

Text Amendment #2019-0005

Fall 2019 Zoning Ordinance Practical Updates

Issue: Initiation of a text amendment and public hearing and consideration of a text amendment to the Zoning Ordinance to add definitions for public school (Section 2-187.2) and solar energy system (Sections 2-194.1); to amend the definition of structure, subordinate (Section 2-197.3) and floor area (Section 2-145); to amend Section 4-1203 to add public school as a special use in the I/Industrial zone; to amend Section 7-101 to permit solar energy systems as an accessory use; to amend Section 7-202 to permit open stairs within required yards; to amend Section 8-200 to add parking standards for private, academic and collegiate school uses and to reference section VIII.	Planning Commission Hearing:	September 3, 2019
	City Council Hearing:	September 14, 2019
Staff: Tony LaColla, AICP, Division Chief Mary Christesen, Zoning Manager Chrishaun Smith, Urban Planner		
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PLANNING COMMISSION ACTION, SEPTEMBER 3, 2019: On a motion by Commissioner Brown and seconded by Commissioner Lyle, the Planning Commission voted to initiate Text Amendment #2019-0005. The motion was approved by a vote of 7 to 0.

On a motion by Commissioner Brown, seconded by Commissioner Lyle, the Planning Commission voted to recommend approval of Text Amendment #2019-0005, as amended. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis.

Speakers:

Catherine Puskar, spoke in support of the text amendment as it would be required for approval in order for SUP #2019-00063 by Virginia Polytechnic Institute and State University to operate a public school to proceed.

Discussion:

Commissioner Brown spoke positively of the text amendment but asked if with the inclusion of a definition of public school within the zoning ordinance that the full range of educational opportunities were thoroughly defined. Staff agreed with Commissioner Brown's analysis.

Commissioner Brown also asked if handrails would be permitted to encroach in required yards to accompany open stairs. Staff stated that handrails would be allowed under current zoning ordinance regulations to accompany any open stair.

Commissioner Koenig asked for clarification on the proposed amendments to permit solar energy systems as an accessory use. Commissioner Koenig asked if solar energy facilities were currently permitted to be located on homes and asked for clarification purposes where would the facilities now be permitted with this text amendment. Staff stated that this text amendment would permit standalone structures within required yards that may not be located on the principal building.

I. Issue

The existing Zoning Ordinance dates to 1992, with changes to sections of the Zoning Ordinance occurring over time. Through use of the Ordinance, multiple errors have been identified that may have occurred during previous rewrites or amendments to the regulations. Some changes have produced redundancies or may conflict with other regulations within the Zoning Ordinance. In addition, over time, the Director of Planning and Zoning has provided interpretations of the Zoning Ordinance to provide clarity in the application and administration of the regulations generally or as applied to certain aspects of property or the built form. Interpretations, through written guidance memorandums to memorialize findings of fact or common internal staff interpretations require codification within the City's Zoning Ordinance.

The proposed zoning text amendment, the second series of "Practical Update" conducted by staff, seeks to modify and amend various sections of the Zoning Ordinance to correct errors, modernize and update regulations to accommodate changes in practices, and codify on-going staff interpretations. The following is a summary list of the proposed changes discussed in detail in this report with the specific text changes shown in Attachment 1:

- **Creation of Definitions**
 - Creation of definition for public school
 - Creation of definition for solar energy system
 - Amendment to definition of floor area
- **Smart Processing**
 - Add public school as a special use within the I (Industrial) zone.
 - Add solar energy systems as a permitted accessory use
 - Allow open stairs within required yards
 - Add parking standards for private, academic and collegiate school uses
- **Technical Errors**
 - Amendment to definition of structure, subordinate
 - Amendments to Section 8-200(F) to reference Article VIII

II. Background

Since the current Zoning Ordinance was adopted in 1992, there have been changes to certain sections to update zoning regulations to more closely align with current planning strategies and emerging principles. Through use of the amended Zoning Ordinance, errors and inconsistencies have been identified within the text language and certain regulations may unintentionally restrict the placement and location of certain uses and

structures. Following the previous Practical Update, staff has identified additional text language amendments to the zoning ordinance and recommend providing practical updates to these regulations to streamline and modernize the zoning regulations of the City.

