



October 26, 2026

Matt de Ferranti, Chair
Arlington County Board
2100 Clarendon Boulevard
Arlington, VA 22201

Dear Chair de Ferranti and Members of the Arlington County Board:

As Arlington County prepares to implement the Faith in Housing law, the Civic Federation urges the County to adopt a clear, publicly available process that clarifies ambiguities in the law and its implementation, provides an explanation on how the by right administrative review will be conducted, and includes notification of surrounding civic associations of development applications. These measures should be designed to educate the public and help facilitate smooth and productive implementation of the new law.

Overview

The administrative permit review process is intended to ensure that project impacts meet the standards required by law for fire and life safety access and infrastructure capacity such as water, sewer, transportation and flood and stormwater impacts. It also seems clear in the legislation that many additional zoning provisions may or may not be applied to particular development applications, depending on whether or not they lie within an approved sector plan or small area plan or historic district. Other zoning provisions regulating signage, parking standards, site landscaping, and other provisions may apply to these new developments, all of which need to be made clear to the public and development community prior to enactment of the new Arlington County zoning changes. The law changes the zoning options available to qualifying developments; it does not eliminate the County's responsibility to evaluate, before approval or construction, whether a proposal satisfies all applicable legal requirements for the protection of the public.

Many questions regarding implementation of the Faith in Housing law in Arlington remain unanswered, including apparent ambiguities in the new law that need clarification. It appears that many areas involved in implementation will require administrative judgement and interpretation by Arlington County staff. Simple examples include locations for parking entrances and loading docks, curbside parking requirements, parking minimums, allowance of above-grade parking structures, streetscape improvements, site lighting, commercial signage standards, site landscaping, utilities locations, allowable ancillary uses, rooftop equipment and uses, and other issues. These are items that would normally be discussed within the site plan process, but now will be left to staff determination in project approval.

Because of the relatively small five-year window of time in which the new law is applicable, expiring in 2031, it is possible, and even likely, that the county will experience a large volume of project applications within the next two years. For these reasons, it is imperative that county leadership engage with the public as rapidly as possible, prior to January 2027, to address implementation issues needing clarity, with appropriate zoning analysis and establishment of processes and standards for project review and public notification of project submittals.

We do not believe it to be appropriate to leave these questions for case-by-case review, given the substantial changes to local authority provided by the General Assembly, and the need to ensure broad participation and understanding by the general public of how the new law will be implemented. Failure to address such questions in the upcoming Zoning Ordinance amendments could be a significant disservice to the public, the development community, and the county staff charged with implementing the new law, and would almost certainly warrant pressure for further review by the General Assembly for changes to the new law in numerous respects.

Guidance on Implementation ambiguities: specific questions

Greater clarity on exactly how to interpret the new law is absolutely essential. A careful reading of the law's provisions raises many questions for Arlington citizens. County leadership may have coherent and well-grounded answers to these questions, in which case a structured public discussion of the issues will be productive. And such public discussion may surface legitimate issues needing urgent study and clarification prior to beginning review of new applications. Merely codifying the ambiguous provisions of the new law, or addressing these on a case-by-case review in individual applications, will most certainly lead to inadequate guidance and disparities in outcomes. The public, civic organizations, and owners and developers should be encouraged to submit areas for clarification during the current timeframe, during which staff is undertaking zoning scoping and analysis. Following are some examples.

- **Have all conditions for determining height been fully evaluated?** What is the County's precise legal and operational interpretation of the 500-foot rule as amended by the Governor (Section D), particularly the language excluding buildings that received approval through a special-exception process? The text states that the height determination is "*excluding any building granted any additional height above what is permitted by right in the zoning district in which that building is located via a special exception approval.*" For buildings that have gone through special exception, does this mean a) these buildings are excluded from the review and only the height of existing buildings that haven't been through special exception may be considered?, or, b) only the by right height of these buildings is included? Or c) only the actual height prior to the special exception process can be included?
- **How is measurement of the 500-foot area determined?** The County should identify how the 500-foot distance will be measured, which buildings or properties count, what zoning status and historical approvals will be examined, how the amendment affects eligibility and height, and how the standard will be applied consistently to each application. For instance, if only a portion of a property is within 500 feet of a proposed development, will that property qualify as a precedent, or must the whole property fall

within the 500-foot distance? Will the 500-foot distance be measured from the center of a site, or its perimeter?

