



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** May 2, 2017

**TO:** Development Process Committee  
Supervisor Kathy L. Smith, Chairman

**FROM:** Leslie B. Johnson *LBJ*  
Zoning Administrator

**SUBJECT:** **Proposed 2017 Zoning Ordinance Amendment Work Program**  
**Development Process Committee – May 9, 2017 at 3:00 p.m.**

### Introduction

The Development Process Committee will be meeting on May 9, 2017 to review and comment on the proposed 2017 Zoning Ordinance Amendment Work Program (ZOAWP). The proposed 2017 ZOAWP was presented to the Planning Commission's Policy and Procedures Committee, at which time the committee voted to send the proposal to the full Commission for a vote to forward it to the Board of Supervisors with their recommendation. The Planning Commission action is scheduled for May 4, 2017. The following documents are attached to facilitate the discussion of the proposed 2017 ZOAWP:

Attachment 1 – Status Table for the 2016 Priority 1 ZOAWP

Attachment 2 – Proposed 2017 Priority 1 ZOAWP Summary Table

Attachment 3 – Proposed 2017 Priority 1 ZOAWP Narrative

Attachment 4 – New Amendment Requests (requests that have been suggested subsequent to approval of the 2016 ZOAWP)

Attachment 5 – Proposed 2017 Priority 2 Work Program Amendments

The ZOAWP, originally initiated in 1983, outlines requested changes to the Zoning Ordinance, which requests originate from a variety of sources, including the Board of Supervisors (Board), Planning Commission, Board of Zoning Appeals (BZA), citizens, industry representatives, and staff. The proposed 2017 ZOAWP includes changes that vary in scope from major reviews of specific portions of the Zoning Ordinance; to the addition of provisions to accommodate new concepts, zoning districts and/or uses; to minor changes of a clarifying nature or of limited impact.

The 2017 ZOAWP is somewhat unique this year in that there is a parallel effort to modernize the Zoning Ordinance, referred to as the zMOD project. On March 28, 2017, staff presented to the Board's Development Process Committee an overview of the first phase of the zMOD project as proposed by staff based on information and direction received during meetings with individual Board members and the Planning Commission that were held in early March 2017. Staff's recommendations for the first phase of the zMOD project was endorsed by the Development Process Committee and includes three major components:

- Re-formatting/restructuring the Zoning Ordinance
- Processing of prioritized amendments of county-wide priority
- Implementing process improvements related to processing of amendments and other zoning related activities

The zMOD project also contemplates the use of consultant services to assist staff, in particular for the reformatting and restructuring of the Zoning Ordinance and for certain topic specific amendments such as signs or parking. Staff has completed the Request for Proposals (RFP) for consultant services and is proceeding through the County's procurement process. It is intended that the zMOD project will be integrated with, but not replace the ZOAWP. For example, process improvements relating to authorization and advertising of amendments, as well as strategies for communication and stakeholder outreach will be utilized for both zMOD and the ZOAWP. Therefore, the 2017 ZOAWP reflects both the priorities for the zMOD project and for the other prioritized amendments identified in the 2017 Priority 1 ZOAWP.

#### **Status of the 2016 Priority 1 Work Program (Attachment 1)**

On July 12, 2016, the Board of Supervisors (Board) approved 31 items for the 2016 Priority 1 ZOAWP. Subsequent to the approval of the 2016 Priority 1 ZOAWP, the Board directed staff to add two additional amendments to Priority 1 status, for a total of 33 amendments. Since July 12, 2016, the Board has adopted 14 amendments that were either included on the 2016 Priority 1 Work Program as adopted or were added to it subsequent to its adoption. Among the most notable amendments were the shape factor in the R-C District, farm wineries/breweries/distilleries, commercial vehicles in residential districts, and craft beverage production establishments. In addition, 2016 ZOAWP Item 16, P District Recreation Fees, and a new item regarding PRM District Final Development Plans are anticipated to be authorized prior to the Board's adoption of the 2017 ZOAWP. The two new amendments are highlighted on the status table. Staff believes that the adoption or authorization of 16 items from the 2016 ZOAWP reflects a successful year with regard to the quality and overall number of amendments that were adopted and/or authorized.

#### **Proposed 2017 Priority 1 Zoning Ordinance Amendment Work Program (Attachments 2 and 3)**

Attachment 2 provides a summary table of the amendments that will be covered under the first phase of the zMOD project and the proposed 2017 Priority 1 ZOAWP amendments. Attachment 3 provides for a more detailed description of these zMOD/2017 Priority 1 amendments. The proposed 2017 Priority 1 ZOAWP contains 14 main subject areas, but reflects a total of 39 amendment topics under these subject areas. For several of the subject areas, the issue is broken down into more specific topics that are all related to the main subject, but reflect different provisions governed by the Zoning Ordinance. For example, the Agricultural District and Uses

subject area (Item #1 on the 2017 ZOAWP) comprises six individual topics for consideration, which range from agritourism uses, to gardening as an accessory use to a dwelling, to industrial composting. Similarly, the Editorial and Minor Revisions subject area (Item #14) consists of twelve completely different topic areas that are all editorial/minor in nature, but are completely unrelated to one another. Of the 39 individual topic areas, 18 are new and the remaining items have been carried over from the 2016 Priority 1 list. A number of items from the 2016 Priority 1 list have been included in the zMOD project, as noted in Attachment 1.

Historically, the Work Program has included timing recommendations in terms of specific months or quarters. In light of the dual tracks of the zMOD project and the 2017 ZOAWP, staff is proposing to identify on the 2017 Priority 1 ZOAWP those items that would be brought forward for authorization during either the first half of the fiscal year covered by the Work Program (“First Tier”) or in the second half of the fiscal year (“Second Tier.”) Additionally, there are a number of editorial and minor changes that can be developed alongside the larger amendments and could either be incorporated into a larger amendment or coupled with other editorial/minor revisions and brought forward as time permits. The timing of those items has been labeled as “To Be Determined” or “TBD.” Of the 39 topic areas on Priority 1, 17 items have been grouped in the First Tier, 10 items have been grouped in the Second Tier, and the remaining 12 items have been identified as To Be Determined (TBD). The proposed Priority 1 list of amendments recognizes the time and resource commitments required for the parallel tract of the zMOD project and also reflects that some of the pending amendments are currently well under way in terms of staff review and the anticipated timing of authorization within the last half of 2017.

