

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 23, 2020**

AGENDA

- 2:00 Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
- 2:00 Board Decision on the Fairfax County Capital Improvement Program (CIP) for Fiscal Years 2021 - 2025 (With Future Fiscal Years to 2030)
- 2:00 Matters Presented by Board Members
- 2:00 Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- 1 Additional Time to Obtain a Non-Residential Use Permit (Non-RUP) for Special Exception SE 2014-MA-003, Kenneth H. Fisher (Mason District)
- 2 Additional Time to Commence Construction for Special Exception SE 2015-MV-032, Artis Senior Living (Mount Vernon District)
- 3 Additional Time to Commence Construction for Special Exception Amendment SEA 84-M-121-03, Westminster School, Inc. (Mason District)
- 4 Authorization to Advertise a Public Hearing on a Proposal to Vacate a Portion of Westbranch Drive / Route 5457 (Providence District)
- 5 Approval of a Resolution to Allow Emergility, LLC, to Operate a Private EMS Agency Within Fairfax County
- 6 Approval of "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Providence District)
- 7 Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason District)
- 8 Authorization to Advertise a Public Hearing to Allow Eminent Domain Proceedings for the Acquisition of Certain Land Rights Necessary for the Construction of the Proposed Patrick Henry Place (Mason District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 23, 2020**

**ADMINISTRATIVE
ITEMS
(continued)**

- 9 Authorization to Advertise a Public Hearing to Consider the Adoption of Amendments to Chapter 41.1 of the Fairfax County Code Relating to Animal Control and Care
- 10 Approval of Supplemental Appropriation Resolution AS 20247 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services as a Result of Funding Made Available Through the Community Services Block Grant to Address the COVID-19 Pandemic as Part of the CARES Act
- 11 Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21

ACTION ITEMS

- 1 Approval of FY 2020 Year-End Processing
- 2 Approval of Revisions to Procedural Memorandum No. 11-01, Exempt Service
- 3 Approval of Revisions to Chapters 4, 7, 10, and 12 of the Personnel Regulations to Align Definitions and to Replace Parental Leave with Paid Family Leave
- 4 Approval of the Fall 2020 Bond Referenda for Transportation, Parks and Park Facilities, Libraries, and Community Health and Human Services Facilities
- 5 Approval of Revisions to Chapter 17 of the Personnel Regulations Due to Legislation Passed by the General Assembly

**PUBLIC
HEARINGS**

- 3:00 Public Hearing to Consider Adopting a Reduction in the Late Payment Penalty Ordinances for Real Estate and Personal Property Taxes for Tax Year 2020
- 3:30 **To Be Deferred to
11/17/20 at 3:30
p.m.** Public Hearing on RZ 2019-SP-014 and PCA/CDPA 2017-SP-017 (Brightview Senior Living Development, LLC) (Springfield District)

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 23, 2020**

**PUBLIC
HEARINGS
(continued)**

3:30	Public Hearing on PCA 93-H-043 (Michael F. Flaherty) (Hunter Mill District)
3:30	Public Hearing on SEA 2017-SP-028 (Seritage SRC Finance LLC) (Springfield District)
4:00	Public Hearing on RZ 2019-LE-012 (Brightview Senior Living Development, LLC) (Lee District)
4:00	Public Hearing on RZ 2019-BR-019 (Conley Development, LLC) (Braddock District)
4:00	Public Hearing on SEA 2006-HM-017-02 (Centreville Road LC) (Hunter Mill District)
4:30	Public Comment

Board Agenda Item
June 23, 2020

2:00 p.m.

Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard June 23, 2020

STAFF:

Jill G. Cooper, Clerk for the Board of Supervisors

June 23, 2020

FINAL COPY

**APPOINTMENTS TO BE HEARD JUNE 23, 2020
(ENCOMPASSING VACANCIES PROJECTED THROUGH JULY 3, 2020)
(Unless otherwise noted, members are eligible for reappointment)**

**A. HEATH ONTHANK MEMORIAL
AWARD SELECTION COMMITTEE (1 year)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Joseph W. Blackwell (Appointed 1/06-1/08 by Kauffman; 1/09- 1/19 by McKay) Term exp. 1/20	Lee District Representative		Lusk	Lee
Eileen J. Garnett (Appointed 1/03-2/17 by Gross) Term exp. 1/18	Mason District Representative		Gross	Mason

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Mark Drake (Appointed 2/09-5/12 by McKay) Term exp. 5/16	Engineer/Architect/ Planner #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 <i>Resigned</i>	Lending Institution Representative		By Any Supervisor	At-Large

AIRPORTS ADVISORY COMMITTEE (3 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Andrew Martin Concannon; appointed 9/15-1/17 by Gross) Term exp. 1/20 <i>Resigned</i>	Mason District Representative		Gross	Mason

CONFIRMATION NEEDED:

- Ms. Evelyn Spain as the Planning Commission Representative

ALCOHOL SAFETY ACTION PROGRAM LOCAL POLICY BOARD (ASAP) (3 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Frieda A. Tatem; appointed 10/93- 10/96 by Davis; 9/99- 10/02 by Hanley; 10/05-10/08 by Connolly; 11/11- 10/17 by Bulova) Term exp. 10/20 Deceased	At-Large #1 Representative		By Any Supervisor	At-Large

ANIMAL SERVICES ADVISORY COMMISSION (2 years)

[Note: In addition to attendance at Commission meetings, members shall volunteer at least 24 hours per year in some capacity for the Animal Services Division.]

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Chester J. Freedenthal (Appointed 6/19 by McKay) Term exp. 2/20	Lee District Representative		Lusk	Lee
Jennifer Christiansen (Appointed 5/18 by Smith) Term exp. 2/20	Sully District Representative		Smith	Sully

ARCHITECTURAL REVIEW BOARD (3 years)

[NOTE: Members shall be appointed by the Board of Supervisors as follows: at least two (2) members shall be certified architects; one (1) landscape architect authorized to practice in Virginia; one (1) lawyer with membership in the Virginia Bar; six (6) other members shall be drawn from the ranks of related professional groups such as archaeologists, historians, lawyers, and real estate brokers.]

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Jason D. Sutphin; appointed 9/09-10/15 by Frey; 9/18 by Smith) Term exp. 9/21	Related Professional Group #6 Representative		By Any Supervisor	At-Large

ATHLETIC COUNCIL (2 years)				
<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Douglas Phung; appointed 12/17 by Bulova) Term exp. 12/19 <i>Resigned</i>	Diversity-At-Large Principal Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15 <i>Resigned</i>	Mason District Alternate Representative		Gross	Mason
Jon K. Samson (Appointed 9/18 by Bulova) Term exp. 10/19	Member-At-Large Alternate Representative		McKay	At-Large Chairman's
Katherine E. Quinn (Appointed 6/16-3/18 by Bulova) Term exp. 3/20	Member-At-Large Principal Representative		McKay	At-Large Chairman's
Michael W. Thompson, Jr. (Appointed 1/09-6/18 by Herrity) Term exp. 6/20	Springfield District Principal Representative	Michael W. Thompson	Herrity	Springfield
VACANT (Formerly held by Jane Dawber; appointed 3/13-9/16 by Hudgins) Term exp. 6/18 <i>Resigned</i>	Women's Sports Alternate Representative		By Any Supervisor	At-Large
Jenni R. Cantwell (Appointed 9/10-6/18 by Herrity) Term exp. 6/20	Women's Sports Principal Representative	Jenni R. Cantwell (Herrity)	By Any Supervisor	At-Large

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Ken Balbuena (Appointed 9/11-7/19 by Bulova) Term exp. 6/20	At-Large Chairman's Representative		McKay	At-Large Chairman's
Jon S. Aldridge (Appointed 9/18-6/19 by Cook) Term exp. 6/20	Braddock District Representative		Walkinshaw	Braddock
Barbara Glakas (Appointed 1/12-6/19 by Foust) Term exp. 6/20	Dranesville District Representative		Foust	Dranesville
VACANT (Formerly held by Linda J. Waller; appointed 9/16-6/18 by McKay) Term exp. 6/19 <i>Resigned</i>	Lee District Representative		Lusk	Lee
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 <i>Resigned</i>	Mason District Representative		Gross	Mason
Roberta Kelley Paul (Appointed 7/17-6/19 by Storck) Term exp. 6/20	Mount Vernon District Representative	Roberta Kelley Paul	Storck	Mount Vernon
Emilie F. Miller (Appointed 7/05-7/19 by Smyth) Term exp. 6/20	Providence District Representative		Palchik	Providence
Kim S. Farington (Appointed 1/19-6/19 by Herrity) Term exp. 6/20	Springfield District Representative	Kim S. Farington	Herrity	Springfield

continued

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Debbie Kilpatrick (Appointed 6/18-6/19 by Smith) Term exp. 6/20	Sully District Representative	Debbie Kilpatrick	Smith	Sully

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS (4 years)
(No official, technical assistant, inspector or other employee of the DPWES, DPZ, or FR
shall serve as a member of the board.)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Thomas J. Schroeder; appointed 06/92-2/17 by Bulova) Term exp. 2/21 <i>Resigned</i>	Design Professional #1 Representative		By Any Supervisor	At-Large
Daren Shumate (Appointed 2/16 by Gross) Term exp. 2/20	Design Professional #5 Representative		By Any Supervisor	At-Large

BOARD OF EQUALIZATION OF REAL ESTATE ASSESSMENTS (BOE)
(2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Joseph W. Blackwell; appointed 2/05-1/08 by Kauffman; 12/09- 12/17 by McKay) Term exp. 12/19 <i>Resigned</i>	At-Large #2 Representative		By Any Supervisor	At-Large

**CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Monica Billger; appointed 1/18 by McKay) Term exp. 9/19 <i>Resigned</i>	Lee District Representative		Lusk	Lee
VACANT (Formerly held by Grant Sitta; appointed 9/10-9/15 by Gross) Term exp. 9/19 <i>Resigned</i>	Mason District Representative		Gross	Mason

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Jade Harberg (Appointed 7/16-6/18 by Bulova) Term exp. 5/20	At-Large Chairman's Representative		McKay	At-Large Chairman's
James Sobecke (Appointed 6/14-5/18 by Cook) Term exp. 5/20	Braddock District Representative		Walkinshaw	Braddock
VACANT (Formerly held by William J. McKenna; appointed 6/16-5/18 by Foust) Term exp. 5/20 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville

continued

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Patrick J. Scott; appointed 10/16 by Hudgins) Term exp. 5/18 <i>Resigned</i>	Hunter Mill District Representative	Andrea McCarthy	Alcorn	Hunter Mill
VACANT (Formerly held by Gary Nisker; appointed 5/18 by Gross) Term exp. 5/20 <i>Resigned</i>	Mason District Representative	Marco Johnson	Gross	Mason
Jonathan Kiell (Appointed 4/15 by Hyland; 7/16-5/18 by Storck) Term exp. 5/20	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Nicholas Ludlum; appointed 1/17 by L. Smyth) Term exp. 5/18 <i>Resigned</i>	Providence District Representative		Palchik	Providence
James Kirkpatrick (Appointed 9/08-/18 by Herrity) Term exp. 5/20	Springfield District Representative	James Kirkpatrick	Herrity	Springfield
Caitlin Hutchison (Appointed 12/16- 5/18 by Smith) Term exp. 5/20	Sully District Representative		Smith	Sully

CIVIL SERVICE COMMISSION (2 years)

[NOTE: The Commission shall include at least 3 members who are male, 3 members who are female, and 3 members who are from a member of a minority group.]

Current Membership: Males: 7 Females: 3 Minorities: 4

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Broderick C. Dunn; appointed 1/14-12/17 by Cook) Term exp. 12/19 <i>Resigned</i>	At-Large #8 Representative	Vanessa Jordan (Walkinshaw)	By Any Supervisor	At-Large
VACANT (Formerly held by Lee Ellen Helfrich; appointed 2/14-1/20 by Gross) Term exp. 12/21 <i>Resigned</i>	At-Large #9 Representative		By Any Supervisor	At-Large

COMMISSION FOR WOMEN (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Sondra Seba Hemenway (Appointed 2/12-10/16 by Bulova) Term exp. 10/19	At-Large Chairman's Representative	Sondra Seba Hemenway (McKay)	McKay	At-Large Chairman's
VACANT (Formerly held by Barbara Lipa; appointed 10/13 by Frey; 10/16 by Smith) Term exp. 10/19 <i>Deceased</i>	Sully District Representative		Smith	Sully

COMMISSION ON AGING (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Phyllis Miller Palombi (Appointed 2/19 by Hudgins) Term exp. 5/20	Hunter Mill District Representative	Phyllis Palombi	Alcorn	Hunter Mill
Kathleen Hoyt (Appointed 12/16-5/18 by Gross) Term exp. 5/20	Mason District Representative		Gross	Mason
Cathy Muha (Appointed 4/16-5/18 by Smith) Term exp. 5/20	Sully District Representative	Cathy Muha	Smith	Sully

COMMUNITY ACTION ADVISORY BOARD (CAAB) (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Adam Parnes (Appointed 7/17 by Hudgins) Term exp. 2/20	Hunter Mill District Representative	Holly Seibold	Alcorn	Hunter Mill

**DULLES RAIL TRANSPORTATION IMPROVEMENT DISTRICT
ADVISORY BOARD, PHASE I - (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
James D. Policaro (Appointed 3/10-3/16 by Smyth) Term exp. 3/20	At-Large Representative #1		By Any Supervisor	At-Large
Peter M. Rosen (Appointed 3/04-3/16 by Smyth) Term exp. 3/20	At-Large Representative #2		By Any Supervisor	At-Large
Jeffrey L. Kovach (Appointed 6/12-3/16 by Smyth) Term exp. 3/20	At-Large Representative #3		By Any Supervisor	At-Large

**DULLES RAIL TRANSPORTATION IMPROVEMENT
DISTRICT ADVISORY BOARD, PHASE II (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Gregory W. Trimmer (Appointed 1/12-1/16 by Bulova) Term exp. 1/20	BOS At-Large #6 Representative		By Any Supervisor	At-Large

ECONOMIC ADVISORY COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Dominic Bonaiuto (Appointed 9/18 by Foust) Term exp. 12/19	At-Large #1 Representative	Dominic Bonaiuto (Foust)	By Any Supervisor	At-Large
VACANT Seat	At-Large #21 Representative	Robert J. Makheja (Lusk)	By Any Supervisor	At-Large

CONFIRMATION NEEDED:

- Ms. Julie Strandlie as the Planning Commission Representative

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Roderick Mitchell (Appointed 6/18 by Bulova) Term exp. 7/1/2020	At-Large #1 Citizen Representative		By Any Supervisor	At-Large

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Maya Huber; appointed 12/09-1/14 by Confirmation; 05/18 by Bulova) Term exp. 3/21 <i>Resigned</i>	Citizen #4 Representative		By Any Supervisor	At-Large

FAIRFAX AREA DISABILITY SERVICES BOARD**(3 years- limited to 2 full consecutive terms per MOU, after initial term)**

[NOTE: Persons may be reappointed after being off for 3 years. State Code requires that membership in the local disabilities board include at least 30 percent representation by individuals with physical, visual or hearing disabilities or their family members. For this 15-member board, the minimum number of representation would be 5.

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Michele Hymer Blitz (Appointed 6/06-3/16 by Hudgins) Term exp. 11/18 <i>Not eligible for reappointment</i>	Hunter Mill District Representative		Alcorn	Hunter Mill

**FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL
(2 years)****CONFIRMATION NEEDED:**

- Ms. Jan Ridgely as the Community/Religious Leaders #10 Representative

**FAIRFAX COUNTY CONVENTION AND VISITORS CORPORATION
BOARD OF DIRECTORS (3 years)**

[Note: Established by Board on 6/21/04 for the general administration and proper operation of the Fairfax County Convention and Visitors Corporation.]

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Marion Myers (Appointed 6/15-6/17 by Hudgins) Term exp. 6/20	Hunter Mill District Representative	Marion Myers	Alcorn	Hunter Mill
William D. Lecos (Appointed 5/18 by Gross) Term exp. 6/20	Mason District Representative	William D. Lecos	Gross	Mason
Robert Maurer (Appointed 7/13-9/17 by Smyth) Term exp. 6/20	Providence District Representative	Robert Maurer	Palchik	Providence

**FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD
(3 years – limited to 3 full terms)**

[NOTE: In accordance with *Virginia Code* Section 37.2-501, "prior to making appointments, the governing body shall disclose the names of those persons being considered for appointment." Members can be reappointed after 1-year break from initial 3 full terms, VA Code 37.2-502.

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Gary A. Ambrose; appointed 3/13-6/17 by Bulova) Term exp. 6/20 Resigned	At-Large #3 Representative	Andrew Scalise (McKay) <i>(Will be confirmed on July 28, 2020)</i>	By Any Supervisor	At-Large
Willard Kenneth Garnes (Appointed 11/12-6/17 by Bulova) Term exp. 6/20	At-Large #4 Representative	Willard Kenneth Garnes (McKay) <i>(Will be confirmed on July 28, 2020)</i>	By Any Supervisor	At-Large

continued

FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD**(3 years – limited to 3 full terms)**

continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Jennifer Adeli (Appointed 6/17 by Foust) Term exp. 6/20	Dranesville District Representative	Jennifer Adeli <i>(Will be confirmed on July 28, 2020)</i>	Foust	Dranesville
VACANT (Formerly held by Nancy Cromwell Scott; appointed 12/17 by L. Smyth) Term exp. 6/20 <i>Resigned</i>	Providence District Representative	Robert Bartolotta <i>(Will be confirmed on July 28, 2020)</i>	Palchik	Providence
Srilekha Reddy Palle (Appointed 2/20 by Herrity) Term exp. 6/20	Springfield District Representative	Srilekha Reddy Palle <i>(Will be confirmed on July 28, 2020)</i>	Herrity	Springfield
VACANT (Formerly held by Evelyn Spain; appointed 6/19 by Smith) Term exp. 6/22 <i>Resigned</i>	Sully District Representative	Daniel T Sherrange <i>(Nomination announced on February 25, 2020)</i>	Smith	Sully

FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL (2 years)**CONFIRMATION NEEDED:**

- Ms. Jan Ridgely as the Long Term Care Providers #32 Representative

HEALTH CARE ADVISORY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Michael Christ Trahos (Appointed 7/12-5/16 by Bulova) Term exp. 6/20	At-Large Chairman's Representative		McKay	At-Large Chairman's
VACANT (Formerly held by Ann Zuvekas; appointed 9/10-5/16 by Cook) Term exp. 6/20 <i>Resigned</i>	Braddock District Representative		Walkinshaw	Braddock
Maia Cecire (Appointed 7/19 by McKay) Term exp. 6/20	Lee District Representative		Lusk	Lee
William Finerfrock (Appointed 9/92-6/04 by McConnell; 6/08-6/16 by Herrity) Term exp. 6/20	Springfield District Representative	William Finerfrock	Herrity	Springfield
Philippe Beauchene (Appointed 5/18 by Smith) Term exp. 6/20	Sully District Representative	Philippe Beauchene	Smith	Sully

HEALTH SYSTEMS AGENCY BOARD

(3 years - limited to 2 full terms, may be reappointed after 1-year lapse)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Linda Shealey Cook (Appointed 6/18 by Bulova) Term exp. 6/20	Consumer #1 Representative		By Any Supervisor	At-Large

Continued

HEALTH SYSTEMS AGENCY BOARD**(3 years - limited to 2 full terms, may be reappointed after 1-year lapse)**

continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Jacqueline Hixson (Appointed 6/17 by Hudgins) Term exp. 6/20	Consumer #2 Representative		By Any Supervisor	At-Large
Sahil Chaudhary (Appointed 2/19 by Smith) Term exp. 6/20	Consumer #6 Representative	Sahil Chaudhary (Smith)	By Any Supervisor	At-Large
VACANT (Formerly held by Richard Hilburn; appointed 9/19 by Hudgins) Term exp. 6/22 <i>Resigned</i>	Hunter Mill District Representative	Maria Zlotnick	Alcorn	Hunter Mill

HISTORY COMMISSION (3 years)

[NOTE: The Commission shall include at least one member who is a resident from each supervisor district.] Current Membership:

Braddock - 3	Lee - 2	Providence - 1
Dranesville - 2	Mason - 1	Springfield - 2
Hunter Mill - 3	Mt. Vernon - 3	Sully - 2

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Naomi D. Zeavin; appointed 1/95 by Trapnell; 1/96-11/13 by Gross) Term exp. 12/16 <i>Resigned</i>	Historian #1 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Kimberley Alton; appointed 3/19 by McKay) Term exp. 9/19 <i>Resigned</i>	At-Large #7 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Raul Torres; appointed 6/18 by Bulova) Term exp. 9/20 <i>Resigned</i>	At-Large #9 Representative		By Any Supervisor	At-Large

JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY COUNCIL (2 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Michael Berger; appointed 1/17-1/18 by McKay) Term exp. 1/20 <i>Resigned</i>	Lee District Representative		Lusk	Lee
VACANT (Formerly held by Melissa Smarr; appointed 7/09-1/18 by Herrity) Term exp. 1/20 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

LIBRARY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Sheila Janega (Appointed 11/15-5/16 by Hudgins) Term exp. 6/20	Hunter Mill District Representative	Sheila Janega	Alcorn	Hunter Mill
VACANT (Formerly held by Willard O. Jasper; Appointed 3/04-5/06 by Kauffman; 5/10-5/18 by McKay) Term exp. 5/22 <i>Resigned</i>	Lee District Representative		Lusk	Lee

OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Annette Koklauner (Appointed 1/16 by Bulova) Term exp. 6/19	At-Large Chairman's Representative		McKay	At-Large Chairman's
VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 <i>Resigned</i>	Braddock District Representative		Walkinshaw	Braddock
VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
Bob Tallman (Appointed 1/17 by McKay) Term exp. 6/19	Lee District Representative		Lusk	Lee

Continued

OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Nabil S. Barbari (Appointed 1/07-9/16 by Gross) Term exp. 6/19	Mason District Representative		Gross	Mason
VACANT (Formerly held by Jeffrey Levy; appointed 7/02-6/13 by Hyland) Term exp. 6/16 Resigned	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by L. Smyth) Term exp. 6/14 Resigned	Providence District Representative		Palchik	Providence

REDEVELOPMENT AND HOUSING AUTHORITY (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Ezra Rosser (Appointed 9/18 by Bulova) Term exp. 4/20	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Christopher T. Craig; appointed 5/11-5/19 by Cook) Term exp. 4/23 Resigned	Braddock District Representative	Broderick C. Dunn	Walkinshaw	Braddock

Continued

REDEVELOPMENT AND HOUSING AUTHORITY (4 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Albert J. McAloon (Appointed 7/95 by Alexander; 3/96-3/00 by Kauffman; 4/04- 4/16 by McKay) Term exp. 4/20	Lee District Representative		Lusk	Lee
Rod Solomon (Appointed 7/08-4/16 by Smyth) Term exp. 4/20	Providence District Representative	Rod Solomon	Palchik	Providence

RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD

The Board of Supervisors established the advisory board on April 4, 2017
There will be 14 members on this advisory board. The appointees would serve
for 4-year terms from April 4, 2017

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Alexander Rough; appointed 10/17 by Foust) Term exp. 9/21 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
NEW POSITION	Residential Owners and HOA/Civic Association #1 Representative		Foust or Alcorn	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #2 Representative		Foust or Alcorn	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		Foust or Alcorn	At-Large

ROAD VIEWERS BOARD (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Joseph Bunnell; appointed 9/05-12/06 by McConnell; 2/08-11/13 by Herrity) Term exp. 12/14 <i>Resigned</i>	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by L. Smyth) Term exp. 12/12 <i>Resigned</i>	At-Large #4 Representative		By Any Supervisor	At-Large
Micah D. Himmel (Appointed 12/11-1/18 by L. Smyth) Term exp. 12/18	At-Large #5 Representative		By Any Supervisor	At-Large

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Janet E. Bradshaw (Appointed 3/05-3/18 by Hudgins) Term exp. 3/20	Fairfax County #1 Representative	Janet E. Bradshaw (Alcorn)	By Any Supervisor	At-Large
Darlana Ricks (Appointed 11/14-3/18 by Hudgins) Term exp. 3/20	Fairfax County #3 Representative	Darlana Ricks (Alcorn)	By Any Supervisor	At-Large
Kelsey J. Myers (Appointed 3/19 by Hudgins) Term exp. 3/20	Fairfax County #5 Representative	Kelsey J. Myers (Alcorn)	By Any Supervisor	At-Large

Continued

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Kathleen T. Jones (Appointed 9/17-3/18 by Hudgins) Term exp. 3/20	Fairfax County #6 Representative	Kathleen T. Jones (Alcorn)	By Any Supervisor	At-Large
Alexandra Rossi (Appointed 3/18 by Hudgins) Term exp. 3/20	Fairfax County #8 Representative	Alexandra Rossi (Alcorn)	By Any Supervisor	At-Large
Luis Ortiz Lopez (Appointed 10/16- 3/18 by Hudgins) Term exp. 3/20	Fairfax County #9 (Youth) Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Antonio Gomez; appointed 1/99-1/02 by Hanley; 3/05-1/08 by Connolly; 1/11- 1/17 by Bulova) Term exp. 1/20 <i>Resigned</i>	Citizen Member #2 Representative	Robert H. Chamberlain (Gross)	By Any Supervisor	At-Large
VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by L. Smyth) Term exp. 1/14 Deceased	Condo Owner Representative	Shahana Begum Islam	By Any Supervisor	At-Large

Continued

TENANT LANDLORD COMMISSION (3 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Christopher Lee Kocsis (Appointed 3/99-11/00 by Hanley; 1/04-12/06 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/18 <i>Deceased</i>	Landlord Member #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Angelina Panettieri; appointed 6/11-1/15 by L. Smyth) Term exp. 1/18	Tenant Member #1 Representative		By Any Supervisor	At-Large
Amy Purnell (Appointed 9/16-1/17 by Bulova) Term exp. 1/20	Tenant Member #2 Representative		By Any Supervisor	At-Large

TRAILS, SIDEWALKS AND BIKEWAYS COMMITTEE (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Robert W. Michie (Appointed 1/02-1/08 by Kauffman; 1/10-1/18 by McKay) Term exp. 1/20	Lee District Representative		Lusk	Lee

CONFIRMATION NEEDED:

- Ms. Andrea M. Reese as the Northern Virginia Regional Park Authority Representative

