




County of Fairfax, Virginia

MEMORANDUM

DATE: July 12, 2023

TO: Board of Supervisors' Land Use Policy Committee (LUPC)
Kathy L. Smith, Chair

FROM: Leslie B. Johnson 
Zoning Administrator

SUBJECT: **Zoning Ordinance Work Program**
Land Use Policy Committee (LUPC)
July 18, 2023, at 11:00 a.m.

This memorandum provides the annual update of the Zoning Ordinance Work Program (ZOWP).

Introduction

The Board of Supervisors (Board) endorsed the FY 2023/2024 ZOWP on June 28, 2022. While the work program is a two-year program cycle, Zoning Administration provides the Planning Commission and Board with a yearly update and an opportunity to evaluate and reprioritize the work program to ensure that it continues to align with the policies and priorities of the Board as outlined in the Strategic Plan, One Fairfax, the Comprehensive Plan and other county-wide initiatives. The following documents are attached to facilitate the Committee's discussion of the ZOWP:

- Attachment 1 – FY 2023/2024 Priority 1 ZOWP Status Update
- Attachment 2 – Proposed FY 2024/2025 Priority 1 ZOWP
- Attachment 3 – Priority 2 ZOWP Update
- Attachment 4 – Proposed Timelines for FY 2024/2025 Priority 1 ZOWP

FY 2023 Accomplishments (Attachment 1)

The FY 2023/2024 Work Program included a total of 12 amendment topic areas with several of these topics broken down into more specific sub-topics for a total of 18 individual items. A summary of the status of each amendment topic or sub-topic is presented in Attachment 1 in ***bold italics***. A total of 8 topics/sub-topics were completed or 44% of the items on the Work Program including:

- ✓ Reports to the Board on outdoor dining and emergency homeless shelters (Topics 1B and 1C)
- ✓ Reduction in the fee for extension of time for a special event – approved as part of the Minor and Editorial Revisions Item (Topic 3C)
- ✓ Historic Overlay District/Holmes Run Acres – Board motion to rescind authorization of the amendment and remove from the work program due to lack of community consensus (Topic 6).

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- ✓ State Code changes related to agricultural uses – approved as part of the Minor and Editorial Revisions Item (Topic 11A)
- ✓ Minor and Editorial Revisions related to zMOD implementation (Topic 12A)
- ✓ Report to the Board on the monitoring of Home-Based Business (HBB) and Accessory Living Unit (ALU) provisions (Topic 12B)
- ✓ Readoption of zMOD Ordinance (Topic 12C)

While the Holmes Run Acres potential HOD was removed from the work program, it has been included in the list of completed items due to the considerable staff resources spent on community outreach and development of proposed draft text. In addition, in March 2023, the Supreme Court of Virginia issued an opinion finding the County's 2021 zMOD Ordinance, void *ab initio*, requiring the County to operate under the previous 1978 Zoning Ordinance. At the Board's request, staff quickly prepared, for the Board's consideration, a Board Item to authorize scheduling of public hearings to consider readoption of the zMOD Ordinance to provide a clear path forward for those zoning applications, plans, and permits that were submitted under the 2021 zMOD Ordinance that was declared void by the Supreme Court. On May 9, 2023, following public hearings and with a recommendation of approval by the Planning Commission, the Board readopted the zMOD Ordinance. Given the considerable staff resources spent on this topic, it was added as a new item to the FY 2023/2024 Work Program and counted as a completed item. Staff will continue to conduct ongoing monitoring and review related to potential impacts to zoning applications resulting from the Supreme Court decision and will continue to review the readopted zMOD Ordinance and recommend changes as appropriate to address changing needs and policies impacting the County.

Significant progress has also been made on the following amendment topics:

- ✓ Landscaping and Screening (Topic 7)
- ✓ Outdoor Lighting around the Turner Farm Observatory (Topic 8)
- ✓ Parking Reimagined (Topic 9)
- ✓ Sign Ordinance Part 2 (Topic 10)

Except for Outdoor Lighting, these topics have either been authorized for advertisement of public hearings (Parking Reimagined – June 27, 2023) or brought forward to the Board's Land Use Policy Committee for discussion and direction and will be carried over to the Proposed FY 2024/2025 ZOWP. The Outdoor Lighting amendment only applies to properties within a ½ mile radius of the Turner Farm Observatory. This amendment has had specific and ongoing outreach to affected property owners.

Proposed FY 2024/2025 Priority 1 Zoning Ordinance Work Program (Attachment 2)

The proposed FY 2024/2025 Priority 1 ZOWP reflects a minor reorganization of topics, and includes updates on the anticipated timing of amendments, removal of items that have been completed, and addition of new items that have been requested by the Board and/or were part of the zMOD readoption follow-on motions or were recommended by staff. Below is a summary of the changes.

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Reports to the Board (**Topic 1**) was a new topic added to the Work Program in FY 2023. As noted previously, the sub-topics related to Emergency Homeless Shelters and Outdoor Dining have been completed. These topics have been added to the Work Program for FY 2024/2025 as individual Priority 1 Amendments (**Topics 2B and 9**), respectively. It is anticipated that the report on Short-Term Pop-Up Events and Longer-Term Interim Uses will be brought to the Board for initial discussion in the Fall of 2023. As such, this item has been carried over as an individual Priority 1 Amendment (**Topic 12**) for FY2024/2025. Two new items have been added under Reports to the Board for FY 2024/2025. As part of the initial adoption of zMOD, the Board requested updates on Accessory Living Units and Home-Based Businesses. While the first report was completed in January 2023, staff indicated that they would continue to monitor this topic and prepare a similar report for FY 2024. This report has been relocated from zMOD Implementation to Reports to the Board as **Topic 1A**. In addition, on May 9, 2023, the Board directed staff to prepare a report regarding Data Centers to include evaluation of potential environmental issues, mitigations and industry advances; review of locational guidelines regarding siting of data centers and potential approval processes and determine where any new guidelines should be located including the Zoning Ordinance and/or Comprehensive Plan. This item has been added to the Work Program as **Topic 1B** with the understanding that possible changes to the Zoning Ordinance are only one component of this broader review.

