

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

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, June 25, 2019, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

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

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 2, General Regulations, by amending Part 5, Qualifying Use, Structure Regulations, to revise Par. 5 of Sect. 2-514, Limitations on Wireless Facilities and Their Associated Support Structures, to read as follows:

5. All applications involving wireless facilities, including without limitation small cell facilities, standard process projects, administrative review-eligible projects, and eligible facility requests under the Spectrum Act, that are submitted electronically outside of the Department of Planning and Development's regular business hours will be deemed received by the Department on the next business day.

Amend Article 2, General Regulations, by amending Part 8, Affordable Dwelling Unit Program, to revise Par. 1C4 of Sect. 2-814, Affordable Dwelling Unit Advisory Board, to read as follows:

1. The Affordable Dwelling Unit (ADU) Advisory Board shall consist of nine (9) members appointed by the Board of Supervisors. Members shall be qualified as follows:
 - C. Four members shall consist of:
 4. A representative from either the Fairfax County Land Development Services or the Department of Planning and Development.

Amend Article 7, Overlay Districts, to amend Part 2, Historic Overlay Districts, as follows:

- Amend the lead in and closing paragraphs of Par. 3 of Sect. 7-203, Establishment of Districts, to read as follows:

3. The Department of Planning and Development, in cooperation with the ARB and the Fairfax County History Commission, shall prepare and submit a report to the Planning Commission and Board of Supervisors evaluating the proposal to establish or amend a Historic Overlay District. Such report shall identify the Historic Overlay District boundaries as well as the historic, architectural, archaeological, or cultural significance of buildings, structures, or sites to be protected, and describe present trends, conditions and desirable public objectives for preservation. In addition, such report shall include the following specific information:

(Retain Subparagraphs A through F)

The report for a request to revise an existing Historic Overlay District may contain all or part of the information set forth above as deemed appropriate by the Department of Planning and Development in conjunction with the ARB and the Fairfax County History Commission.

- **Amend Par. 3D of Sect. 7-204, Administration of Historic Overlay District Regulations, to read as follows:**

3. ARB approval shall be required prior to the issuance of Building Permits by the Director and approval of sign permits by the Zoning Administrator, and the ARB may review and provide a recommendation regarding applications for a new utility or transmission poles or their associated facilities, in accordance with the following:
 - D. Zoning Permits or Zoning Approvals for the installation of any new utility or transmission poles or their associated facilities located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property in a Historic Overlay District. The ARB will recommend approval or denial of any permit application no later than 45 days after a complete application is filed with the Department of Planning and Development. If such recommendation is not rendered within that time, the Zoning Administrator may consider the recommendation of the ARB in making the final decision on the permit, provided that the recommendation is made within any applicable deadline under local, state, or federal law for action on such permit application.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, by amending Part 1, Accessory Uses and Structures, by amending Paragraphs 2 and 9 of Sect. 10-102, Permitted Accessory Uses, to read as follows:

Accessory uses and structures may include, but are not limited to, the following uses and structures; any such use or structure must be in accordance with the definition of Accessory Use contained in Article 20.

2. Antenna structures and solar collection systems.
9. Garage and yard sales, in R districts and in the residential portion of a P district, are permitted not more than twice in any one calendar year and are limited to the sale of typical household and personal items that have not been specifically purchased, produced, refurbished, or fabricated for resale.

Amend Article 16, Development Plans, as follows:

- **Amend Part 2, Procedures for Review and Approval of a PRC District, by revising Paragraphs 4, 5 and 6 of Sect. 16-201, Comprehensive Plan Approval, to read as follows:**

4. Ten (10) copies of the proposed comprehensive plan and development schedule shall be submitted to the Director of the Department of Planning and Development (DPD) along with a written request for the consideration of an amendment to the adopted comprehensive plan.
 5. Upon receipt, the Director of DPD, in accordance with adopted procedures for consideration of comprehensive plan amendments, shall cause a thorough review of the proposed amendment by all appropriate agencies. Upon a finding that additional information may be needed to complete the review, the Director of DPD shall request same of the applicant.
 6. As part of the review, the Director of DPD shall cause a complete analysis of the proposed development schedule and the impact of the development on all public facilities and utilities.
- **Amend Part 3, Submission Requirements for a PRC District, by revising the introductory paragraph and Par. 10 of Sect. 16-301, Comprehensive Plan Approval, to read as follows:**

The submission of a proposed amendment to the adopted comprehensive plan of the County to permit a planned residential community as required by Sect. 201 above shall be filed with the Director of the Department of Planning and Development (DPD) in ten (10) copies and shall include the information set forth below. All submission requirements shall become the property of the County. Once established, the submission requirements for any amendment to the adopted planned residential community comprehensive plan initiated by an applicant, other than the Planning Commission or Board, shall be those requirements deemed necessary for a review of such amendment, as determined by the Director of DPD.