With regard to the Priority 1 items, the first amendments staff is proposing to consider are the Agricultural District and Use subject area to include community gardens/urban agriculture (#1a), sales/distribution of garden/farm products (#1b), and agritourism uses (#1c); the Older Adult Housing subject areas of Continuing Care Communities (#2a) and Adult Day Health Care (#2b); and the State Code subject area of Short-Term Rentals (#8a) and Small Cell Telecommunications Facilities (8b). These amendments are in addition to the Parking related provisions (#3a-c), P-District Recreation Fees (#4), PRC District Density (#5), PRM District Final Development Plan (#6), and the Rear Yard Coverage (#7a-c) amendments that are currently underway. *(NOTE: Numbers in parenthesis correspond to the numbering used in Attachment 3.)*

The **Agricultural Districts and Uses** amendment was on the 2016 ZOAWP as Priority 1 item. The Board adopted an amendment related to farm wineries/breweries/distilleries in 2016, but a number of other issues related to agriculture still need to be addressed. As part of the 2017 ZOAWP, staff has identified additional topic areas and is proposing to first address community gardens/urban agriculture (#1a), sales/ distribution of garden/farm products (#1b), and agritourism uses (#1c). These topic areas were identified through a number of sources, including the County’s Live Healthy Fairfax initiatives, the Fairfax Food Council initiatives; the Partnership for a Healthier Fairfax initiatives; increasing interest in community gardens, the expansion of farmers’ markets in the County, and a general desire to clarify and update existing Zoning Ordinance provisions that would accommodate these uses and/or structures. Additionally, the State Code includes provisions regarding agritourism uses, which need to be better reflected in the provisions of the Zoning Ordinance in terms of land use impacts and

how/where such uses may be allowed. Staff has begun meeting with these groups to identify issues.

The **Continuing Care Community (CCC)** amendment (#2a) is a Board initiative that arose from the recommendations of the 50+ Plan. Under the current regulations, the Zoning Ordinance does not provide for a use that incorporates all elements of a CCC, which typically includes independent living, assisted living, adult day care, nursing/memory/hospice care, medical care uses, medical offices and an assortment of ancillary uses, such as retail sales, restaurants and recreation uses. The existing regulations do not adequately address the continuing care concept in terms of density/intensity implications, mix of services, and providing a percentage of affordable units, given the high costs associated with providing services to the occupants. Staff will be evaluating a number of options to address this topic, including potentially creating a new planned development district to establish a CCC that offers a broad spectrum of opportunities for lodging/board, as well as on-site care and other services. Adult day care services (#2b) would likely also be addressed as part of this amendment.

The final of the first tier amendment topics staff is proposing for the first priority of 2017 relates to **Short-Term Rentals** (#8a). Short-term rentals involve the type of home sharing or renting provided for under on-line platforms such as Airbnb, HomeAway, Roomorama, VRBO, and other similar businesses. The short-term rental topic was considered during the 2017 General Assembly session and resulted in a change to the State Code that allowed local jurisdictions to enact a registry and require operators of a short-term rental business to register annually. The Code provisions permit a locality to regulate short-term rentals in any manner consistent with its general land use and zoning authority. The Board authorized the establishment of a work group to begin review of this topic and provide recommendations to the BOS.

#### **New Requests (Attachment 4)**

Staff receives various requests for consideration of additional amendments throughout the course of a yearly ZOAWP. The suggestions/requests come from a variety of sources, including the Board, Planning Commission, BZA, county staff, formal boards/authorities/committees/etc., members of industry and citizens. Attachment 4 sets forth the new requests that were received between July 2016 and April 2017, with notations as to the affected provisions and the source of the request. Staff used this list in conjunction with the carry-over items from the 2016 ZOAWP to determine each items' grouping in terms of the 2017 ZOAWP or for inclusion in the zMOD project.

#### **Proposed 2017 Priority 2 Work Program (Attachment 5)**

Staff is proposing to add five items from the recommended New Amendments list set forth in Attachment 4 to the Priority 2 Amendments list. The Priority 2 list includes those amendments that will likely not be addressed in the fiscal year covered by the 2017 ZOAWP, but will be retained for future Priority 1 consideration. As noted on Priority 2, there are a number of items on the list that could be considered as part of a future phase of the zMOD project, including uses/definitions, suggested clarifications/ simplifications, and provisions related accessory uses/structures. The five new items added to the Priority 2 list for 2017 are:

1. Off-leash dog parks.
2. Density Credit for public use
3. Limitations of the size of food and beverage production facilities in the I-4 District.
4. Limit the maximum size of personal vehicles parking in residential districts.
5. Revise the 600 foot limit on the maximum length of a private street in a P-District.

