

**ADOPTION OF AN AMENDMENT TO CHAPTER 112.1
(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, February 22, 2022, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112.1 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following:

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

Amend Chapter 112.1 (Zoning Ordinance), as follows:

Delete subsection 1104.4 and renumber the subsequent subsection.

1104. Ordinance Structure

1. For purposes of organization, Chapter 112.1, The Zoning Ordinance, is divided into nine Articles.
2. Each Article within the Zoning Ordinance is subdivided into sections. The first digit of a section number represents the Article number. For example, Section 8106 is within Article 8.
3. For purposes of further organization, each section may be subdivided into subsections which are represented by such numbers as 1, 2, 3; which may be further subdivided as A, B, C...(1), (2), (3)... (a), (b), (c)...and (i), (ii), (iii), etc.
4. The Zoning Ordinance should be referenced as shown below:
 - ... as required in Article 8.
 - ... as required in Section 8101.
 - ... as required in subsection 8101.2.B(1).

In Note [1] of Table 2102.5, delete the extra "(a)" as shown below.

B. R-2 Lot and Building Dimensional Standards

Table 2102.5: R-2 Lot and Building Standards

...

Notes:

- [1] The minimum lot area of a cluster subdivision lot is 15,000 square feet and the minimum lot width of the cluster subdivision lot is 100 feet for interior lots and 125 for corner lots if (a) any portion of a cluster subdivision lot is located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of two du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling This does not apply if the contiguous development is zoned to the PDH-2 District, or to the R-2 District and is developed or approved for a cluster subdivision.
- [2] Open space is calculated in accordance with subsection 5100.3.A(3).
- [3] Lot width may be modified in accordance with subsection 5100.2.K.
- [4] Freestanding accessory structures are regulated by subsection 4102.7.A.

Revise subsection 2105.6.C(1), under Additional Standards for the PTC District, as shown below.

C. Additional Standards

(1) Concurrent Applications

A site plan or minor site plan may be filed concurrently with the filing of a rezoning, special exception, or special permit; however, it may not be approved until the rezoning, special exception, or special permit application has been approved by the Board. Concurrent processing will not prejudice the consideration of the application in any way.

Revise subsection 2105.7 under the PCC District to add new subsection C and re-letter the subsequent subsection.

C. Additional Standards

A Nonresidential Use Permit for a secondary use may not be issued until a Nonresidential Use Permit for the continuing care facility has been approved.

Revise subsection 3101.19.C(3) within the Wellington Historic Overlay District as shown below.

C. Additional Standards

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

Delete subsection 4102.3.C under the heading for Residential Uses; re-letter the subsequent subsections and make related corrections to other cross-references as needed; delete the reference to this standard from the row for Dwelling, Single-Family Detached in the use tables (Tables 4101.1 and 4101.2). Revise subsection 2102.1.C(1) under the heading for the R-A District as shown below.

1. R-A Rural Agricultural District

C. Additional Standards

(1) The agricultural operation and related uses, or open space must occupy at least 75 percent of the lot area. Single-family detached dwellings, manufactured homes, and any non-agricultural uses, accessory uses, and structures may occupy no more than 25 percent of the lot area.

Correct the cross-reference in the first line of subsection 4102.4.Y(6) to refer to "this subsection Y" instead of subsection X.

Y. Wireless Facility

- (6) Projects that do not meet any other provisions of this subsection Y are Standard Process Projects and are subject to the following standards, as well as subsections 4102.4.Y(5)(d) through 4102.4.Y(5)(f):

Correct the reference to Chapter 43.2 of the County Code in subsection 4102.5.NN(4)(b) as shown below.

NN. Vehicle Fueling Station

- (4) The retail sales of food, beverages, and other frequently needed items for household consumption is allowed, in accordance with the following:
- (a) The maximum gross floor area devoted to such sales is 2,500 square feet; and
 - (b) The preparation of food is not allowed, except for that allowed in a Limited Food-Service Establishment in accordance with Chapter 43.2 of the County Code or the use of microwave ovens by customers for purchased food items.

Delete "is" to correct a typographical error in subsection 4102.6.B(2) as shown below.