10. Any additional information as deemed necessary by the Director of DPD.

Amend Article 17, Site Plans, to amend Part 2, Required Improvements, by revising Par. 2 of Sect. 17-201, Improvements to Be Provided, to read as follows:

2. Construction of trails or walkways in accordance with the general location shown on the adopted comprehensive plan together with such other connecting trails or walkways within the limits of the site plan. When such trails or walkways are to be constructed, fee title or easements shall be conveyed to the Board, Fairfax County Park Authority or Northern Virginia Regional Park Authority. The final location and design of trails or walkways are to be determined by the Director after review by the Fairfax County Department of Planning and Development and/or the Fairfax County Park Authority and/or the Northern Virginia Regional Park Authority.

Amend Article 18, Administration, Amendments, Violations and Penalties, as follows:

- **Amend Part 1, Administration, as follows:**

- **Amend Sect. 18-106, Application and Zoning Compliance Letter Fees, to read as follows:**

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters must be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee is required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees must be made payable to the County of Fairfax. Receipts therefore will be issued in duplicate, one copy of which receipt will be maintained on file with the Department of Planning and Zoning.

- **Amend Par. 6 of Sect. 18-109, Conduct of Public Hearings, to read as follows:**

6. An action may be reconsidered only upon motion of a member voting with the prevailing side on the original vote. A motion to reconsider must be made at the same or immediately subsequent regular meeting and may be seconded by any member except that the BZA may not entertain a motion for reconsideration.

- **Amend Part 9, Violations, Infractions, and Penalties, by revising Paragraphs 3 and 4 of Sect. 18-901, General Provisions, to read as follows:**

3. Upon becoming aware of any violation of any provisions of this Ordinance, the Zoning Administrator may serve a notice of such violation on the person committing or permitting the same, which notice will require such violation to cease within such reasonable time as is specified in such notice. The notice of violation may also include a warning that any previously issued use permit will be revoked upon expiration of the appeal period, unless an appeal has been filed or the violation has ceased. After such notice is sent and such violation is not ceased within such reasonable time as is specified in the notice, then the Zoning Administrator may proceed to remedy the violation as provided in Sections 902, 903 or 904 below, unless an appeal has been timely filed. Except as provided in Section 18-307, if a permit revocation is timely appealed, it does not take effect until the appeal has been withdrawn by the appellant or decided by BZA.

Any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993 shall include a statement informing the recipient that a right to appeal the notice of a zoning violation or a written order within thirty (30) days may exist in accordance with Sect. 15.2-2311 of the Code of Virginia and Part 3 of Article 18 of the Ordinance, except that a written notice of violation or a written order of the Zoning Administrator involving the violations set forth in Par. 2 of Sect. 18-

303 above shall include a statement informing the recipient that a right to appeal the notice of violation or written order within ten (10) days may exist. The decision and permit revocation, if applicable, will be final and unappealable if not appealed within the specified time frames set forth in the notice or written order. The appeal period shall not commence until such statement is given.

4. In addition to the remedies provided in Par. 3 above, the Zoning Administrator or her agent may seek the issuance of an inspection warrant, initiate injunction, mandamus, or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this Ordinance. Such action may also be instituted by any citizen who may be aggrieved or particularly damaged by any violation of any provisions of this Ordinance. Nothing in this Ordinance may be construed to authorize an unconstitutional inspection or search. All searches or inspections authorized by this Ordinance require a warrant, court order, consent, or another exception to the warrant requirement.

Amend Article 19, Boards, Commissions, Committees, by amending Part 2, Board of Zoning Appeals, to revise Sect. 19-211, Decisions Subject to Judicial Review, to read as follows:

All decisions and findings of the BZA that resolve the merits of an appeal or application before the BZA, or dismiss such a filing with prejudice on a procedural basis, are final decisions and are, in all instances, subject only to judicial review in the manner provided by Article 7, Chapter 22, Title 15.2 of the Code of Virginia.

This amendment shall become effective on June 26, 2019 at 12:01 a.m.

GIVEN under my hand this 25th day of June, 2019.



CATHERINE A. CHIANESE
Clerk to the Board of Supervisors