### **Conclusion**

The requested changes vary from major reviews of certain portions of the Zoning Ordinance to the addition of new provisions to accommodate new concepts and/or uses and making minor clarifying revisions. As noted, 2017 marks the beginning of the zMOD project, which effort will be jointly led by Leslie Johnson, Zoning Administrator, and Barbara Byron, Director of the Office of Community Revitalization. The joint initiatives of the 2017 ZOAWP and zMOD project propose an ambitious agenda that will enable the County to bring forward a more modern Zoning Ordinance that will meet the current and future needs of the County's business community and its citizens. Staff will be present at the Committee meeting on May 9, 2017 to discuss the proposed 2017 ZOAWP and to respond to any questions.

cc: Edward L. Long, Sr., County Executive  
Robert A. Stalzer, Deputy County Executive  
Patricia D. Harrison, Deputy County Executive  
Elizabeth Teare, County Attorney  
Fred Selden, Director, DPZ  
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James Patteson, Director, DPWES  
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Jill Cooper, Executive Director, Planning Commission  
Tracy Strunk, Acting Director, Zoning Evaluation Division, DPZ  
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Lorrie Kirst, Senior Deputy Zoning Administrator, DPZ  
Andrew Hushour, Deputy Zoning Administrator, DPZ  
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## 2016 Priority 1 Zoning Ordinance Amendment Work Program Status –May 9, 2017

Adopted Amendments	Authorized Amendments	Amendments Being Researched	Tier
Agricultural Districts and Uses (farm winery/brewery/distillery uses) - <i>Adopted 12/6/2016</i>	P-District Recreation Fees (4)*	Accessory Structure Size (9)	Second
Building Height - <i>Adopted 9/20/2016</i>		Adult Day Health Care (2)	First
Citations for Nursery Schools, Child Care Centers, Veterinary Hospitals - <i>Adopted 10/18/2016</i>	<b>New</b> - PRM District-Final Development Plan (6)*	Agricultural Districts and Uses (1)	First/Second
<b>New</b> - Commercial Recreation Uses in PDH - <i>Adopted 2/28/2017</i>		Application Fees (10)	Second
Commercial Vehicles in Residential Districts <i>Adopted 4/4/2017</i>	*Amendment is anticipated to be authorized in May 2017.	Building Repositioning Initiative (zMOD)	zMOD Project
Food and Beverage Processing and Production (craft beverages) <i>Adopted 2/28/2017</i>		College/University (zMOD)	zMOD Project
Minor Lot Line Adjustments - <i>Adopted 9/20/2016</i>		Commercial Revitalization (zMOD)	zMOD Project
PTC District Amendments - <i>Adopted 3/14/2017</i>		Review Certain SE Uses as By-Right	
Public Use Definition - <i>Adopted 10/18/2016</i>		Laurel Hill Historic Overlay District (11)	Second
Riding Lessons as a Home Occupation - <i>Adopted 2/14/2017</i>		Minor Modification Provisions (zMOD)	zMOD Project
Shape Factor in the R-C District - <i>Adopted 9/20/2016</i>		Older Adult Housing (2)	First/Second
Special Permit Submission Requirements <i>Adopted 10/18/2016</i>		Outdoor Lighting (12)	Second
State Code - Variance Provisions - <i>Adopted 10/18/2016</i>		Parking (3)	First/Second
State Code –Telecom Facilities: Monopoles/Towers <i>Adopted 6/21/2016</i>		Reduction Process; Parking Reductions/ Maximums Outside of Tysons; Other Parking-Related Provisions	
		PRC District Density (5)	First
		Rear Yard Coverage (7)	First
		Retail Initiative (zMOD)	zMOD Project
		Sign Ordinance (zMOD)	zMOD Project
		Phase 1- content neutrality Phase 2- size, height, location and design	
		Zoning Ordinance Diagnostic (zMOD)	zMOD Project
<b>Total Adopted: 14</b>	<b>Authorized: 2</b>	<b>Total Outstanding: 17</b>	
<b>TOTAL AMENDMENTS: 33</b>			

- Highlighted items indicated amendments added after endorsement of the 2016 ZOAWP
- Number in parentheses (#) indicates item number on DRAFT 2017 ZOAWP Priority 1

**PROPOSED PRIORITY 1  
2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM**

<b>ZONING ORDINANCE MODERNIZATION (zMOD) PROJECT INITIATIVES</b>			
<b>Origin</b>	<b>#</b>	<b>Amendment Topic</b>	
New	1	Re-format and restructure provisions	
2016 ZOAWP and New	2	Minor Modification Provisions	
New	3	Use Categories	
New	4	PDH District Regulations	
2016 ZOAWP	5	Sign Ordinance	
2016 ZOAWP	6	Building Repositioning/Repurposing	
<b>2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM</b>			
<i>NOTE: Under the <b>Tier</b> column, “First” is a timing reference that indicates an intent to seek authorization by the Board within the first half of Fiscal Year (FY) 2018 and “Second” would occur in the second half of FY2018. For a detailed description of each amendment, See ZOAWP Priority 1 Narrative</i>			
<b>Origin</b>	<b>#</b>	<b>Amendment Topic</b>	<b>Tier</b>
2016 ZOAWP	1	Agricultural Districts and Uses (2017 adds new topic specificity)	First/Second
2016 ZOAWP and New	2	Older Adult Accommodations and Services (2017 adds new topic specificity to include Continuing Care Community, adult day health care, and other changes identified in the 50+ Plan)	First/Second
2016 ZOAWP	3	Parking – Parking Maximums or Reduced Requirements Outside of Tysons; Parking Reduction Process; Other Parking Provisions (LDS Initiative)	First/Second
2016 ZOAWP	4	P District Recreation Fees ( <i>authorized May 2, 2017</i> )	First
2016 ZOAWP	5	PRC District Density	First
New	6	PRM District – Final Development Plan ( <i>anticipated to be authorized by July 2017</i> )	First
2016 ZOAWP	7	Rear Yard Coverage	First
New	8	State Code Changes: short term rentals, small cell facilities, and other possible changes.	First
2016 ZOAWP	9	Accessory Structure Size	Second
2016 ZOAWP	10	Application Fees	Second
2016 ZOAWP	11	Laurel Hill Historic Overlay District	Second
2016 ZOAWP	12	Outdoor Lighting	Second
New	13	Site Plan Provisions (LDS Initiative)	Second
New	14	Editorial and Minor Revisions (itemized in Priority 1 Narrative)	Timing TBD



**PROPOSED 2017 PRIORITY 1  
ZONING ORDINANCE AMENDMENT WORK PROGRAM  
Narrative and Recommended Timing**

Below is an alphabetical list and description of the amendments proposed to be evaluated as part of the Priority 1 amendments identified in the 2017 Zoning Ordinance Amendment Work Program (ZOAWP). Timing for consideration of the proposed amendments is identified as either “First Tier”, “Second Tier” or “To Be Determined (TBD).” The First Tier amendments are anticipated to be reviewed and brought forward for discussion/authorization within the first six months of the Fiscal Year 2018 covered by this 2017 ZOAWP. The items identified as Second Tier would be considered in the second half of the fiscal year and those identified as “TBD” would be included with other items or brought forward throughout the term of the 2017 ZOAWP. **Highlighted** items are new amendments on the Priority 1 list and the remainder are carry-over items from the 2016 ZOAWP. Amendments to be considered as part of the Zoning Ordinance Modernization (zMOD) Project are identified at the end of this document.