TRANSPORTATION ADVISORY COMMISSION (2 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Linda D. Sperling (Appointed 12/17-6/18 by Bulova) Term exp. 6/20	At-Large Representative	Linda D. Sperling (McKay)	By Any Supervisor	At-Large
Kevin Morse (Appointed 6/10-6/18 by Cook) Term exp. 6/20	Braddock District Representative		Walkinshaw	Braddock
Michael D. Champness (Appointed 9/13-6/18 by Foust) Term exp. 6/20	Dranesville District Representative	Michael D. Champness	Foust	Dranesville
VACANT (Formerly held by Jenifer Joy Madden; appointed 9/06-6/18 by Hudgins) Term exp. 6/20 <i>Resigned</i>	Hunter Mill District Representative		Alcorn	Hunter Mill
VACANT (Formerly held by Lewis C. Brodsky; appointed 9/18 by McKay) Term exp. 6/20 <i>Resigned</i>	Lee District Representative		Lusk	Lee
Roger L. Hoskin (Appointed 5/96-6/18 by Gross) Term exp. 6/20	Mason District Representative	Roger L. Hoskin	Gross	Mason
Peter Sitnik (Appointed 9/19 by Storck) Term exp. 6/20	Mount Vernon District Representative	Peter Sitnik	Storck	Mount Vernon
JD Walter (Appointed 9/19 by Smyth) Term exp. 6/20	Providence District Representative		Palchik	Providence

Continued

TRANSPORTATION ADVISORY COMMISSION (2 years)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Eric D. Thiel (Appointed 3/04-6/06 by McConnell; 6/08- 6/18 by Herrity) Term exp. 6/20	Springfield District Representative	Eric D. Thiel	Herrity	Springfield
Jeff M. Parnes (Appointed 9/03-5/14 by Frey; 6/16-6/18 by Smith) Term Exp. 6/20	Sully District Representative	David Skiles	Smith	Sully

CONFIRMATION NEEDED:

- Ms. Mary Pauline Jones as the Disability Services Representative

TREE COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Dragan Momcilovic; appointed 1/14-10/18 by Hudgins) Term exp. 10/21 <i>Resigned</i>	Hunter Mill District Representative		Alcorn	Hunter Mill

CONFIRMATION NEEDED:

- Mr. John Burke as the Park Authority Representative

TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD (2 YEARS)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Barry Mark; appointed 3/15-2/17 by Bulova) Term exp. 2/19 <i>Resigned</i>	Commercial or Retail Ownership #3 Representative		McKay	At-Large

UPPER OCCOQUAN SEWAGE AUTHORITY (UOSA) (4 years)

CONFIRMATIONS NEEDED:

- Mr. Michael McGrath as the Fairfax County #2 Representative
- Ms. Stacey Smalls as the Fairfax County Alternate #1 Representative

VOLUNTEER FIRE COMMISSION (2 years)

CONFIRMATIONS NEEDED:

- Mr. Gerald B. Strider as the Zone I Representative
- Mr. Timothy G. Fleming as the Zone II Representative
- Mr. Thomas K. Warnock as the Volunteer Fire and Rescue Association Representative

WATER AUTHORITY (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Harry F. Day (Appointed 6/87-6/90 by Davis; 7/93 by Trapnell; 5/96-6/17 by Gross) Term exp. 6/20	Mason District Representative	Harry F. Day	Gross	Mason
Joseph Cammarata (Appointed 10/12- 6/14 by Hyland; 6/17 by Storck) Term exp. 6/20	Mount Vernon District Representative	Joseph Cammarata	Storck	Mount Vernon
Burton Jay Rubin (Appointed 5/84-6/05 by McConnell; 6/08- 7/17 by Herrity) Term exp. 6/20	Springfield District Representative	Burton Jay Rubin	Herrity	Springfield

NEW BOARD

YOUNG ADULTS ADVISORY COUNCIL (YAAC) (2 YEARS)
The Board of Supervisors established the Council on January 28, 2020
 (There will be a total of 15 members. The appointees must be 20-34 years and would serve for 2-year terms limited to 2 full consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	At-Large Chairman's Representative	Mohamed Rahman	McKay	At-Large Chairman's
NEW POSITION	At-Large #1 Representative	Denver Supinger (McKay)	By Any Supervisor	At-Large
NEW POSITION	At-Large #2 Representative		By Any Supervisor	At-Large
NEW POSITION	Braddock District Representative		Walkinshaw	Braddock
NEW POSITION	Dranesville District Representative		Foust	Dranesville
NEW POSITION	Hunter Mill District Representative	Sujit R. Koppula	Alcorn	Hunter Mill
NEW POSITION	Lee District Representative		Lusk	Lee
NEW POSITION	Mason District Representative		Gross	Mason
NEW POSITION	Mount Vernon District Representative		Storck	Mount Vernon
NEW POSITION	Providence District Representative	Jessica Sun	Palchik	Providence
NEW POSITION	Springfield District Representative	Lee Jackson	Herrity	Springfield
NEW POSITION	Sully District Representative	Dalton J. Bisson	Smith	Sully

continued

YOUNG ADULTS ADVISORY COUNCIL (2 YEARS)
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	Fairfax County Government Employee Representative	Casey Judge	Confirmed by the Board	Confirmation
NEW POSITION	Fairfax County Public Schools Representative	Lesly Ascencio	Confirmed by the Board	Confirmation
NEW POSITION	George Mason University Representative		Confirmed by the Board	Confirmation
NEW POSITION	Northern Virginia Community College Representative	Meanie Stover	Confirmed by the Board	Confirmation

Board Agenda Item
June 23, 2020

2:00 p.m.

Board Decision on the Fairfax County Capital Improvement Program (CIP) for Fiscal Years 2021 - 2025 (With Future Fiscal Years to 2030)

ISSUE:

Board decision on the Fairfax County Capital Improvement Program (CIP) for Fiscal Years 2021 - 2025 (With Future Fiscal Years to 2030).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the Advertised Capital Improvement Program for Fiscal Years 2021 - 2025 (With Future Fiscal Years to 2030), as presented on February 25, 2020 and amended on April 7, 2020. As discussed at the June 2, 2020 budget committee meeting, the following motions are recommended:

- Support the Planning Commission motions as approved on April 22, 2020.
- Make all necessary adjustments to reflect actions taken during the Board's decision on the *FY 2020 Third Quarter Review* and the FY 2021 Adopted Budget Plan that impact the CIP.

TIMING:

The Advertised Capital Improvement Program was discussed at the Board's Budget Committee meeting on June 2, 2020 and final adoption of the CIP is scheduled for June 23, 2020.

BACKGROUND:

The Board of Supervisors considered the FY 2021 – FY 2025 Advertised Capital Improvement Program (With Future Fiscal Years to 2030) at a budget committee meeting on June 2, 2020. The Planning Commission conducted its markup of the CIP on April 22, 2020. The Planning Commission proposed several CIP motions. All motions were approved unanimously by the Planning Commission. A June 1, 2020 memo was provided to the Board of Supervisors outlining the specific Planning Commission recommendations for the CIP and the verbatim excerpt is available at: <https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2020%20verbatim/verbatim42220cip-deonly.pdf>

Board Agenda Item
June 23, 2020

FISCAL IMPACT:

As shown on page 22 of the FY 2021 – FY 2025 Advertised Capital Improvement Program (With Future Fiscal Years to 2030), the total CIP cost including all program elements, is \$11.172 billion (including \$0.846 billion for Non-County Managed Programs such as the Northern Virginia Regional Park Authority and the Water Supply). This includes \$1.714 billion authorized or expended through FY 2020, \$6.369 billion scheduled over the FY 2021 – FY 2025 period, and \$3.089 billion for projects initiated in the five-year period for which expenditures are projected to occur in the FY 2026 – FY 2030 period. These estimates will be adjusted slightly to accommodate actions taken during the Board's decision on the *FY 2020 Third Quarter Review* and the FY 2021 Adopted Budget Plan that impact the CIP.

ENCLOSED DOCUMENTS:

Attachment I – Memorandum to the Board of Supervisors dated June 1, 2020, Planning Commission Recommendations Regarding the FY 2021 – FY 2025 Capital Improvement Program

STAFF:

Bryan J. Hill, County Executive
Joseph Mondoro, Chief Financial Officer
Christina Jackson, Director, Department of Management and Budget
Martha Reed, Department of Management and Budget



County of Fairfax, Virginia

MEMORANDUM

DATE: June 1, 2020

TO: Board of Supervisors

FROM: Bryan J. Hill
County Executive 

SUBJECT: Planning Commission Recommendations regarding the FY 2021 – FY 2025 Capital Improvement Program

The Planning Commission began their work on the FY 2021 - FY 2025 Advertised Capital Improvement Program on February 27, 2020. The Planning Commission conducted several meetings, beginning with their initial review of the CIP on February 27, 2020, followed by the annual CIP Agency Workshop and Public Hearing on March 12, 2020. The Commission had the opportunity to hear from 10 County representatives about CIP projects and solicited feedback from residents of the County about the CIP. Finally, on April 22, 2020, the Commission voted unanimously to recommend that the Board of Supervisors adopt the CIP as Advertised with the following recommendations:

- Recommend that the Board of Supervisors authorize consideration of a comprehensive plan amendment to update the Public Facilities element of the Policy Plan. During that review, staff should review the alignment of those updates with the CIP.
- Recommend that staff from the Department of Planning and Development and the Fire and Rescue Department, during any future update of the Public Facilities element of the Policy Plan, explore the possibility of ensuring that Emergency Vehicle Preemption (EVP) equipment is considered during the review of land use cases. New Policy Plan language would more specifically describe the strategic placement of EVPs to make them more of a priority. In addition, Fire and Rescue staff should look for other potential funding sources to support prioritized EVP installations.
- Recommend that staff identify options for funding the Tysons Fire Station if proffer contributions are delayed. The Fire Department identifies this future station as its number one CIP priority, yet proffer funding has only been received to support the design of this station. It will be essential that hoped for proffer funding be received in a timely manner in order to proceed to the construction phase. Contingency funding strategies should be devised should timely proffer monies not be realized. One contingency is for staff from the Fire and Rescue Department to reprioritize their future CIP projects if it is determined that the pace of receipt of the proffer contributions will delay the construction of the station. Another contingency is to consider a public, private partnership funding arrangement for the cost of construction. It is important to note that the current Fire Station at Spring Hill Road remains in place and operations can continue from that station until such time as the replacement station is constructed.

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Board of Supervisors

Planning Commission Recommendations regarding the FY 2021 – FY 2025 Capital Improvement Program

Page 2 of 2

- Recommend that staff consider reprioritizing the fall 2020 Bond Referendum program to include funding for identified infrastructure replacement and upgrade projects if funding is not available for these projects at year end. In order to maintain the County's existing facilities and address category "F" rated infrastructure projects, bond funding should be considered if General Fund support is unavailable.
- Support the deferral of the \$25 million for Early Childhood Education Facilities from the fall 2020 Bond Referendum to the fall 2022 Referendum based on the uncertainty of the operational dollars to support programs within these facilities. The Planning Commission further recommends that staff reevaluate the proposed Fall 2020 Bond Referendum plan to include the reprioritization of Library, Human Services and Park projects, if required, to align with the economic recovery at the time.

The verbatim excerpt from the April 22nd meeting is available at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2020%20verbatim/verbatim42220cip-deconly.pdf>

The Board is scheduled to discuss the CIP as part of the June 2 Budget Committee meeting.

cc: Tisha Deeghan, Deputy County Executive
David M. Rohrer, Deputy County Executive
Rachel Flynn, Deputy County Executive
Joseph M. Mondoro, Chief Financial Officer
Christina C. Jackson, Director, Department of Management and Budget

Board Agenda Item
June 23, 2020

2:00 p.m.

Matters Presented by Board Members

ENCLOSED DOCUMENTS:

Attachment 1 – Proclaiming June 2020 as Lesbian, Gay, Bisexual and Transgender Pride Month in Fairfax County (*Joint Board Matter: Presented by Supervisor Foust, Chairman McKay, Supervisor Palchik*)

Attachment 2 – Motion for Concurrent Processing: K. Hovnanian at The Boulevard at Westfields, LLC (RZ/FDP 2019-SU-010 Concurrent with PCA 78-S-063-10 and PCA 81-S-076) (*Presented by Supervisor Smith*)

Attachment 3 – Milestone Communications / Special Exception (*Presented by Supervisor Foust*)

Attachment 4 – Proclamation Request for Mayor Laurie DiRocco of the Town of Vienna (*Joint Board Matter: Presented by Chairman McKay and Supervisor Alcorn*)

Attachment 5 – Request for LDS and DPD to Develop a Survey for Customers (*Joint Board Matter: Presented by Chairman McKay and Supervisor Smith*)

Attachment 6 – Request for Expedited Processing for PCA/CDPA/FDPA 2000-MV-046 (Aventon Holdings I, LLC) (*Presented by Supervisor Storck*)

Attachment 7 – Concurrent Processing Motion: The Board of Supervisors of Fairfax County (*Presented by Supervisor Walkinshaw*)

Attachment 8 – Request to Make Fairfax County an Official “My Brother’s Keeper Community” (*Presented by Chairman McKay*)

Attachment 9 – Request for Staff to Develop a Housing Partnership Pledge and Guidelines for Emergency Rental Assistance and to Explore Additional Flexibilities for Emergency Rental Assistance (*Joint Board Matter: Presented by Chairman McKay, Supervisor Foust, Supervisor Storck*)

Attachment 10 – Request to Inventory Confederate Names (*Joint Board Matter: Presented by Supervisor Palchik and Supervisor Alcorn*)

Attachment 11 – Request for Expedited BOS Public Hearing Scheduling for RZ 2019-SU-021/SE 2019-SU-022 (Blue Knob Investors, LLC) (*Presented by Supervisor Smith*)



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COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX

McLean Governmental Center
1437 Balls Hill Road
McLean, VA. 22101



JOHN W. FOUST
DRANESVILLE DISTRICT SUPERVISOR

JOINT BOARD MATTER
Chairman Jeff McKay, Supervisor John Foust, and Supervisor Dalia Palchik
June 23, 2020

PROCLAIMING JUNE 2020 AS LESBIAN, GAY, BISEXUAL AND TRANSGENDER
PRIDE MONTH IN FAIRFAX COUNTY

Background: In celebration of the County's richly diverse population, this Board has repeatedly affirmed its commitment to promoting a culture of openness, inclusiveness, and acceptance for *all* persons in Fairfax County. By embracing and celebrating our individual identities, we become a better County.

In April 2017, the Board adopted a Resolution of Diversity and Inclusion. We espoused that Fairfax County exemplifies values of respect and acceptance, and that we welcome and celebrate one another's differences and cultural backgrounds.

In June 2017, the County amended its employment policies to explicitly state that County employees, volunteers, and vendors are prohibited from engaging in harassment, retaliation, and other forms of discrimination based on sexual orientation and gender identity. Fairfax County has zero tolerance for harassment and other forms of discrimination.

In November 2017, the Board adopted One Fairfax, a joint social and racial equity policy of the Fairfax County Board of Supervisors and School Board. The policy commits the County and schools to intentionally consider equity when making policies or delivering programs and services. One Fairfax is a declaration that all residents deserve an equitable opportunity to succeed if they work hard—regardless of their race, color, sex, nationality, sexual orientation, income or where they live.

The Pride Movement began with the Stonewall riots against police brutality and oppression in 1969, which were largely led by LGBTQ+ people of color making Pride, at its core, an opportunity to celebrate intersectionality.

Every year since the Stonewall Riots, June has been celebrated as LGBTQ+ Pride Month across the country and the world. It is a movement that celebrates sexual diversity. For lesbian, gay, bisexual, and transgender people, it is a way of protesting discrimination and violence. It promotes their dignity, equal rights, self-affirmation and is a way of increasing society's awareness of the issues they face.

This past session, the Virginia General Assembly passed sweeping legislation that affects members of the LGBTQ+ community. The Virginia Values Act, which takes effect on July 1st, bans discrimination in employment, housing, and public accommodations, such as restaurants. With Governor Northam's signature, Virginia became the first Southern state to adopt such protections, applicable to LGBTQ+ people, racial minorities, women, and religious groups. Prior to enactment of the law, Virginia was one of five states that had no public accommodations law of any kind. In signing the bill into law, Governor Northam stated: "It is now the law of the land that every Virginian can work hard, earn a living wage, and live their lives without fear of discrimination based on who they are or who they love. A tremendous victory."

Governor Northam signed two other key pieces of legislation affecting the LGBTQ+ community: legislation that requires the Department of Education to develop and make available to each school board model policies regarding the treatment of transgender students in primary and secondary schools no later than December 31, 2020, and legislation that prohibits health care providers and counselors from engaging in conversion therapy with any person under the age of 18.

But despite changes in laws and social attitudes, subtle and overt prejudice continues against people who identify as LGBTQ+ around the world and in our own Commonwealth. As the Board leads by example in representing all Fairfax County

citizens and employees, it is imperative for the Board, along with County employees and County residents, to continue to stand up, speak out and show support for those who continue to face that prejudice. As Dr. Martin Luther King, Jr. stated:

“.... injustice anywhere is a threat to justice everywhere.”

Therefore, we move that the Board of Supervisors proclaim June 2020 as “LGBTQ+ Pride Month” in Fairfax County and invite representatives of the LGBTQ+ community and their supporters to come before the Board at a time when presentations before the Board have resumed.

Kathy L. Smith

Board of Supervisors
4900 Stonecroft Boulevard
Chantilly, VA 20151



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www.fairfaxcounty.gov/sully

Sully District

Board Matter/Administrative Item

June 23, 2020

Motion for Concurrent Processing:

K. Hovnanian at The Boulevard at Westfields, LLC

RZ/FDP 2019-SU-010

Concurrent with PCA 78-S-063-10 and PCA 81-S-076

BACKGROUND: Mister Chairman, K. Hovnanian at The Boulevard at Westfields, LLC., is the applicant of four concurrent zoning applications for a residential development located on the east side of Sully Road, west side of Park Meadow Road and north side of Poplar Tree Road on Tax Map 44-3 ((6)) 8C and 8B1. The purpose of these applications is to rezone the subject 21.62-acre site from the I-3 and I-4 Districts to the PDH-16 District to construct a maximum of 330 mixed, residential dwellings.

The applicant has a public hearing scheduled before the Planning Commission on July 15, 2020. The Board of Supervisors hearing has not been scheduled. The applicant has requested authorization to process concurrent site and building plans/permits for the project in advance of the Board of Supervisors hearing.

MOTION: Mister Chairman, I move that the Board of Supervisors direct the Director of the Department of Land Development Services to accept for concurrent and simultaneous review a site plan, architectural drawings, building permits and/or other plans and permits as may be necessary to implement the improvements contemplated by the Applicant with this PCA, RZ and FDP applications.

The applicant is aware that this motion should not be considered as a favorable recommendation by the Board on the proposed Application and does not relieve the applicant from compliance with the provisions of all applicable ordinances, regulations and/or adopted standards, nor does it prejudice in any way the Board's consideration of this pending Application.



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COMMONWEALTH OF VIRGINIA
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JOHN W. FOUST
DRANESVILLE DISTRICT SUPERVISOR

June 23, 2020

BOARD MATTER
SUPERVISOR JOHN FOUST

Milestone Communications / Special Exception

Background: Mr. Chairman, Milestone Communications has approached the County with a proposal to install a telecommunications monopole at Wolf Trap Fire Station #42 at 1315 Beulah Road. Per the Fairfax County Zoning Ordinance, monopole structures are permitted on public property in the R-2 District with approval of a Special Exception. Consequently, the construction and operation of a monopole at Wolf Trap Fire Station will require Milestone to submit a Special Exception application.

County requirements specify that a zoning application on property owned by a party other than the applicant require the endorsement of the property owner before the application can be heard. Because the County owns this parcel, the applicant is requesting Board concurrence in the filing of the application. The applicant understands that this motion will not prejudice the consideration of the application in any way.

Motions: I move that the Board concur with the filing of a special exception application on Tax Map Parcel 19-3 ((1)) 20, located at 1315 Beulah Road, by

Milestone Tower Limited Partnership IV and its agent Donohue and Stearns, PLC, to construct a telecommunication facility at Wolf Trap Fire Station.

I further move that the Board authorize the County Executive and/or his designee to act as agent of the Board in connection with this application.

Finally, due to state and federal shot clocks requiring action on monopole applications within 150 days, I move that the Board direct staff to schedule the Board hearing date when it schedules the Planning Commission hearing date.

These motions should not be construed as a favorable recommendation by the Board on the proposed application and do not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.



JEFFREY C. MCKAY
CHAIRMAN

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Joint Board Matter

**Chairman McKay
Supervisor Alcorn**

June 23, 2020

Earlier this year, Town of Vienna Mayor Laurie DiRocco announced that she would not seek re-election for a 4th term in June. Mayor DiRocco's current term will end on June 30, 2020.

Mayor DiRocco first joined the Vienna Town Council in 2009, following six years of serving on the Town of Vienna's Planning Commission and the Transportation Safety Commission. In 2014, she was appointed Mayor following the death of Mayor Jane Seeman and subsequently won the seat in an election later that year.

In total, her over 17 years of service to the Town of Vienna have not only been an incredible asset to the town, but to Fairfax County as a whole. Her accessibility to Vienna residents, her ability to work with all sides on tough Town issues, and her diligent advocacy for the Town - always with a smile on her face – means she will be a mayor we will all miss.

Therefore, we request without objection that the Office of Public Affairs prepare a proclamation honoring Mayor DiRocco for her years of service to be presented at a future Board of Supervisors meeting.



JEFFREY C. MCKAY
CHAIRMAN

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Joint Board Matter

Chairman McKay
Supervisor Smith

June 23, 2020

In Fairfax County, we are lucky to boast a robust staff and several agencies and departments committed to land use in the County. These agencies coordinate with our greater business community in a number of ways to deliver economic prosperity and innovation to Fairfax County.

We have heard from many members of the business community, both from large corporations to small, independent businesses, regarding opportunities to make our services across Land Development Services and the Department of Planning and Development more efficient, reliable, and customer friendly.

Throughout these conversations and previous feedback the Board has received from stakeholder groups, such as the Community Council on Land Use Engagement, it has become clear to us that the County has room to improve in proactively gathering customer feedback on our land development services. In gathering this feedback, we are better equipped to recognize and correct roadblocks and inefficiencies that exist throughout our programs.

As this Board has made a commitment to One Fairfax, we believe it is of utmost importance to ensure that we have a full picture of how our services are working for our residents and business community. When inefficient processes exist on our end, it can disproportionately impact

our small businesses and residents, who may not have the resources to work through an extended and multi-cycle process.

Therefore, we direct LDS and DPD to develop a survey to be sent out to each customer upon completion of their business with relevant agencies throughout the land use process. This survey should be anonymous, so as to remove any fears of retaliation a customer may have. We additionally request that after development and implementation of this survey, LDS and DPD provide the Board with intermittent updates regarding the nature of the feedback.



Dan Storck
Mount Vernon District Supervisor
Fairfax County Board of Supervisors
 2511 Parkers Lane
 Mount Vernon, VA 22306



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Request Expedited Processing for PCA/CDPA/FDPA 2000-MV-046
Aventon Holdings I, LLC.
Board Matter June 23, 2020

The pending application Proffer Conditions Amendment/Conceptual Development Plan Amendment/Final Development Plan Amendment PCA/CDPA/FDPA 2000-MV-046 is an application to amend the proffers and conditions, the conceptual development plans, and the final development plans associated with rezoning application RZ-2000-MV-046. The Applicant, Aventon Holdings LLC, proposes to amend the proffers approved pursuant to RZ 2000-MV-046 in order to permit application of remaining multifamily residential units available under the Comprehensive Plan for this area. This application is scheduled to go before the Planning Commission for a hearing date of July 8th, 2020.

The proposed multifamily building will be seven stories and contain up to 379 multifamily units. The proposed building design compliments the existing multifamily structures to the south of the Property, while being respective of nearby single-family uses. It also promotes a contemporary urban design adjacent to the Huntington Metro Station.

The plan promotes use of transit (Metrorail and bus), other high-occupant vehicle commuting modes, walking, biking, and teleworking, all to reduce automobile trips. The Applicant has proffered a Transportation Demand Management Plan, has an outlined dedicated Sustainable Design Plan for the buildings, an Invasive Species Plant Management Plan, tree preservation and soil remediation to satisfy cultural requirements for trees, shrubs, and groundcovers.

Finally, this project will create 44 workforce dwelling units in this development, furthering Fairfax County's goal of providing more affordable housing.

Therefore, I move that the Board of Supervisors authorize expedited processing of the pending Proffer Conditions Amendment/Conceptual Development Plan Amendment/Final Development Plan Amendment PCA/CDPA/FDPA 2000-MV-046 for a Board of Supervisors hearing date of July 28, 2020.

Please note that this motion should not be construed as a favorable recommendation on the application by the Board and does not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, adopted standards, or proffers. This action in no way prejudices the substantive review of the application.

Attachment: MVCCA Resolution in Support



The Mount Vernon Council of Citizens Associations, Inc.
P.O. Box 203, Mount Vernon, VA 22121-9998 <http://www.mvcca.org>

Supervisor Dan Storck
Commissioner Walter C. Clarke

June 2, 2020

Dear Supervisor Dan Storck and Planning Commissioner Clarke

The MVCCA supports the phase III development of the Huntington Metro area proposed rezoning by Avention-Huntington Holdings I, LLC. Our resolution is attached and forwarded for your support and appropriate action.