B. Goods Distribution Hub

- (2) Except as otherwise provided in subsection (3) below, the goods distribution hub may not exceed 6,000 square feet of gross floor area in the C-3, C-4, and C-5 Districts, or 10,000 square feet of gross floor area in the C-6, C-7, C-8, PDC, and PTC Districts.

Revise subsection 4102.6.L(3) to list each applicable zoning district as shown below.

L. Production or Processing

- (3) In the I-3, I-4, I-5, and I-6 Districts, production or processing may include accessory

retail sales as long as the retail sales area is limited to 10 percent of the gross floor area of the establishment or 1,000 square feet, whichever is smaller.

Revise the General Standards for Accessory Uses and Structures: subsection 4102.7.A(6)(b)1 to correct the cross-reference; 4102.7.A(7)(b)4 to delete swimming pool and correct a cross-reference; add subsection (7)(b)5 to address electric substation fences; and 4102.7.A(8)(c) to correct the provision to apply to gates and gateposts taller than four feet. Also, revise the standards for utility facility, light, subsection 4102.4.X(4), to include a reference to the provision for an electric substation fence in subsection 4102.7.A(7)(b)5, as shown below.

A. General Standards for Accessory Uses and Structures

(6) General Standards for Freestanding Accessory Structures

(b) Location in Side or Rear Yard

1. If the structure does not exceed eight and one-half feet in height, it may be located in any part of a side yard or rear yard, except as qualified by subsection 4102.7.A(5).

(7) Fences and Walls

(b) Height

4. A fence or wall that is an integral part of any accessory use, such as a tennis court, may exceed the maximum height in Table 4102.4 above, if it conforms to the height and yard requirements for a freestanding accessory structure in subsection 4102.7.A(6) above.
5. A fence or wall that is an integral part of an electric substation may exceed the maximum fence or wall height in Table 4102.4 above.

(8) Gates and Gateposts

Gates and gateposts may be located within any required minimum front setback as follows:

- (a) Four gateposts no taller than ten feet.
- (b) Two gates no taller than eight feet.
- (c) Gates and gateposts that are taller than four feet must not exceed 15 percent of the width of the lot.

X. Utility Facility, Light

- (4) Light utility facility uses are not required to comply with the lot size requirements or the bulk regulations for the zoning district where they are located. In addition, a fence or wall that is an integral part of an electric substation may exceed the

maximum fence or wall height in accordance with subsection 4102.7.A(7)(b)5.

Revise subsection 4102.7.H(13)(d) to state that no customers or clients may be permitted for general retail sales or small-scale production uses.

H. Home-Based Business

Standards when permitted by special permit:

- (13)** The home-based business must conform to all applicable standards above, except that the BZA may approve a special permit for a home-based business to modify one or more of the standards as identified in the subsections below:
- (a) Subsection (3) to allow outdoor activities such as swimming or soccer lessons;
 - (b) Subsection (5) to allow a larger area;
 - (c) Subsection (8) to allow more employees or different work hours; and
 - (d) Subsection (9) to allow more customers or clients. However, no customers or clients are allowed for general retail sales or small-scale production uses.

Revise subsections 4102.7.J(1), (2), (7), and (8) as shown below.

J. Keeping of Animals

Standards when permitted as an accessory use:

- (1)** The keeping of animals allowed under Chapter 41.1 of the County Code is allowed as an accessory use on any lot if the animals are not for the purpose of commercial breeding, boarding, or any other activity meeting the definition of a kennel or animal shelter. However, up to four companion animals not owned by the resident are allowed to be sheltered, fed, and watered in exchange for a fee, subject to the animal unit limitations set forth below. The keeping, for a fee, of more than four companion animals not owned by the resident is a kennel or animal shelter.
- (2)** The keeping of dogs, except as a kennel, is allowed as an accessory use on any lot in accordance with the following standards:

Standards when permitted by special permit:

- (7)** The BZA may approve a special permit to modify the provisions of subsections (2) through (6) above, in accordance with the following:
- (8)** The BZA may not approve an activity meeting the definition of a riding or boarding stable, animal shelter, or a kennel as an accessory use of property.

Revise subsection 4102.8.E(4) and (5) which lists standards for food trucks, to replace the period with a semi-colon at the end of each subsection (a) through (c) and (a) through (h) and add an "and" after the semi-colon at the end of subsections (b) and (h).