Affordable Housing Initiatives (**Topic 2**) has been divided into two sub-topics. **Sub-topic 2A** carries forward the previous initiative to consider zoning changes to support new affordable housing initiatives and land use policies, including strategies to incentivize preservation of existing manufactured home communities and will be monitored. **Sub-topic 2B** is new and is added based on the December 6, 2022, Board Matter to consider zoning changes to facilitate adaptive reuse of vacant and underutilized commercial and industrial buildings to provide shelter, services and permanent supportive housing to people who are unhoused. The timing for this item is proposed as a Second Tier item to be brought forward for either discussion at a Board LUPC meeting and/or to authorize advertisement of public hearings by July 2024.

Application Fees (**Topic 3**) is being carried over with a timeline of TBD. While staff reviewed certain application fees during zMOD, mostly with the intent to lower fees for certain uses or add fees for new types of applications, an overall review of application fees or fee adjustment has not occurred since 2011. The minimum expenditure for recreation facilities in a Planned District was last increased in 2017.

Green Initiatives (**Topic 4**) has been renamed as Climate Action and Resiliency Initiatives and the description has been updated in coordination with staff in OEEC to support implementation of the Community-wide Energy and Climate Action Plan (CECAP) and Resilient Fairfax. These plans are in the implementation phase now and may translate into future amendments, therefore the timing remains TBD/Monitoring.

As noted previously, for the FY 2024/2025 ZOWP, Landscaping and Screening (**Topic 6**), Outdoor Lighting (**Topic 8**), Parking Reimagined and the Sign Ordinance Part 2 (**Topic 11**) are all carried over and it is anticipated that these topics will either be completed or authorized for

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advertisement of public hearings during the first half of FY 2024. **Topic 5**, Contractors Office and Shop is also proposed for carry over with an anticipated timeline for bringing back to the LUPC for further discussion and possible authorization of public hearings in the second half of FY 2024 (Second Tier).

For FY 2024/2025 the State Code Changes Topic and the zMOD Implementation Topic have been combined and renamed Minor and/or Editorial Revisions (**Topic 7**). This is intended to be an ongoing Work Program entry that will address changes to the Code of Virginia that necessitate a change to the Zoning Ordinance or other minor and editorial revisions that are limited in scope and intended to correct minor errors or updates in the Zoning Ordinance that do not need dedicated outreach. Three items have been added under this topic area; but should not be viewed as an all-inclusive list, as other items could be added as issues arise:

- ✓ Consider updates to timing of published notices for public hearings
- ✓ Update Board of Zoning Appeals (BZA) membership to recognize that BZA may have up to three alternative members in addition to seven permanent members
- ✓ Consider adding checklist for minimum wastewater information to submission requirements for Rezoning, Special Exception, Special Permit and Development Plan Applications

Lastly, a new item – PRC Plan Exceptions (**Topic 11**) has been added to review exceptions for when a PRC Plan or amendment to a PRC Plan may be required and consider expanding the types of minor improvements that would not require a PRC Plan submission, particularly as they relate to open space or community facilities. This item was identified during the readoption of the zMOD Ordinance as a topic for the ZOWP.

Priority 2 Zoning Ordinance Work Program (Attachment 3)

The Priority 2 ZOWP includes those amendments that are not proposed to be added to the current ZOWP but have been retained for future consideration. The Priority 2 list reflects potential changes recommended by various Boards, Authorities, and Commissions, as well as staff, citizens, and industry stakeholders. The Priority 2 list has been included as part of the Work Program since the late 1980s to track recommendations for potential amendments. A significant number of items on the Priority 2 ZOWP were addressed with the adoption of zMOD. Given that the county is operating under a new and modernized Zoning Ordinance, staff proposes a reset to the Priority 2 list and recommends that any item that has been on the ZOWP since FY 2018 or before should be removed (with some exceptions). The Priority 2 list has been reformatted to include a summary of each item and a rationale for its deletion or retention on the list. A few items have been added by staff that could be considered as part of future minor and editorial amendments or as individual amendment topics.

As currently proposed, staff recommends that 33 items be removed, 7 items be added, and 13 items be retained on the Priority 2 ZOWP. A more focused Priority 2 ZOWP will allow a better allocation of staff resources in the future.

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Conclusions and Recommendations

The FYs 2024/2025 ZOWP anticipates additional progress and completion of many of the ambitious efforts that began under the previous Work Program, including Parking Reimagined, Signs Part 2, Landscaping and Screening, Outdoor Dining, Outdoor Lighting and a follow up report on Accessory Living Units and Home Based Businesses.

The work program was presented to the Planning Commission Land Use Policy Review Committee on June 8th. The Planning Commission expressed support for the Work Program as presented. There was considerable discussion regarding Data Centers. In addition, there were comments regarding the Climate Action (formerly Green Initiatives) topic. There was a recommendation to revise the topic name to recognize the resiliency/sustainability issues related to this topic. Therefore, the topic has been renamed Climate Action and Resiliency Initiatives.