- **What state and local laws would remain applicable?** The new law states “siting provisions contained in zoning and land use codes” remain applicable. Has the county identified which provisions fall under this requirement? For example, would this include tree planting and other protections currently required for land disturbance permits pursuant to Chesapeake Bay and stormwater management laws and ordinances?
- **Is there potential to Increase Height and density beyond the minimums in the law and would the County do so?** The new law says that the Zoning Ordinance will be “deemed” to “allow” the specified height, density, and setback “at a minimum.” Does this mean that the County can impose *even more generous* height, density, and setback provisions beyond those specified in the new law? Is this the County intent and could this additional height be allowed administratively?
- **Does the need only to ensure that the Zoning Ordinance “substantially complies”** with the requirements of the new law mean that the ordinance can/will be even more generous in dispensing with traditional local land use regulations?
- **What non-residential uses are “ancillary” to the mission of a church or non-profit entity?** Examples specified are daycare centers and coffee shops. Does the “ancillary” use need to be auxiliary to the church’s mission, as some definitions have used the term? Or could it include a nail salon, for example, simply because it is subordinate to the mission of the church?
- **What is the impact of Special Use Permits?** The law carves out existing buildings within 500 feet that have been granted a “special exception.” Was this term intended to include, or exclude grants of a special use permit, conditional use permit, or any other discretionary approval? What examples would this impact for determining allowable implementation minimums?
- **Will even higher densities be permitted in a “Revitalization area, transit area,” or area within a “small area plan or sector plan?”** None of these is defined. Is a revitalization area everything (or just some of the things) that are in such an area under Va. Code 36-55.30.2? Would a “transit area” be something with a specified distance from Metro or bus rapid transit? What qualifies as a small area plan or sector plan? Would Plan Langston Boulevard so qualify?
- **Are eligibility standards clearly defined?** Only developments “by” a church or other qualifying nonprofit may qualify for this unusual exemption from traditional local zoning review. This language would appear to exclude developments “by” a different entity (e.g., a developer) to whom the qualifying entity has ceded all authority to manage and operate the new facility. What standards and regulations are needed to clarify the status of these entities?

These questions are especially important given Arlington County’s history of waiving, or reinterpreting requirements after a development process is underway. That approach can leave residents with little practical recourse other than litigation, while also exposing the County and non-profit developer to burdensome legal expense. It benefits no one to defer questions about legal interpretation, infrastructure capacity, public safety, or compliance until a development has been approved or substantial time and money have already been committed.

Getting the rules right on the front end -- and communicating them clearly, publicly, consistently, and throughout the review process -- can build trust and reduce legal costs for everyone. When the County spends money defending unclear or shifting rules, it is spending residents' money. At the same time, residents may be forced to spend their own money challenging the County's interpretation. In effect, the public bears costs on both sides of a dispute that a more engaged, transparent, communicative, and carefully considered implementation process might have prevented. Transparency is therefore not merely a courtesy; it is an essential safeguard against avoidable confusion, cost, and litigation.

Explanation of process for administrative review of all other statutory and code requirements

Apart from the need in the Zoning Ordinance amendments to address ambiguities in the new law as illustrated above, the staff should provide a plain English overview of the current by-right administrative review process that is intended to affirmatively ensure compliance with every applicable statutory and code requirement. Although the permit technical process is available on the web site, it is primarily written for the developers and attorneys submitting the permit applications. The guidance for this new form of by right zoning should provide an explanation designed for public education and assurance of the standards and review of these critical areas.