Revise subsection 5100.2.D(4)(b) as shown below.

D. Setback Regulations

(4) Corner Lots

The following regulations apply to corner lots:

(b) Rear Setback

The rear yard must meet the minimum rear setback for the district or as proffered; however, for single-family detached dwellings that lawfully exist as of July 1, 2021, and future additions to these dwellings in the R-E, R-1, R-2, R-3, R-4, R-5, and R-8 Districts, the rear setback may continue to equal the dimension for the minimum side setback in effect before adoption of this Ordinance.

Revise subsection 5100.2.L(1)(f) to correct the cross-reference, as shown below.

L. Pipestem Lots and Setbacks

(1) The Director may approve pipestem lots either as a single lot or in a group of up to five lots when necessary to achieve more creative planning and preservation of natural property features or to provide for affordable dwelling unit developments, but only in accordance with the provisions of the Public Facilities Manual and at least one of the following:

...

(f) In conjunction with the approval of a special exception waiving minimum lot width requirements in accordance with 5100.2.K.

Revise the Applicability provisions for Independent Living Facilities in the Affordable Dwelling Unit Program in subsection 5101.2.C as shown below.

C. Independent Living Facilities

Affordable dwelling units are required for independent living facilities approved by special exception or as part of a rezoning.

Revise subsection 5101.4.D(3)(a) to add stacked townhouses, as shown below.

4. Affordable Dwelling Unit Calculations

- D. Where the Comprehensive Plan does not specify a density range in terms of dwelling units per acre, the following applies:
- (3) If the plan specifies a square footage or floor area ratio (FAR) range for residential uses for a specific area, but no density range in terms of dwelling units per acre:
- (a) The dwelling unit per acre density range for single-family dwelling unit developments, stacked townhouses, and multifamily dwelling unit developments that do not have an elevator, or have an elevator and are three stories or less in height, is determined by dividing the residential square footage specified in the Comprehensive Plan by an average dwelling unit size for the proposed dwelling unit type within the development.

Revise Section 5109, Outdoor Lighting, subsection 3.A(5) to correct the cross-references and the heading of subsection 3.C, as shown below.

A. Lighting Fixtures and Mounting

- (5) All outdoor lighting fixtures must be aimed, located, and maintained so as not to produce disability glare. The lighting fixtures specified in 2.A and 2.B above are excluded from this provision.

C. Height and Location of Light Fixtures

Revise subsection 6100.2.B(3) to reference the subsection that defines surfaced area materials, as shown below.

B. Parking in Residential Districts

- (3) In the R-1 and R-2 Districts, no more than 25 percent of any front yard and in the R-3 and R-4 Districts, no more than 30 percent of any front yard may be surfaced area for a driveway or vehicle or trailer parking area. Surfaced area materials are defined in subsection 6100.2.C(3)(b) below. On a pipestem lot, the surfaced area

within the pipestem driveway is not included in this limitation. In addition, these limitations may be exceeded for a surfaced area that is:

Revise subsection 8100.1.B(1)(j)8 to correct a typographical error as shown below.

B. Scheduling and Notice of Public Hearings

(1) Required Notice for Public Hearings

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 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.

Revise Table 8100.1 in subsection 8100.3 to correct a typographical error to reference subsection 5100.2.K for the Waiver of Minimum Lot Size Requirements special exception application type, instead of the reference to subsection 5100.2.A(3).

Revise subsection 8100.10.A(2)(b) to add #4 as shown below to include the parking of inoperative vehicles in accordance with subsection 4102.7.A(13).

A. Appeal Processing

(2) Time Limit on Filing

- (b) Appeals from notices of violation involving the following violations must be filed within ten days from the date of the notice by filing an appeal application with the Zoning Administrator and the BZA:
 1. Occupancy of a dwelling unit in violation of subsection 4102.3.A.
 2. Parking a commercial vehicle in an R district or a residential area of a P district in violation of subsections 4102.1.B(2) and 4102.1.E(4).
 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).