Staff will present the ZOWP at the Board of Supervisors' Land Use Policy Committee meeting on July 18, 2023, to provide an overview and answer questions. After review, the Work Program will be brought forward as a Board Matter for endorsement by the Board. Once endorsed, staff will update the ZOWP webpage, will include the topic in upcoming outreach meetings, and will distribute the ZOWP using govDelivery announcement.

cc: Planning Commission
Bryan J. Hill, County Executive
Rachel Flynn, Deputy County Executive
Chris Leonard, Deputy County Executive
Elizabeth Teare, County Attorney
Tracy Strunk, Director, DPD
Jill Cooper, Director, Clerk Services
Thomas E. Fleetwood, Director, HCD
Bill Hicks, Director, LDS
Greg Steverson, Acting Director, FCDOT
Gabe Zakkak, Director, DCC
Jai Cole, Executive Director, Park Authority
Christopher S. Herrington, Director, DPWES
William Mayland, Assistant Zoning Administrator, DPD
Carmen Bishop, Deputy Zoning Administrator

ZONING ORDINANCE WORK PROGRAM – FYs 2023/2024
FY 2023 STATUS UPDATE

Below are the topics proposed to be evaluated as part of the Zoning Ordinance Work Program (ZOWP). Recognizing that Zoning Ordinance amendments often require more than one year to complete, including research and community outreach, the ZOWP is presented for a two-year cycle with annual updates to ensure that the Work Program continues to reflect the Board's priorities. The origin of the amendment topic is noted in (parentheses) below. The FY 2023 Status Update is included below in **bold italics**.

Timing for consideration is identified in (**bold**) as:

- Pending – Amendments that have been authorized as of the date of preparation of this Work Program and are proceeding through the public hearing process.
- First Tier – Amendments anticipated to be brought forward for discussion at a Board committee meeting or for authorization within the first six months of Fiscal Year 2023 (by December 2022).
- Second Tier – Amendments to be brought forward in the second half of the fiscal year (by July 2023).
- TBD – Topics that do not have a specific timeframe or are anticipated to be brought forward in FY 2024.
- Monitoring – Topics that include on-going monitoring or participation in task forces that may lead to potential Zoning Ordinance amendments.

1. Additional Reports to the Board (NEW)

- A. Short-term pop up and longer-term interim uses – Evaluate current zoning regulations for 21-day administrative temporary permit uses and longer-term interim uses and consider ways to increase flexibility and remove unnecessary impediments and time limits. (Board Matter May 24, 2022) ***(October 2022) Anticipate presentation to the Board LUPC in Fall 2023. Moved to Topic #12 on FY 2024/2025 Work Program.***
- B. Emergency homeless shelters – Review current zoning requirements for emergency shelters in commercial and industrial districts where vacant and underutilized properties might be used to provide shelter and services to the homeless population. (Board Matter May 24, 2022) ***(November 22, 2022) Completed - Presented draft concept to Board's Housing Committee on November 22, 2022 with HCD. Moved to Topic #2B on FY 2024/2025 Work Program.***
- C. Outdoor Dining/Fitness – Consider ways to allow continuation of outdoor dining/fitness and other activities permitted in parking areas during the Covid Emergency. (Board LUPC June 14, 2022) ***(TBD – Prior to the conclusion of the Covid-19 Emergency Ordinance) Completed - Presented path forward to the Board's LUPC on October 3, 2022. On April 25, 2023, presented White Paper and Draft Text to Board LUPC for consideration. Moved to Topic #9 on FY 2024/2025 Work Program.***

2. **Affordable Housing Initiatives** – Consider zoning changes to support new affordable housing initiatives and land use policies, including strategies to incentivize preservation of existing manufactured home communities through a review of use standards and bulk regulations as part of the Manufactured Housing Task Force (Affordable Housing Preservation Task Force Recommendation MH7). (Carry over from 2018 Item #8C and Board motion April 13, 2021) **(Monitoring/Second Tier) Topic #2A on FY 2024/2025 Work Program.**
3. **Application Fees**
 - A. Cost of living – Consider an overall cost of living increase in accordance with the Construction Cost Index and other adjustments. (Carry over from 2018 Item #3) **(TBD)**
 - B. Planned District recreational facilities – Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM, and PTC Districts. (Board direction for biennial review) **(TBD)**
 - C. Extension of time for special event (**NEW**) – Consider reducing the fee for a special permit under subsection 4102.8.I(1) for a request for a longer period of time than the maximum of 21 days allowed with an administrative permit. (Staff) **(First Tier)**
Completed with adoption of Minor Editorial Revisions Amendment on January 25, 2023.
4. **Contractor’s Office and Shop** – As discussed at the Board’s Land Use Policy Committee meeting of May 17, 2022, staff will review possible zoning changes to permit expanded opportunities for suitable locations for landscape professionals and other contractor’s office and shop, subject to use standards that address the storage of construction vehicles, construction materials, and other impacts. (Board) **(First Tier)**
Working on a survey for publication on the website. Carried over to FY 2024/2025 Work Program as Topic #5.
5. **Fairfax Green Initiatives** – Consider zoning changes that would incentivize and support more environmentally sustainable development (Carry over from 2019 Item #4) **(Monitoring/TBD)**
During FY 2023, staff participated in the development of CECAP and Resilient Fairfax Plans. These plans are in the implementation phase now and may translate into future ZOAs. Renamed Climate Action and Carried Over to FY 2024/2025 as Topic #4.
6. **Historic Overlay Districts/Holmes Run Acres** – Establish a Holmes Run Acres Historic Overlay District with associated design guidelines to preserve and protect its unique architecture, site design, and status on the National Register of Historic Places. (Carry over from 2020 Item #7B) **(Second Tier)**
Removed from Work Program per November 1, 2023, Board Matter.
7. **Landscaping and Screening** – Work with an interagency work group to research and conduct outreach on a review of landscaping and screening provisions. (Planning Commission/Staff – moved from Priority 2 in FY 2022) **(Second Tier)**
Presentation to the Board LUPC on May 16, 2023. Carry over to FY 2024/2025 Work Program as Topic #6.

