes details from public information and opens the way for more interpretation.
- SP/SE standards should be included for all such uses to aid in evaluation (e.g., increase in FAR).
- Not allowing the acceptance of monetary compensation in exchange for density credit should be reconsidered.
- Delete angle of bulk plane for setbacks.
- Clarify density v. minimum lot size.
- Frontage and lot width comments: review draconian rules about frontage; reduce frontage requirements for clustered residential; allow more flexibility for lot width; restrictions on pipestem lots do not benefit the community.
- FAR should be revised to comprise all developed space, including basements/cellars, stairwells, and structured parking. Is there a way to include graphics on FAR?
- There should be an easier way to determine setbacks.
- What will be the financial impacts on homeowners? Similarly, what might impact property values?
- How will impacts on disadvantaged/disenfranchised populations be considered?
- Overview pamphlets of the Ordinance should be provided when new residents move to the area.
- More regulations and clarity on site lighting are needed.
- Address development impacts on infrastructure.
- Make all regulations clear and easy to find, especially for areas like Reston.
- Reston: The unique character and Master Plan of Reston should be recognized.
- There should be two zones: anything goes zone and special zone.
- The public should have access to Zoning interpretations.
- Remove antiquated and obsolete provisions from the Ordinance.