4. Parking of inoperative vehicles, as provided in Chapter 110 of the County Code, in violation of subsection 4102.7.A(13).
5. Installation of prohibited signs on private property in violation of subsection 7100.5.B and subsections 7100.5.C(1) and 7100.5.C(5).
6. Installation, alteration, refacing, or relocation of a sign on private property in violation of subsection 7100.3.A(1).
7. Other short-term, recurring violations similar to those listed above.

Revise subsection 8101.2.A(1)(b) to correct a typographical error as shown below.

- (b) Total area of the property and each existing and proposed zoning district in square feet or acres;

Revise subsection 8101.3.E(6) to add new subsection (a) and re-letter the subsequent subsections. Add new subsection 8101.3.E(9), and renumber the subsequent subsections.

(6) Home-Based Business

- (a) The plat information required by subsections 8101.3.B(1) through 8101.3B(11), 8101.3.B(13), and 8101.3.B(14).

(9) Increase in Height or Cumulative Square Footage of a Freestanding Accessory Structure

- (a) The plat information required by subsections 8101.3.B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the following:
 1. The location of parking spaces, indicating the minimum distance from the nearest property line;
 2. The location, type, and height of any existing and proposed landscaping and screening; and
 3. A calculation on the plat showing the percentage of the required rear setback that is covered with any accessory use and structure in accordance with subsection 4102.7.A(5).
- (b) Architectural depictions of the proposed structure as viewed from all lot lines and street lines that includes building materials, roof type, window treatment, and any associated landscaping and screening.

Edit subsection 8101.4.A(1) so "Relationship of applicant to property owner;" becomes new 8101.4.A(2) and renumber the subsequent subsections.

A. Minor Site Plans

Minor site plans must include the following:

- (1) Name of applicant/firm and address;
- (2) Relationship of applicant to property owner;

Add "Accessory Uses and" to the heading row titled "Other Special Exceptions" in Table 8102.1: Fee Schedule.

Revise subsection 9100.2 as shown below.

2. The words 'must' and 'shall' are mandatory and 'may not' indicates a prohibition.

Revise the definition of commercial vehicle in Section 9102, as shown below.