8. **Outdoor Lighting** – Consider additional zoning provisions to protect dark skies around astronomical facilities. (Carry over from 2020 Item #5) **(First Tier)**
This amendment only applies to properties within a ½ mile radius of the Turner Farm Observatory. A town hall was held on March 24, 2022; background information and draft text for discussion purposes was posted on August 31, 2022, and a second town hall was held on September 17, 2022. Revised text posted February 2023 and third town hall held February 27, 2023. Carried over to FY 2024/2025 Work Program as Topic #8.
9. **Parking Rates** – With consultant services, conduct a comprehensive review and evaluation of parking rates, and other parking and loading issues. (Carry over from 2020 Item #9) **(First Tier)**
On June 27, 2023, the Board authorized advertisement of public hearings – July 26, 2023, Planning Commission and September 26, 2023, Board. Carry over to FY 2024/2025 Work Program as Topic #10.
10. **Sign Ordinance, Part 2** – Review processes and standards for comprehensive sign plans for mixed use or P Districts and special exceptions for an increase in sign area for conventional districts, with emphasis on providing design, size, and location flexibility; and a review of other sign related provisions. (Carry over from 2018 zMOD Item #4) **(First Tier)**
Presentations to the Board LUPC on May 16, 2023. Carry over to FY2024/2025 Work Program as Topic #13.
11. **State Code Changes** – This item is an annual Work Program entry that will address any changes to the Code of Virginia that necessitate a change to the Zoning Ordinance.
 - A. **Agricultural and Related Uses (NEW)** – Review the Zoning Ordinance for consistency with the definitions adopted in Va. Code Sect. 3.2-300. (SB 678) **(TBD)**
Completed with adoption of Minor and Editorial Revisions amendment on January 25, 2023.
12. **zMOD Implementation** – *Recommend deleting this topic and moving ALU/HBB Report for FY 2024 under Topic #1 Reports to the Board.*
 - A. **Minor and Editorial Revisions** – Part 2 of minor revisions and editorial corrections to the new Zoning Ordinance. (Staff) **(First Tier)**
Completed January 2023 along with companion amendments to various chapters of the County Code.
 - B. **Accessory Living Units and Home-Based Businesses** – Monitor and evaluate the provisions for accessory living units and home-based businesses and provide a report in accordance with zMOD Follow-On Motion #1. (Board) **(Monitoring-January 2023)**
Report completed January 23, 2023, with a recommendation to continue monitoring through 2023. Follow up report to the Board in early 2024 with possible recommendations for Board consideration.
 - C. **Readoption of zMOD (NEW)** – On March 23, 2023, the Supreme Court of Virginia issued an opinion in Berry vs. Board of Supervisors (Record No. 211143) finding that the zMOD Ordinance adopted in March 2021 void *ab initio*, leaving the 1978 Zoning Ordinance still

in effect. In addition to petitioning for a rehearing by the Supreme Court, the Board, on April 11, 2023, authorized advertisement of public hearings to repeal the 1978 Zoning Ordinance and readopt the Zoning Ordinance as amended through March 22, 2023.
Completed with Board readoption of the zMOD Ordinance on May 9, 2023.

PROPOSED ZONING ORDINANCE WORK PROGRAM – FYs 2024/2025

Below are the topics proposed to be evaluated as part of the Priority 1 Zoning Ordinance Work Program (ZOWP). Recognizing that Zoning Ordinance amendments often require more than one year to complete, including research and community outreach, the ZOWP is presented for a two-year cycle with annual updates to ensure that the Work Program continues to reflect the Board's priorities. The origin of the amendment topic is noted in (parentheses) below.

Timing for consideration is identified in **(bold)** as:

- Pending – Amendments that have been authorized as of the date of preparation of this Work Program and are proceeding through the public hearing process.
- First Tier – Amendments anticipated to be brought forward for discussion at a Board committee meeting or for authorization within the first six months of Fiscal Year 2024 (by December 2023).
- Second Tier – Amendments to be brought forward in the second half of the fiscal year (by July 2024).
- TBD – Topics that do not have a specific timeframe or are anticipated to be brought forward in FY 2025.
- Monitoring – Topics that include on-going monitoring or participation in task forces that may lead to potential Zoning Ordinance amendments.