III. Discussion of Proposed Text Changes

The proposed text amendment seeks to modify certain Zoning Ordinance regulations by amending existing definitions and codifying additional definitions, adding additional uses within certain zones, providing common sense updates to allow additional accessory structures within required yards, and allowing a limited amount of customers and employees within home occupations in an effort to be more business friendly. Additionally, this text amendment will correct errors in the ordinance. Below is a description of the proposed modifications to the City's Zoning Ordinance.

A. Creation and Amendment of Definitions

With the adoption of text amendments over the past year, staff has continued to analyze the impacts of certain regulations and how they have been applied over time. With this text amendment staff proposes to make minor changes to certain definitions to address unintended impacts of these definitions. Secondly, staff recommends additional definitions that seek to define public schools and solar energy systems.

1. Addition: Public school

The majority of one-and two-family residential zones and most commercial zones allow for the operation of a public school whether permitted by-right or with a Special Use Permit. However, the Zoning Ordinance does not currently define a public school or provide clarity on the types of facilities that may encompass this definition. Staff proposes to define a public school as an early childhood, elementary, secondary, post-secondary, or collegiate school or university governed by a public entity that is maintained solely or in part by public funding.

2. Addition: Solar energy system

In July 2019, City Council adopted additional environmental principles within the Environmental Action Plan (phase 2). One of the goals of the Environmental Action Plan was to incentivize the placement of solar panels through implementation of certain zoning changes. In analyzing the Zoning Ordinance, there is some ambiguity in interpreting whether solar panels are permitted as these types of structures are not currently defined. Staff proposes to define these

structures as an energy system that consists of one or more solar collection devices, solar energy related ‘balance of system’ equipment, and other associated infrastructure with the primary intention of generating electricity from the sun, storing electricity, or otherwise converting solar energy to a different form of energy.

3. Amendment: Floor area

In February 2018, City Council adopted amendments to the floor area provisions of the Zoning Ordinance to provide clarity for staff, residents, and the development community but also to facilitate desirable design elements on buildings to enhance their quality without inappropriately increasing their bulk. When the definitions for both FAR provisions (Section 2-145[A] and Section 2-145[B], respectively) were amended it included the following provision: *It shall include all space which is deemed habitable space by the Virginia Uniform Statewide Building Code (USBC) or seven feet or more in height, whichever is less.* The intent of the inclusion of both of these provisions were to allow the definition to accommodate for future unforeseen changes in the building code that may impact how FAR may be calculated in the future.

In applying the new definition, staff has discovered an unintended consequence that there may be some areas that are not deemed habitable space by the statewide building code – such as closets, laundry rooms, or other rooms with drop ceilings less than seven feet in height. The intention of the new FAR regulations were to include these spaces as they contribute to bulk and mass. In order to rectify this unintended consequence, staff recommends removal of references to habitable space as defined by the statewide building code. Any changes in the statewide building code that may lower the minimum ceiling height to less than 7 feet that would impact the FAR provisions of the Zoning Ordinance would be a part of a future practical update if necessary.

B. Smart Processing

This text amendment will modify the Zoning Ordinance to provide common sense updates to modernize and account for market changes in conducting business as well as erecting different structures across the city. Another goal would be to streamline the approval process for certain structures and provide flexibility in the Zoning Ordinance in uses. Staff has identified changes within the Zoning Ordinance that would allow flexibility in a multitude of ways; including the placement of accessory structures and adding additional use and parking standards for public schools.

1. Add public school to the list of special uses in the Industrial zone

While many residential and commercial zones permit public schools, the Zoning Ordinance currently does not permit them within Industrial zones. As the student population continues to grow in a city with limited land resources, staff wishes to provide additional flexibility for the public school system and other public school entities seeking school sites. Additional school sites may be required based on the location of the future student population and other market considerations. Staff proposes to add public school to the list of uses within the Industrial zone. In order to better mitigate impacts as it relates to noise, traffic, and any other environmental concerns, staff recommends requiring a special use permit for public schools within industrial zones.

2. Add solar energy system as permitted accessory use

Upon the adoption of the revised Environmental Action Plan by City Council in July 2019, staff was tasked with implementing changes to City policies that would incentivize or streamline the approval process for environmentally friendly design techniques and technologies. This also included reanalyzing the regulations relating to solar energy systems, such as the placement of solar panels. The Zoning Ordinance does not currently permit the siting of these systems within required yards, which may make it difficult to erect solar energy systems in many of the city's residential zoning districts with smaller lots. In order to incentivize green technology staff recommends adding solar energy systems to the list of permitted accessory uses within Section 7-101 of the Zoning Ordinance.