**Priority 1 ZOAWP – First Tier (Except as Noted)**

1. **Agricultural Districts and Uses** (2016 Priority 1, with added specificity) – Review zoning districts in which agricultural activities are permitted; address trends to include more community-based and urban agricultural forms; address agritourism uses as set forth in the State Code; and review provisions allowing for the sale of agricultural/garden products.
  - a. Community Gardens/Urban Agriculture
  - b. Sales/distribution of Garden/Farm Products (including wayside stands, farm markets, open air produce stands, farmers’ markets)
  - c. Agritourism Uses
  - d. Industrial, Commercial and Container Agriculture (**Second Tier**)
  - e. Residential Gardening as an Accessory Use (**Second Tier**)
  - f. Industrial Composting (**Second Tier**)
  
2. **Older Adult Housing** – (Fairfax 50+ 2016 Priority 1)
  - a. **Continuing Care Communities (NEW)**  
Develop a new district or use that would accommodate a spectrum of institutional uses, accommodations, and associated convenience/service uses in a single development. This district/use would be in addition to the existing uses of Independent Living Facility, Assisted Living Facility, Congregate Living, Medical Care Facility and other associated uses.
  - b. Adult Day Health Care (2016 Priority 1)  
Consider adding adult day care as a new use subject to use limitation and determine if the use should be permitted by-right or subject to a special exception. Staff will

consider this item in the context of the Continuing Care Communities amendment.

- c. Other changes identified by the 50+ Plan initiatives **(Second Tier)**  
May include such factors as: updated terminology to describe uses; review of existing parking regulations; review of minimum acreage requirements for certain uses; composition/timing/scope of involvement of the Health Care Advisory Board; and opportunities for expansion of the use of accessory dwelling units for older adults.

**3. Parking (2016 Priority 1 and Economic Success)**

- a. Consider eliminating reductions for proffered transportation demand management programs.
- b. Consider administrative approval for certain shared parking agreements.
- c. Consider other changes that would streamline the parking reduction process.
- d. Consider applying parking maximums and/or reductions of the minimum parking requirements in transit oriented areas outside Tysons. **(Second Tier)**

**4. P-District Recreation Fees (2016 Priority 1)**

Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts.

**5. Planned Residential Community (PRC) District Density (2016 Priority 1)**

Consider possible revisions to the maximum allowable densities and/or persons per acre in the PRC District to facilitate the implementation of the Reston Master Plan.

**6. Planned Residential Mixed Use (PRM) District - Final Development Plan (New – Economic Success)**

Consider allowing a final development plan to be submitted on a portion of the property subject to conceptual development plan approval in conjunction with a PRM District Rezoning.

**7. Rear Yard Coverage (2016 Priority 1)**

- a. Clarify how the 30% coverage limitation within the minimum required rear yard is calculated.
- b. Consider increasing the percentage of coverage permitted and/or eliminating the requirement for certain sized lots.
- c. Consider allowing modifications of the maximum lot coverage requirement in a rear

yard to be approved by the BZA as a special permit.

**8. State Code Changes** (New)

a. Short-term/homestay rentals (Board Request)

Initiate an analysis of short-term/homestay rental business models in residential areas and develop regulations that balance the interests of entrepreneurs with those of the community, safeguard local revenue sources and mitigate land use impacts. The State Code changes grant considerable flexibility to allow localities to establish regulations for short-term/homestay rental business models.

b. Telecommunications/small cell facilities

The State Code changes provide for a uniform procedure for the way in which small cell facilities on existing structures are to be approved by the local jurisdiction or are installed in public rights-of-way. Adjustments to the current provisions/processes will be required to comply with these changes.

c. Other Possible State Code changes that would necessitate a change to applicable zoning provisions.

**Priority 1 ZOAWP – Second Tier**

**9. Accessory Structure Size** (2016 Priority 1)

Consider limiting the size of an accessory structure relative to a principal structure that can be permitted by right and allowing larger accessory structures with special permit approval by the BZA.

**10. Application Fees** (2016 Priority 1)

Evaluate application fees in conjunction with the next budget cycle to determine if adjustments are warranted.

**11. Laurel Hill Historic Overlay District** (2016 Priority 1)

Establish a Laurel Hill 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.

**12. Outdoor Lighting** (2016 Priority 1)

Consider revisions to the outdoor lighting standards pertaining to security lighting, outdoor sports facilities and automatic teller machines to improve the overall effectiveness of such provisions; consider requiring Architectural Review Board review

of sports illumination plans and photometric plans that are submitted in Historic Overlay Districts when such plans do not require site plan, special permit, special exception, rezoning or development plan approval; and review single family residential lighting exemptions to consider additional requirements for minimum spacing of lighting fixtures and possible limitations on cumulative allowable initial light outputs.

**13. Site Plan Provisions** (New – Economic Success)

Clarify the qualification criteria for site plan exemptions.