* See the attached table for a graphic depicting anticipated timing

1. Reports to the Board

- A. Accessory Living Units and Home-Based Businesses – Continue to monitor and evaluate the provisions for accessory living units and home-based businesses as a follow up to the January 2023 report to the Board. (Board/Staff) **(Monitoring-January/February 2024)**
- B. Data Centers **(NEW)** – Prepare a report with findings and recommendations regarding Apotential environmental issues, mitigations and industry advances; locational guidelines regarding siting of data centers and potential approval processes and where any new guidelines should be located including the Zoning Ordinance and/or Comprehensive Plan. (May 9, 2023 Board Matter) **(First Tier)**

2. Affordable Housing Initiatives

- A. Consider zoning changes to support new affordable housing initiatives and land use policies, including strategies to incentivize preservation of existing manufactured home communities through a review of use standards and bulk regulations as part of the Manufactured Housing Task Force (Affordable Housing Preservation Task Force Recommendation MH7). (Carry over from 2018 Item #8C and Board motion April 13, 2021) **(Monitoring)**
- B. **(NEW)** – Consider zoning changes to facilitate adaptive reuse of vacant and underutilized commercial and industrial buildings to provide shelter, services and permanent supportive housing to people who are unhoused. (December 6, 2022, Board Matter) **(Second Tier)**

3. Application Fees

- A. Cost of living – Consider an overall cost of living increase in accordance with the Construction Cost Index and other adjustments. (Carry over from 2018 Item #3) **(TBD)**

- B. Planned District recreational facilities – Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM, and PTC Districts. (Board direction for biennial review) **(TBD)**

- 4. **Climate Action and Resiliency Initiatives (Previously Green Initiatives)** – Consider zoning changes that would incentivize and encourage more environmentally sustainable development to support implementation of the Community-wide Energy and Climate Action Plan (CECAP) and Resilient Fairfax. (Carry over from 2019 Item #4 with updated description for FY 2024/2025 Work Program) **(Monitoring/TBD)**

- 5. **Contractor’s Office and Shop** – As discussed at the Board’s Land Use Policy Committee meeting of May 17, 2022, staff will review possible zoning changes to permit expanded opportunities for suitable locations for landscape professionals and other contractor’s office and shop, subject to use standards that address the storage of construction vehicles, construction materials, and other impacts. (Board) **(Second Tier)**

- 6. **Landscaping and Screening** – Work with an interagency work group to research and conduct outreach on a review of landscaping and screening provisions. (Planning Commission/Staff – moved from Priority 2 in FY 2022) **(First Tier)**

- 7. **Minor and/or Editorial Revisions (Previously State Code Changes and zMOD Implementation)** – This item is an ongoing Work Program entry that will address changes to the Code of Virginia that necessitate a change to the Zoning Ordinance or other minor and editorial revisions that are limited in scope and more administrative in nature. **(Monitoring)**
 - A. **(NEW)** Consider updates to timing of published notices in the newspaper for public hearings based on Senate Bill (SB 1151) which contains changes to notice provisions recommended by the Virginia Code Commission. (Staff) **(Second Tier)**

 - B. **(NEW)** Update Board of Zoning Appeals (BZA) membership to recognize that BZA may have up to three alternative members in addition to seven permanent members – a number capped by State Code. (zMOD Readoption Follow-On Motion) **(Second Tier)**

 - C. **(NEW)** Consider adding checklist for minimum wastewater information to the submission requirements for Rezoning, Special Exception, Special Permit and Development Plan Applications. (DPWES staff) **(TBD)**

- 8. **Outdoor Lighting** – Consider additional zoning provisions to protect dark skies around astronomical facilities. (Carry over from 2020 Item #5) **(First Tier)**

- 9. **Outdoor Dining** – Consider ways to allow continuation of outdoor dining permitted in parking areas during the Covid Emergency (Board – Moved from FY 2023/2024 Item #1) **(First Tier)**

- 10. **Parking Rates** – With consultant services, conduct a comprehensive review and evaluation of parking rates, and other parking and loading issues. (Carry over from 2020 Item #9) **(Pending)**

11. **PRC Plan Exceptions (NEW)** – Review the exceptions for when a PRC Plan or amendment to a PRC Plan may be required and consider expanding the types of minor improvements that would not require a PRC Plan submission, particularly as they relate to open space or community facilities (zMOD Readoption Follow-On Motion) **(Second Tier)**.
12. **Short-Term Pop-Up Events and Longer-Term Interim Uses** – Evaluate current zoning regulations for 21-day administrative temporary permit uses and longer-term interim uses and consider ways to increase flexibility and remove unnecessary impediments and time limits. (Board Matter May 24, 2022, Carry Over from FY 2023/2024 Work Program Topic #1) **(Second Tier)**
13. **Sign Ordinance, Part 2** – Review processes and standards for comprehensive sign plans for mixed use or Planned Districts and special exceptions for an increase in sign area for conventional districts, with emphasis on providing design, size, and location flexibility; and a review of other sign related provisions. (Carry over from 2018 zMOD Item #4) **(First Tier)**

**ZONING ORDINANCE WORK PROGRAM (ZOWP)
PRIORITY 2**

The following abbreviations are used in this document:

ARB - Architectural Review Board

BOS - Board of Supervisors

BZA - Board of Zoning Appeals

BPR - Business Process Redesign

DPWES - Department of Public Works and Environmental Services

EIP - Environmental Improvement Program

EAC - Fairfax County Economic Advisory Commission

HCAB - Fairfax County Health Care Advisory Board

PC - Planning Commission

TOPIC	SOURCE (Year Item Added to Work Program)	KEEP ✓ ADD + REMOVE X	NOTES
ACCESSORY USES AND STRUCTURES			
1. Comprehensive review of accessory uses and structures, to include consideration of issues such as:			
A. Modify the accessory structure location provisions to require a freestanding wind turbine structure to be setback a distance equal to its height from all property lines.	BOS (2009)	X	More restrictive than the current requirements and no action for 15 years.
B. Review the allowable placement of roll-off debris containers/dumpsters in residential districts during home improvement projects.	BOS (2004/moved to Priority 2 in 2010)	X	Staff treats this use like shipping containers under subsection 4102.7.A(12) of the Zoning Ordinance and they are not permitted except during construction with an active building permit. No action for over 10 years.
C. Consider establishing a minimum distance a fence can be located from a pipestem driveway.	Staff (2014)	X	The height of fences are regulated but not location except to ensure sight distance on a corner lot. As proposed,