Katherine Ward
Katherine Ward
Co-Chair
MVCCA

Enclosed: MVCCA Resolution JT2020-J01 Avention-Huntington Holdings I, LLC Rezoning
Application PCA/CDPA/FDPA 2000-MV-046

cc:
Fairfax County Planning Staff
Fairfax County Board of Supervisors
Fairfax County Planning Commission

MOUNT VERNON COUNCIL OF CITIZENS' ASSOCIATIONS'S (MVCCA) JOINT
RESOLUTION (TRANSPORTATION, PLANNING & ZONING and ENVIRONMENT &
RECREATION) JT2020-J01
AVENTON-HUNTINGTON HOLDINGS I, LLC, REZONING APPLICATION, 5919 NORTH
KINGS HIGHWAY PCA/CDPA/FDPA 2000-MV-046

1. **Whereas:** This is Phase III of the rezoning at the south end of Huntington Metro station that produced the Courts at Huntington Station (Phase II) and the Pavilions at Huntington Metro (Phase I), and;
2. **Whereas:** This current vacant land lies north of North Kings Highway, immediately east of the now closed south (upper) Huntington Metro parking garage and west of Mount Eagle Park, and;
3. **Whereas:** The proposed two seven-story buildings would provide 379 multifamily units. The development is intended to be a high quality, modern structure with brick façade and urban design elements over a wood frame, and;
4. **Whereas:** The residential parts of the building will wrap around three sides of a multi-story garage with subdued entry and include an enclosed area for trash collection, and;
5. **Whereas:** Landscaping will facilitate public access to the Metro Station, including improved Montebello shuttle bus access and lighted pedestrian pathways along the eastern and northern perimeter of the property. This intended to provide a safe and more attractive access to Mount Eagle Park and existing residential neighborhoods to the north and north east, and;
6. **Whereas:** Walking surfaces will be improved and invasive plant species now dominating the Applicant's property will be removed. The steep grade from the building site down to the park and neighboring communities will be accommodated by re-grading the site as approved by Fairfax County, and;
7. **Whereas:** The applicant has met with the neighboring communities and the MVCCA committees of Transportation, Planning and Zoning and Environment and Recreation to understand community concerns and gather support for the project, and;
8. **Whereas:** To address concerns raised about existing conditions, the Applicants have agreed;
 - 1) To keep the eastern pedestrian pathways and fire lane in a safe well-lit and well-maintained manner, with the emphasis on access during all weather conditions, including snow removal.
 - 2) To keep the sidewalks on Metro Access Drive, Huntington Park Drive and the interior private road network in a safe and well-maintained manner.
 - 3) To work with the courts of Huntington on an agreement to ensure that the portion of Huntington Park Drive between the two properties is kept clear of obstructions, including snow removal.
 - 4) To work with Montebello to ensure the adequate and safe provision of the new bus and emergency vehicle path alignment prior to construction of the residential community or as otherwise agreed with Montebello.
 - 5) To ensure that the abandoned road portion is converted to permeable land, and;
 - 6) To implement bird-friendly building design to minimize collisions including no mirrored or reflective surfaces among other features.

THEREFORE, BE IT RESOLVED, the MVCCA supports the Aventon-Huntington Holdings I, LLC application (PCA/CDPA/FDPA 2000-MV-046) provided that the Applicant fully addresses the issue noted above including any associated legal agreements.

Resolution approved at General Council meeting on May 27, 2020.



James R. Walkinshaw
Braddock District Supervisor

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Board Matter - Supervisor Walkinshaw
June 23, 2020
Concurrent Processing Motion
The Board of Supervisors of Fairfax County

Mr. Chairman,

The applicant, the Board of Supervisors of Fairfax County, submitted a series of concurrent zoning applications for the construction of the Monument Drive Transit Center, at the northwestern quadrant of the intersection of Monument Drive and Government Center Parkway. The applications are filed on approximately 3.82 acres identified as Tax Map Parcels 56-1 ((15)) 4 and 56-1 ((1)) 47C.

Parcel 4 is a part of the Government Center Campus and is undeveloped. Parcel 47C is part of the Fairfax Corner Mixed-Use Development and is currently developed with a surface parking lot. The proposal includes a commuter parking garage, a pedestrian pickup and drop off area, a covered bus station for commuters on the I-66 corridor, both a bike room and short-term bike parking, and a capital bikeshare station.

The applicant has public hearings scheduled before the Planning Commission on September 16, 2020 and the Board of Supervisors on September 28, 2020. The applicant has requested authorization to process concurrent site and building plans and permits to allow this project to move forward expeditiously.

Concurrent Processing Motion:

Therefore, I move that the Board of Supervisors direct the Director of the Department of Land Development Services to accept concurrent and simultaneous review a site plan, architectural drawings, building permits and/or other plans and permits as may be necessary to implement the improvements proposed with these rezoning applications.

The applicant is aware that this motion should not be considered as a favorable recommendation by the Board on the proposed zoning applications and does not relieve the applicant from compliance with the provisions of all applicable ordinances, regulations and/or adopted standards, nor does it prejudice in any way the Board's consideration of the pending zoning applications.



JEFFREY C. MCKAY
CHAIRMAN

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Board Matter

Chairman McKay

June 23, 2020

Launched by President Obama in 2014, the My Brother's Keeper Initiative currently partners with over 250 counties, cities, towns, and tribal nations to address opportunity gaps that exist for boys and young men of color. My Brother's Keeper Communities work across sectors to implement policies and action that, among other key principles, aim to improve literacy and college and career readiness for young men of color. The My Brother's Keeper Initiative also aims to address the disproportional amount of contact with law enforcement our youth of color experience while improving and promoting "second chances" for youth following contact with the criminal justice system.

I believe the mission and work of the My Brother's Keeper Initiative aligns with that of our One Fairfax priorities to consider equity in all areas of the County and work towards making Fairfax County a place where all can thrive. This equity lens must be applied towards the experiences of our youngest residents, as these experiences are crucial to determining their success later in life.

Therefore, I ask without objection that our Successful Children and Youth Policy Team (SCYPT) facilitate a partnership between Fairfax County and the My Brother's Keeper Alliance to make Fairfax County an official "My Brother's Keeper Community." SCYPT is directed to identify and engage community partners in shaping the participation and infrastructure necessary for building, improving, and scaling initiatives that serve and support improved life outcomes for boys and young men of color and to determine the resource needs to implement organizational and operational recommendations.

HOW TO BECOME A NEW MBK COMMUNITY

Step One: Accept the MBK Community Challenge

A mayor, county executive or tribal leader officially accepts the Challenge by appointing a designated point of contact to lead the MBK effort and pledging to build and execute a plan to accomplish as many of the goals listed below as possible:

1. Ensuring all children enter school cognitively, physically, socially and emotionally ready
2. Ensuring all children read at grade level by 3rd grade
3. Ensuring all youth graduate from high school
4. Ensuring all youth complete post-secondary education or training
5. Ensuring all youth out of school are employed
6. Ensuring all youth remain safe from violent crime

Step Two: Complete an Onboarding Process with the MBK Alliance Team

Designated point of contact registers for onboarding with MBK Alliance that provides practical advice and guidance on how to generate public commitment from elected officials, convene a collective impact table, scan the local policy landscape, and develop an impactful, measurable and results-driven local action plan.

Please reach out to Jared Brown at jbrown@obama.org for more information.

Once you complete the onboarding process, MBK Alliance will begin connecting you with other MBK Communities and sending you notifications to take part in technical assistance and convenings for MBK Communities working to address persistent opportunity gaps and ensuring all youth can achieve their full potential.

Step Three: Convene a Local Action Summit to Build an MBK Community

This effort will require a coalition of partners with an ownership stake in the strategy, and a sense of empowerment to help lead the effort. Within 180 days of accepting the challenge, host a Local Action Summit with key stakeholders to assess needs and assets, determine priorities, and set concrete goals.

Step Four: Conduct a Policy Review & Form Recommendations for Action

Following your Local Action Summit, direct a working group of pertinent government stakeholders to scour existing local policies, programs, and practices in search of ways to introduce or expand on existing efforts to better serve the needs of the community's youth. The working group should assess the impact of both existing and proposed programs. Within 180 days of hosting your Local Action Summit, this body should produce a report with recommendations for action on your selected areas of focus (from Step 1), standards for tracking and sharing data across public agencies and community partners, and structural recommendations for institutionalizing the effort until goals are reached.

Step Five: Launch a Plan of Action, Next Steps & Timeline for Review

Within 90 days of completing your policy review and report, convene key partners to publicly launch a plan of action for accomplishing selected goals based off the results of your policy review. It should include a protocol for tracking data, benchmarks and timelines for review to ensure the transparent assessment of progress towards goals, and the open examination and retooling of ineffective strategies. Include a blueprint for resourcing your efforts which outlines plans to use or redirect existing resources, new public or private sector commitments, and specific areas where additional commitments, investment, or partnership could help your community reach its MBK goals and help potential new partners target their involvement.



JEFFREY C. MCKAY
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Joint Board Matter

Chairman McKay
Supervisor Foust
Supervisor Storck

June 23, 2020

As we continue to address the impact of COVID-19 and the associated impact on employment in our community, low and moderate income families in particular are increasingly at risk of falling behind on rent and mortgages, and eventually eviction and even homelessness. While the steps the County, our housing authority, our nonprofit partners, and our community are taking are making a critical difference, the time has come to look at additional steps we can take to sustain and even expand these efforts in the coming months.

Therefore, We:

- Move that the Board direct staff to develop a **Housing Partnership Pledge**. Similar to work done in Chicago, we plan to convene leadership from our landlord and lender community to develop a pledge to provide relief for borrowers and tenants impacted by COVID-19, asking them to voluntarily defer actions such as foreclosures and evictions, and providing grace periods for payments.
- Move that the Board direct the Department of Housing and Community Development, in partnership with other appropriate County agencies, develop new guidelines for **Emergency Rental Assistance**, to provide for a requirement that landlords receiving such assistance certify that, in exchange for accepting the payment on a renter's account from the County, they will work in good faith to help the tenants maintain their housing and will contact the County prior to filing a legal action. In addition, we should explore asking landlords receiving emergency rental assistance to waive late fees dating to April 1.
- Move that the Board request that the Redevelopment and Housing Authority explore what **additional flexibilities** it may have in its programs to provide emergency rental assistance.



Chicago Housing Solidarity Pledge

Through this pledge, Chicago's leading residential housing lenders and landlord associations stand with all Chicagoans by affirming they may provide deferred payments and other relief for eligible renters and mortgage borrowers who demonstrate a significant financial impact from the COVID-19 pandemic.

Like cities across the country, Chicago faces an unprecedented challenge from COVID-19. The COVID-19 virus has threatened the health and well-being of residents across the City – particularly in Chicago's black and brown communities. Many residents have lost their jobs or seen their hours reduced. Faced with these challenges, residents have asked what the City of Chicago will do to help ensure the stability of their housing.

It is in the interest of everyone – renters and landlords, homeowners and lenders – to provide a clear answer to this question. The Chicago Housing Solidarity Pledge brings the City's lenders and landlords together to help address the unprecedented housing challenge that the City faces during this emergency period.

We encourage residents – both borrowers and renters – who remain able to pay their mortgage or rent to continue doing so, while at the same time borrowers and renters who are facing financial hardships must reach out directly to their mortgage servicer or landlord to work out a plan that suits their needs.

Housing Lenders

Lenders affirm they may provide the following for eligible mortgage borrowers on a case-by-case basis and consistent with applicable guidelines who demonstrate a significant financial impact from the COVID-19 pandemic:

- **Grace Period for Mortgage Payments:** Offer deferred payments with repayment terms that avoid immediate repayment at the end of the deferral period.
- **Suspension of Foreclosures:** Provide relief from foreclosure filings until May 31, 2020.
- **Neutral Reporting to Credit Agencies:** No reporting late payments to credit reporting agencies, consistent with applicable guidelines, for residential borrowers taking advantage of COVID-19-related relief, provided that loans that were delinquent prior to the deferral will continue to be reported as delinquent.
- **No Late Fees for Missed Payments:** Provide relief from mortgage-related late fees.

Landlords

Landlords affirm they may provide one or more of the following for eligible renters on a case-by-case basis who demonstrate a significant financial impact from the COVID-19 pandemic:

- **Grace Period for Rent Payments:** Offer deferred payments with repayment terms that avoid immediate repayment at the end of the deferral period.
 - **Written Repayment Plans:** Permit renters with a missed rent payment to amortize the repayments over time.
 - **No Late Fees for Missed Payments:** Provide relief from rent-related late fees.
-



Chicago Partners



Lawyers' Committee
for Better Housing

BANK OF AMERICA



BMO  **Harris Bank**

 **Byline Bank**



FIFTH THIRD BANK



**FIRST
EAGLE
BANK**



First Midwest Bank



PNC BANK

usbank

WINTRUST
BANK



Second Federal
A Division of Self-Help FCU

 **Seaway**
A Division of Self-Help FCU

CAA
CHICAGOLAND APARTMENT

 **NBOA**
NEIGHBORHOOD BUILDING OWNERS ALLIANCE

 **Chicago**
ASSOCIATION OF
REALTORS



DALIA A. PALCHIK
PROVIDENCE SUPERVISOR

COMMONWEALTH OF VIRGINIA
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**Joint Board Matter
Providence District Supervisor Dalia A. Palchik
and
Hunter Mill District Supervisor Walter Alcorn**

**Request to Inventory Confederate Names
June 23, 2020**

BACKGROUND

Mr. Chairman, today Supervisor Alcorn and I are requesting a report listing a full inventory of Confederate names of public places in Fairfax County, including: monuments, street names, Rec Centers, parks, county buildings, and other county properties.

Fairfax County residents stand together with fellow Americans in support of the recent movement for racial justice, brought on by the horrific deaths of George Floyd, Ahmaud Arbery, Breonna Taylor, and others. This powerful call for equity has brought attention to Confederate monuments and place names throughout the country and the County, and the painful history they symbolize. Confederate monuments and place names were affirmations of white supremacy under the siren of southern history and tradition, and they go against the goal of a more just, unified county. They do not reflect our community's values.

ONE FAIRFAX POLICY

Fairfax County embraces its growing diverse population and recognizes it as a tremendous asset, but also knows that racial and social inequities still exist. This policy defines expectations for consideration of racial and social equity, and in particular, meaningful community involvement when planning, developing, and implementing policies, practices, and initiatives. In order to embrace the One Fairfax policy, a full inventory of these tributes is essential for Board review, to move forward in our journey towards a more just county.

MOTION

Therefore, I move that the Board request the Fairfax County History Commission to prepare a report listing a full inventory of Confederate street names, monuments and public places in Fairfax County and on Fairfax County-owned property. The report should include:

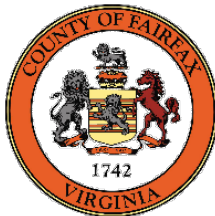
- A comprehensive list and history of places in Fairfax County named after individuals who held military or governmental responsibilities under the authority of the Confederate States of America between 1861-1865;

- Identification of the party responsible for renaming the street, monument and/or place;
- Implications (including legal, cost, and other) of removing Confederate names of public places in Fairfax County;
- Recommended guidelines with the input of other relevant County Boards and Commissions such as the Fairfax County Park Authority and the Architectural Review Board for the renaming/replacement process of Confederate:
 - Monuments
 - Street Names
 - Rec Centers & Parks
 - Additional Public Places
- Input from the County Attorney's office and other relevant county agencies on the renaming process of Confederate names of public places in the County.
 - This should include coordination with other local governments for any existing removals or replacements, to include the Marr monument located on Fairfax county grounds.

We request this inventory be completed by the end of 2020. Once completed, the Board should immediately consider further community outreach and potential implementation options.

I would so move.

Kathy L. Smith
Board of Supervisors
4900 Stonecroft Boulevard
Chantilly, VA 20151



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Sully District
Board of Supervisors Meeting
June 23, 2020

BOARD MATTER

RZ 2019-SU-021/SE 2019-SU-022
(Blue Knob Investors, LLC)

Blue Knob Investors, LLC has filed a rezoning and special exception application RZ 2019-SU-021/SE 2019-SU-022 on Tax Map parcel 33-2 ((1)) 6 (part). The applicant proposes to split-zone the subject property to allow one new vehicle sales establishment on 5.38-acres zoned to the C 8 District at the northern portion of the site, and one new establishment for vehicle storage, maintenance, and prepping on 6.68 acres zoned to the I-5 District on the southern portion of the site. The Planning Commission decision is scheduled for July 8, 2020, and this case should move forward as soon as possible.

Motion:

Therefore, Mr. Chairman, I move that Board of Supervisors direct staff to expedite the scheduling of the Board of Supervisor's public hearing for RZ 2019-SU-021/SE 2019-SU-022 to a date certain of July 28, 2020.

This motion should not be construed as a favorable recommendation by the Board of Supervisors on the proposed applications and does not relieve the Applicant from compliance with the provisions of all applicable ordinances, regulations or adopted standards in any way.

Board Agenda Item
June 23, 2020

2:00 p.m.

Items Presented by the County Executive

Board Agenda Item
June 23, 2020

ADMINISTRATIVE - 1

Additional Time to Obtain a Non-Residential Use Permit (Non-RUP) for Special Exception SE 2014-MA-003, Kenneth H. Fisher (Mason District)

ISSUE:

Board consideration of additional time to obtain a Non-RUP for SE 2014-MA-003, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve twelve (12) months additional time for SE 2014-MA-003 to July 1, 2021.

TIMING:

Routine.

BACKGROUND:

Under Sect. 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On July 29, 2014, the Board of Supervisors approved Special Exception SE 2014-MA-003, subject to development conditions. The application was filed in the name of Kenneth H. Fisher for the purpose of permitting a congregate living facility in the R-2 zoning district and Highway Corridor (HC) overlay district for the structure located at 3918 Larchwood Road, Tax Map 61-3 ((13)) 224 (see Locator Map in Attachment 1). The congregate living facility, a Category 3 special exception use, is permitted pursuant to Section 3-204 of the Fairfax County Zoning Ordinance. SE 2014-MA-003 was approved with a condition that the use be established as evidenced by the issuance of a Non-Residential Use Permit (Non-RUP) for the congregate living facility use within thirty (30) months of the approval date unless the Board granted additional time. The development conditions for SE 2014-MA-003 are included as part of the Clerk to the Board's letter contained in Attachment 2.

Board Agenda Item
June 23, 2020

On January 24, 2017, the Board of Supervisors approved twenty-four (24 months) of additional time to obtain a Non-RUP to a date of January 29, 2019. Further, as a result of the Virginia General Assembly action, this date was extended until July 1, 2020. On April 9, 2020, the Department of Planning and Development (DPD) received a letter dated April 6, 2020, from Lynne J. Strobel, agent for the Applicant, requesting twelve (12) months of additional time (see Attachment 3). The approved Special Exception will not expire pending the Board's action on the request for additional time.

As part of the justification for the January 24, 2017 request for additional time, Ms. Strobel stated additional time was necessary to secure the appropriate permits, complete the required improvements, and satisfy all of the development conditions. Furthermore, the Applicant is a non-profit organization and is inexperienced in the process of obtaining permits and approvals. Ms. Strobel had confirmed the Applicant is diligently raising funds to proceed with obtaining permits and approvals for the construction of the congregate living facility. In her current letter, Ms. Strobel states rising construction costs and slow fundraising, in addition to implementing the approved use due to an error in calculating the permitted gross floor area on the special exception plat have presented further challenges. Due to these challenges, the Applicant had to modify the building plans. At this time, they are in the process of obtaining building permits, however, due to current circumstances there may be a delay in the commencement of construction and ultimately a delay in the issuance of the Non-RUP. The request for twelve (12) months of additional time will allow the requestor to satisfy development conditions, obtain the appropriate permits and commence and complete construction prior to the issuance of a new Non-RUP.

Staff has reviewed Special Exception SE 2014-MA-003 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a congregate living facility within an R-2 zoning district and HC overlay district. Further, staff knows of no change in land use circumstances that affects compliance of SE 2014-MA-003 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception. Finally, the conditions associated with the Board's approval of SE 2014-MA-003 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twelve (12) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None.

Board Agenda Item
June 23, 2020

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Letter dated July 30, 2014, to Lynne J. Strobel

Attachment 3: Letter dated April 6, 2020, to Leslie B. Johnson

STAFF:

Rachel Flynn, Deputy County Executive

Barbara A. Byron, Director, Department of Planning & Development (DPD)

Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPD

Suzanne Wright, Chief, Conformance Review & Acceptance Branch, ZED, DPD

Denise James, Chief, Environment & Development Review Branch, Planning Division, DPD

Laura O'Leary, Staff Coordinator, ZED, DPD



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

July 30, 2014

Lynne J. Strobel
Walsh, Colucci, Lubeley and Walsh, P.C.
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

Re: Special Exception Application SE 2014-MA-003

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on July 29, 2014, the Board approved Special Exception Application SE 2014-MA-003 in the name of Kenneth H. Fisher. The subject property is located at 3918 Larchwood Road, on 13,830 square feet of land, zoned R-2 and HC in the Mason District [Tax Map 61-3 ((13)) 224]. The Board's action permits a congregate living facility, pursuant to Section 3-204 of the Fairfax County Zoning, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s), and/or use(s) indicated on the Special Exception Plat, as qualified by these development conditions.
3. A copy of this Special Exception and the Non-Residential Use Permit shall be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled Congregate Living Facility, prepared by J2 Engineers, Inc., dated December 23, 2013, revised through May 30, 2014, consisting of two sheets and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Paragraph 4 of Section 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
<http://www.fairfaxcounty.gov/bosclerk>

5. Upon the issuance of the Non-RUP for this Special Exception, the maximum daily resident population shall be limited to fifteen (15) persons inclusive of minor children and the total number of resident staff persons or employees shall be limited to one (1) at any one time.
6. There shall be no administrative, business, or general intake functions conducted at the subject facility, which would be inconsistent with the definition of a congregate living facility as defined in Article 20 of the Zoning Ordinance.
7. The four driveway and two garage parking spaces shall be kept available for vehicles at all times and shall not be used for any type of materials storage.
8. An ADA accessible pathway shall be provided from the facility to Larchwood Road.
9. The proposed use shall be in conformance with all applicable Performance Standards in Article 14 of the Zoning Ordinance.
10. Before the issuance of the Non-RUP, the concrete patio at the rear of the house shall be brought into compliance with the Zoning Ordinance. The adjacent landscape retaining wall shall also be brought into compliance with the applicable provisions of the Building Code.
11. An individual shall be designated to serve as the community liaison and a point of contact for the neighborhood citizens. The name, telephone number and e-mail address of this liaison shall be provided to the Mason District Supervisor's office and a designated representative of the adjacent civic association, if available, or neighborhood resident within thirty (30) days of approval of this application and any time the community liaison changes thereafter. The neighborhood shall mutually be responsible for identifying any change in the name of its designated representative.
12. A locked box shall be provided in proximity to the front door of the dwelling unit on the property so that neighbors can submit complaints, suggestions or concerns regarding operation/maintenance of the property. The mailbox shall be accessible and clearly marked for its intended purpose. The mailbox shall be checked at a minimum of twice a week and, if contact information is provided, a written response shall be provided within seven (7) days of receipt.
13. The community liaison and the designated neighborhood representative shall coordinate to schedule a maximum of four meetings a year to discuss topics of mutual interest to the immediate neighborhood. Said meetings shall be held at the Mason District Governmental Center, schedule permitting, or at another mutually agreed location. Fewer than four meetings during the year or none at all is permissible subject to mutual agreement.
14. A telephone number shall be posted near the front door of the dwelling unit that may be called to submit complaints, suggestions or concerns twenty-four hours per day .

15. Routine maintenance shall include a pick-up of trash and litter on the property at least once a week.
16. Outdoor construction shall only be permitted between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 4:00 p.m. on Saturday. Outdoor construction shall not be permitted on Sunday.
17. A. Tree Preservation: The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site or minor site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of UFMD.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees located within the tree save area living or dead with trunks 12 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) and 25 feet outside of the proposed limits of clearing, in the undisturbed area and within 10 feet of the proposed limits of clearing in the area to be disturbed. All trees inventoried shall be tagged in the field so they can be easily identified. If permission is not allowed from the offsite property owner to tag trees, it shall be noted on the tree preservation plan by providing written documentation between the applicant and the offsite property owner. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of disturbance shown on the SE Plat and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0507 and 12-0509. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, compost tea, Cambistat, radial mulching, notes and details for asphalt removal around trees, and others as necessary, shall be included in the plan.”

B. Limits of Clearing and Grading: The Applicant shall conform strictly to the limits of clearing and grading as shown on the SE Plat, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the SE Plat, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

C. Tree Preservation: Fencing All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" condition below.

D. Root Pruning: The Applicant shall root prune, as needed to comply with the tree preservation requirements of these development conditions. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 - 24 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted with the supervision of a Certified Arborist or Registered Consulting Arborist.
- An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

E. Native Species Landscaping: All landscaping provided shall be native to the middle Atlantic region to the extent feasible as determined by UFMD. In addition, the quality and quantity of landscaping provided shall be in substantial conformance with the SE Plat, and consist primarily of native species as reviewed and approved by UFMD.

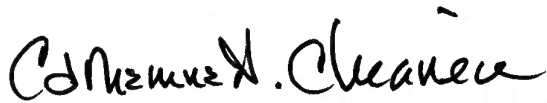
This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit (Non-RUP) through established procedures, and this Special Exception Amendment shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception amendment shall automatically expire, without notice, thirty (30) months after the date of approval unless a new (Non-RUP) has been issued to reflect this special exception amendment. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception Amendment. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also:

- Waived the transitional screening and barrier requirements along the northern, western and eastern property boundaries in favor of the existing wood fence shown on the SE Plat
- Waived the trail requirements along Columbia Pike in favor of the existing side walk along the service drive

Sincerely,



Catherine A. Chianese
Clerk to the Board of Supervisors

cc: Chairman Sharon Bulova
Supervisor Penelope Gross, Mason District
Tim Shirocky, Acting Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Thomas Conry, Dept. Manager, GIS, Mapping/Overlay
Michael Davis, Section Chief, Transportation Planning Division
Donald Stephens, Transportation Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
Jill Cooper, Executive Director, Planning Commission
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation

Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@thelandlawyers.com



**WALSH COLUCCI
LUBELEY & WALSH PC**

ATTACHMENT 3

April 6, 2020

Via E-mail and Federal Express

Leslie B. Johnson, Zoning Administrator
Zoning Administration Division
Fairfax County Department of Planning and Development
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Re: SE 2014-MA-003
Applicant: Kenneth H. Fisher
Fairfax County Tax Map Reference: 61-3 ((13)) 224 (the "Subject Property")

Dear Ms. Johnson:

Please accept this letter as a request for additional time in accordance with Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance") to establish the use approved in accordance with the referenced application.

The referenced special exception application was approved by the Board of Supervisors at its hearing held on July 29, 2014. The approval was granted subject to seventeen (17) development conditions and a requirement that a Non-Residential Use Permit (Non-RUP) be issued within thirty (30) months of the approval date. The Board of Supervisors approved twenty-four months of additional time to obtain a Non-RUP at its hearing held on January 24, 2017. Therefore, the special exception was due to expire, without notice, on January 29, 2019. Subsequently, the Virginia General Assembly extended the timeframe for establishment of special exceptions to July 1, 2020.