**Priority 1 ZOAWP – Timing To Be Determined**

**14. Editorial and Minor Revisions** (New)

- a. Accessory Dwelling Units – clarify Special Permit provisions to specify the minimum standards for a unit to be deemed to be fully within a principal dwelling on lots of less than two acres.
- b. Children’s Play Structures – delete the 100 sq.ft. size limit and treat these structures similar to other accessory structures in terms of purpose, area and extent
- c. Definitions
  - (1) Lot Line – consider revising the definition so that measurements for curved lot lines are no longer based on the chord of the arc.
  - (2) Lot Width – consider allowing lot width to be measured along any street on a through lot and clarify that lot width is measured from the local street on a reverse frontage lot.
- d. Editorial - Delete “Par. 1 through 5” reference in Par. 5 of Sect. 16-401 (Conceptual Development Plan) – this is simply an editorial change.
- e. Keeping of Animals – delete the provision regarding animals kept on a property prior to October 11, 1977, as the provision is no longer valid.
- f. Nonconformities – clarify the time limit in which a discontinued use that had been permitted by right under previous provisions, but which requires special exception or special permit approval under the current provisions, may be re-established.
- g. Planning Commission Membership – change “freeholder” reference to “landowner.”
- h. Private/Fraternal Clubs – clarify parking requirement to reflect the number of people in attendance is based on maximum number attending at any one time rather than the total number of members of the club.

- i. Revisions to Department Name –change references to “Director” from Department of Public Works and Environmental Services to Land Development Services.
- j. Temporary Mobile and Land Based Telecommunications Testing Facilities – delete this use, as technology has rendered it obsolete.
- k. Temporary Special Permits (TSP) – delete the \$100 cash escrow requirement for certain TSP uses.
- l. Yard Sales - clarify the type of household items that are permitted to be sold at yard sales associated with a dwelling.

### **Zoning Ordinance Modernization (zMOD) Initiatives**

- 1. Re-Format and Restructure Provisions** - to include use of tables, illustrations and web-enabled links/content, to create streamlined, user-friendly document that is usable on multiple electronic platforms
- 2. Minor Modification Provisions** - allow more flexibility in administrative approval by staff of minor modifications for approved RZs, SEs and SPs, as well as administrative approval by the Board of limited minor changes, for example, allowing additional FAR caused by building façade changes or accommodating new uses when allowed in the district.
- 3. Use Categories** - to include combining uses into more generic categories to accommodate emerging trends, reduce need for determinations and to more accurately reflect current/future changes in the industry. The first phase of this item will include the retail/restaurant/fast food/quick service food store/and other similar uses.
- 4. PDH District Regulations** - to include review of the Purpose and Intent provisions, as well as yards, uses, processes and issues impacting homeowners, particularly related to small-scale PDH developments, including HOA maintenance and other topics.
- 5. Sign Ordinance** – in two parts: First, content neutrality; Second, size, height and location considerations and Comprehensive Sign Plan review process.
- 6. Building Repositioning/Repurposing** – amendments to permit office-to-residential/mixed use conversions, flex units, maker spaces, and other similar uses.

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**NEW ZONING ORDINANCE AMENDMENT PROPOSALS SINCE THE ADOPTION OF THE 2016 ZONING ORDINANCE AMENDMENT WORK PROGRAM (ZOAWP)**  
(Excludes those proposals that have already been adopted/authorized)

1. **Commercial Recreation Uses in PDH District** – consider adding the category of “indoor firing ranges, archery ranges, fencing and other similar indoor recreation uses” as a secondary use in a PDH District to accommodate certain indoor play/recreation businesses in the commercial areas of a PDH District. (Board) **[Adopted 2/28/2017]**
2. **Continuing Care Community District/Use** – create new district or use to accommodate developments with independent living and medical care uses. (Board) **[2017 ZOAWP #8]**
3. **Density Credit for Public Uses** – consider allowing floor area dedicated through a rezoning for public purposes to be excluded from density calculations. (Economic Success Plan) **[2017 ZOAWP Priority 2]**
4. **Editorial and Minor Revisions** – these recommendations are based on identification of errors, clarifications and outdated regulations within the ZO that should be modified: **[2017 ZOAWP #6 and Priority 2]**
  - a. Accessory Dwelling Units – clarify Special Permit provisions to specify the minimum standards for a unit to be deemed to be fully within a principal dwelling on lots of less than two acres.
  - b. Children’s Play Structures – delete the 100 sq.ft. size limit and treat these structures similar to other accessory structures in terms of purpose, area and extent
  - c. Definitions
    - (1) Lot Line – consider revising the definition so that measurements for curved lot lines are no longer based on the chord of the arc.
    - (2) Lot Width – consider allowing lot width to be measured along any street on a through lot and clarify that lot width is measured from the local street on a reverse frontage lot.
  - d. Editorial - Delete “Par. 1 through 5” reference in Par. 5 of Sect. 16-401 (Conceptual Development Plan) – this is simply an editorial change.
  - e. Keeping of Animals – delete the provision regarding animals kept on a property prior to October 11, 1977, as the provision is no longer valid.
  - f. Nonconformities – clarify the time limit in which a discontinued use that had been permitted by right under previous provisions, but which requires special exception or special permit approval under the current provisions, may be re-established.
  - g. Planning Commission Membership – change “freeholder” reference to “landowner.”