TOPIC	SOURCE (Year Item Added to Work Program)	KEEP ✓ ADD + REMOVE X	NOTES
			this would create additional restrictions for pipestem lots. No action for 10 years.
2. Review the fence height allowed for substations and wireless facility approved with a special exception.	Staff (New)	+	By interpretation staff has permitted fencing to be considered as part of the facility and since the facility is exempt from Zoning Ordinance bulk regulations fences have been allowed to exceed the Zoning Ordinance height limits.
3. Consider adding standards for the review of accessory structures on residential lots larger than 36,000 square feet.	Staff (New)	+	Staff reviews accessory structures for larger lots on a case-by-case basis to determine if they meet the provisions of subsection 4102.7.A . For lots under 36,000 square feet, accessory structures are limited to 50 percent of the gross floor area of the dwelling unit. Staff proposes to further study this issue to consider the establishment of specific use standards on the size of accessory structures for larger lots.
GENERAL REGULATIONS			
4. Consider revising the cluster provisions to delete the bonus density option.	General Assembly (2007)	X	The Zoning Ordinance was amended in 2004 to address State Code mandate to provide bonus density for cluster subdivisions. In 2007 the General Assembly restored a local option for providing density bonus. Maintaining the bonus option can incentivize cluster

TOPIC	SOURCE (Year Item Added to Work Program)	KEEP ✓ ADD + REMOVE X	NOTES
			subdivisions which help preserve open space. No action for over 10 years.
5. Consider allowing administrative approval for an error in building height (similar to error in building location) for small modifications to building height for new construction.	Industry/BZA (2018)	X	New construction should be able to meet the height restrictions and a variance is an option if height is exceeded. No action for over 5 years.
6. Review the definition of gross floor area to consider including cellar space in all districts consistent with the PDC, PRM, and PTC Districts.	Staff (2022)	✓	To provide consistency in the definition of gross floor area for all zoning districts staff recommends that this item be retained.
7. District Regulation Interpretations – Consider allowing the transfer of allowable density or gross floor area from parcels located within an identified sending area to parcels located within an identified receiving area.	BOS (2007)	X	No action for over 15 years.
8. Exempt floor area used for public use from the density calculations on a property.	Economic Success Plan (2017)	X	Public uses are allowed in every zoning district; however, they are subject to the FAR and setbacks of the zoning district. If a public use needs to exceed the permitted FAR a rezoning could be requested, if located in an R-Districts or PDH Districts. No action for over 5 years.
9. Lot and Yard Regulations – Consider revising the provisions of lots contiguous to pipestem driveways to remove the language “serving more than one pipestem lot.”	Staff (2014)	X	Subsection 5100.2.L(2) regulates yards adjacent to pipestem driveways and requires a 25-foot setback if the pipestem serves more than one lot. Removing the language would require the 25-foot setback for any pipestem driveway and

TOPIC	SOURCE (Year Item Added to Work Program)	KEEP ✓ ADD + REMOVE X	NOTES
			further restrict location of structures. No action for 10 years.
10. Use and Structure Regulations – Consider the following:			
A. Consider revising the maximum number of horses that may be maintained on a lot.	No. Va. Soil & Water Conservation District (2009)	✓	Due to recent changes to the state code the Zoning Ordinance was updated for horses to be considered livestock on properties 7 acres and larger without restrictions. Currently 3 horses per acre are permitted on sites between 2 and 7 acres. Northern Va. Soil and Water Conservation District staff has advised staff that 1 horse per acre is a more appropriate number. Staff recommends that this item be retained.
B. Consider revising the permissions for personal service establishments to be allowed in the C-1 through C-4 Districts.	Staff (New)	+	These uses are permitted if considered an associated service use in accordance with subsection 4102.1.G of the Zoning Ordinance. However, the use standards require that the use serve primarily the tenants of the building in which located which can otherwise limit the establishment of this use in the office districts.
C. Review the provisions for accessory retail sales with warehouse uses.	Staff (New)	+	Subsection 4102.6.D permits accessory retail sales are allowed for warehouses in the I-4, I-5 and I-6 District from a range of 25 to 60 percent. Retail sales are not allowed for this use in the I-3 District. Staff recommends these limits

TOPIC	SOURCE (Year Item Added to Work Program)	KEEP ✓ ADD + REMOVE X	NOTES
			be further studied.
11. Review regulations related to sports arenas and stadiums	Staff/BOS (1993)	X	This use is permitted only by special exception or through an entitlement process, but there are no specific use standards. No action for 30 years.
12. Review the definition of a shopping center to include the first floor of a mixed-use building.	Staff (New)	+	By interpretation staff has considered the first-floor retail in a mixed-use building as a shopping center for the purpose of determining required parking, and recommends clarifying the definition for consistency
HOUSING			
13. Consider the following revisions to the Affordable Dwelling Unit (ADU) program:			
A. Clarify subsection 5101.8.C(2) to indicate that resales can be sold to nonprofits pursuant to the guidelines for new units.	Staff (2009)	X	Staff recommends items A-F be removed from the Priority 2 ZOWP and replaced with item #14.
B. Increase the closing cost allowance from 1.5% of the sales price to either the actual closing costs or up to 3%, whichever is less.	Staff (2009)	X	
C. For resales, allow 3% of closing costs to be part of the sales price so that applicants can apply for closing costs assistance.	Staff (2009)	X	
D. Establish a for-sale ADU pricing schedule to include the renovation and/or preservation of existing units and condominium conversions.	Staff (2004)	X	