In addition to rapidly rising construction costs and slow fundraising, the Applicant has faced challenges in implementing the approved use due to an error in calculating the permitted gross floor area on the special exception plat. The Applicant was required to modify building plans to be consistent with the permitted gross floor area as well as to ensure that sufficient funds would be available to construct the improvements. The revisions necessitated the submission of a request for administrative approval of minor modifications, which was granted as described in a letter dated October 10, 2019 issued by Tracy Strunk. The Applicant is in the process of obtaining building permits; however, current circumstances may delay issuance and commencement of construction, and therefore issuance of a Non-RUP by July 1, 2020.

Please accept this letter in accordance with Section 9-015 of the Zoning Ordinance as a request for twelve (12) months of additional time to obtain a Non-RUP as required by the

ATTORNEYS AT LAW

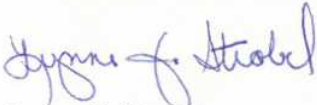
703 528 4700 • WWW.THELANDLAWYERS.COM
2200 CLARENDON BLVD. • SUITE 1300 • ARLINGTON, VA 22201-3359
LOUDOUN 703 737 3633 • WOODBRIDGE 703 680 4664

conditions associated with SE 2014-MA-003. Twelve (12) months of additional time will ensure the receipt of permits, completion of all required improvements, and satisfaction of all development conditions. There have been no changes in circumstances that would render the approval of additional time inconsistent with the public interest.

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

A handwritten signature in blue ink, appearing to read "Lynne J. Strobel".

Lynne J. Strobel

LJS:kae

cc: Sandra O'Connell
Ken Hess

A0909732.DOCX / 1 Johnson Ltr re: Request for Additional Time - 04.06.20 000820 000002

ADMINISTRATIVE - 2

Additional Time to Commence Construction for Special Exception SE 2015-MV-032,
Artis Senior Living (Mount Vernon District)

ISSUE:

Board consideration of additional time to commence construction for SE 2015-MV-032, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve twenty-four (24) months additional time for SE 2015-MV-032, to July 1, 2022.

TIMING:

Routine.

BACKGROUND:

Under Sect. 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On July 26, 2016, the Board of Supervisors approved Special Exception SE 2015-MV-032, subject to development conditions, as mentioned in the Clerk's Letter (Attachment 2). The application was filed in the name of Artis Senior Living, LLC, to permit an assisted living facility (medical care facility) and an increase in maximum permitted fence height. The SE was approved concurrent with Rezoning RZ 2016-MV-011, which rezoned the property from the R-1 to the R-2 district. The 5.29-acre property (Tax Map 106-2 ((1)) 8) is located on the east side of Ox Road, south of Blu Steel Way and north of the Shoppes of Lorton Valley Shopping Center (See locator map, Attachment 1).

The medical care facility, a Category 3 special exception use, was permitted pursuant to

Board Agenda Item
June 23, 2020

Sect. 3-204 of the Fairfax County Zoning Ordinance. In conformance with Sect 9-015, the approved use was required to be established or construction commenced and diligently be prosecuted within thirty (30) months of the approval date unless the Board grants additional time, or in this specific case, by January 26, 2018. However, §15.2-2209.1 of the *Code of Virginia* permitted an automatic extension of this deadline to July 1, 2020.

On March 25, 2020, the Department of Planning and Development (DPD) received a letter dated March 24, 2020, from Bernard S. Suchicital, agent for the applicant, requesting twenty-four (24) months of additional time (see request letter, Attachment 3). While the current expiration date is July 1, 2020, the approved Special Exception will not expire pending the Board's action on the request for additional time.

Mr. Suchicital states that that applicant has secured site plan approval and has submitted architectural plans for building permit issuance. In his letter, he notes that the applicant has pursued site development, but that certain modifications desired by the applicant required both interpretation and minor variation approval. Given the forgoing, Mr. Suchicital states that additional time is necessary to secure bonds and to establish escrow for the site requirements. To accomplish these tasks, Mr. Suchicital is requesting this additional time of twenty-four (24) months to ensure the special exception approval remains valid while the requestor commences construction.

Staff has reviewed Special Exception SE 2015-MV-032 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit an assisted living facility (medical care facility) within the R-2 zoning district. Further, staff knows of no change in land use circumstances that affects compliance of SE 2015-MV-032 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the special exception. Finally, the conditions associated with the Board's approval of SE 2015-MV-032 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twenty-four (24) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None.

Board Agenda Item
June 23, 2020

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Clerk's Letter dated July 27, 2016, to G. Evan Pritchard

Attachment 3: Letter dated March 24, 2020, to Leslie B. Johnson

STAFF:

Rachel Flynn, Deputy County Executive

Barbara A. Byron, Director, Department of Planning and Development (DPD)

Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPD

Suzanne Wright, Chief, Conformance Review & Acceptance Branch, ZED, DPD

Denise James, Chief, Environment & Development Review Branch, Planning Division,
DPD

Jeffrey Hermann, Chief, Site Analysis Section, Transportation Planning Division, Fairfax
County Department of Transportation

Bobby Katai, Staff Coordinator, ZED, DPD

Special Exception

SE 2015-MV-032



Applicant:

ARTIS SENIOR LIVING, LLC

Accepted:

11/19/2015

Proposed:

ASSISTED LIVING FACILITY AND INCREASE
IN MAXIMUM PERMITTED FENCE HEIGHT

Area:

5.29 AC OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 03-0104

Located:

8911 OX ROAD, LORTON, VA 22079

Zoning:

R- 1

Plan Area:

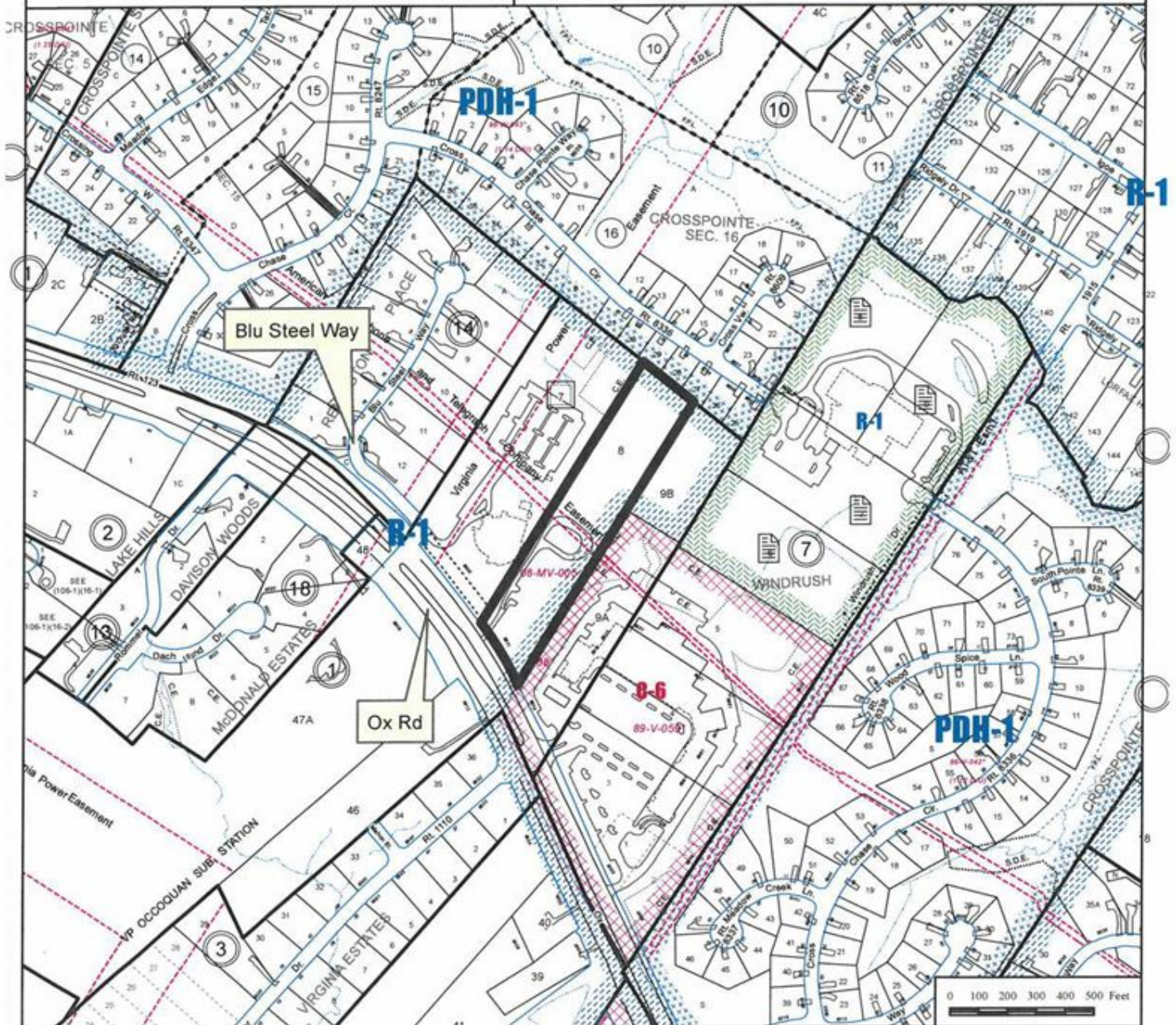
3,

Overlay Dist:

Map Ref Num:

106-2- /01/ /0008

ATTACHMENT 1





County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

July 27, 2016

G. Evan Pritchard
Walsh, Colucci, Lubeley & Walsh, P.C.
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

RECEIVED
Department of Planning & Zoning

AUG 18 2016
Zoning Evaluation Division

Re: Special Exception Application SE 2015-MV-032
(Concurrent with Rezoning Application RZ 2016-MV-011)

Dear Mr. Pritchard:

At a regular meeting of the Board of Supervisors held on July 26, 2016, the Board approved Special Exception Application SE 2015-MV-032 in the name of Artis Senior Living, LLC. The subject property is located at 8911 Ox Road on approximately 5.29 acres of land, zoned R-1 in the Mount Vernon District [Tax Map 106-2 ((1)) 8]. The Board's action permits an assisted living facility and an increase in maximum permitted fence height, pursuant to Sections 3-104 and 10-104 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.
3. This Special Exception is subject to the provisions of Article 17 of the Zoning Ordinance, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any site plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved General Development Plan/Special Exception Plat titled "Artis Senior Living of Lorton, Medical Care Facility" prepared by Freeland Engineering, PC, dated February 10, 2016, as revised through May 16, 2016, and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 711
Email: clerktothebos@fairfaxcounty.gov
<http://www.fairfaxcounty.gov/bocclerk>

July 27, 2016

4. The Applicant shall maintain at least four percent of the beds for residents who are eligible for the Virginia Department for Aging and Rehabilitative Services' Auxiliary Grant Program.
5. A noise study, including any necessary mitigation measures shall be approved by the Environment and Development Review Branch (EDRB) of the Department of Planning and Zoning and DPWES prior to submission of the building plans to demonstrate that interior noise will not exceed a level of approximately DNL 45 dBA.
6. The architectural design of the proposed facility shall generally conform to the character and quality of the illustrative elevation included as Attachment 1 to these conditions. The building materials shall be predominantly brick and masonry stone.
7. The applicant will include, as part of the site plan submission and building plan submission, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system, LEED for Healthcare, or other LEED rating system determined to be applicable to the building(s) by the U.S. Green Building Council (USGBC), that the applicant anticipates attaining. A LEED-accredited professional (LEED-AP) who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED certification of the project.
8. In addition, prior to site plan approval, the applicant will designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.
9. Prior to the building plan approval, the applicant will submit documentation, to the Environment and Development Review Branch of DPZ, regarding the U.S. Green Building Council's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Certified certification. Prior to release of the bond for the project, the applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating the status of attainment of LEED certification from the U.S. Green Building Council for the building.

10. As an alternative to the actions outlined in the above paragraphs, or if the U.S. Green Building Council review of design-oriented credits indicates that the project is not anticipated to attain a sufficient number of design-related credits to support attainment of LEED Certified certification, the applicant will post, a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual, in the amount of (\$2/square foot). This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED Certified certification or higher level of certification, by the U.S. Green Building Council, under the most current version of the LEED-NC, LEED for Healthcare rating system or other LEED rating system determined, by the U.S. Green Building Council. The provision to the Environment and Development Review Branch of DPZ of documentation from the U.S. Green Building Council that the building has attained LEED certification will be sufficient to satisfy this commitment. At the time LEED certification is demonstrated to the EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicant.
11. If prior to bond extension, reduction or final bond release for the building site, whichever occurs first, the Applicant provides to EDRB documentation demonstrating that LEED Certified certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives. If the certification is still in progress at the time of application for the bond extension or reduction, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or extension. However, the documentation must be provided prior to the final bond release for the building site.
12. If prior to the bond extension, reduction or final bond release for the building site, whichever occurs first, the Applicant fails to provide documentation to EDRB demonstrating attainment of LEED Certified certification or demonstrating that the building has fallen short of LEED Certified certification by three (3) points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the building site.
13. If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, that USGBC completion of the review of the LEED certification application has been delayed through no fault of the Applicant, the Applicant's contractors or

July 27, 2016

subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

The Board also:

- Waived Sect 9-308 (3) for the provision of a side or rear service entrance for service vehicles
- Waived Section 9-308 (4) of the Zoning Ordinance for direct access from an arterial street
- Modified Section 9-308 (5) of the Zoning Ordinance to permit a medical care building 61.6 feet from the north property line
- Modified Section 10-104 to increase the maximum permitted fence height to 8 feet
- Modified the transitional screening and barrier requirements of Sections 13-303 and 13-304 of the Zoning Ordinance in favor of the landscaping shown on the GDP/SE Plat
- Waived the service drive requirement of Section 17-201 of the Zoning Ordinance
- Waived the loading space requirements of Section 11-203 of the Zoning Ordinance

Sincerely,



Catherine A. Chianese
Clerk to the Board of Supervisors

SE 2015-MV-032
July 27, 2016

cc: Chairman Sharon Bulova
Supervisor Daniel Storck, Mount Vernon District
Howard Goodie, Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Thomas Conry, Dept. Manager, GIS, Mapping/Overlay
Michael Davis, Section Chief, Transportation Planning Division
Donald Stephens, Transportation Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Abdi Hamud, Development Officer, DHCD/Design Development Division
Jill Cooper, Executive Director, Planning Commission
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation

Bernard S. Suchicital
Land Use Planner
(703) 528-4700 Ext. 5419
bsuchicital@thelandlawyers.com



**WALSH COLUCCI
LUBELEY & WALSH PC**

RECEIVED
Dept of Planning & Development

MAR 24 2020

Zoning Evaluation Division

March 24, 2020

Via Hand Delivery

Ms. Leslie B. Johnson, Zoning Administrator
Zoning Administration Division
Fairfax County Department of Planning and Development
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035



**Re: Request for Additional Time / SE 2015-MV-032
Artis Senior Living, LLC
Fairfax County Tax Map # 106-2 ((1)) 8 (the "Property")**

Dear Ms. Johnson:

On behalf of **Artis Senior Living, LLC** ("Artis"), and in accordance with § 9-015 of the Zoning Ordinance of Fairfax County, Virginia (the "Zoning Ordinance"), I am writing to request additional time to establish the assisted living facility use and an increase in maximum permitted fence height associated with SE 2015-MV-032.

By way of background, the Board of Supervisors (the "Board") approved SE 2015-MV-032 on July 26, 2016 concurrently with RZ 2016-MV-011. These approvals permitted an assisted living facility up to a maximum of 39,575 gross square feet ("GFA") with an overall Floor Area Ratio ("FAR") of 0.17, as well as memory care space for up to 80 residents, and open space areas. The approvals were made subject to a proffer statement dated June 24, 2016, special exception conditions, and a Generalized Development Plan/Special Exception Plat. Pursuant to the conditions of approval imposed by the Board, the special exception will expire after 30 months after the date of approval (or on July 1, 2020) unless construction of the improvements has commenced and been diligently pursued.

Since its 2016 approval, Artis completed civil drawings and submitted a site plan application, Temporary ID Number 025075, with the County. After several rounds of staff comments and resubmission, Artis' site plan was recommended for approval in August 2019. Additionally, the architectural plans were completed and submitted to the County for building permit issuance. Artis is working towards securing bonds and establishing escrow in anticipation of site, stormwater management, and VDOT permits needed to begin construction. Artis has also filed a request for, and received, a detailed zoning interpretation letter on April 18, 2017 concerning proposed changes to materials as identified in the elevations. Additionally, Artis has also filed a request for, and received, a detailed zoning interpretation letter on June 6, 2018

ATTORNEYS AT LAW

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2200 CLARENDON BLVD. • SUITE 1300 • ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 • WOODBRIDGE 703 680 4664

concerning for offsite disturbance, revised landscaping plans, changes to the stormwater facility, and increased building height to 40 feet.

While Artis is diligently working through these business matters, it is clear that additional time will be required to establish the approved use. In accordance with § 9-015 of the Zoning Ordinance, Artis respectfully requests 24 months of additional time to establish the approved use or commence construction of the improvements approved with SE 2015-MV-032. If this additional time is granted, the new expiration date of the approval will be July 1, 2022. There have been no changes in circumstances that would render the existing approval inconsistent with the Zoning Ordinance, the Comprehensive Plan, or the public interest.

For reference, a copy of the special exception conditions, the April 18, 2017, and June 6, 2018 interpretation letters are enclosed. Should you have any questions or require additional information, please do not hesitate to contact me at (703) 528-4700. As always, I appreciate your cooperation and assistance.

Thank you for your kind attention to this matter.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.



Bernard S. Suchicital
Land Use Planner

Enclosure

cc: Mr. Jay Hicks, Artis Senior Living
Ms. Angelina Fuller, Artis Senior Living
Mr. Dany Ramia, Artis Senior Living
Mr. Martin D. Walsh, Walsh Colucci

O:\clients\008246\000008\LET\A0907770.DOC

ADMINISTRATIVE - 3

Additional Time to Commence Construction for Special Exception Amendment SEA 84-M-121-03, Westminster School, Inc. (Mason District)

ISSUE:

Board consideration of additional time to commence construction for SEA 84-M-121-03, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve thirty (30) months additional time for SEA 84-M-121-03, to January 1, 2023.

TIMING:

Routine.

BACKGROUND:

Under Sect. 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On March 29, 2011, the Board of Supervisors approved Special Exception Amendment SEA 84-M-121-03, subject to development conditions. The application was filed in the name of Westminster School, Inc. to permit modifications to the existing private school of general education. The 6.84-acre R-3 zoned property (Tax Map 60-3 ((24)) 3) is located at 3801, 3811, and 3825 Gallows Road in the Mason District (see Locator Map, Attachment 1). The permitted changes included the addition of a nursery school and child care center; an increase in student enrollment; an increase in land area; the construction of a new athletic field and ancillary playground areas; the removal of a single-family dwelling; and the relocation of a wooden storage shed. The modification to the private school of general education, a Category 3 special exception use, was permitted pursuant to Sect. 3-304 of the Fairfax County Zoning Ordinance. The

Board Agenda Item
June 23, 2020

development conditions are included as part of the Clerk to the Board's letter contained in Attachment 2.

In conformance with Sect 9-015, construction was to be commenced or within thirty (30) months of the approval date, specifically September 29, 2013, unless the Board granted additional time. However, on October 8, 2013, and then again on April 26, 2016, the Board approved the applicant's requests for additional time to commence construction. Subsequently, §15.2-2209.1 of the *Code of Virginia* permitted an automatic extension for this SEA to July 1, 2020.

On April 6, 2020, the Department of Planning and Development (DPD) received a letter from Lynne J. Strobel, agent for the applicant, requesting thirty (30) months of additional time (see Request Letter, Attachment 3). While the current expiration date is July 1, 2020, the approved Special Exception will not expire pending the Board's action on the request for additional time.

Ms. Strobel states that that commencement of construction has been delayed by rapidly rising construction costs and slow fundraising. She notes that the applicant intends to implement the approved improvements as soon as it is economically feasible.

Staff has reviewed Special Exception Amendment SEA 84-M-121-03 and has established that, as approved, expansions of the existing private school of general education are still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance. Further, staff knows of no change in land use circumstances that affects compliance of SEA 84-M-121-03 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the special exception. Finally, the conditions associated with the Board's approval of SEA 84-M-121-03 are still appropriate and remain in full force and effect. Staff believes that approval of the request for thirty (30) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Clerk's Letter dated March 30, 2011, to Lynne J. Strobel
Attachment 3: Letter dated April 6, 2020, to Leslie B. Johnson

Board Agenda Item
June 23, 2020

STAFF:

Rachel Flynn, Deputy County Executive

Barbara A. Byron, Director, Department of Planning and Development (DPD)

Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPD

Suzanne Wright, Chief, Conformance Review & Acceptance Branch, ZED, DPD

Denise James, Chief, Environment & Development Review Branch, Planning Division,
DPD

Jeffrey Hermann, Chief, Site Analysis Section, Transportation Planning Division, Fairfax
County Department of Transportation

Bobby Katai, Staff Coordinator, ZED, DPD

Special Exception Amendment

SEA 84-M-121-03

Applicant:

WESTMINSTER SCHOOL, INC.

Accepted:

08/04/2010

Proposed:

AMEND SE 84-M-121 F
PRIVATE SCHOOL OF
PERMIT AN INCREASE
OF A NURSERY SCHOOL WITH A CHILD CARE
CENTER, MODIFICATIONS OF DEVELOPMENT
CONDITIONS AND SITE MODIFICATIONS

ATTACHMENT 1

Area:

6.84 AC OF LAND; DISTRICT - MASON

Zoning Dist Sect: 03-0304

Art 9 Group and Use: 3-10

Located:

3801, 3811, & 3825 GALLOWS ROAD

Zoning:

R- 3

Plan Area:

1

Overlay Dist:

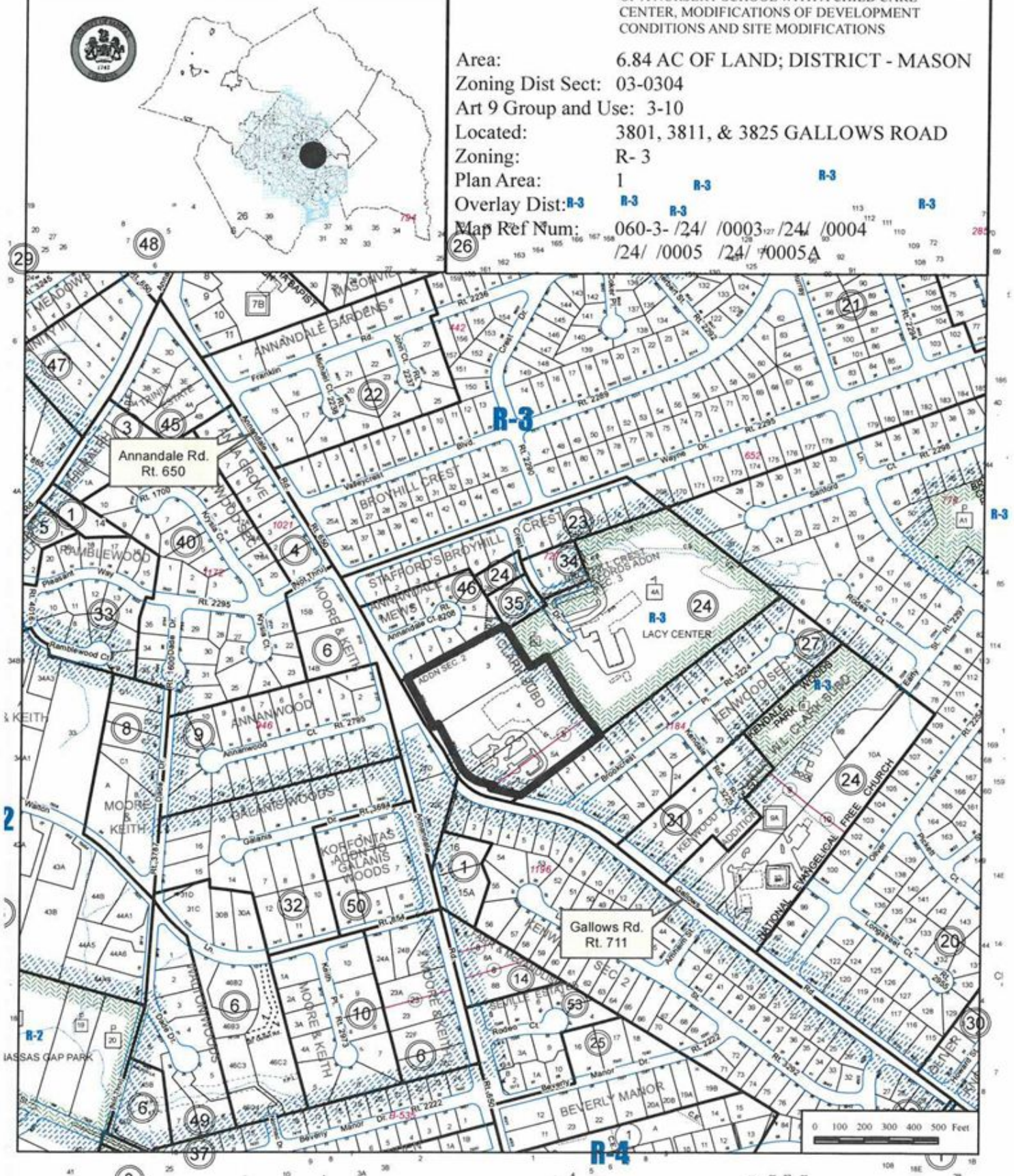
R-3

Map Ref Num:

060-3- /24/ /0003 /24/ /0004

Map Ref Num:

/24/ /0005 /24/ /0005A





County of Fairfax, Virginia

ATTACHMENT 2

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

March 30, 2011

Lynne J. Strobel
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, VA 22201

Re: Special Exception Amendment Application SEA 84-M-121-03

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on March 29, 2011, the Board approved Special Exception Amendment Application SEA 84-M-121-03 in the name of Westminster School, Incorporated. The subject property is located at 3801, 3811 and 3825 Gallows Road on approximately 6.84 acres of land zoned R-3 in the Mason District [Tax Map 60-3 ((24)) 3, 4, 5 and 5A]. The Board's action amends Special Exception Application SE 84-M-121 previously approved for a private school of general education to permit the addition of a nursery school and child care center; to increase enrollment from 318 to 360 children; an increase in land area; and modifications to site design and development conditions pursuant to Section 3-304 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions which supersede all previous development conditions; conditions carried forward unchanged from previous approvals are marked with an asterisk (*):

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.*
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.*
3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Westminster School", prepared by Tri-Tek, dated April 21, 2010, and last amended December 6, 2010, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903

Email: clerktothebos@fairfaxcounty.gov

<http://www.fairfaxcounty.gov/bosclerk>

4. The maximum daily enrollment for the private school of general education shall be limited to 360 students. The before and after school child care shall be limited to a maximum daily enrollment of 120 students from all programs on-site. A maximum of 70 employees (teachers and staff) will be on-site at any one time.
5. The maximum hours of operation will be from 7:30 a.m. to 5:30 p.m. Monday through Friday. Specifically, the extended day care will be offered beginning at 7:30 am and ending at 5:30 p.m. The nursery school will run from 8:30 a.m. to 12:00 p.m. (noon) for three year olds and 8:30 a.m. to 2:30 p.m. for four year olds. Kindergarten and grades one through eight will have academic hours between 8:30 a.m. and 3:00 p.m. Generally extracurricular activities shall be permitted after regular school hours; evening and weekend activities are permitted until 11:00 p.m. This limit on extracurricular activities may be exceeded up to five times annually provided that the Broyhill Crest Community Organization and the Mason District Supervisor's office are notified in writing at least two weeks prior to the event. The school shall appoint a liaison to attend the Broyhill Crest Community meetings.
6. The building addition shall be limited to 18,300 square feet and shall not exceed a height of two stories (25 feet). Exterior building materials for the addition shall consist of materials similar to the main school building.
7. The applicant will provide a minimum of nine school buses as transportation for no fewer than 120 of the enrolled students.
8. The vehicular entrance to the site shall be designed and constructed so that it connects to Gallows Road per VDOT standards, as approved by DPWES.*
9. Vehicular ingress and egress to/from the site shall be right turn only; this shall be posted.*
10. A sidewalk shall be provided from Gallows Road into the site to provide pedestrian access from Gallows Road through the parking area to the school entrance, as shown on the Special Exception Amendment Plat.*
11. A landscape plan shall be submitted as part of site plan(s) and shall be reviewed and approved by the Urban Forest Management Branch. The plan shall provide for landscaping consistent in quality and quantity with that shown on the SEA Plat, with the addition of the following:
 - Vegetation consistent with a Type I Transitional Screening Yard and having a buffer width of 25 feet shall be installed within the landscape strip along the northern property line near the play area as determined by the Urban Forest Management Branch of DPWES. Additional trees and plant materials shall be added to the buffer shown on the northern property line of the SEA

plat where determined to be necessary to mitigate the impact of the playing field on the adjacent residential property. Existing vegetation shall be preserved and supplemented along all boundaries, except Gallows Road, to meet the intent of Transitional Screening Type I. The number, quality and species required shall be determined by the Urban Forest Management Branch. The existing vegetation in these areas shall be preserved to the maximum extent possible. The applicant shall contract with a certified arborist to prepare a tree preservation plan to protect and preserve existing trees, worthy of preservation. The plan shall include limits of disturbance, and location and type of tree protection. The plan shall also include recommended activities designed to improve the health and increase the survival potential of the trees to be preserved, which shall be implemented to the satisfaction of UFM. The Applicant shall provide landscaping on the Application Property as generally shown on Sheet (#3) of the Special Exception Plat, pursuant to the approval of the Urban Forest Management Branch. Deciduous trees shall be a minimum of two to two and one-half inches in caliper and evergreen trees a minimum of six to eight feet in height at time of planting.