- h. Private/Fraternal Clubs – clarify parking requirement to reflect the number of people in attendance is based on maximum number attending at any one time rather than the total number of members of the club.
  - i. Revisions to Department Name – change references to “Director” from Department of Public Works and Environmental Services to Land Development Services.
  - j. Temporary Mobile and Land Based Telecommunications Testing Facilities – delete this use, as technology has rendered it obsolete.
  - k. Temporary Special Permits (TSP) – delete the \$100 cash escrow requirement for certain TSP uses.
  - l. Yard Sales - clarify the type of household items that are permitted to be sold at yard sales associated with a dwelling.
5. **Food and Beverage Production in the I-4 District** – consider limiting large-scale food/beverage production in I-4 Districts. (Board) [2017 ZOAWP Priority 2]
  6. **Minor Modifications** – consider allowing administrative approval to accommodate new uses and other minor changes that are deemed to be in substantial conformance with an approved rezoning, special exception or special permit, without requiring BOS/PC/BZA approval. (Board) [zMOD Project]
  7. **Off-Leash Dog Parks** – Consider adding use limitations for off leash dog parks, including minimum setbacks, installation requirements, and requiring special exception approval in or near residentially developed areas. (Citizen) [2017 ZOAWP Priority 2]
  8. **Parking** – limit the maximum size of personal vehicles that may park on subdivision streets. (Citizen) [2017 ZOAWP Priority 2]
  9. **PDH District** – review purpose and intent of district, yards, uses, processes and issues impacting homeowners, as well as address issues related to small-scale PDH developments, including HOA maintenance issues regarding private streets, retaining walls, trails and other community features. (Board) [zMOD Project]
  10. **PRM District- Final Development Plan** – consider allowing a final development plan to be submitted on a portion of the property subject to conceptual development plan approval in conjunction with a PRM District rezoning. (Economic Success Plan) [2017 ZOAWP #11]
  - 11 **State Code Changes** (2017 General Assembly) [2017 ZOAWP #16]
    - a. Short-term/homestay rentals in dwellings
    - b. Telecommunications – small cell facilities



c. Other possible changes to Code provisions

12. **Site Plan Provisions** – clarify the qualification criteria for site plan exemptions. (Staff)  
**[2017 ZOAWP #15]**

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**PROPOSED PRIORITY 2  
2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM**

**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
<b><u>ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS</u></b>	
1. Comprehensive review of accessory uses and structures, to include consideration of issues such as: <b>NOTE: These items may be considered as part of a future phase of zMOD project.</b>	BOS/PC/BZA/ Staff/Industry
(a) The establishment of a maximum height limitation.	BOS/PC/BZA/ Staff/Industry
(b) Revisions to the location regulations for uses/structures accessory to residential, commercial and industrial uses.	BOS/PC/BZA/ Staff/Industry
(c) Establishment of a side yard requirement for accessory structures in the PRC District.	BOS/PC/BZA/ Staff/Industry
(d) Consider revising the height of accessory structures and accessory storage structures that can be located anywhere in the rear or side yards to be the same.	BOS/PC/BZA/ Staff/Industry
(e) Modify the accessory structure location provisions to require a freestanding wind turbine structure to be setback a distance of its height from all property lines.	BOS
(f) Review the accessory use limitations to determine whether they adequately address the placement of commercial portable storage containers in commercial districts.	BOS
(g) Review the allowable placement of roll-off debris containers-dumpsters in residential districts during home improvement projects.	BOS
(h) Consider requiring the issuance of fence permits for either all fences or fences that are over a certain height.	Citizen

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
(i) Consider limiting fence height requirements to four feet when a front yard of a pipestem lot abuts a rear or side yard on a lot contiguous to a pipestem driveway.	Citizen
(j) Consider establishing a minimum distance a fence can be located from a pipestem driveway.	Citizen
(k) Consider permitting electric fences on lots less than 2 acres as a deer management tool.	Citizen
2. Consider revisions to the accessory service use provisions to include: <b>NOTE: These items may be considered as part of a future phase of zMOD project.</b>	
(a) A clearer distinction between accessory service uses and accessory uses.	BZA/PC
(b) The appropriateness of whether office buildings in the retail commercial districts should be allowed to have a small deli as a by right accessory service use instead of requiring special exception approval.	BZA/PC
3. Consider revising the home occupation provisions to allow a small amount of storage of stock in trade for a home business conducted via the internet or sales outside of the dwelling unit. <b>NOTE: These items may be considered as part of a future phase of zMOD project.</b>	Citizen
<b><u>ADMINISTRATION</u></b>	
4. Consider allowing the Board of Supervisors, Planning Commission and Board of Zoning Appeals to set the day or days to which any public hearing shall be continued due to inclement weather or other conditions without further advertisement or posting of the property.	Staff/General Assembly
5. Consider revising the cluster provisions to delete the bonus density option.	General Assembly
<b><u>BOARDS, COMMISSIONS, COMMITTEES</u></b>	
6. Review Par. 7 of Sect. 19-101 to clarify that the Planning Commission has the authority to make recommendations on variance applications to the Board of Zoning Appeals.	Staff
7. Consider changing the ARB review and recommendations for site plans, subdivision plats and grading plans to review and approval.	ARB
<b><u>COMMERCIAL ZONING DISTRICTS</u></b>	
8. Consider allowing veterinary clinics in the C-3 and C-4 Districts with use limitations or as a special exception use	Staff

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
<b><u>DEFINITIONS AND USE LIMITATIONS</u></b>	
9. Review the following definitions: <b>NOTE: Some of these items may be considered as part of a future phase of zMOD project.</b>	Staff/BZA
(a) Commonly Accepted Pets	BOS
(b) Congregate Living Facilities	BOS
(c) Contractors’ offices and shops	Staff/BZA
(d) Junk yard	Staff/BZA
(e) Riding and boarding stables	Staff/BZA
(f) Private schools	Staff/BZA
(g) Storage yard	Staff/BZA
(h) Streets	Staff/BZA
10. Add the following definitions <b>NOTE: Some of these items may be considered as part of a future phase of zMOD project.</b>	
(a) Establishment for production, processing, etc.	Staff/BPR/BZA
(b) Place of worship	Staff/BPR/BZA
(c) Storage	Staff/BPR/BZA
(d) NEW: Off-leash dog parks	Citizen
11. Consider excluding patios from the deck definition in order to facilitate the placement of patios in side yards. <b>NOTE: This issue may be considered as part of the zMOD project analysis of homeowner-related issues, particularly for P-Districts, but also for R-Districts.</b>	Staff
12. Clarify the meaning of “transient” in the hotel/motel definition <b>NOTE: May be considered as part of short-term rental analysis.</b>	BZA
13. Consider allowing the use of pervious pavers in more parking situations in order to reduce the amount of impervious surfaces and stormwater runoff.	BOS /DPWES
14. Consider revising the contractors’ office and shops definition to clarify that the use includes establishments used by paving and road contractors and by facilities that install water and sewer pipes.	BZA
15. <del>Fast Food Restaurants—Clarify the square footage and percentage use limitations for by right fast food restaurants in the commercial retail districts.</del>	Staff