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E. Consider requiring an ADU bedroom mix of 50% one-bedroom units and 50% two-bedroom units for independent living facilities.	Staff (2007)	X	
F. Determine whether inheritance laws affect the retention of an ADU within the ADU Program in the event of the death of an ADU owner, and if so, whether an amendment is necessary.	Staff (2006)	X	
G. Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception.	Staff (2011)	X	Priority 1 ZOWP includes considering zoning changes to support new affordable housing initiatives and land use policies and this item could be part of that initiative.
H. Review the ADU program exemptions set forth in subsection 5101.3 that exclude certain types of developments from the ADU requirements.	Fair Housing Action Plan (2018)	X	The Workforce Dwelling Unit policy applies to all construction types and with the 2021 update that lowered the Area Medium Income (AMI) for rental units more affordable housing is being provided at levels comparable to the ADU ordinance.
I. Evaluate the definitions of Affordable Housing and Affordable Dwelling Unit Development in Article 9 to determine whether current income thresholds are appropriate or if they should be aligned with the definitions used by Housing and Urban Development (HUD).	Fair Housing Action Plan (2018)	X	The definitions in Article 9 do not require an income threshold and this should be studied as part of item #14.
14. In coordination with the Department of Housing and Community Development (HCD), consider the removal of the administrative requirements for ADUs related to resales, closing cost allowances, bedroom mix, income thresholds and other administrative	Staff (New)	+	Moving administrative language out of the Zoning Ordinance and establishing separate guidelines will make it easier for Redevelopment Housing Authority

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provisions from the Zoning Ordinance and establish them as administrative guidelines approved and amended by the Redevelopment and Housing Authority (RHA).			and Housing and Community Development to update as necessary.
15. Other Housing Policies – Consider increasing the number of persons with disabilities permitted in a group residential facility from eight to 12 by right; consider use of a special permit process or other type of reasonable accommodation process to permit more than 12 people with disabilities in a community residence and decrease application fees associated with these types of applications.	Fair Housing Action Plan (2018)	X	Group residential facilities for up to eight people are permitted by right in a dwelling unit as required by State Code 15.2-2291. Facilities with more than eight residents or that do not meet the definition of Group Residential Facility are permitted with Special Exception approval as a Congregate Living Facility.
16. Residential Studios – Establish a new use and associated use standards for an affordable housing product generally designed for one person per unit.	BOS (2015)	X	No action for over 5 years. Other housing initiatives are addressing permanent supportive housing. See Item #2 on proposed FY 2024/2025 Work Program.
OPEN SPACE AND CLIMATE INITIATIVES			
17. Climate Action and Resiliency Initiatives – Consider zoning changes requiring greater setbacks for proposed construction in areas influenced by tidal flooding. In addition, establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception, and public uses in the R-C District; review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed	BOS Environmental Committee/New Millennium Occoquan Task Force/EAC (Tidal flooding setbacks – 2009; Advisory committee –	✓	Regardless of the time this item has been on the Priority 2 ZOWP staff recommends this item remain due to Board priorities related to climate initiatives.

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for special permit, special exception, and public uses in the Occoquan watershed.	2013/moved to Priority 2 in 2014)		
18. Review of the open space provisions to include:			
A. Exempt either all or part of stormwater management dry pond facilities from the open space calculations.	Infill Study/EIP/Staff (2001)	✓	Regardless of the time these items have been on the Priority 2 ZOWP staff recommends that they remain and be monitored as part of Resilient Fairfax and to reflect Boards' priorities related to open space.
B. Provide open space credit for innovative BMPs but not for non-innovative BMPs	Infill Study/EIP/Staff (2001)	✓	
C. Develop a consistent approach to open space as it relates to various existing and proposed elements of the Comprehensive Plan.	Infill Study/EIP/Staff (2001)	✓	
D. Review the general open space provisions to clarify that open space is only intended for land that is dedicated or conveyed without monetary compensation.	Infill Study/EIP/Staff (1986)	✓	
OVERLAY DISTRICTS			
19. Airport Protection Overlay District - Establish an Airport Protection Zoning Overlay District for Dulles International Airport, Ronald Reagan National Airport, and Davison Airfield regarding maximum structure height.	General Assembly 1989	✓	Added in 1998. Additional research is required. Note: There is Comprehensive Plan guidance in the Area Plan Overview for Allowable Height of Structures in the Vicinity of Dulles Airport 2017 Comprehensive Plan - Area Plan Overview (fairfaxcounty.gov)

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21. Historic Overlay Districts/Historic Structures			
A. Laurel Hill – Establish Historic Overlay District as anticipated by the 2001 Memorandum of Agreement (MOA) between Fairfax County and the federal government for the former Lorton Correctional Complex.	BOS/Staff (2002)	✓	Establishment of a Historic Overlay District (HOD) is anticipated as part of the MOA and staff recommends that this item be retained.
B. Require all demolition permits for structures listed on the County Inventory of Historic Places to be reviewed by the History Commission prior to the issuance of the permit.	History Commission (2005)	✓	The Planning Division heritage resource staff recommended that this item be retained.
C. Establish an historic overlay district for Mason Neck.	BOS (1992)	X	The Planning Division Heritage Resource staff previously explored this HOD with the community and there was a lack of support. No action for over 30 years.
PARKING			
22. Consider the following revisions to vehicle parking on lots with single-family detached dwellings:			
A. Limit the amount of pavement for driveways and parking in the R-5 and R-8 Districts.	Staff (2009)	X	Parking Reimagined considered these topics and elected not to pursue additional restrictions. Existing rear yard coverage limitations would be applicable.
B. Limit parking for all vehicles or trailers to the front yard and only on a paved surface.	Staff (2014)	X	
23. Regulate the maximum size of personal vehicles that are permitted to park in a residential district.	Staff (2017)	X	
24. Consider the establishment of pathway connections between rights-of-way and on-site bicycle/pedestrian pathways.	Staff (2018)	X	Parking Reimagined is proposing requirement for a pedestrian route in parking lots that connects the business