3. Allow open stairs within required yards

The Zoning Ordinance does not currently permit the placement of open stairs within required yards if their locations reduce a side yard to less than 5 feet in width. This may make it difficult to erect open stairs in many of the City's residential zoning districts with smaller lots – necessitating requests for variances from this provision in order to erect stairs for basement egress and topographical concerns to access

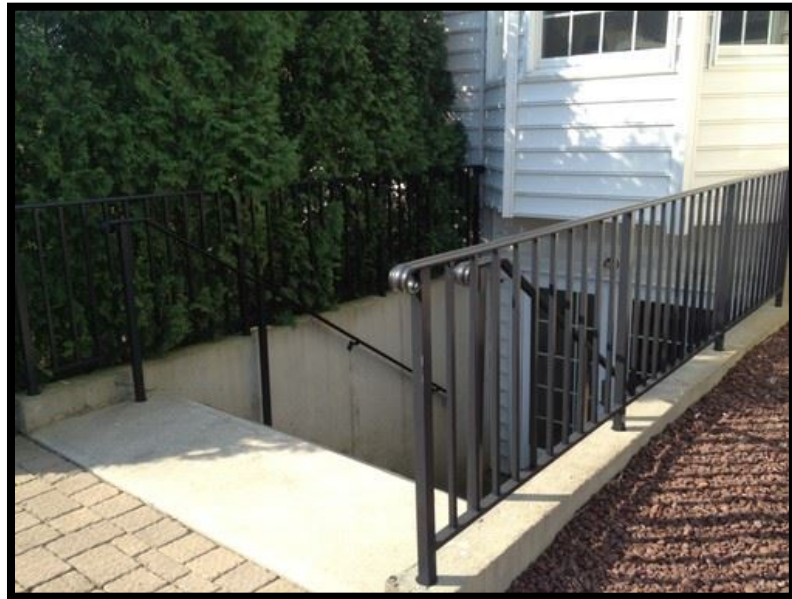


Figure 1: An areaway of open stairs may not be permitted under current regulations if it reduces a side yard to less than 5 feet.

buildings if the stair is within a required yard abutting a property line, as may be illustrated by Figure 1. In order to eliminate this unintended consequence, staff is recommending allowing open stairs within required yards regardless within Section 7-202 of the Zoning Ordinance.

4. Add parking standards for private, academic and collegiate school uses

In January 2018, City Council adopted new commercial parking standards to the Zoning Ordinance in order to “right-size” Alexandria’s commercial parking requirements to meet current and future parking demands. Changes to the parking standards resulted in modifications to the parking standards of certain institutional and personal services uses such as commercial private schools being listed within the *special commercial* parking category. This parking category requires a minimum of .25 spaces per 1,000 square feet of floor area to a maximum of 3.0 spaces per 1,000 square feet of floor area within the enhanced transit area and a minimum of .75 spaces per 1,000 square feet of floor area to a maximum of 4.0 spaces per 1,000 square feet of floor area outside of the enhanced transit area. While private commercial schools and primary/secondary education uses have codified parking standards, private academic and collegiate schools are not listed within the City’s parking regulations. Staff proposes to add both private academic schools and collegiate schools as a listed use within the *specific commercial* classification to provide flexibility for staff and developers on interpreting parking impacts for these uses depending on their size and scale.

C. Technical Errors

In applying the Zoning Ordinance, staff has identified two unintentional errors that may have occurred with previous rewrites and amendments. Staff has proposed to remove this duplicative and erroneous language by removing them with the text amendment.

1. Amendment to the definition of structure, subordinate

City Council adopted a text amendment to the infill regulations of the Zoning Ordinance in June 2019 in order to provide flexibility in the construction of residential garages and consistency in interpretation of zoning regulations. To provide consistency, multiple sections of the Zoning Ordinance also reference *subordinate structures*, in order to regulate the scope and scale of accessory structures relative to the property’s principal structure. The adopted text amendment inadvertently included a draft provision that restricts the height of any subordinate structure to a height that shall not exceed 50% of the height of the principal structure. This would create an unintended consequence that would

not only restrict the height of sheds and garages but also may prohibit the construction of these structures on properties with one-story principal buildings. Staff proposes to remove this erroneous language by removing language referencing the height of subordinate structures.