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
<p><b>NOTE: This item is currently being considered as part of the Use Categories item in zMOD</b></p>	
<p>16. Consider allowing electric vehicle charging stations as an accessory use with certain limitations in commercial and industrial districts or as a special exception use if use limitations are not met.</p>	<p>Staff</p>
<p>17. Review the definition of gross floor as to how it is calculated outside of the PDC, PRM and PTC Districts</p>	<p>Staff</p>
<p><b><u>GENERAL REGULATIONS</u></b></p>	
<p>18. 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.</p>	<p>BOS</p>
<p>19. NEW: Exempt floor area used for a public use from the density calculations on a property</p>	<p>Economic Success Plan</p>
<p>20. Qualifying Lot and Yard Regulations – Consider the following:</p>	
<p>(a) Allow approval of modifications to the setback requirements from railroads and interstate highways in conjunction with review and approval of SP/SE uses.</p>	<p>BPR</p>
<p>(b) Review pipestem lot and yard requirements, to include possible addition of illustrations.</p>	<p>BPR</p>
<p>(c) Revise provisions of lots contiguous to pipestem driveways to remove the language “serving more than one pipestem lot.”</p>	<p>Citizen</p>
<p>(d) Review the existing provisions which allow uncovered stairs and stoops to encroach into minimum required yards.</p>	<p>Staff</p>
<p>(e) Allow certain lattice screening walls and/or limited trellis-like features on decks for single family dwellings without requiring such features to meet the minimum required yards of the district in which located</p>	<p>Staff</p>
<p>(f) Consider requiring greater setbacks for proposed construction in areas influenced by tidal flooding.</p>	<p>BOS’s Environmental Committee</p>
<p>(g) Consider revisions to the lot and yard definitions; consider whether front yards should be required from unimproved dedicated rights-of-way.</p>	<p>Infill Study</p>
<p>(h) In order to address compatibility issues associated with new residential development in existing residential areas, review methods, such as lot coverage and square footage maximums.</p>	<p>BOS</p>
<p>21. Qualifying Use and Structure Regulations - Consider the following:</p>	

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
(a) Consider revising the maximum number of horses that may be maintained on a lot.	No. Va. Soil & Water Conservation District
(b) Consider allowing chickens to be permitted on lots less than two acres in size in certain situations.	Citizen
<b><u>HOUSING</u></b>	
22. Consider the following revisions to the ADU program:	
(a) Allow units that are acquired by the Fairfax County Redevelopment and Housing Authority (FCRHA) and are part of any FCRHA affordable housing program to be considered equivalent.	Staff
(b) Clarify Par. 2B of Sect. 2-812 to indicate that resales can be sold to nonprofits pursuant to the guidelines for new units.	Staff
(c) 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
(d) For resales, allow 3% of closing costs to be part of the sales price so that applicants can apply for closing costs assistance.	Staff
(e) Establish a for-sale ADU pricing schedule to include the renovation and/or preservation of existing units and condominium conversions.	Staff
(f) Consider requiring an ADU bedroom mix of 50% one-bedroom units and 50% two-bedroom units for independent living facilities.	Staff
(g) 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. 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
(h) 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
23. Review the Board of Supervisors’ accessory dwelling unit policy in Appendix 5 to determine whether updates are necessary.	Staff
24. Residential Studios – Establish a new use and associated use limitations for an affordable housing product generally designed for one person per unit.	BOS
<b><u>ILLUSTRATIONS</u></b>	
25. <del>Add illustrations to clarify certain provisions such as the sight distance triangle</del>	Staff

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
<p><del>and permitted encroachments into minimum required yards.</del>  <b>NOTE: This item will be considered as part of the zMOD project re-formatting and restructuring of the Zoning Ordinance.</b></p>	
<b><u>INDUSTRIAL ZONING DISTRICTS</u></b>	
26. Revise use limitations in I-5 District regarding outdoor storage of trucks and equipment.	BOS
27. Clarify use limitations in the I-5 and I-6 Districts which allow vehicle light service establishments by right. Also consider allowing this use by right in other C and I Districts.	BPR
28. Consider allowing private clubs and public benefit associations in the industrial district by right and subject to use limitations.	Staff
29. NEW Consider limitations on the size of a food and beverage production facility in the I-4 District.	BOS
<b><u>LANDSCAPING &amp; SCREENING</u></b>	
30. Comprehensive review of landscaping and screening provisions to include:	
(a) Appropriateness of modification provisions.	BPR/Staff/ Industry
(b) Address issue of requirements when property abuts open space, parkland, including major trails such as the W&OD and public schools.	Staff/EIP
(c) Increase the parking lot landscaping requirements.	Tree Action Plan/EIP
(d) Include street tree preservation and planting requirements.	Tree Action Plan
(e) Consider requiring the use of native trees and shrubs to meet the landscaping requirements for developments along Richmond Highway.	BOS
31. Evaluate opportunities to include provisions that support and promote sustainable principles in site development and redevelopment, including the application of better site design, Low Impact Development (LIDs) and natural landscaping practices.	Tree Action Plan
<b><u>NONCONFORMITIES – ARTICLE 15</u></b>	
32. Comprehensive review and study, to include addition of provisions to address situations resulting from condemnation of right-of-way by public agencies.	Staff/BPR