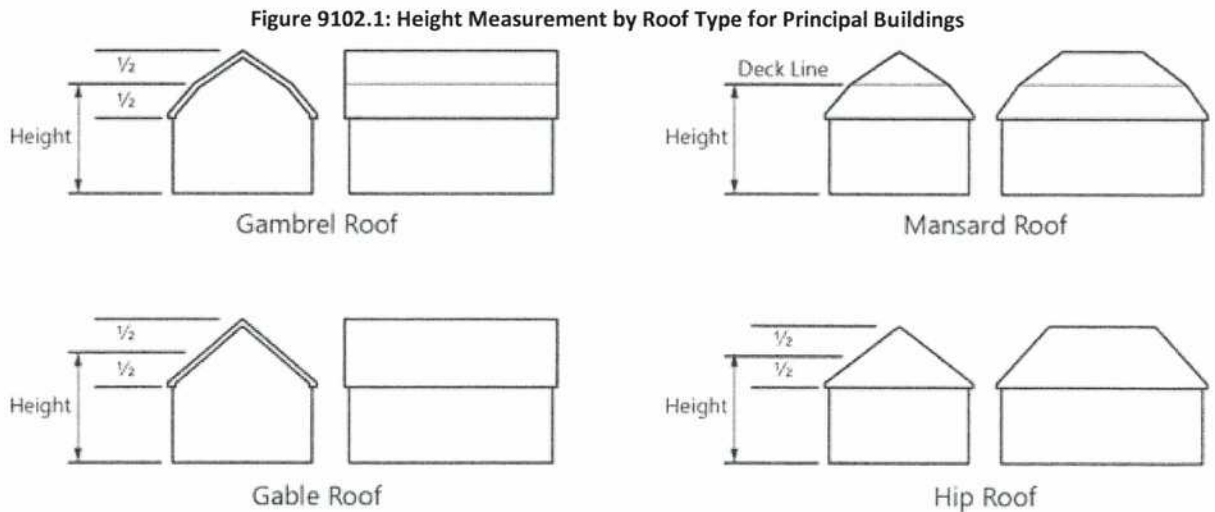
Commercial Vehicle

A vehicle which bears or displays indicators that the vehicle is designed or used for commercial purposes, including but not limited to box trucks, step vans, or vehicles specifically designed to carry tools or specialized equipment, regardless of capacity, or which is licensed as a 'for hire' vehicle. For the purpose of this Ordinance, commercial vehicles do not include: (1) vehicles operated by a public agency except those vehicles set forth in subsection 4102.1.B(2); (2) farm vehicles or equipment located on property used for agricultural purposes; (3) motor homes, camping trailers, boats, boat trailers, horse trailers, or similar recreational equipment recognized as personal property and not for hire; (4) vehicles actively providing delivery, repair, or moving services; (5) public or private vehicles used exclusively for the transportation of persons to and from a school, religious assembly, or related activities; (6) and vehicles primarily used for the non-commercial transport of passengers which may display Virginia Department of Motor Vehicles issued transportation network company identifications or other small emblems and do not include any other commercial indicators.

Revise the definition of building height and the title of Figure 9102.1 in Section 9102, as shown below.

Height, Building

For principal buildings, the vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs measured from the curb level if the building is not more than ten feet from the front lot line, or from the grade in all other cases.



Revise the definition of setback in Section 9102, as shown below.

Setback

The minimum distance a building or structure must be separated from the lot lines. Setbacks are specified as front, side, and rear, and are located within the corresponding yards.

Revise the definition of substantial conformance in Section 9102, as shown below.

Substantial Conformance

Substantial conformance is determined by the Zoning Administrator upon consideration of the record. Substantial conformance allows a margin for minor modification that is:

1. Consistent with and does not materially alter the character of the approved development including the uses, layout, and relationship to adjacent properties depicted on the approved special permit plat, special exception plat, or development plan;
2. Consistent with any proffered or imposed conditions that govern development of the site; and
3. In accordance with the requirements of this Ordinance.

Revise the definition of zoning compliance letter in Section 9102, as shown below.

Zoning Compliance Letter

A letter by the Zoning Administrator or agent that provides the applicable zoning of a lot, to include: (1) any approved proffered conditions, development conditions, or other zoning approvals; (2) whether any existing development on a lot is in accordance with the Zoning Ordinance; (3) whether there are any pending zoning applications or zoning violations on a lot; and (4) Residential or Nonresidential Use Permits, if requested. For the purpose of this Ordinance, a request for a determination under subsection 5100.2.J is not deemed a zoning compliance letter.

Revise the definition of group residential facility in Section 9103, as shown below.

Group Residential Facility

A residential facility, with one or more resident or nonresident staff persons, in which no more than: (a) eight mentally ill, intellectually disabled, or developmentally disabled persons reside, and the facility is licensed by the Virginia Department of Behavioral Health and Developmental Services; or (b) eight persons who are aged, infirm, or disabled reside and the facility is licensed by the Virginia Department of Social Services; or (c) eight persons with disabilities reside. The terms mentally ill, intellectually disabled, developmentally disabled, or persons with disabilities do not include current illegal use or addiction to a controlled substance as defined in Va. Code Sect. 54.1-3401 or as defined in Sect. 102 of the Controlled Substance Act (21 U.S.C. 802). A group residential facility is considered residential occupancy by a single household under this Ordinance in accordance with Va. Code Sect. 15.2-2291. A group residential facility does not include a group household, an assisted living facility, or a dwelling unit. A group residential facility also does not include a facility for more than four persons who do not meet the criteria set forth above or for more than eight disabled, mentally ill, intellectually disabled, or developmentally disabled persons, which is deemed a congregate living facility.

Revise the definition of office in Section 9103, as shown below.

Office

A building or portion of a building used for professional, executive, management, financial, research, or administrative business or activities. An office may also include an artist's studio, research and experimentation in a laboratory, and medical or dental services.

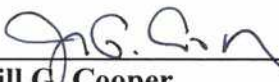
Delete "Index of Amendments and" from the title of Appendix 1.

APPENDIX 1 - PROVISIONS RELATING TO

PREVIOUS APPROVALS

This amendment shall become effective on February 23, 2022, at 12:01 a.m.

GIVEN under my hand this 22nd day of February 2022.



Jill G Cooper
Clerk for the Board of Supervisors