2. *Amendments to Section 8-200(F) to reference Article VIII*

Section 8-200(F) of the Zoning Ordinance regulates parking requirements for prior existing buildings and structures. With the adoption of the new commercial parking standards in January 2018, multiple references to parking regulations of the Zoning Ordinance within this section inadvertently reference Article XIII (Environmental Management) as opposed to the relevant reference to Article VIII (Parking Regulations). Staff proposes to correct this minor error by changing these references to Article VIII.

IV. Recommendation

Staff recommends that the text amendments contained in Attachment 1, be initiated and recommend approval of each of the attached Zoning Ordinance text changes.

Staff: Tony LaColla, AICP, Division Chief, Land Use Services
Mary Christesen, Zoning Manager, Land Use Services
Shaun Smith, Urban Planner, Land Use Services

Attachment #1

Proposed Zoning Ordinance Changes – The following text will modify or replace text in Sections 2-100, Section 4-1200, 7-100, 7-200, 7-300, and 8-200 and add text as Sections 2-187.2, 2-194.1, 2-194.2 and Section 2-197.3.

Note: New text is underlined

~~Deleted text is shown with a strikethrough~~

Sec. 2-100 - Definitions.

For the purposes of this ordinance, the following words and phrases shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning.

Sec. 2-145 – Floor Area

- A. For residential dwellings in the R-20, R-12, R-8, R-5, R-2-5, and single-family and two-family dwellings in the RA and RB zones (not including property located within the Old and Historic Alexandria and Parker-Gray Districts), the floor area of the building or buildings on a lot or tract or tract of land (whether "main" or "accessory") is the sum of all gross horizontal areas under roof on a lot. It shall include all space ~~which is deemed habitable space by the Virginia Uniform Statewide Building Code (USBC) or seven feet or more in height; whichever is less.~~ These areas shall be measured from exterior faces of walls or any extended area under roof and are to be measured from the shared lot line in the case of party walls. Floor area with a ceiling height 15 feet or greater shall be counted twice. Floor area with a ceiling height 25 feet or greater shall be counted three times. This space shall be based on permanent construction whether or not provided with a finished floor or ceiling. Excluded from floor area shall be:

- B. For properties except for those specified in subsection A. above, the floor area of the building or buildings on a lot or tract or tract of land (whether "main" or "accessory") is the sum of all gross horizontal areas under roof on a lot. These areas shall be measured from the exterior faces of walls or any extended area under roof and are to be measured from the shared lot line in the case of party walls. It shall include all space ~~which is deemed habitable space by the Virginia Uniform Statewide Building Code (USBC) or seven feet or more in height; whichever is less.~~ It shall include all space within an above grade parking garage. This space shall be based on permanent construction whether or not provided with a finished floor or ceiling. Excluded from floor area shall be:

Sec 2-187.2 – Public school. An early childhood, elementary, secondary, post-secondary, collegiate school or university that is governed by a public entity and is maintained solely or in part by public funding.

Sec 2-194.1 – Solar energy system. An energy system that consists of one or more solar collection devices, solar energy related balance of system equipment, and other

associated infrastructure with the primary intention of generating electricity from the sun, storing electricity, or otherwise converting solar energy to a different form of energy.

Sec 2-194.42 – Stairs. A series of two or more risers leading from one level or floor to another. For the purposes of calculating floor area, a stair shall include a landing at each end which shall have the same width as the corresponding stair flight and extends for four feet from the stair. The term stairs ~~also~~ includes escalators.

2-197.3 – Structure, subordinate. An accessory structure with a gross floor area that is less than 33 percent of the gross floor area and less than 50 percent of the height of the principal ~~structure or main building.~~

4-1203 Special Uses

The following uses may be allowed in the I zone pursuant to a special use permit:

(Q.1) Public school

7-101 - Permitted accessory uses.

Permitted accessory uses and structures shall be limited to the following and any additional use or structure which the director finds is similar to those listed in scope, size, and impact, is customarily associated with residential dwellings, and is otherwise in compliance with this ordinance:

(M) Solar Energy System

7-202 – Permitted obstructions.

The following obstructions shall be permitted when located in a required yard and placed so as not to obstruct light and ventilation and when otherwise permitted by law:

(A) In all yards:

(7) Open stairs, ~~provided that the stairs do not reduce a side or rear yard to less than five feet.~~

Section 8-200 – General parking regulations.