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<b>TOPIC</b>	<b>SOURCE</b>
<b><u>OPEN SPACE</u></b>	
33. Review of the open space provisions to include:	
(a) Consider the establishment of minimum sizes/dimensions for required open space areas.	Infill Study/EIP/ Staff
(b) Exempt either all or part of stormwater management dry pond facilities from the open space calculations.	Infill Study/EIP/ Staff
(c) Provide open space credit for innovative BMPs but not for non-innovative BMPs	Infill Study/EIP/ Staff
(d) Allow open space credit only for usable open space.	Infill Study/EIP/ Staff
(e) Develop a consistent approach to open space as it relates to various existing and proposed elements of the Comprehensive Plan.	Infill Study/EIP/ Staff
(f) 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
<b><u>OVERLAY DISTRICTS</u></b>	
34. Airport Protection Overlay District - Establish an Airport Protection Zoning Overlay District for Dulles International Airport, Ronald Reagan National Airport and Davison Airfield	BOS
35. Historic Overlay Districts - Consider the following revisions to the Historic Overlay Districts:	
(a) Requiring 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
(b) Establish an historic overlay district for Mason Neck.	BOS
<b><u>PARKING REQUIREMENTS</u></b>	
<b><u>NOTE: Some items may be considered as part of a future phase of the zMOD project.</u></b>	
36. Study parking requirements for:	BOS /Staff
(a) Funeral homes	
(b) Places of worship	
(c) Child care centers and nursery schools	

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
37. Consider reducing the minimum required parking requirement for all retail and retail mixed projects and not only those projects that are located near mass transit.	Industry
38. 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.	Citizen
(b) Limit parking for all vehicles or trailers to the front yard and only on a paved surface.	Citizen
39. Clarify the meaning of “permanent availability” in Par. 1 of Sect. 11-102 as it pertains to the use of off-site parking spaces on a contiguous lot.	Staff
40. NEW: Regulate the maximum size of personal vehicles that are permitted to park in a residential district.	Citizen
<b><u>PERFORMANCE STANDARDS</u></b>	
41. Review the earthborn vibration performance standards.	Staff
<b><u>PLANNED DEVELOPMENT DISTRICTS</u></b>	
42. Consider the following revisions to the Planned Development Districts:	
Clarify the office secondary use limitations in the PDH District; Review the purpose and intent statements and the General and Design Standards; Review minimum lot size and open space requirements, the CDP/FDP submission 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; Consider waiving the minimum district size requirement for additions to existing PDH or PDC Districts; allow the Planning Commission to waive the 200 foot privacy yard for single family attached dwellings as part of FDP approvals; and (NEW) consider revising the 600 foot limit on private streets.	Infill Study/EIP/EAC/PC/Staff
<b><u>RESIDENTIAL ZONING DISTRICTS</u></b>	
43. 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 for special permit, special exception and public uses in the Occoquan.	New Millennium Occoquan Task Force/EAC

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
<b><u>SITE PLANS</u></b>	
44. For uses subject to site plan approval, which does not include single family detached dwellings, consider increasing the amount of gross floor area or disturbed area that is exempt from site plan or minor site plan requirements.	Staff
<b><u>SPECIAL EXCEPTIONS</u></b>	
45. Category 2 Heavy Public Utility Uses – Consider the deletion of special exception requirement in the I-5 District for storage yards and office/maintenance facilities in conjunction with public utility uses, so these uses will be allowed by right.	BPR
46. Category 5 Commercial and Industrial Uses of Special Impact – Consider the appropriateness of the list of heavy industrial uses.	Staff
47. Consider requiring special exception approval to establish dancing and/or live entertainment/recreation venues and clarify what is allowed as accessory entertainment to an eating establishment. <b>NOTE: this item may be reviewed as part of a future phase of the zMOD project.</b>	BOS
<b><u>SPECIAL PERMITS</u></b>	
48. Consider allowing BZA to modify or waive general standards when uses are proposed for existing structures and/or lots.	BPR
49. Consider deletion of requirement for extension requests to be submitted 30 days prior to an expiration date, consistent with renewal requests.	Staff
50. Allow BZA to modify special permit additional standards.	BPR
51. Group 1 Extraction and Excavation 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
52. Group 4 Community Uses – Consider allowing community uses to be approved via development plans in the rezoning process in lieu of requiring special permit approval.	Staff/BPR
53. Group 5 Commercial Recreation Uses – Consider clarifying types of uses included in “any other similar commercial recreation use.”	Staff
54. Group 9 Uses Requiring Special Regulations – Consider the following:	
(a) Revise the reduction of certain yard special permit additional standards to increase the allowable size of an addition and to allow the complete teardown and rebuild of a structure.	BOS /PC

**2017 Proposed Priority 2 ZOAWP**

<b>TOPIC</b>	<b>SOURCE</b>
(b) Revise the accessory dwelling unit submission requirements, occupancy and lot size limitations.	BOS
(c) Increase the minimum 55 year age requirement for accessory dwelling units.	BZA
<b><u>STATE CODE CHANGES</u></b>	
55. Incorporate the new requirement for Development in dam break inundation zones.	General Assembly
<b><u>SUBMISSION REQUIREMENTS</u></b>	
56. 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/Plan
57. Consider adding specificity to the submission requirements for Comprehensive Sign applications.	Staff
58. Consider adding an environmental site assessment submission requirement for site plans and certain zoning applications.	General Assembly
59. Consider the strengthening of zoning application submission requirements to require the submission of a preliminary utility plan where utility construction could conceivably result in clearing of trees.	Tree Action Plan/EIP
60. Review regulations related to:	
(a) Adult video stores	Staff/BOS
(b) “Doggie” day care	Staff/BOS
(c) Sports arenas, stadiums	Staff/BOS
61. Review the drug paraphernalia regulations to determine whether changes are necessary due to State Code revisions.	Staff
62. Clarify that a certain amount of biotech (bioscience) research and development, which is primarily computer related and excludes animal testing, is permitted as an office use.	Staff