- The limits of clearing and grading shall be clearly marked with a continuous line of flagging prior to the pre-construction meeting and shall clearly delineate the limits of clearing and grading with such flagging throughout the construction period. To ensure the preservation of trees to the maximum extent possible, the limits of clearing and grading and tree save areas shall be protected by tree protection fencing, consisting of 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no farther than 10 feet apart. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed prior to the performance of any clearing and grading activities on the site. Trees within the tree protection fencing that are damaged or destroyed by construction activities shall be replaced as determined by the Urban Forester.
 - If trees #1 (40-in. diameter silver maple), #5 (46-in. diameter silver maple), or #11 (41-in. diameter tulip poplar) are to be preserved as part of the site plan, a full report and recommendations shall be included as part of the first and all subsequent submissions of the site plan. This report shall be based on a thorough risk assessment conducted by a Certified Arborist with training in tree risk assessment in urban areas (as identified on Sheet 6 of 6 of the Special Exception Plat).
12. A six foot high fence shall be provided between the transitional screening and the subject site along the northern and southern boundaries. This fence shall be solid wood (as detailed on Sheet 2) other than where the transitional screening is

less than 25 feet in width, in which case a six foot high brick, architectural block wall, or aluminum fence (as detailed on Sheet 2) shall be constructed.

13. The outdoor playing fields shall not be leased, rented, or otherwise made available to groups not affiliated with the school.*
14. No lighting shall be provided for the outdoor playing fields and the use of outdoor public address speaker systems or bull horns shall be prohibited.*
15. Outdoor lighting fixtures used to illuminate the parking area and walkways shall not exceed 12 feet in height. All fixtures shall be fully shielded and directed downward, to prevent glare and light spillover onto the surrounding residential properties. Outdoor building-mounted security lighting shall also be shielded and directed inward to prevent glare. All parking lot lighting, with the exception of necessary security lighting, shall be turned off within one hour of the last scheduled evening activity.*
16. Stormwater management facilities and best management practices shall be provided on-site generally as shown on the SEA Plat. The final design shall be subject to the approval of DPWES. If the required design is not in substantial conformance with that shown on the SEA Plat, the applicant may be required to apply for a Special Exception Amendment for approval of the resulting change.
17. Heating and air conditioning and associated mechanical units (HVAC systems) shall be placed to the interior of the site to minimize the noise impact on the surrounding residential properties. The design of the HVAC system for the school shall be such that as many of the components as possible shall be located inside the building. The units shall be subject to Zoning Ordinance performance standards with respect to noise levels, and shall be further surrounded by vegetative screening and fencing so as to minimize the exterior noise to the maximum extent possible.*
18. Trash dumpsters shall be screened with wood or masonry enclosures which are designed to be compatible with the buildings and shall be screened from adjacent residential properties with vegetation.*
19. At the time of site plan review, trails shall be provided as determined by DPWES.*
20. All signage shall be in conformance with Article 12 of the Zoning Ordinance, and pole-mounted signs shall not be permitted.*
21. The proposed use shall be in conformance with all applicable Performance Standards in Article 14 of the Zoning Ordinance.*

22. A resident caretaker(s) may be permitted to occupy the building labeled "2 story wood, frame and block, 2,414 sq.ft." The resident caretaker shall be the proprietor, owner and/or employee of the private school of general education and his/her family. If a resident caretaker does not occupy the building it may be used for accessory uses associated with the private school of general education.*
23. A demolition permit shall be obtained from DPWES prior to any demolition work commencing on the house located at 3819 Gallows Road, Tax Map 60-3 ((24)) 3. Prior to the issuance of a demolition permit for the house: the Historic Preservation Planner (DPZ) and staff from the Fairfax County Park Authority (FCPA) Resource Stewardship Branch shall be notified and shall be allowed access to the house and the surrounding area prior, during, and immediately after the demolition work for purposes of documentation. The house shall be documented through photographic recordation (for the purpose of recording and documenting the existing one-story single-family residential dwelling and its cultural landscape). The documentation shall include at a minimum the exterior of the house and landscape features, as stipulated below, to be photographed prior to any land disturbing activity on site. The documentation shall include a sketch plan map, based upon the existing conditions and vegetation map for this application, showing the location of the photographic angle of views and each photograph shall be identified. All photographs and the sketch plan map shall be submitted to the Virginia Room of the Fairfax County Public Library and to the Fairfax County Department of Planning and Zoning (DPZ) Historic Preservation planner prior to the issuance of a demolition permit. Also, the applicant is to provide written documentation to DPZ that the required documentation has been submitted to the Virginia Room.

Photographic documentation of the dwelling and site context shall include the following:

1. View of each façade
2. Perspective view, front façade and one side
3. Perspective view, rear and one side
4. Details of the dwelling (such as view of main entrance and stairs, patio, prominent window(s), planter(s), and chimney(s))
5. General views from a distance sufficient to show environmental setting, landscaping, and cultural landscape features and elements

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

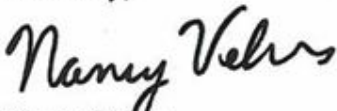
The approval of this special exception does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also reaffirmed all previously approved waivers and modifications, as follows:

- Modification of the transitional screening barriers along the southern and northern boundaries in favor of that depicted on the SEA Plat.
- Modification of the barrier requirement along all sides of the subject property to allow the existing six-foot tall wood fence and other existing fences to serve as barriers.
- Waiver of the requirement that usable outdoor recreation areas shall be limited to the areas outside the limits of the required front yard.

Sincerely,



Nancy Velrs
Clerk to the Board of Supervisors
NV/ph

Cc: Chairman Sharon Bulova
Supervisor Penny Gross, Mason District
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation. Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
District Planning Commissioner
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation



Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@arl.thelandlawyers.com

WALSH COLUCCI
LUBELEY & WALSH PC

April 6, 2020

Via E-mail and Federal Express

Leslie Johnson, Zoning Administrator
Zoning Administration Division
Fairfax County Department of Planning and Development
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Re: SEA 84-M-121-03
Applicant: Westminster School, Inc.
Fairfax County Tax Map Reference: 60-3 ((24)) 3, 4, 5, and 5A (the "Property")

Dear Ms. Johnson:

Please accept this letter as a request for additional time in accordance with Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance") to establish the use approved on the Property in accordance with the referenced application.

The referenced special exception amendment application was approved by the Board of Supervisors at its hearing held on March 29, 2011. The approval was granted subject to twenty-three (23) development conditions, including a requirement that construction commence and be diligently pursued within thirty (30) months of the approval date. The Board of Supervisors approved thirty (30) months of additional time at its hearing held on October 8, 2013 with an expiration date of March 29, 2016. On April 26, 2016, the Board of Supervisors approved twenty-four (24) months of additional time to establish the use with an expiration date of March 29, 2018. Subsequently, the Virginia General Assembly extended the timeframe for establishment of special exceptions to July 1, 2020.

The Applicant's plans to commence construction of the approved improvements have continued to be delayed due to rapidly rising construction costs and slow fundraising, which is a common experience for many private schools in Fairfax County. This situation will be further exacerbated by current conditions. The Applicant does intend to implement its planned improvements and will do so as soon as it is economically feasible.

Please accept this letter in accordance with Section 9-015 of the Zoning Ordinance as a request for thirty (30) months of additional time to commence construction of improvements approved with SEA 84-M-121-03. Thirty (30) months of additional time will ensure the

ATTORNEYS AT LAW

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Page 2

submission of a site plan, its approval, and commencement of construction in accordance with the site plan. There have been no changes in circumstances that would render the approval of additional time inconsistent with the public interest. In addition, the economic conditions that resulted in the delays described herein were unforeseen at the time of approval.

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.



Lynne J. Strobel

LJS/kae

cc: Sandra O'Connell
Ellis Glover
Delores Nelson
Ted Britt

A0910157.DOC / 1 Johnson ltr re: request for additional time - 04.06.20 006949 000002

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing on a Proposal to Vacate a Portion of Westbranch Drive / Route 5457 (Providence District)

ISSUE:

Authorization of a public hearing on a proposal to vacate a portion of Westbranch Drive / Route 5457.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the vacation of the subject right-of-way.

TIMING:

The Board should take action on June 23, 2020, to provide sufficient time to advertise the public hearing for September 15, 2020, at 4:00 p.m.

BACKGROUND:

The applicant, Walsh, Colucci, Lubeley & Walsh, P.C., on behalf of PS Business Parks, L.P., is requesting that a portion of Westbranch Drive / Route 5457 be vacated under §15.2-2006 of the Virginia Code. The applicant is seeking this request to facilitate the installation of dry utility duct bank facilities that meet the requirements of the Final Development Plan for the property at Tax Map 0294-07-0011A, and required as part of the overall Tysons infrastructure system. The Final Development Plan for Tax Map 0294-07-0011A has been approved following the adoption of the ordinance that grants the Rezoning Application RZ 2017-PR-015 to rezone the property from the C-3 District to the PTC District.

The subject portion of Westbranch Drive is located along the eastern side of Westbranch Drive between the intersection of Westbranch Drive and Westpark Drive and the intersection of Westbranch Drive and Jones Branch Drive. The subject portion of right-of-way is also outside of the vehicular travel lanes and does not impact the overall mileage of Westbranch Drive. Westbranch Drive was originally conveyed to the Board of Supervisors of Fairfax County by virtue of a deed and plat recorded in Deed Book 4040 at Page 333, among the land records of Fairfax County, Virginia. The property that abuts the existing right-of-way to be vacated is currently occupied by Tax Map 0294-07-0011A, to which the land would revert after the vacation. The total area to be vacated is 1,464 square feet.

Board Agenda Item
June 23, 2020

Traffic Circulation and Access

The vacation will have no long-term impact on pedestrian, transit, or vehicle circulation and access.

Easements

The project manager has certified that all easement requirements for the project have been met.

The proposal to vacate this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Development, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas, and Verizon. None of these indicate any opposition to the proposal.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter
Attachment II: Notice of Intent to Vacate
Attachment III: Ordinance of Vacation
Attachment IV: Metes and Bounds Description
Attachment V: Vacation Plat
Attachment VI: Vicinity Map
Attachment VII: Resolution

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Jeff Hermann, Division Chief, FCDOT
Michelle Guthrie, FCDOT
Jeffrey Edmondson, FCDOT

ASSIGNED COUNSEL:

Pamela K. Peltó, Assistant County Attorney



**WALSH COLUCCI
LUBELEY & WALSH PC**

H. Mark Goetzman
Phone: 703.528.4700 x5452
Fax: 703.528.6050
mgoetzman@thelandlawyers.com

Revised
May 8, 2020

BY COURIER AND ELECTRONIC MAIL

Michelle Guthrie and Jeffrey Edmondson
Fairfax County Department of Transportation
4050 Legato Rd, Ste 400
Fairfax, VA 22033-2895

Re: Revised request for Vacation of a Portion of Westbranch Drive
(State Route 5457), Providence District, Fairfax County, Virginia

Dear Michelle and Jeffrey:

This letter constitutes a revised request and statement of justification to vacate a portion of Westbranch Drive, Route 5457, Fairfax County, Virginia, originally filed on September 6, 2019, and resubmitted November 15, 2019 and March 23, 2020. This revised letter and our revised exhibits seek to address the comments contained in the Fairfax County Department of Transportation Letter dated February 5, 2020, as revised and supplemented on March 11, 2020, as well as subsequent discussions. Please note that the Virginia Department of Transportation ("VDOT") Letter dated May 1, 2020 states that VDOT has no objection to the vacation. The portion of Westbranch Drive to be vacated is located in the Providence Magisterial District (hereinafter referred to as the "Vacation Area"). This request is made on behalf of the Applicant pursuant to Virginia Code Sections 15.2-2006 and 15.2-2008. This request is made on behalf of PS Business Parks, L.P., the owner of real property at Tax Map 0294-07-0011A (the "Property"), located adjacent to the Vacation Area.

The Vacation Area to be vacated is shown on the plat entitled "Vacation of a Portion of Westbranch Drive – Route #5457" prepared by VIKA Virginia LLC dated July 26, 2019 and revised on November 7, 2019, February 26, 2020, March 18, 2020, and April 23, 2020.

To offer some background, the Vacation Area was conveyed to the Board of Supervisors of Fairfax County, Virginia (the "Board"), by virtue of a deed and plat recorded in Deed Book 4040 at Page 333, among the land records of Fairfax County, Virginia. The Vacation Area runs along the western side of the Property where construction of a mixed-use development is planned.

ATTORNEYS AT LAW

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2200 CLARENDON BLVD. • SUITE 1300 • ARLINGTON, VA 22201-3359

(A0915887.DOC / 1 Statement of Justification (Westbranch Drive) (CL) 000015 000159) 703 680 4664

Michelle Guthrie and Jeffrey Edmondson
May 8, 2020
Page 2

The purpose of requesting the vacation of the Vacation Area is to facilitate the installation of dry utility duct bank facilities that are required as part of the overall Tysons infrastructure system, and meet the requirements of the Final Development Plan for the Property. On July 16, 2019, the Board adopted an ordinance granting Rezoning Application RZ 2017-PR-015 to rezone certain land in the Providence District, including the Property, from the C-3 District to the PTC District. An approved Final Development Plan has been approved for the Property, which requires the applicant to provide certain roadway and streetscape improvements, including a landscape amenity panel and a sidewalk within the streetscape portion of the right-of-way.

In the approved Final Development Plan, the back edge of the contemplated sidewalk falls exactly at the right-of-way boundary line. The final design of this site has resulted in the sidewalk being located further into the existing right-of-way, such that there remains right-of-way area between the back edge of the contemplated sidewalk and the existing right-of-way boundary line. Please see the Geometric Layout Plan enclosed. The applicant is requesting the vacation of a portion of this right-of-way area between the back edge of the contemplated sidewalk and the existing right-of-way boundary line for the installation of the above referenced dry utility duct bank facilities.

Portions of the duct bank itself would be located within this vacated right-of-way area, on which an easement could be granted to the dry utility purveyors following the vacation.

The implementation of the streetscape improvements as required under the Final Development Plan will occur in phases in conjunction with the development of the various buildings along Westbranch Drive. A final site plan will be required for each building, and the approved streetscape described above will be implemented across the frontage of each building.

Please note, we are not requesting the vacation of the areas along Westbranch Drive for which no site plan exists to implement such streetscape improvements. Vacation of such areas would result in existing sidewalks being located partially in and partially out of the right-of-way, which would be unacceptable to the Virginia Department of Transportation. Therefore, it is only appropriate to vacate the portion of the right-of-way adjacent to buildings with final site plans which contemplate the streetscape improvements described above.

The total area to be vacated is 1,464 square feet.

I request your final review of this application, and our understanding is that you are noticing a public hearing as soon as possible. We greatly appreciate all the help and cooperation you have provided in this matter thus far. If you have any questions or require additional information, please do not hesitate to contact me.

Michelle Guthrie and Jeffrey Edmondson
May 8, 2020
Page 3

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.



H. Mark Goetzman

HMG/mc

cc: Alysia Yi

NOTICE OF INTENT TO
ADOPT AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

(Westbranch Drive – State Route 5457)

Providence District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on September 15, 2020, at 4:00 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, VA, pursuant to Virginia Code Ann. § 15.2-2204, vacating a part of the plat of subdivision, recorded in Deed Book 4040, at Page 333, on which is shown Westbranch Drive – State Route 5457 from Jones Branch Drive to Westpark Drive. The road is located on Tax Maps 029-4-07-0011-A and is described and shown on the metes and bounds schedule dated March 20, 2020, and on the plat dated July 26, 2019 and revised on November 7, 2019, February 26, 2020, and March 18, 2020, each prepared by VIKA Virginia, LLC, both of which are on file in the Fairfax County Department of Transportation, 4050 Legato Road, Suite 400, Fairfax, Virginia 22033, Telephone Number (703) 877-5600.

All persons wishing to speak on this subject may call the Office of the Clerk to the Board, (703) 324-3151, to be placed on the Speaker's List, or may appear and be heard.

PROVIDENCE DISTRICT.

§ 15.2-2006

ADOPTION OF AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

(Westbranch Drive – Route 5457)

Providence District,
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Governmental Center in Fairfax County, Virginia, on September 15, 2020, at which meeting a quorum was present and voting, the Board, after conducting a public hearing upon due notice given pursuant to Virginia Code Ann. §15.2-2204 and as otherwise required by law, adopted the following ordinance, to-wit:

BE IT ORDAINED by the Board of Supervisors of Fairfax County, Virginia: that Part of the Record Plat of Westpark Subdivision, recorded in Deed Book 4040 at Page 333, on which is shown Westbranch Drive – Route 5457, from Jones Branch Drive to Westpark Drive, located on Tax Map 029-4-07-0011-A, and described and shown on the metes and bounds schedule dated March 20, 2020, and on the plat dated July 26, 2019 and revised on November 7, 2019, February 26, 2020, and March 18, 2020, each prepared by VIKA Virginia, LLC, attached hereto and incorporated herein, be and the same is hereby vacated, pursuant to Virginia Code Ann. §15.2-2006.

This vacation is subject to any right, privilege, permit, license, easement, in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either presently in use or of record, including the right to operate, maintain, replace, alter, extend, increase, or decrease in size any facilities in the vacated roadway, without any permission of the landowner.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

§15.2-2006

VIKA Virginia, LLC
8180 Greensboro Dr.
Suite 200
Tysons, VA 22102
703.442.7800
vika.com

**GLOUCESTER PARCEL
Right-of-Way Vacation Area #1**

**MARCH 20, 2020
DESCRIPTION OF
A PORTION OF
THE EXISTING RIGHT-OF-WAY OF
WESTBRANCH DRIVE
STATE ROUTE 5457
100 FEET RIGHT-OF-WAY
DEED BOOK 4040 AT PAGE 333
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA**

Being a portion of the existing right-of-way of Westbranch Drive – State Route 5457, 100 feet right-of-way, as recorded in Deed Book 4040 at Page 3333 among the land records of Fairfax County, Virginia and identified as "VACATION AREA #1" on sheet 2 of 2 of the plat by VIKa Virginia, LLC entitled "Plat Showing, Vacation of a Portion of, Westbranch Drive – Route #5457", and being more particularly described as follows:

Beginning for the same at a point marking the intersection of the easterly right-of-way line of the aforementioned Westbranch Drive and the northerly right-of-way line of Maitland Street, 46 feet right-of-way; thence leaving the said easterly right-of-way line of Westbranch Drive and running so as to cross and include a portion of said Westbranch Drive the following three (3) courses and distances

1. North 63°56'02" West, 3.51 feet to a point of curvature (non-tangent); thence
2. 417.10 feet along the arc of a curve to the left having a radius of 1,102.61 feet and a chord bearing and distance of North 12°50'18" East, 414.62 feet to a point; thence
3. North 85°36'55" East, 3.52 feet to a point of curvature (non-tangent) lying on the aforesaid easterly right-of-way line of Westbranch Drive, said point also lying on the westerly line of PS Business Parks, L.P. (Gloucester) as recorded in Deed Book 21446 at Page 2013, among the aforesaid Land Records; thence running with said westerly line
4. 418.97 feet along the arc of a curve to the right having a radius of 1,106.11 feet, and a chord bearing and distance of South 12°49'52" West, 416.47 feet to the point of beginning containing 1,464 square feet or 0.03361 acres of land, more or less.

P:\projects\17388\17388PICADO - P\SURVEYS\LEGAL DESCRIPTIONS\17388P GLOUCESTER - ROW VACATION 1.doc

Our Site Set on the Future.



IES.

THE SUBJECT PROPERTY IS ADJACENT TO FAIRFAX COUNTY, VIRGINIA TAX MAP NUMBER 029-4-07-0011A AND ARE ZONED C-3.1. SUBJECT TO RECORDING CASE: 82-207-PR-015.

THE ADJACENT PROPERTY IS NOW IN THE NAME OF PS BUSINESS PARKS, L.P. AS RECORDED IN DEED BOOK 21446 AT PAGE 2013 AND DEED BOOK _____ AT PAGE _____. ALL AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

THE SUBJECT PROPERTY IS LOCATED IN ZONE "C" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP (FIRM) NUMBER 510902002E, COMMUNITY AVAL 510225 0743 E, FOR FAIRFAX COUNTY, VIRGINIA WITH AN EFFECTIVE DATE OF SEPTEMBER 17, 2010. ZONE "C" IS NOT DETERMINED TO BE A SPECIAL FLOOD HAZARD ZONE AREA.

THE HORIZONTAL DATA SHOWN HEREON IS REFERENCED TO VIRGINIA COORDINATE SYSTEM OF 1983 (VCS 1983).

ADJACENT INFORMATION SHOWN HEREON IS BASED UPON A FIELD SURVEY BY WEA, INC. THE SURVEY CONTROL ESTABLISHED BY WEA, INC. AND USED TO DETERMINE THE BOUNDARY HAS A HORIZONTAL PRECISION OF 1:151,003 WHICH EXCEEDS THE VIRGINIA PRECISION OF 1:20,000 AS REQUIRED BY THE COMMONWEALTH OF VIRGINIA.

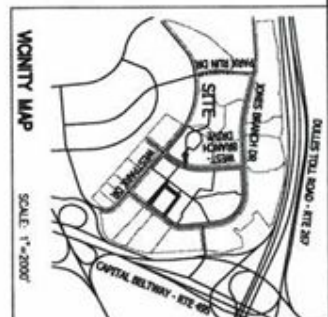
THE SUBJECT PROPERTY DOES NOT LIE WITHIN A RESURGE PROTECTION AREA (PPA) FOR FAIRFAX COUNTY CREEPSHAW BAY RESTORATION AREAS MAP 029-4 (DATED AUGUST 1, 2005).

AT FUTURE EXPANSION OR AUTORIZATION FOR ELECTRIC, CABLE, TELEPHONE OR GAS SERVICE TO BE FURNISHED TO THE PROPERTY SHOWN ON THIS PLAT SHALL COMPLY WITH THE PROVISIONS OF VIRGINIA CODE 15.2-224(10).

ALL KNOWN PLATTABLE EASEMENTS OF RECORD ARE SHOWN HEREON.

NOTARY CREDIT FOR THE AREAS VACATED IS ESTABLISHED PER ARTICLE 2-306 OF THE ZONING ORDINANCE.

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD BEG. CHORD END
C1	417.10'	1102.87'	027°42'27"	211.07'	N175°01'07"E 414.48'
C6	416.87'	1104.17'	027°42'08"	212.02'	S17°49'52"W 416.47'

**SURVEYOR'S CERTIFICATION:**

I, FRANKLIN E. JENNINGS, A LICENSED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, DO HEREBY CERTIFY THAT I HAVE CAREFULLY SURVEYED THE PROPERTY SHOWN ON THIS PLAT OF VACATION OF PUBLIC STREET AND THAT IT IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF. THAT IT IS A PORTION OF THE PROPERTY DEDICATED FOR PUBLIC STREET PURPOSES AS WESTBRANCH DRIVE STATE ROUTE 5457 RECORDED IN DEED BOOK 4040 AT PAGE 111, AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

I FURTHER CERTIFY THAT THE LAND DEDICATED BY THIS PLAT OF STREET VACATION LIES ENTIRELY WITHIN THE BOUNDARY OF THE ORIGINAL TRACT, THAT THIS PLAT REPRESENTS AN ACCURATE SURVEY OF THE SAME AND THAT THE BOUNDARY SHOWN HEREON IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 (VCS 1983). SEE NOTE 4, IN ACCORDANCE WITH THE REQUIREMENTS OF THE FAIRFAX COUNTY SUPERVISION ORDINANCE.