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			with the sidewalk.
PERFORMANCE STANDARDS			
25. Review the earthborn vibration performance standards .	Staff (2004)	X	No action for 20 years.
PLANNED DEVELOPMENT DISTRICTS			
26. Consider the following revisions to the Planned Development Districts:			
A. Review minimum lot size and open space requirements, and density credit for RPAs, streams and floodplains; review permitted secondary commercial uses in the PDH District and consider increasing amount of commercial uses permitted; allow the Planning Commission to waive the 200 square foot privacy yard for single family attached dwellings as part of FDP approvals; consider revising the 600 foot limit on private streets; and consider changes to the PRM/PDC District regulations related to mixed use districts.	Infill Study/EIP/ EAC/PC/Staff (2012/2017/ 2018)	✓	To be retained for possible future study.
B. Reston PRC District Density Provisions	BOS (2019)	X	The Board elected to not to move forward with this amendment in 2019.
SHORT-TERM LODGING			
27. Consider the following revisions relating to Short-Term Lodging:			

TOPIC	SOURCE (Year Item Added to Work Program)	KEEP ✓ ADD + REMOVE X	NOTES
A. Commercially Operated – Consider changes that would permit new multifamily dwelling unit developments to provide units on a short-term basis for a limited percentage of the units and over a limited period of time during lease-up period; consider allowing multifamily buildings to offer a small percentage of the total unit count as short term rentals that are commercially managed.	BOS (2018/moved to Priority 2 in 2022)	✓	This item was recently added and should be retained for future study.
B. Consider specifically adding Short-Term Lodging to the types of violations that are subject to a 10 day versus 30 day timeline for filing an appeal application.	Staff/BZA	+	Currently violations relating to Short-Term Lodging are provided a 10-day appeal period based on subsection 8100.10.A(2)(b)(7) which allows other non-specified short-term, recurring violations to be subject to a 10-day appeal period.
SPECIAL EXCEPTIONS			
28. Light Utility Facility Uses – Consider revisions to strengthen the additional standards for these uses and add provisions to protect adjacent residential uses.	Staff (2018)	✓	This subsection was updated as part of zMOD, but additional editorial revisions to the definition and standards may be considered.
29. Consider establishing Country Inn as a new special exception use in the R-C, R-E, and R-1 Districts with appropriate acreage and standards.	BOS/Staff (2020)	X	Staff explored this option with the agritourism amendment and it did not receive support from the community or Board.
SPECIAL PERMITS			

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30. Consider allowing BZA to modify or waive general standards when uses are proposed for existing structures and/or lots.	BPR (1993)	X	Given the length of time these items have been on the work program without action, staff recommends that they be removed.
31. Consider deletion of requirement for extension requests to be submitted 30 days prior to an expiration date, consistent with renewal requests.	Staff (1993)	X	
32. Extraction Activity Uses - Consider expanding the number of property owners requiring notification for the renewal of a special permit for a quarry; and revise the blasting vibration maximum resultant peak particle velocity to be consistent with state regulation 4VAC25-40-880.	BOS/PC (2007 – 1 st part 2016 – 2 nd part)	X	
SUBMISSION REQUIREMENTS			
33. Revise submission requirements to include identification of heritage resources; and consider expanding the archaeological survey submission requirements to be applicable to all zoning applications and not only those applications located in Historic Overlay Districts.	BOS/PC (2007)	X	Since 2007, staff has implemented a more formal pre-application review process which include staff from the Park Authority and Heritage Resources. These staff review and provide comments to applicants on potential Heritage and Archaeological resources prior to application submission. Therefore, staff recommends this item be removed.
34. Consider adding an environmental site assessment submission requirement for site plans and certain zoning applications.	General Assembly (2007)	X	This is not a mandate and given the length of time this item has been on the work program without action, staff recommends that this item be removed.

Zoning Ordinance Work Program - Estimated Timelines

Zoning Ordinance Amendments		FY2024				FY2025			
WP#	Topic	1	2	3	4	1	2	3	4
1A	Report to the Board – Accessory Living Units and Home-Based Businesses								
1B	Report to the Board – Data Centers								
2A	Affordable Housing Initiatives – General								
2B	Affordable Housing Initiatives – Adaptive Reuse and Permanent Supportive Housing								
3A	Application Fees – Cost of Living								
3B	P District Recreational Facilities								
4	Climate Action and Resiliency (Previously Green Initiatives)								
5	Contractor's Office and Shop								
6	Landscaping and Screening								
7A	Minor and/or Editorial Revisions – Public Notice (SB 1151)								
7B	Minor and/or Editorial Revisions – BZA Membership								
7C	Minor and/or Editorial Revisions – Wastewater Checklist								
8	Outdoor Lighting								
9	Outdoor Dining								
10	Parking Rates								
11	PRC Plan Exception								
12	Short-Term Pop-Up and Longer-Term Interim Events								
13	Sign Ordinance, Part 2								

Key:

	Background/research/outreach
	Brought forward for Board LUPC or authorization and continuing work extending to public hearing phase
	Issue report/memorandum
	TBD