This guidance should explain the areas of review including building, occupancy, accessibility, and life-safety requirements, including fire-safety codes; water and sewer capacity and infrastructure impacts; parking and transportation impacts; potential effects on flood-prone areas; and all other applicable state and local ordinances. The County should identify and explain the application materials, technical studies, agency reviews, inspections, written findings, and sign-offs that will be required on the front end.

Even where part of a proposal may qualify for by-right zoning treatment, other issues may remain subject to administrative judgment, technical review, discretionary approvals, waivers, or interpretation. The County should identify those issues, explain what standards will govern its decisions, and allow meaningful public input before those decisions are made—not after approvals have been issued or substantial resources have been committed.

Transparent public notice, ongoing communication, and meaningful input

The Civic Federation urges the County to include in its contemplated amendments to the Zoning Ordinance a clear, publicly available process that includes advance notification to surrounding civic associations, and tracks the process for proposed developments.

Advance notification to nearby civic associations and property owners is essential so that the public can be aware of how it is proposed that critical zoning and regulatory requirements are interpreted and met. The County staff statements to date have indicated that they do not intend to include notifications to the public or related civic associations when permits are filed, as they do not do this routinely now. This law introduces by right changes that may result in considerable

potential impacts on neighboring properties that significantly exceed those currently permitted by right.

How will the County notify residents and affected communities about proposed Faith in Housing developments early enough for public input to be meaningful?

The Arlington County Civic Federation, in conformance with our overarching resolutions on Arlington County communication and engagement with the public, urges Arlington County leadership to make transparency and consistent communication of guiding principles for implementation of the new law an immediate priority. As part of implementing zoning regulations, we also stress the importance of providing notification, and clear, public answers on how county staff interprets the law in evaluating proposed developments, and ensuring compliance on the front end, before applications are approved or projects move forward. Residents should not have to do their own independent searches and piece together the County's approach from individual applications, informal statements, or decisions made after the fact.

Arlington County should establish a transparent and predictable communications process that provides timely advance notice, accessible application materials and technical analyses that clearly address compliance with the new law's requirements in plain language, identified County contacts who can answer questions, and meaningful opportunities for questions and public comment.

Communication should continue at key milestones -- from application and initial review through findings, approvals, material changes, and the start of construction -- so residents can understand both what is being considered and how the County has reached its decisions.

Residents should not wake up one morning to the sound of construction beginning on a six-story building in their neighborhood without prior notice and opportunity to address whether all impacts and considerations required by law have been thoroughly reviewed. A development of this scale has far greater impact on the neighborhood than other typical by right changes that now require County approval, such as in some cases adding to a residential back deck.

Conclusion

Affordability is a sincere concern in Arlington, and many advocates have stated that we must build as much affordable housing as quickly as possible. The importance and urgency of affordable housing, however, does not displace the Board's mandate to follow both state and County law or its responsibility to all Arlington residents. Speed cannot substitute for lawful, careful, and transparent review. The County can advance affordable housing while still ensuring that each proposal complies with applicable requirements, that neighborhood and infrastructure impacts are fully evaluated, and that residents receive timely information and a meaningful opportunity for their voices to be heard.

Accordingly, we respectfully request that the County conduct a meaningful public process to:

- (1) *Ensure that the proposed Zoning Ordinance amendments address key questions about how to interpret the new law, rather than addressing these on a case-by-case basis on projects only affecting nearby residents;*
- (2) *Issue comprehensive written guidance before implementation that explains the by-right review, responds to questions impacting implementation decisions, and includes the foregoing clarifications of the new law, and*
- (3) *Adopt and publish a communication plan for notification to nearby owners and civic associations and a publicly available method for tracking administrative review of critical safety and infrastructure requirements.*

Thank you for your attention to these important communication, interpretation and implementation issues. We look forward to your response.

Sincerely,

NJ Giacobbe, Jr.

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President

cc.

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