DATE 4/23/2020FRANKLIN E. JENNINGS
LICENSED LAND SURVEYOR
VIRGINIA, 2081**AREA TABULATION:**

EXISTING
QUADRESTER 029-4-07-0011A 335,667 SF OR 7.71090 AC
TOTAL EXISTING PARCELS 335,667 SF OR 7.71090 AC

PROPOSED (WITH STREET VACATION)
QUADRESTER 335,667 SF OR 7.71090 AC
+ VACATION AREA 1 1,464 SF OR 0.03381 AC
QUADRESTER TOTAL AREA 337,131 SF OR 7.74471 AC

**PUBLIC STREET VACATION
AREA TABULATION:**

VACATION AREA #1 1,464 SF OR 0.03381 AC
TOTAL VACATION AREA 1,464 SF OR 0.03381 AC

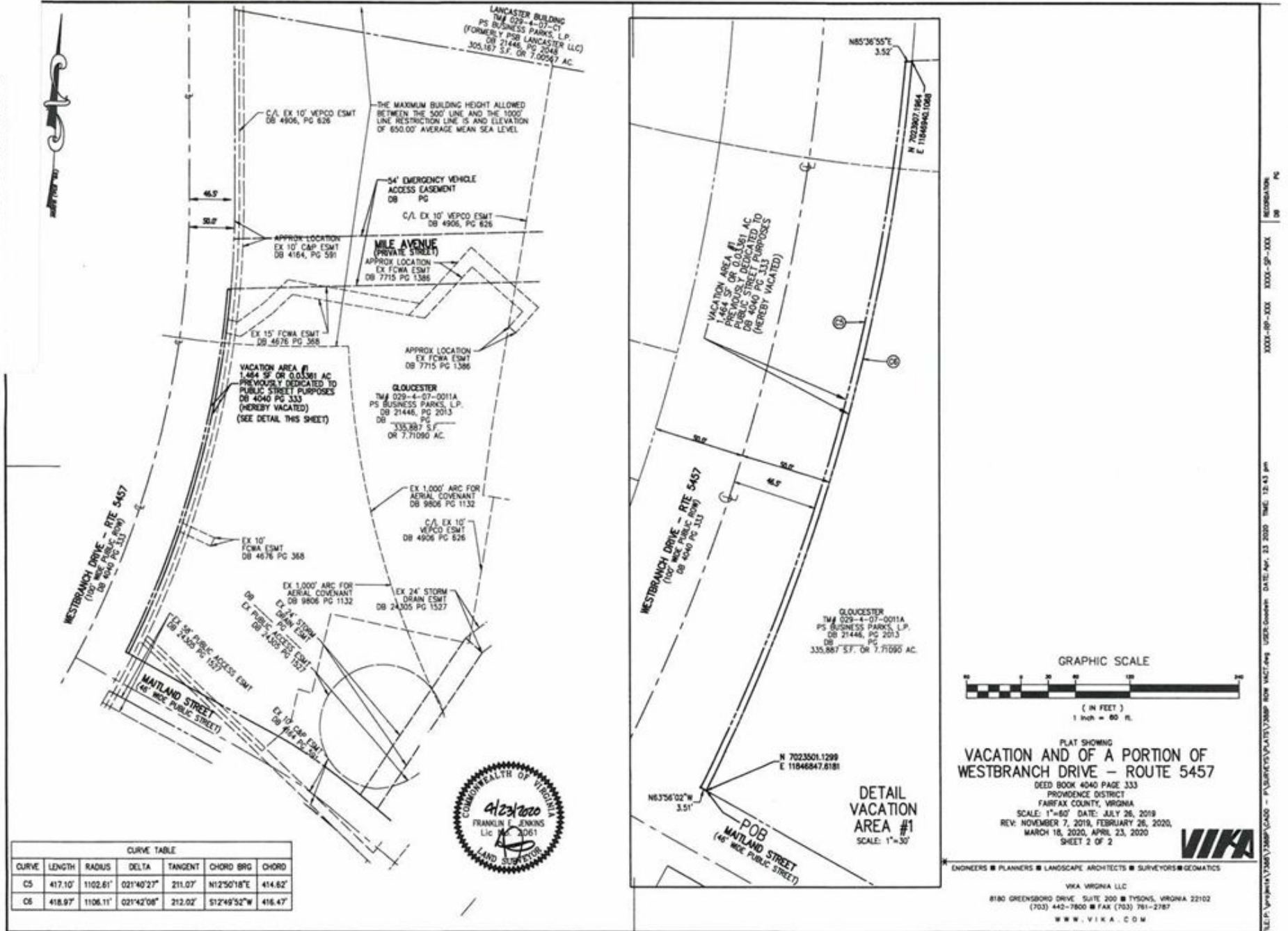
APPROVED COUNTY OF FAIRFAX LAND DEVELOPMENT SERVICES ADDRESSING REVIEW	DATE _____ APPROVED REVIEWER
RECOMMENDED FOR APPROVAL FAIRFAX COUNTY LAND DEVELOPMENT SERVICES ALL ERECTOR LOCATIONS AND/OR EASEMENTS COMPATIBLE TO THE REQUIREMENTS OF THE OFFICE THE APPROVAL IS NOT A COMMITMENT TO PROVIDE PUBLIC STREET SERVICE.	DATE _____ APPROVED REVIEWER
FOR SIGNED BY SUPERVISOR FAIRFAX COUNTY, VIRGINIA	DATE _____ APPROVED REVIEWER
APPROVAL VOID IF PLAT IS NOT OFFERED FOR RECORD ON OR BEFORE _____	DATE _____ APPROVED REVIEWER

**PLAT SHOWING
VACATION OF A PORTION OF
WESTBRANCH DRIVE - ROUTE 5457**

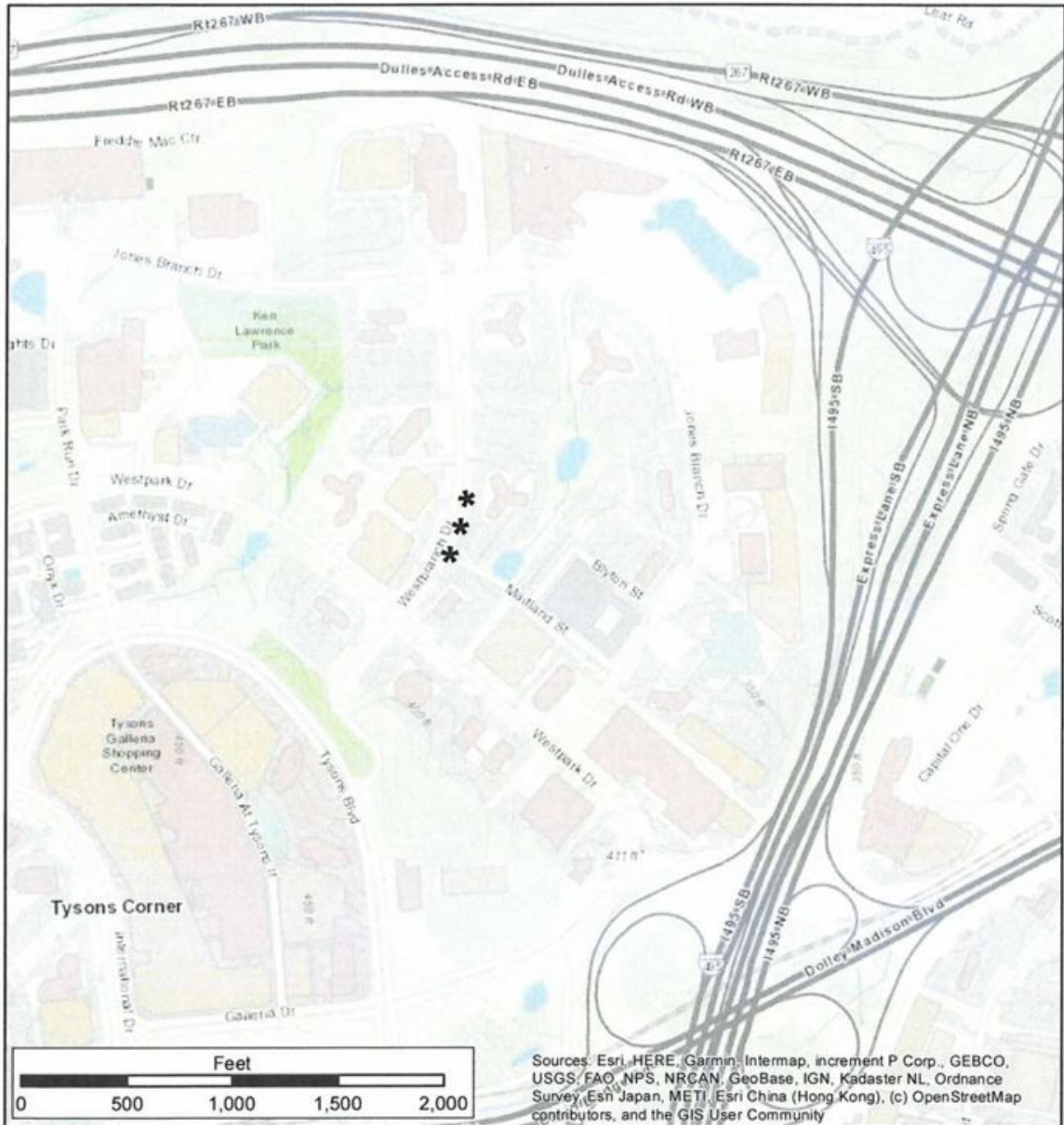
DEED BOOK 4040 PAGE 111
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1"=200'
REVISED: 4/23/2020, FEBRUARY 26, 2020,
MARCH 18, 2020, APRIL 23, 2020
SHEET 1 OF 2



* ENGINEERS & PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS & DESIGNERS
WEA VIRGINIA, LLC
#880 GREENWOOD DRIVE, SUITE 200 ■ TYSONS, VIRGINIA 22102
(703) 442-7800 ■ FAX (703) 761-2781
WWW.WEA.VA.CO



Westbranch Drive Easement Vacation Providence District



Tax Map 29-4

* Symbol Denotes Area of Easement to be Vacated

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center at Fairfax, Virginia, this 15th day of September, 2020, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, Walsh, Colucci, Lubeley & Walsh, P.C., petitioned the Fairfax County Board of Supervisors to vacate a portion of the existing right-of-way of Westbranch Drive (Route 5457) to allow the installation of dry utility duct bank facilities that are required as part of the overall Tysons infrastructure system, and satisfy the requirements of the Final Development Plan for the property at Tax Map 0294-07-0011A, and;

WHEREAS, the Board of Supervisors has approved the vacation of a portion of the existing right-of-way of Westbranch Drive (Route 5457) located adjacent to Tax Map 29-4-((7)) Parcel 11A, described on the metes and bounds schedule dated March 20, 2020, and shown as 1,464 square feet (Vacation Area #1) on the vacation plat dated April 23, 2020, both prepared by VIKA Virginia LLC, and;

WHEREAS, the County has no current or planned use for the right-of-way created by the vacation, and;

WHEREAS, the Board of Supervisors finds that it would be in the best interest of the residents of Fairfax County to vacate, pursuant to Virginia Code Ann. §15.2-2006, the above described portion of Westbranch Drive (Route 5457),

NOW, THEREFORE, upon public hearing duly advertised according to law, it is **RESOLVED** that, in consideration of the requirements as part of the overall Tysons infrastructure system, the County Executive or Deputy County Executive is hereby authorized to execute all necessary documents to vacate the real property described above to the Applicant.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ADMINISTRATIVE - 5

Approval of a Resolution to Allow Emergility, LLC, to Operate a Private EMS Agency Within Fairfax County

ISSUE:

Emergility, LLC, (Emergility) is a private security service (PSS) based in Fairfax County, Virginia. Emergility is requesting licensure from the Commonwealth of Virginia to operate an EMS Agency for the purposes of providing PSS protective medicine and related services within Fairfax County.

EMS providers in Virginia are regulated by the Virginia Department of Health, Office of Emergency Medical Services (OEMS) and require a resolution from the governing body of each locality where the provider maintains an office, stations an EMS vehicle for response, or is a designated emergency response agency.

RECOMMENDATION:

The County Executive recommends the Board approve the resolution allowing Emergility to operate an EMS Agency within Fairfax County.

TIMING:

Board action is requested on June 23, 2020.

BACKGROUND:

The Commonwealth of Virginia requires all ambulance companies to be licensed by the Virginia Department of Health, Office of Emergency Medical Services. Emergility has submitted an application to operate an EMS Agency within Fairfax County. Fairfax County Fire and Rescue Department has sole responsibility for emergency ambulance service within Fairfax County and agrees that Emergility be authorized to provide non-emergency treatment/transport of ill and injured persons as may be required while providing service to clients.

FISCAL IMPACT:

None.

Board Agenda Item
June 23, 2020

ENCLOSED DOCUMENTS:

Attachment 1: Resolution

Attachment 2: Letter dated 4/27/2020

STAFF:

David M. Rohrer, Deputy County Executive

Fire Chief John Butler, Fire and Rescue Department

Assistant Chief Thomas Arnold, Fire and Rescue Department

Assistant Chief Jason Jenkins, Fire and Rescue Department

Assistant Chief Joseph Knerr, Fire and Rescue Department

Attachment 1

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held electronically (due to the State of Emergency caused by the COVID-19 pandemic), on Tuesday, June 23, 2020, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, Emergility, LLC, a private ambulance company located in Fairfax County, Virginia, is requesting licensure in the Commonwealth of Virginia; and,

WHEREAS, the Commonwealth of Virginia requires all ambulance companies to be licensed by the Virginia Department of Health, Office of Emergency Medical Services (OEMS); and,

WHEREAS, the Code of Virginia requires approval of the Governing Body of the jurisdiction in which any licensed Emergency Medical Service (EMS) Agency is located; and,

WHEREAS, Emergility, LLC will serve within Fairfax County; and,

WHEREAS, private ambulance companies provide the important service of non-emergency treatment/transport of ill and injured persons at/from fixed sites and transfer between medical facilities.

NOW THEREFORE BE IT RESOLVED, the Board of Supervisors authorizes Emergility, LLC, to become a licensed EMS Agency in the Commonwealth of Virginia and operate according to the Virginia Department of Health, Office of Emergency Medical Services Regulations and Fairfax County Code.

ADOPTED this 23rd day of June 2020.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Attachment 2

4503 Penwood Drive
Alexandria, VA 22310
emergility.com
info@emergility.com

April 27, 2020

Office of The Fire Chief
Public Safety Headquarters
12099 Government Center Parkway
Fairfax, VA, 22035

Re: Resolution authorizing EMERGILITY, LLC to establish a Private Emergency Medical Services (EMS) Agency

Dear Fire Chief John S. Butler,

EMERGILITY, LLC (d.b.a. EMERGILITY) is a minority-owned small-business established in 2015 as a consulting practice in Alexandria, VA. In 2019, EMERGILITY expanded its scope of practice becoming a Private Security Service (PSS) Business approved by the Virginia Department of Criminal Justice Service (DCJS). EMERGILITY seeks to expand further by establishing itself as a Private EMS Agency in the Commonwealth of Virginia.

Pursuant [12VAC5-31-420](#). Application for EMS Agency License. Section C.

An ordinance or resolution from the governing body of each locality where the agency maintains an office, stations an EMS vehicle for response within a locality or is a Designated Emergency Response Agency as required by § [15.2-955](#) of the Code of Virginia confirming approval. This ordinance or resolution must specify the geographic boundaries of the agency's primary service area within the locality.

The intent of EMERGILITY in becoming a Private EMS Agency is to develop and pursue new business opportunities and contracts providing Basic and Advanced Life Support (BLS/ALS) services in private security service protective-medicine, concierge-medicine (via physician-extension), community-paramedicine, and related government contracting and consulting. In line with Fairfax County ordinances, EMERGILITY does not seek to compete for or with any Public Safety Answering Point (PSAP), public based 9-1-1 EMS system, or Fairfax County Fire and Rescue Department (FRD) related services.

Whereas EMERGILITY is a new and growing business, the only office physically maintained is home-based and located in Fairfax County, VA. For EMERGILITY to successfully complete its application to become a Private EMS Agency in the Commonwealth of Virginia, the Virginia Office of Emergency Medical Services (VAOEMS) requires EMERGILITY to first receive an approved resolution from Fairfax County authorizing EMERGILITY to do so.

We welcome any questions you may have concerning this request, to include the services we seek to provide. Your time and consideration are much appreciated. Thank you kindly.

Sincerely,

Anthony A. Barone, MPS, MPH, CBCP, CEM, CHMM, NRP, PMP
Executive Officer
(571) 218-9265
tony@emergility.com

EMERGILITY, LLC (d.b.a. EMERGILITY)
Virginia SSC ID: S5567310
Virginia DCJS ID#: 11-18032
Virginia SWaM Certification #: 718805
Fairfax County, Virginia BPOL #: 1922470
<https://emergility.com/>

ADMINISTRATIVE - 6

Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program (Providence District)

ISSUE:

Board endorsement of “Watch for Children” signs as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends approval for the installation of “Watch for Children” signs on the following roads:

- One “Watch for Children” sign on Overlook Street (Providence District)
- One “Watch for Children” sign on Hilltop Avenue (Providence District)
- One “Watch for Children” sign on Idylwood Road (Providence District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved “Watch for Children” signs as soon as possible.

TIMING:

Board action is requested on June 23, 2020.

BACKGROUND:

The RTAP allows for installation of “Watch for Children” signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed signs will be effectively located and will not be in conflict with any other traffic control devices.

On May 13, 2020, FCDOT received verification from the Providence District Supervisor’s Office confirming community support for “Watch for Children” signs on Overlook Street.

On May 13, 2020, FCDOT received verification from the Providence District Supervisor’s Office confirming community support for “Watch for Children” signs on

Board Agenda Item
June 23, 2020

Hilltop Avenue.

On May 13, 2020, FCDOT received verification from the Providence District Supervisor's Office confirming community support for "Watch for Children" signs on Idylwood Road.

FISCAL IMPACT:

Funding in the amount of \$1,050 is necessary to fund the requested "Watch for Children" signs. Funds are currently available in Project 2G25-076-000, Fund 300-30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

ADMINISTRATIVE - 7

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason District)

ISSUE:

Board endorsement of Traffic Calming measures as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends that the Board endorse the traffic calming plan for Westlawn Drive (Attachment I and Attachment II) consisting of the following:

- Three speed humps on Westlawn Drive (Mason District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved traffic calming measure(s) as soon as possible.

TIMING:

Board action is requested on June 23, 2020.

BACKGROUND:

As part of RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, or median islands to reduce the speed of traffic on a residential street. Staff performs engineering studies documenting the attainment of qualifying criteria. Staff then works with the local Supervisor's office and community to determine the viability of the requested traffic calming measure to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff, that plan is then submitted for approval to the residents within the ballot area in the adjacent community.

On May 1, 2020, FCDOT received verification from the Mason District Supervisor's office confirming community support for the Westlawn Drive traffic calming plan.

Board Agenda Item
June 23, 2020

FISCAL IMPACT:

Funding in the amount of \$30,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-041, Westlawn Drive Traffic Calming, Fund 300-30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Westlawn Drive
Attachment II: Traffic Calming Plan for Westlawn Drive

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
WESTLAWN DRIVE
MASON DISTRICT**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held electronically (due to the State of Emergency caused by the COVID-19 pandemic), on Tuesday, June 23, 2020, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents in the vicinity of Westlawn Drive have requested the Mason District Supervisor's Office of Fairfax County to consider remedial measures to reduce the speed of traffic on Westlawn Drive; and

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Westlawn Drive indicates that all basic traffic calming criteria are met pertaining to functional classification of the roadway, identification of a significant speeding concern, and proof of community support; and

WHEREAS, the proposed Traffic Calming Plan was properly presented to the community in the affected survey area for their review and consideration; and

WHEREAS, the Traffic Calming Plan was subsequently approved by the occupied residences within the appropriate surveyed area; and

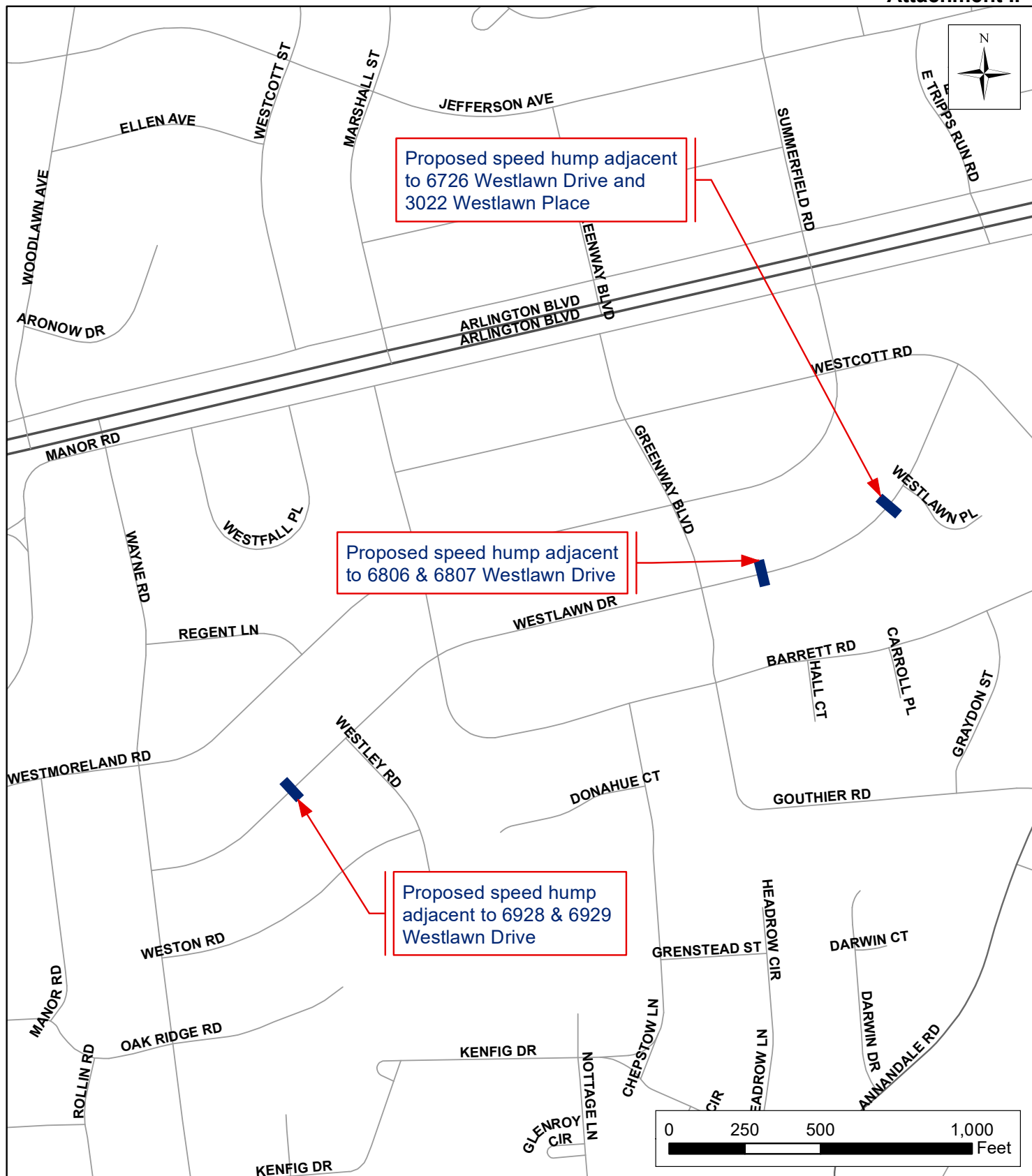
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors endorses the proposed Traffic Calming Plan and requests that the Virginia Department of Transportation review and approve the feasibility of implementing traffic calming measures on Westlawn Drive as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 23rd day of June, 2020.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 50-4

MAY 2020

**Fairfax County Department of Transportation
Residential Traffic Administration Program
Traffic Calming Plan
Westlawn Drive
Mason District**



Board Agenda Item
June 23, 2020

ADMINISTRATIVE - 8

Authorization to Advertise a Public Hearing to Allow Eminent Domain Proceedings for the Acquisition of Certain Land Rights Necessary for the Construction of the Proposed Patrick Henry Place (Mason District)

ISSUE:

The Board of Supervisors (Board) authorization to advertise a public hearing to allow eminent domain proceedings for the acquisition of certain land rights necessary for the construction of Project HS-000021, Patrick Henry Shelter-2016, in Fund 30010, General County Construction and Contributions.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for July 28, 2020, at 4:00 p.m.

TIMING:

Board action is requested on June 23, 2020, to provide sufficient time to advertise the proposed public hearing to determine whether to approve the public use of property for the Patrick Henry Place, located at 3080 Patrick Henry Drive, Falls Church, and to authorize the acquisition of certain land rights necessary to allow the construction of this project.

BACKGROUND:

The existing, approximately 9,500 square foot (sf), Patrick Henry Family Shelter is part of Hollybrooke II Condominium (H2C) originally built in 1952 as apartments. In 1985, the Board acquired 10 of the condominium's 249 units. The 10 units were in a single building and were the only units contained in the building. Although the Board owns the entirety of the units in the building, the building's shell, as well as the land and parking areas surrounding the building, are considered common elements of H2C and are controlled by the Hollybrooke II Condominium Association (Association).

The 10 units in the building are currently used for the Patrick Henry Family Shelter. The existing Patrick Henry Family Shelter provides emergency 30-day accommodations to homeless families with a capacity to serve nine families. The proposed project would require the existing building to be demolished and would entail constructing the new Patrick Henry Place to provide 16 permanent supportive housing (PSH) units. The new,

Board Agenda Item
June 23, 2020

four-level, approximately 24,000 sf, facility will be constructed on the existing 0.66-acre site and includes 16 parking spaces and associated site improvements. In the new facility, the Office to Prevent and End Homelessness (OPEH) will leverage the property and services to provide a more effective solution to reducing homelessness by providing 16 permanent supportive housing units for families in lieu of the current emergency shelter model. The new supportive housing facility will serve people from anywhere in the County, but this location is superior because of its access to public transportation and employment opportunities, which is an asset for low-income and formerly homeless families. It is also important that supportive housing facilities are included throughout the county so homeless families have housing options like any other county resident that will complement their family's work, education, and social connections in the community. Currently, the only other facility like this for families with children in Fairfax is adjacent to the Katherine Hanley Family Shelter.