(A) *Schedule of requirements.* The following number of parking spaces shall be provided for each use listed. In the case of any use not listed in ~~this~~ section 8-200(A), the requirements of the most similar listed use shall apply. The requirements of ~~this~~ section 8-200(A) may be reduced when special zoning allows parking reductions and the required approvals of the director and the director of transportation and environmental services have been obtained and the conditions of said approval are complied with.

(16) *Specific commercial uses:*

(a) Within the enhanced transit area:

- i. Minimum requirement—0.25 spaces per 1,000 square feet of floor area.
- ii. Maximum requirement—3.0 spaces per 1,000 square feet of floor area.

(b) Outside the enhanced transit area:

- i. Minimum requirement—0.75 spaces per 1,000 square feet of floor area.
- ii. Maximum requirement—4.0 spaces per 1,000 square feet of floor area.

(c) The following uses are specific commercial for the purposes of determining parking requirements:

- i. Animal care facility.
- ii. Collegiate school or university.
- ~~iii.~~ Convenience store.
- ~~iv.~~ Day care center.
- ~~v.~~ Light assembly, service and crafts.
- ~~vi.~~ Reserved.
- vi. Personal service establishment.
- vii. Private school, academic
- ~~viii.~~ Private school, commercial.
- ~~ix.~~ Retail shopping establishment.

(F) Prior existing buildings and structures.

- (1) Notwithstanding the provisions of section 8-100 and except as provided in section 8-200(F)(3) below, no off-street parking need be provided for land actually in use on June 25, 1963, for

structures or buildings partially or fully constructed as of that date, or for structures or buildings for which a final site plan had been approved or a building permit had been applied for on that date, except as follows:

- (a) If any such land has been changed in use or any such structure or building has been changed in use, enlarged, significantly enlarged or significantly altered between June 23, 1963, and January 27, 1987, the parking requirements of this Article ~~XIII~~ VIII shall apply only to such change in use, enlargement or alteration; and
- (b) If any such land has been changed in use or any such structure or building has been changed in use, enlarged, significantly enlarged or significantly altered after January 27, 1987, the parking requirements of this Article ~~XIII~~ VIII shall apply to all the land and to the entire structure or building upon completion of the change in use, significant enlargement or significant alteration, and such requirements shall apply only to the enlargement of the structure or building upon its completion, unless, as of January 27, 1987, a construction or alteration permit has been applied for and reasonably soon thereafter construction activity has commenced and continues to be diligently pursued, or unless a special use permit is obtained under section 7-700 or section 11-500 which authorizes the change in use, enlargement, significant enlargement or significant alteration with the provision of less off-street parking than is required.

- (6) Notwithstanding the provisions of section 8-100 above and except as provided in section 8-200(F)(3), if any land has been changed in use to a multifamily residential use or any structure or building has been changed in use to a multifamily residential use, or a multifamily dwelling has been enlarged, significantly enlarged or significantly altered after May 16, 2015, the parking requirements of this Article ~~XIII~~ VIII shall apply to all the land and to the entire structure or building upon completion of the change in use, significant enlargement or significant alteration, however, any existing parking above the requirement may remain. This section shall

not apply if a construction or alteration permit has been applied for and reasonably soon thereafter construction activity has commenced and continues to be diligently pursued as of May 16, 2015, or if a special use permit is obtained under section 7-700 or section 11-500 which authorizes the change in use, enlargement, significant enlargement or significant alteration with the provision of less off-street parking than is required.

- (7) Notwithstanding the provisions of section 8-100 above, if any land, structure, or building has been changed in use to a hotel, office, restaurant, or specific commercial use, or any hotel, office, restaurant, or specific commercial use has been enlarged, significantly enlarged or significantly altered after February 24, 2018, the parking requirements of this Article ~~XIII~~ VIII shall apply to all the land and to the entire structure or building upon completion of the change in use, significant enlargement or significant alteration; however, any existing parking above the requirement may remain. This section shall not apply if a construction or alteration permit has been applied for and reasonably soon thereafter construction activity has commenced and continues to be diligently pursued as of February 24, 2018, or if a special use permit is obtained under section 7-700 or section 11-500 which authorizes the change in use, enlargement, significant enlargement or significant alteration with the provision of less off-street parking than is required.