However, because the Board only owns the units and not the building's shell or the underlying land, the Board needs to obtain land rights for the building and surrounding land in order to demolish the building and commence construction of the project. In order to accomplish the acquisition of these land rights, the Board must "extract" the land from H2C and transfer ownership to the Board. The two areas needing extraction are: 1) the land area where the current shelter exists which is identified as H2C's Phase 4A (26,188 sf or .60119 ac); and 2) a small portion of H2C's adjacent Phase 4B, containing 2,492 sf or .05721 ac. This smaller portion of land is needed to satisfy current parking regulations for the new facility to be built. The eminent domain process would also remove the units owned by the Board from H2C. The balance of H2C's Phase 4B will remain part of in H2C. The total of both areas to be extracted and transferred into Board ownership is 28,680 sf (.65840 ac).

Additionally, the eminent domain proceedings will grant ingress/egress, drainage, utility, and temporary grading and construction easements to the County on the Phase 4B property that is to be retained by H2C. Due to the condominium arrangement, the Association's instruments require 100% of owner's and related mortgage company's approval to demolish and rebuild the facility. However, the Association is authorized under law to reach an agreement that would resolve an eminent domain action. In order to facilitate the construction of the new facility in a timely manner, the County and the Association have reached a tentative agreement through which the County would pay the Association \$639,000 to acquire the necessary common elements and easements through eminent domain proceedings, thereby divesting (extracting) the property from the Association and its members. Due to the complexity of the Virginia condominium laws relating to property extractions, acquiring the property through eminent domain provides the cleanest possible title to the property.

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In order to file a petition for condemnation with the Fairfax Circuit Court, the Board must first hold a public hearing and adopt a resolution or ordinance approving the public use and directing staff to acquire the property for the public use by condemnation or other means in accordance with Va. Code § 15.2-1903. If a petition is filed and the Circuit Court approves the tentative agreement, it will enter an order pursuant to Va. Code 55.1-1906 setting forth the changes to the property rights of the Board and the Association and its members. However, the Association is not bound to accept the \$639,000 price until the Circuit Court enters a final order. If the Association withdraws from the tentative agreement, then the property's fair market value would be litigated in the Circuit Court through the traditional condemnation process.

FISCAL IMPACT:

The replacement of the Patrick Henry Family Shelter was approved as part of the 2016 Human Services/Community Development Bond Referendum in the amount of \$12,000,000 and funding is currently available in Project HS-000021, Patrick Henry Shelter-2016, in Fund 30010, General Construction and Contributions. This project is included in the FY2020 - 2024 Adopted Capital Improvement Program (with Future Fiscal Years to 2029). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachment A - Project Location Map

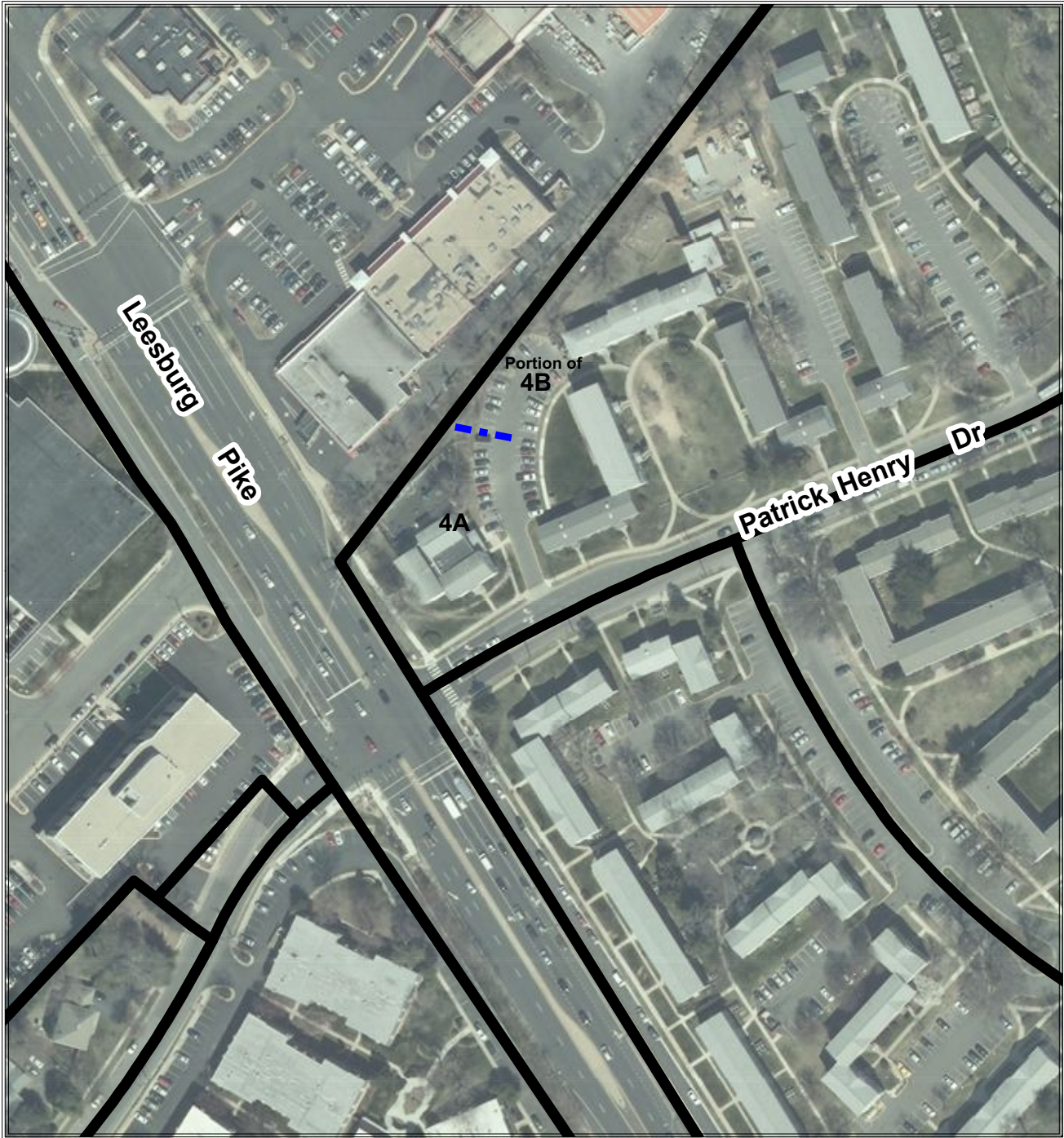
STAFF:

Rachel Flynn, Deputy County Executive
Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities
Carey F. Needham, Director, Building Design and Construction Division, DPWES

ASSIGNED COUNSEL:

F. Hayden Coddington, Assistant County Attorney
Daniel Robinson, Assistant County Attorney

Attachment A



Patrick Henry Place

Mason District

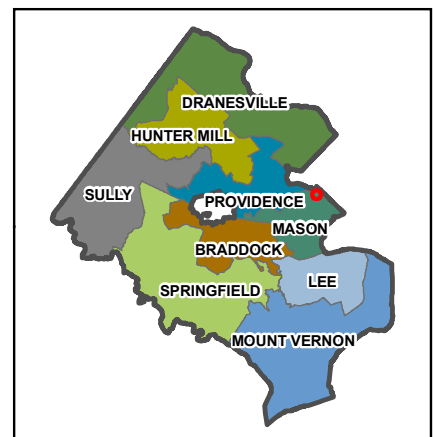

Tax Map: 51-3

Project: HS-000021-001

Affected Properties: 

Proposed Improvements:

0 0.0175 0.035 0.07 Miles



ADMINISTRATIVE - 9

Authorization to Advertise a Public Hearing to Consider the Adoption of Amendments to Chapter 41.1 of the Fairfax County Code Relating to Animal Control and Care

ISSUE:

Authorization to advertise a public hearing to consider amendments to Chapter 41.1 of the Fairfax County Code, governing Animal Control and Care. The proposed amendments to Chapter 41.1 will (i) allow wildlife rehabilitators, exhibitors and other individuals who have valid permits from the Virginia Department of Game and Inland Fisheries to possess wildlife in the County, (ii) revise the definition of wild or exotic animal, (iii) revise rabies control provisions, (iv) revise provisions related to traveling animal exhibitions (v) remove provisions related to euthanizing wildlife at the County's animal shelter (vi) update the animal shelter's fee schedule and (vii) make other minor revisions to Chapter 41.1. A more detailed description of the proposed amendments is set forth in the Background section below.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the proposed amendments to County Code Chapter 41.1.

TIMING:

Board action is requested on June 23, 2020 to provide sufficient time to advertise the proposed public hearing on July 14, 2020, at 4:30 p.m. If approved by the Board, these provisions will become effective immediately.

BACKGROUND:

This agenda item is in response to a Board matter dated January 14, 2020, directing County staff to review the current provisions in Chapter 41.1 regarding possession of wildlife in the County by individuals and organizations that have valid permits from the Virginia Department of Game and Inland Fisheries (DGIF). This item also includes other proposed amendments to Chapter 41.1 as further described below.

Wildlife Rehabilitators and Exhibitors

The proposed revisions to Section 41.1-4-1 allow individuals who have permits from the Commonwealth of Virginia or the federal government to keep wild or exotic animals in the County, specifically including wildlife rehabilitators and exhibitors. Current provisions in Chapter 41.1 prohibit the possession of wild or exotic animals, as those terms are defined in Section 41.1-1-1. The County's Zoning Ordinance also prohibits possession of animals that are not permitted under Chapter 41.1. DGIF issues permits

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to individuals and organizations allowing possession of wildlife for certain purposes, and the federal government issues permits for some other species including migratory birds. Approximately fifty (50) individuals in the County have DGIF permits. Permittees include trained wildlife rehabilitators, exhibitors (including county, regional and state park nature centers), local conservation education organizations, and falconers, among others. DGIF provides comprehensive oversight of these permittees including setting conditions for wildlife care and housing, conducting inspections, and placing restrictions on species and their uses. As a result of this current prohibition in Chapter 41.1, DGIF has considered revoking permits issued to County residents because they do not comply with the local ordinance. The proposed amendments to Section 41.1-4-1 will ensure that the County residents who have valid permits can continue to provide valuable rehabilitation and educational services under the supervision of DGIF. The proposed amendments to this section further clarify that residents cannot keep any animal in violation of state or federal law.

The proposed amendments also revise the definition of wild or exotic animal found in Section 41.1-1-1. The current language defines wild or exotic animal as any animal normally found in the wild state and contains a mix of examples of such animals with a narrow set of exceptions for ferrets, hedgehogs, chinchillas, non-poisonous snakes, rabbits and laboratory rats. This definition has generated much confusion and required interpretation from staff about exactly what sorts of animals are classified as wild or exotic and thus prohibited in the County. The revised definition classifies as wild or exotic those animals that are naturally occurring or normally found in the wild state, either within the continental United States or elsewhere in the world, regardless of whether such animal has been bred in captivity, and also specifically includes all animals, spiders, insects and scorpions that are venomous to humans. The new definition then creates a set of exceptions from the definition that will cover animals that have become common pets, including chinchillas and other small rodents, hedgehogs, birds and non-venomous reptiles and amphibians. The proposed amendments to Section 41.1-4-2 revise the notice provisions required at places where exotic animals are sold to match the new definition.

Rabies

The proposed amendments to Sections 41.1-1-1 add definitions for rabid and suspected rabid animals as well as potential exposure to rabies to include situations other than animal bites, all adapted from state regulations. The revisions to Section 41.1-2-1, 2-2 and 2-3 allow for exemptions to the rabies vaccination requirement pursuant to Virginia law, and Section 41.1-2- sets forth a detailed definition of currently vaccinated. The revisions to Sections 41.1-2-8 through 2-11 set forth more detailed provisions related to confinement and isolation of animals that are suspected of being rabid, have potentially exposed persons to rabies, or have been potentially exposed to rabies. These sections set forth the different responses to different species of animals, and reflect the availability of a recognized rabies vaccine for dogs, cats and ferrets and the lack of such a recognized vaccine for other companion animals and livestock. The revisions to Section 41.1-2-10 provide for titer amnestic response to demonstrate a rabies vaccine

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history for animals potentially exposed to rabies. The proposed new definition of animal provides that for certain sections, animal means any animal susceptible to rabies and is also based on the Code of Virginia. The amendments delete the provisions of Section 41.1-2-14 related to the oral rabies vaccination program; the County has not conducted this program for several years and staff has no plans to recommend resuming it. These revisions further designate the Director of Health as the point of contact for rabies incidents in accordance with the Code of Virginia.

Department of Animal Sheltering

The proposed amendments add the Department of Animal Sheltering to the definitions in Section 41.1-1-1, along with revising the definition of the animal shelter from pound to public animal shelter. The proposed amendments to Section 41.1-2-16 remove provisions related to the euthanasia of otherwise healthy wildlife brought to the shelter. Shelter staff have not performed this service for several years. The Department of Animal Sheltering believes such euthanasia runs counter to its mission and negatively affects the emotional and psychological well-being of shelter staff. Private companies are available to perform this service for County residents. The proposed amendments to Section 41.1-2-5 update the fee schedules and will allow the Director of Animal Sheltering to waive shelter fees for good cause shown. Because the Department of Animal Sheltering is now an independent agency, the amendments remove the requirement that the Director follow certain procedures for waiving fees established by the Police Department.

Animal Services Division

The proposed amendments change the definition of animal control officer to refer to the County's Animal Protection Police, and also revise the definition of animal based on the Code of Virginia. The amendments will allow for officer discretion to charge owners of unrestricted dogs in Section 41.1-2-4 and unvaccinated dogs in Section 41.1-2-1. The enforcement provisions of Section 41.1-1-2 will be revised to allow enforcement as otherwise provided by law to clarify that any person may seek a warrant for misdemeanor violations without law enforcement involvement in accordance with Virginia law. Section 41.1-1-5 is updated to match current Virginia law.

Traveling Animal Exhibitions

The proposed amendments will require these exhibitors to obtain current certificates of health for each animal to be exhibited. The amendments remove the requirement for an inspection prior to the issuance of a permit. Because these exhibitors are normally based outside of the County, these inspections are impractical. However, these exhibitors will be required to observe the appropriate standards of care established under Virginia law and will be prosecuted for providing inadequate care. The definitions of adequate care, adequate feed, adequate water and adequate space have been removed and replaced by a reference to current Virginia law.

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FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed Amendments to Chapter 41.1, Animal Control and Care (markup)
Attachment 2 – Proposed Amendments to Chapter 41.1, Animal Control and Care (clean)

STAFF:
David M. Rohrer, Deputy County Executive
Karen Diviney, Director, Department of Animal Sheltering
Captain Jerry Watts, Commander, Animal Services Division
Katherine Edwards, Wildlife Management Specialist, Animal Services Division
Benjamin Klekamp, Manager, Division of Epidemiology & Population Health

ASSIGNED COUNSEL:
John W. Burton, Assistant County Attorney

**AN ORDINANCE AMENDING
CHAPTER 41.1 OF THE FAIRFAX COUNTY CODE, RELATING TO
ANIMAL CONTROL AND CARE**

Draft of March 11, 2020

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2, all relating to animal control and care.

Be it ordained by the Board of Supervisors of Fairfax County:

- 1. That Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2 of the Fairfax County Code are amended and reenacted as follows:**

Section 41.1-1-1. - Definitions.

For the purpose of this Chapter, the following words and phrases have the following meanings unless otherwise defined within this Chapter:

~~*Adequate feed* means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.~~

~~*Adequate shelter* means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Shelters whose wire, grid,~~

~~or slat floors permit the animals' feet to pass through the openings, sag under the animals' weight or otherwise do not protect the animals' feet or toes from injury are not adequate shelter.~~

~~*Adequate space* means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, adequate space means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.~~

~~*Adequate water* means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.~~

~~*Animal* means any nonhuman vertebrate species except fish. For the purposes of Sections 41.1-2-8 through 41.1-2-11, animal means any species susceptible to rabies. For the purposes of Section 41.1-2-20, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.~~

~~*Animal control officer* means a person appointed as the animal ~~control~~ protection police officer or a deputy animal ~~control~~ protection police officer pursuant to Virginia law to enforce the Virginia Comprehensive Animal Care Laws, this Chapter, and all laws for the protection of domestic animals.~~

~~*Animal Shelter* means ~~the Fairfax County Animal Shelter~~ a facility which is operated by the Department of Animal Sheltering as a pound public animal shelter as is defined in Virginia Code § 3.2-6500, as amended.~~

~~*Animal Services Division* means the Animal Services Division of the Fairfax County Police Department. References to the Commander of the Animal Services Division mean the Commander or his or her agent.~~

Certified service animal means a monkey that is used or is in training to be used solely to assist disabled persons and which use is certified by officials of a generally recognized scientific or educational institution, provided that such certified service animal has been bred in a closed breeding environment located in the United States.

Circus means any commercial variety show featuring animal acts for public entertainment.

Companion animal means any domestic or feral dog, domestic or feral cat, non-human primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purpose of this chapter.

Department of Animal Sheltering means the Fairfax County agency responsible for the operation of the public animal shelter(s) in Fairfax County.

Director of Health means the Director of the Fairfax County Health Department or his or her designee.

Director of Tax Administration means the Director of the Department of Tax Administration or his or her designee. For purposes of issuing dog licenses, the Animal Services Division is a designee of the Director of Tax Administration.

Horse means and includes horse, mule, donkey, and ass.

Kennel means any place in or at which five or more dogs or cats or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

Livestock includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in state law; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

Owner means any person, firm, partnership, corporation, association, or other legal entity, who has a right of property in an animal, keeps or harbors an animal, has an animal in his, her or its care, or acts as a custodian of an animal, including operators or managers of stables, kennels, pet shops, or other animal establishments.

Primary enclosure means any structure used to immediately restrict an animal to a limited amount of space, such as a room, tank, pen, cage, compartment or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

Rabid animal means an animal that has had the diagnosis of rabies confirmed by the Virginia Division of Consolidated Laboratory Services, Fairfax Health Department Laboratory, Centers for Disease Control and Prevention Rabies Laboratory, or a laboratory in any state that is recognized by that state to perform rabies testing for public health purposes. Any suspected rabid animal that has exposed a companion or

1 agricultural animal or a person and is not available for laboratory testing should be
 2 presumed to be rabid

3 *Rabies exposure or potentially exposed to rabies* means any circumstance where saliva
 4 or central nervous system tissue from a rabid or suspected rabid animal entered or could
 5 have entered a fresh, open wound or come in contact with a mucous membrane of a
 6 person or susceptible animal species. For the purposes of companion and agricultural
 7 animal exposure, the actual witnessing of a bite or attack by a rabid or suspected rabid
 8 animal is not necessary to define an exposure; however, a rabid or suspected rabid
 9 animal needs to have been witnessed in close proximity to the exposed animal and where,
 10 in the judgment of the Director of Health, it is reasonable to assume that the rabid or
 11 suspected rabid animal could have exposed the susceptible companion or agricultural
 12 animal.

13 *Releasing agency* means a ~~pound~~, public or private animal shelter, humane society,
 14 animal welfare organization, society for the prevention of cruelty to animals, or other
 15 similar entity or home-based rescue that releases a companion animal for adoption,
 16 including the Fairfax County Animal Shelter.

17 *Rightful owner* means a person with a right of property in the animal.

18 *Service animal* means any dog or miniature horse that is individually trained to do work
 19 or perform tasks for the benefit of an individual with a disability, including a physical,
 20 sensory, psychiatric, intellectual, or other mental disability. Other species of animals,
 21 whether wild or domestic, trained or untrained, are not service animals for the purposes
 22 of this definition. The work or tasks performed by a service animal must be directly related
 23 to the handler's disability. Examples of work or tasks include, but are not limited to,
 24 assisting individuals who are blind or have low vision with navigation and other tasks,
 25 alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
 26 providing non-violent protection or rescue work, pulling a wheelchair, assisting an
 27 individual during a seizure, alerting individuals to the presence of allergens, retrieving
 28 items such as medicine or the telephone, providing physical support and assistance with
 29 balance and stability to individuals with mobility disabilities, and helping persons with
 30 psychiatric and neurological disabilities by preventing or interrupting impulsive or
 31 destructive behaviors. The crime deterrent effects of an animal's presence and the
 32 provision of emotional support, well-being, comfort, or companionship do not constitute
 33 work or tasks for the purposes of this definition.

34 *Suspected rabid animal* means any animal that has not been tested for rabies and that
 35 the Fairfax County Health Department considers to be a species at high risk for acquiring
 36 or transmitting rabies whether or not the animal is exhibiting clinical signs compatible with
 37 rabies and any animal the Fairfax County Health Department considers at low risk for
 38 acquiring or transmitting rabies that is exhibiting clinical signs compatible with rabies.

39 *Traveling animal exhibition* means any spectacle, display, act or event, including circuses
 40 and carnivals, where animals are maintained, whether or not the animals actually perform,

the owners or operators of which do not have their principal place of business in Fairfax County, Virginia, and that are required to obtain a temporary special permit pursuant to the Zoning Ordinance. Notwithstanding the foregoing, a horse or pony ride is not a traveling animal exhibition.

Unrestricted means not under the control of the owner or his agent either by leash, cord, chain, or primary enclosure when off the property or premises of the owner or custodian. An electronic device does not qualify as a leash, cord or chain.

Vicious animal means any animal or animals that constitute a physical threat to human beings or other animals, not to include vicious dogs, ~~which are addressed separately within this Chapter.~~

~~*Wild or exotic animal* means any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula that can normally be found in the wild state or any other member of a crocodilian, including but not limited to alligators, crocodiles, caimans, and gavials. Ferrets, hedgehogs, chinchillas, non-poisonous snakes, rabbits, and laboratory rats that have been bred in captivity and that have never known the wild are excluded from this definition.~~ any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals shall be excluded from this definition: (i) chinchillas, guinea pigs, hamsters, rats, mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians.

Section 41.1-1-2. - Enforcement.

The provisions of this Chapter shall be enforced by the animal control officer and deputy animal control officers, and may be enforced by other law-enforcement officers ~~of the Police Department~~ or as otherwise provided under Virginia law. Where specific reference is made to the Director of Health, he or she may enforce those provisions as well.

Section 41.1-1-5. - Compliance with State Comprehensive Animal Care Laws.

The provisions of this Chapter are intended to complement, not superseede, the state Comprehensive Animal Care Laws.

ARTICLE 2. - Animal Control and Rabies Control.

Section 41.1-2-1. - Vaccination of dogs and cats against rabies required.

Unless exempt pursuant to Virginia law, the owner or custodian of each dog and domesticated cat 4 months of age and older shall have it currently vaccinated against rabies. For the purposes of this section, currently vaccinated means the animal was (i) vaccinated by a licensed veterinarian or a licensed veterinary technician under the direct supervision of a licensed veterinarian on the premises and (ii) the animal was vaccinated and revaccinated in accordance with the current National Association of State Public Health Veterinarian's Compendium of Animal Rabies Prevention and Control or as described on the U.S. Department of Agriculture approved vaccine label. ~~by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises.~~ The supervising veterinarian on the premises shall provide the owner or custodian of the dog or domesticated cat with a certificate of vaccination. The owner or custodian of the dog or domesticated cat shall promptly furnish, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or Director of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species. Any dog that has not been vaccinated as required by this Section shall be impounded, except that if the rightful owner of the dog can be immediately ascertained and located, then that owner shall be allowed to have custody of the animal, but ~~shall~~ may be subject to issuance of a summons for violation of this Section.

Section 41.1-2-2. - Dog license required; license tax on dogs and kennels.

(a) Except as otherwise provided herein, it is unlawful for any person to own a dog 4 months old or older in the County unless the dog is licensed by Fairfax County. Any dog not wearing a collar bearing a current license tag shall prima facie be deemed to be an unlicensed dog and in any proceeding under this Chapter the burden of proof of the fact that the dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog. No license tag shall be issued for any dog unless the Director of Tax Administration receives either the certificate of rabies vaccination required by Section 41.1-2-3, ~~or~~ satisfactory evidence that such certificate has been obtained, or a rabies vaccination exemption certificate issued annually by the Director of Health. This subsection shall not apply to a releasing agency that has registered as such annually with the Animal Services Division.

(b) There is hereby provided and levied within the County an annual license tax of \$10.00 per dog, regardless of whether the dog is fertile or infertile.

1 (1) [Reserved.]

2
3 (2) No license tax shall be levied on any dog that is trained and serves as a guide dog
4 for a blind person, that is trained and serves as a hearing dog for a deaf or hearing
5 impaired person, that is trained and serves as a service dog for a mobility-impaired
6 person, or on any dog owned by a person having diplomatic status in the United States.
7 As used in this section, "hearing dog" means a dog trained to alert its owner by touch to
8 sounds of danger and sounds to which the owner should respond and "service dog"
9 means a dog trained to accompany its owner for the purpose of carrying items, retrieving
10 objects, pulling a wheelchair or other such activities of service or support.

11
12 (c) *Duplicate License Tag.* If a dog license tag is lost, destroyed or stolen, the owner
13 shall at once apply to the Director of Tax Administration for a duplicate license tag,
14 presenting the original license receipt. Upon affidavit of the owner that the original license
15 tag has been lost, destroyed or stolen, the Director of Tax Administration shall issue a
16 duplicate license tag which the owner shall immediately affix to the collar of the dog. The
17 Director shall endorse the number of the duplicate and the date issued on the face of the
18 original license receipt. The fee for a duplicate tag for any dog is \$1.00.

19
20 (d) Upon application and payment of the license tax to the Director of Tax
21 Administration, the Director shall issue a dog license tag, which tag shall bear only the
22 words "Fairfax County, VA Dog Tag," an assigned number, and the current license year.

23
24 (e) It is unlawful to operate a kennel in the County unless it is licensed. The owner or
25 operator of a dog kennel shall pay an annual license tax of \$50.00 for up to but not more
26 than 50 dogs.

27
28 (f) The Director of the Department of Tax Administration shall keep a list of all licenses
29 issued annually, and a separate account of funds received from such tax. All unissued
30 license tags for the current license year shall be destroyed at the end of such year.

31
32 (g) *Displaying Receipts; Dogs To Wear Tags.* Dog license receipts, issued by the
33 Director of Tax Administration at the time of purchase of a dog license tag, and kennel
34 license tax receipts shall be preserved by the licensees and exhibited promptly upon
35 request for inspection by any animal control officer or other officer. Dog license tags shall
36 be securely fastened to a substantial collar by the owner and worn by the dog at all times,
37 except the owner of the dog may temporarily remove the tag required by this Section:

38
39 (1) When the dog is engaged in lawful hunting while accompanied by the owner;
40

- 1 (2) When the dog is competing in a dog show;
2
3 (3) When the dog has a skin condition which would be exacerbated by the wearing of
4 the collar;
5
6 (4) When the dog is confined;
7
8 (5) While the dog is engaged in a supervised formal obedience training class; or
9
10 (6) During formally sanctioned field trials.

11
12 **Section 41.1-2-3. - Certificate of vaccination prerequisite to issuance of dog**
13 **licenses.**

14
15 (a) No license tag shall be issued for any dog unless the Director of Tax Administration
16 receives either a certificate of rabies vaccination that complies with Section 41.1-2-1, or
17 satisfactory evidence that such certificate has been obtained, or a rabies vaccination
18 exemption certificate issued annually by the Director of Health.

19
20 (b) The certificate of rabies vaccination shall show the date of vaccination, the type of
21 vaccine used (whether modified live virus or inactivated virus), the rabies tag number, the
22 expiration date of the vaccination, the sex and breed of the dog and the name of the
23 owner.

24
25 **Section 41.1-2-4. - Unrestricted dogs prohibited; leash law.**

26
27 (a) No dog shall run unrestricted, as defined in Section 41.1-1-1, in the County. Any
28 person who is the owner of a dog found unrestricted in the County shall be in violation of
29 this Section. This Section shall not apply to any person who uses a dog under his direct
30 supervision while lawfully hunting, while engaged in a supervised formal obedience
31 training class or show, during formally sanctioned field trials, while a dog is in an area
32 owned, leased, controlled, or operated by Fairfax County designated by resolution of the
33 Board of Supervisors as an off-leash dog exercise area, or while a dog is in an area
34 owned, leased, controlled, or operated by the Fairfax County Park Authority and
35 designated by resolution of the Fairfax County Park Authority as an off-leash or dog
36 exercise area, or while a dog is in an area, leased, controlled, or operated by the Northern
37 Virginia Regional Park Authority and designated by resolution of the Northern Virginia
38 Regional Park Authority Board as an off-leash or dog exercise area, or if a dog is a service
39 animal whose handler is unable because of a disability to use a harness, leash, or other
40 tether, or the use of a harness, leash, or other tether would interfere with the service

1 animal's safe effective performance of work or tasks, in which case the service animal
2 must be otherwise under the handler's control (e.g., voice control, signals, or other
3 effective means). It is a violation of this Section for any owner of a dog to place such dog
4 or allow it to be placed into custody of any person not physically capable of maintaining
5 effective control of restricting such dog.

6
7 (b) Any dog found unrestricted in violation of subsection (a) shall be impounded, except
8 that if the rightful owner of the dog can be immediately ascertained and located, then that
9 owner shall be allowed to have custody of the animal, but ~~shall~~ may be subject to issuance
10 of a summons for violation of this Section.

11
12 **Section 41.1-2-5. - County animal shelter; confinement and disposition of stray**
13 **animals; impoundment and boarding fees; adoption fees.**

14
15 (a) The County Animal Shelter shall be operated and maintained in accordance with
16 Virginia law, and it shall be accessible to the public at reasonable hours during the week.

17
18 (b) Except as otherwise provided by Section 41.1-2-9, whenever any animal is confined
19 at the Animal Shelter, it shall be kept for a period of not less than 5 days, such period to
20 commence on the day immediately following the day the animal is initially confined in the
21 facility, unless sooner claimed by the rightful owner. If any animal confined at the Animal
22 Shelter is claimed by its rightful owner, such owner shall be charged the applicable fee or
23 fees set forth in this Section.

24
25 (c) Any animal impounded that is not ~~known or~~ suspected of being rabid may be
26 redeemed by its rightful owner upon: (1) presentation of proof of ownership and personal
27 identification; (2) payment of all applicable fees set forth in this Section; (3) if the animal
28 being claimed is a dog or a cat that is 4 months of age or older, presentation of a certificate
29 that shows the animal being claimed has been vaccinated for rabies in accordance with
30 the requirements of Section 41.1-2-1; (4) if the animal being claimed is a dog that is 4
31 months old or older, presentation of evidence of payment of a valid dog license, as
32 required by Section 41.1-2-2; and (5) payment of any necessary veterinary expenses
33 incurred for the benefit of that animal by the Animal Shelter. Any rightful owner who fails
34 to produce the certificate of vaccination or proof of payment of the license fee shall be
35 allowed to have custody of the animal, but shall be subject to issuance of a summons for
36 violation of Section 41.1-2-1 or Section 41.1-2-2. Any dog not redeemed may be
37 destroyed in a humane manner or otherwise lawfully disposed of by the Director of the
38 Animal Shelter or the designated agent of the Director. The Director or the designated
39 agent of the Director shall not knowingly give, sell, or otherwise release any animal to any
40 person who intends to use that animal for research purposes.

(d) Any person who adopts an animal from the Animal Shelter shall pay the applicable adoption fee set forth in this Section and shall sign an adoption contract agreeing to comply with laws regulating the adoption and ownership of the animal and to appropriately care for the animal. The Animal Shelter shall not release any dog or cat for adoption unless the animal is already sterilized or the person who adopts the animal signs an agreement as required by Virginia law to have the animal sterilized.

(e) Fee Schedules:

Impoundment fees:

Dogs and cats, first impoundment \$ 25.00
 Second impoundment 50.00
 Third or subsequent impoundment 75.00
 Livestock, under 150 pounds 50.00
Livestock, 150 pounds or more 100.00
 Reptiles and ~~exotic animals~~ 20.00
 Rodents, ferrets, and rabbits 20.00

Boarding fees (for each day boarded):

Dogs and cats ~~15.00~~ 20.00
 Livestock (under 150 pounds) 25.00
Livestock (150 pounds or more) 50.00
 Reptiles and ~~exotic animals~~ 10.00
 Rodents, ferrets, and rabbits 10.00

Adoption fees:

Dogs under six (6) months of age ~~175.00~~ 200.00
 Dogs age six (6) months ~~to~~ through five (5) years ~~125.00~~ 150.00
 Dogs age ~~five (5)~~ six (6) years and older 100.00
 Cats under six (6) months of age ~~125.00~~ 150.00
 Cats age six (6) months ~~to~~ through five (5) years 75.00
 Cats age ~~five (5)~~ six (6) years and older 50.00
 Rabbits and ~~ferrets~~ ~~15.00~~ 30.00
Ferrets, Chinchillas and Hedgehogs 40.00
Hermit crabs 10.00
 Reptiles and ~~small birds~~ ~~10.00~~ 20.00

1	<u>Guinea Pigs 15.00</u>
2	<u>Rodents (mice, hamsters, gerbils, rats) 5.00</u>
3	Other small animals 5.00
4	Equine and bovine 200.00
5	Other livestock 20.00 <u>50.00</u>
6	<u>Small birds (parakeets, finches, canaries) 10.00</u>
7	<u>Medium birds 75.00</u>
8	Large birds 400.00 <u>150.00</u>
9	<u>Poultry 20.00</u>

10
 11 The Animal Shelter Director may waive or reduce the adoption, impoundment or boarding
 12 fees established in this subsection (e) for good cause ~~shown, including, but not limited to,~~
 13 special adoption events. The Animal Shelter Director's determination of good cause shall
 14 ~~be based on guidelines set forth in Standard Operating Procedures approved by the~~
 15 ~~Fairfax County Police Department.~~

16
 17 (f) The owner of any animal that is held pursuant to Va. Code Ann. § 3.2-6569 for more
 18 than 30 days shall post a bond in surety with the County in an amount equal to the cost
 19 of boarding the animal for 9 months at the rates established in this Section. If the owner
 20 satisfies this obligation by obtaining a commercial bond, then the bond must be issued by
 21 a surety that is licensed to do business in Virginia and that has an A-IV or better rating
 22 from A.M Best. Upon a request by an owner, the County may reduce the bond for good
 23 cause shown.

24 25 **Section 41.1-2-8. - Confinement of animals suspected of having rabies.**

26
 27 (a) Every person having knowledge of the existence in the County of an animal
 28 apparently afflicted with rabies shall report immediately to the Director of Health the
 29 existence of such animal, the place where seen, the owner's name, if known, and the
 30 symptoms suggesting rabies.

31
 32 (b) It shall be the duty of any of the officials charged with the enforcement of this
 33 Chapter to impound in the Animal Shelter, at no expense to the owner, any animal
 34 showing active signs of rabies or suspected of having rabies, or upon the request of the
 35 owner and at his expense, the animal may be placed in the custody of a licensed
 36 veterinarian. The animal shall be confined for such period of time as may be necessary
 37 to establish a diagnosis. If confinement is impossible or impracticable, such animal shall
 38 ~~be destroyed~~ be euthanized upon the authorization of a licensed veterinarian or ~~any person~~
 39 ~~charged with the enforcement of this Chapter~~ the Director of Health by one of the methods
 40 approved by the State Veterinarian.

Section 41.1-2-9. - Disposition of animals that have potentially exposed ~~bitten~~ persons to rabies.

(a) The owner of an animal that has ~~bitten~~ potentially exposed a person to rabies or any person having knowledge of any animal which has ~~bitten~~ potentially exposed a person to rabies shall immediately notify the ~~Animal Services Division or the County Police Department~~ Director of Health. The owner of such animal shall permit the Director of Health or any person charged with enforcement of this Chapter to immediately examine such animal, and for dogs, cats and ferrets, the owner of such animal shall:

(1) ~~Impound and board~~ Confine the animal in the County Animal Shelter for a period of 10 days and the owner shall be responsible for paying the impoundment and boarding fees set forth in Section 41.1-2-5;

(2) ~~Place~~ Confine the animal in the custody of licensed veterinarian or a licensed veterinary hospital for a period of 10 days at the owner's expense; or

(3) Confine the animal on the owner's premises ~~in a strong enclosure that is isolated from all other animals and persons~~ for a period of 10 days. For the purposes of this section, confinement of a dog, cat or ferret means that the animal should be housed in a building, pen or some other suitable escape-proof enclosure and not removed from the enclosure unless on a leash and under the immediate control of a responsible adult while being kept either on the owner's property or in the immediate area associated with the owner's place of residence. The animal should not be moved or taken to another location, site or property unless permission is obtained from the Director of Health. At the first indication of the animal becoming ill, it is the responsibility of the owner or custodian to notify the Director of Health and take the animal to a veterinarian for an examination. If rabies is suspected, the animal should be immediately euthanized and tested for rabies.

(b) Any such dog, cat or ferret ~~animal~~ shall be released from confinement after the ten-day period only upon authorization of ~~a licensed veterinarian or the Director of Health~~ any person charged with enforcement of this Chapter. If any animal being confined pursuant to this Section develops active symptoms of rabies prior to the expiration of the ten-day period, then that animal shall be ~~destroyed~~, euthanized and tested for rabies, and the person ~~destroying~~ euthanizing any such animal shall comply with the requirements of Section 41.1-2-11.

(c) The disposition of any animal other than a dog, cat or ferret that has potentially exposed a person to rabies shall be as determined in the sole discretion of the Director of Health.

Section 41.1-2-10. - Confinement or isolation of ~~dogs and cats~~ animals ~~bitten by rabid animals~~ potentially exposed to rabies.

~~Any person with knowledge of an animal. The owner of any dog or cat that is known to have been bitten or otherwise~~ potentially exposed to rabies by a rabid animal or by an animal suspected of being rabid shall immediately notify the Animal Services Division or the Director of Health.

(a) Any dog, or cat or ferret for which no proof of current rabies vaccination is available and which ~~that~~ is bitten or otherwise potentially exposed to rabies by an animal believed to be afflicted with rabies shall be confined placed under isolation in a pound, kennel or enclosure approved by the Animal Services Division or the Director of Health for a period, not to exceed 6 months, at the expense of the owner. For the purposes of this section, isolation means a kennel in a veterinary hospital, commercial boarding establishment, or a pen at home that prevents direct contact between the animal and any human or other animal, but allows for feeding, watering, and cleaning. The Director of Health is responsible for approving the adequacy of the isolation unit. The owner has up to 14 days from the date of the exposure to place the dog, cat or ferret in isolation. At the discretion of the Director of Health, rabies titer amnestic response results can be used to demonstrate a prior rabies vaccine history. A rabies vaccination shall be administered as soon as possible after the exposure. If isolation is not feasible, the dog, cat or ferret shall be euthanized by one of the methods approved by the State Veterinarian. however, if this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the State Veterinarian. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement.

(b) Any dog, or cat or ferret ~~so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, with proof of a rabies vaccination,~~ that is potentially exposed to rabies shall be revaccinated immediately following the bite exposure and shall be confined to the premises of the owner in accordance with Section 41.1-2-9, or other site approved by the Director of Health for a period of 45 days.

(c) The disposition of any animal other than a dog, cat or ferret that has been potentially exposed to rabies shall be as determined in the sole discretion of the Director of Health.

Section 41.1-2-11. - Regulations concerning animals dying of rabies.

Any person who destroys an animal that is ~~rabid or~~ suspected of being rabid or any person who has knowledge that an animal has died of rabies or is suspected of having died of rabies shall immediately notify the Director of Health Animal Services Division of the location of the body of such animal. ~~If requested by the Director of Health,~~ the head of the animal shall be surrendered to any person charged with the enforcement of this Chapter.

Section 41.1-2-14. - Reserved. ~~Oral rabies vaccine distribution program.~~

~~(a) The Board of Supervisors hereby creates a program for the distribution of oral rabies vaccine within the County to prevent the spread of rabies. The program, including, but not limited to, the time and method of rabies vaccine distribution, shall be administered by the County Health Department and its duly authorized representatives. Subject to the notice provisions set forth below, those persons administering the program are authorized to enter upon property located in the County for the purpose of distribution of oral rabies vaccine and may use any other method to place the oral rabies vaccine on the property.~~

~~(b) Notice shall be given to the owner or occupant of property prior to entry upon the property for the purpose of the distribution of oral rabies vaccine or the use of any other methods to place oral rabies vaccine on the property. Notice shall be given by (i) sending two letters by first-class mail, at successive intervals of not less than two weeks and (ii) printing a copy of the form of the notice, at least once, in a newspaper of general circulation in the County. Written notice shall be in a form approved by the governing body and shall include a description of the purpose for which entry upon the property is to be made, the time and method of rabies distribution at the property, and the submission deadline for requests by any owner or occupant of property who wishes to be excluded from the oral rabies vaccine distribution program.~~

~~(c) The owner or occupant of property may refuse to allow the distribution of oral rabies vaccine upon such property. Any owner or occupant who wishes to be excluded from the oral rabies vaccine distribution program shall provide a written request for nonparticipation in the manner and by the date specified in the written notice. No further action to distribute oral rabies vaccine shall be taken for a period of one year with respect to any property for which a request for nonparticipation has been received.]~~

Section 41.1-2-16. - Burial or cremation of dead animals and fowl.

When the owner of any animal or fowl that has died knows of the death, such owner shall forthwith have its body cremated or buried, or otherwise disposed of in a manner

acceptable to the Director of Health; alternatively, the owner may request such service from the Animal Shelter. If, after notice, the owner of any companion animal that has died fails to properly dispose of the animal, the animal control officer or other officer may bury or cremate the animal and may recover, on behalf of the County, from the owner for the cost of the disposal. If the owner of any other animal that has died fails to bury or cremate the dead animal or fowl, any judge of a general district court, after notice to the owner if he can be ascertained, shall authorize Animal Services Division or the Director of Health to do so. In that event, the County shall be entitled to recover the actual cost of the cremation or burial.

~~Any person who has trapped wildlife in accordance with Virginia law and transported the wildlife to the Animal Shelter in a cage or trap may request that the animal be euthanized and/or cremated. Provision of such services is subject to payment of the following fee for impounding, euthanizing and/or cremating the animal:~~

~~Skunk: \$50.00~~

~~Raccoon, squirrel, groundhog, gopher, and other small animal: 25.00~~

ARTICLE 4. - Keeping of Wild, Exotic or Vicious Animals Prohibited.

Section 41.1-4-1. - Keeping prohibited; exceptions.

No person shall keep or permit to be kept any wild, exotic or vicious animal, as those terms are defined in Section 41.1-1-1, for any purposes, except that this prohibition shall not apply to (i) a single certified service animal in a household, (ii) zoological parks, (iii) traveling animal exhibitions, (iv) circuses or (v) individuals, organizations, or veterinary clinics that are properly licensed or permitted by an agency of the Federal Government or Commonwealth of Virginia, including, but not limited to, wildlife rehabilitators and exhibitors. The wild or exotic animals of such licensed or permitted individuals or establishments shall not be exhibited or displayed in such a manner that persons other than their handlers can pet, fondle, or otherwise come in direct physical contact with such animals; however this prohibition shall not apply to the riding of elephants by persons other than the elephants' handlers while under the direct supervision of the elephants' handlers where such elephants are performing in zoological parks, animal exhibitions or circuses which are properly licensed by the Federal Government or the Commonwealth of Virginia and Fairfax County. Nothing in this Chapter shall be construed to permit the possession of any animal in violation of any law or regulation of the Federal Government or Commonwealth of Virginia.

Section 41.1-4-2. Notice required at place of sale.

Any person who offers for sale an exotic animal as defined by Section 41.1-1-1 shall post conspicuously at the place of sale or display the following notice:

"No person may lawfully keep or permit to be kept in Fairfax County, other than a certified service animal, ~~any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula, crocodile or alligator, which can normally be found in the wild state or any other member of the crocodilian, including but not limited to alligators, crocodiles, caimans and gavials.~~" any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals may be lawfully kept in Fairfax County: (i) chinchillas, guinea pigs, hamsters, rats mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians."

Section 41.1-4-3. - Disposition of Animals.

Any person who keeps a wild, exotic, or vicious animal in contravention of this Article may dispose of the animal by removal of the animal from Fairfax County, by giving or selling the animal to a zoological park or by releasing the animal to the Department of Animal Sheltering ~~Animal Services Division, which shall release the animal to the wild, to a zoological park, or other entity approved for the care or protection of the particular species.~~

ARTICLE 5. - Traveling Animal Exhibitions.

Section 41.1-5-2. - Issuance of permit.

(a) The owner or operator of any traveling animal exhibition desiring to operate in Fairfax County shall make written application for permit on forms provided by the Animal Services Division no later than 21 days prior to the first performance of any spectacle, display, act or event. The application shall include but not be limited to the name of the owner of the traveling animal exhibition, all proposed locations in Fairfax County for the

1 traveling animal exhibition, the date the traveling animal exhibition is to arrive in Fairfax
2 County, the date of departure, all dates on which it is to perform at any location in Fairfax
3 County, the owner's principal address and telephone number, the total length of time
4 during which the traveling animal exhibition will operate in Fairfax County, a list of all
5 locations at which the traveling animal exhibition has performed during the twelve-month
6 period prior to making this application, whether or not the owner or operators of the
7 traveling animal exhibition have been charged or convicted of an offense constituting
8 cruelty to animals, a brief description of the acts or events to be performed and the
9 signature of the owner or representative thereof. The applicant shall attach to the
10 application a copy of a current and valid ~~United States~~ Exhibitor's License issued by the
11 United States Department of Agriculture (USDA), and health certificates issued within 30
12 days of the date of the application by a licensed veterinarian for each animal to be
13 exhibited in Fairfax County.

14
15 ~~(b) Prior to approval of an application for a permit, an animal control officer and a~~
16 ~~U.S.D.A. accredited veterinarian, licensed by the Commonwealth of Virginia, chosen by~~
17 ~~the Commander of the Animal Services Division, shall inspect the animals and the~~
18 ~~proposed premises of the traveling animal exhibition to determine compliance with the~~
19 ~~requirements of this Article. The owner or operator of the traveling animal exhibition shall~~
20 comply with the provisions of Section 41.1-4-1 and shall present upon demand by any
21 law enforcement officer a current and valid USDA Exhibitor's License and valid health
22 certificates issued within 30 days for each animal to be exhibited.

23
24 ~~(c) Upon inspection, the animal control officer and the veterinarian referenced herein~~
25 ~~above shall determine whether a~~ All animals maintained by the traveling animal exhibition
26 ~~have~~ must been given adequate feed, adequate water, adequate shelter, adequate space
27 for the particular type of animal depending upon its age, size and weight, adequate
28 veterinary care when needed, and humane care and treatment. For the purposes of this
29 Section, adequate care, adequate feed, adequate shelter, adequate space and adequate
30 water shall have the meanings set forth in Va. Code § 3.2-6500, as amended.

31
32 (d) The Commander of the Animal Services Division shall issue a permit to the traveling
33 animal exhibition if the ~~inspection reveals that the~~ traveling animal exhibition complies
34 with the requirements of this Article and shall notify the Zoning Administrator that a permit
35 has been issued. The permit will be valid for the length of time requested on the
36 application not to exceed 21 days from the date of issuance.

37
38 (e) The Commander of the Animal Services Division may deny the application for permit
39 if the traveling animal exhibition fails to comply with any of the requirements of this Article.
40

(f) Any costs of fees incurred by Fairfax County as a result of the inspection and permit process shall be charged to the traveling animal exhibition. Payment of all such costs shall be in addition to the \$50.00 permit fee required by this Article and shall be considered a precondition to the issuance of the permit.

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. That the provisions of this ordinance shall take effect upon adoption.

GIVEN under my hand this ____ day of _____, 2020.

Jill G. Cooper
Clerk for the Board of Supervisors

**AN ORDINANCE AMENDING
CHAPTER 41.1 OF THE FAIRFAX COUNTY CODE, RELATING TO
ANIMAL CONTROL AND CARE**

Draft of March 11, 2020

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2, all relating to animal control and care.

Be it ordained by the Board of Supervisors of Fairfax County:

- 1. That Sections 41.1-1-1, 41.1-1-2, 41.1-1-5, 41.1-2-1, 41.1-2-2, 41.1-2-3, 41.1-2-4, 41.1-2-5, 41.1-2-8, 41.1-2-9, 41.1-2-10, 41.1-2-11, 41.1-2-14, 41.1-2-16, 41.1-4-1, 41.1-4-2, 41.1-4-3, 41.1-5-1 and 41.1-5-2 of the Fairfax County Code are amended and reenacted as follows:**

Section 41.1-1-1. - Definitions.

For the purpose of this Chapter, the following words and phrases have the following meanings unless otherwise defined within this Chapter:

Animal means any nonhuman vertebrate species except fish. For the purposes of Sections 41.1-2-8 through 41.1-2-11, animal means any species susceptible to rabies. For the purposes of Section 41.1-2-20, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

Animal control officer means a person appointed as the animal protection police officer or a deputy animal protection police officer pursuant to Virginia law to enforce the Virginia Comprehensive Animal Care Laws, this Chapter, and all laws for the protection of domestic animals.

Animal Shelter means a facility which is operated by the Department of Animal Sheltering as a public animal shelter as defined in Virginia Code § 3.2-6500, as amended.

Animal Services Division means the Animal Services Division of the Fairfax County Police Department. References to the Commander of the Animal Services Division mean the Commander or his or her agent.

Certified service animal means a monkey that is used or is in training to be used solely to assist disabled persons and which use is certified by officials of a generally recognized

1 scientific or educational institution, provided that such certified service animal has been
2 bred in a closed breeding environment located in the United States.

3 *Circus* means any commercial variety show featuring animal acts for public entertainment.

4 *Companion animal* means any domestic or feral dog, domestic or feral cat, non-human
5 primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native
6 animal, reptile, exotic or native bird, or any feral animal or any animal under the care,
7 custody, or ownership of a person or any animal that is bought, sold, traded, or bartered
8 by any person. Agricultural animals, game species, or any animals regulated under
9 federal law as research animals shall not be considered companion animals for the
10 purpose of this chapter.

11 *Department of Animal Sheltering* means the Fairfax County agency responsible for the
12 operation of the public animal shelter(s) in Fairfax County.

13 *Director of Health* means the Director of the Fairfax County Health Department or his or
14 her designee.

15 *Director of Tax Administration* means the Director of the Department of Tax
16 Administration or his or her designee. For purposes of issuing dog licenses, the Animal
17 Services Division is a designee of the Director of Tax Administration.

18 *Horse* means and includes horse, mule, donkey, and ass.

19 *Kennel* means any place in or at which five or more dogs or cats or hybrids of either are
20 kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or
21 showing.

22 *Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine
23 animals; porcine animals; cervidae animals; caprae animals; animals of the genus
24 Lama; ratites; fish or shellfish in aquaculture facilities, as defined in state law; enclosed
25 domesticated rabbits or hares raised for human food or fiber; or any other individual
26 animal specifically raised for food or fiber, except companion animals.

27 *Owner* means any person, firm, partnership, corporation, association, or other legal entity,
28 who has a right of property in an animal, keeps or harbors an animal, has an animal in
29 his, her or its care, or acts as a custodian of an animal, including operators or managers
30 of stables, kennels, pet shops, or other animal establishments.

31 *Primary enclosure* means any structure used to immediately restrict an animal to a limited
32 amount of space, such as a room, tank, pen, cage, compartment or hutch. For tethered
33 animals, the term includes the shelter and the area within reach of the tether.

34 *Rabid animal* means an animal that has had the diagnosis of rabies confirmed by the
35 Virginia Division of Consolidated Laboratory Services, Fairfax Health Department
36 Laboratory, Centers for Disease Control and Prevention Rabies Laboratory, or a
37 laboratory in any state that is recognized by that state to perform rabies testing for public
38 health purposes. Any suspected rabid animal that has exposed a companion or
39 agricultural animal or a person and is not available for laboratory testing should be
40 presumed to be rabid.

1 *Rabies exposure or potentially exposed to rabies* means any circumstance where saliva
 2 or central nervous system tissue from a rabid or suspected rabid animal entered or could
 3 have entered a fresh, open wound or come in contact with a mucous membrane of a
 4 person or susceptible animal species. For the purposes of companion and agricultural
 5 animal exposure, the actual witnessing of a bite or attack by a rabid or suspected rabid
 6 animal is not necessary to define an exposure; however, a rabid or suspected rabid
 7 animal needs to have been witnessed in close proximity to the exposed animal and where,
 8 in the judgment of the Director of Health, it is reasonable to assume that the rabid or
 9 suspected rabid animal could have exposed the susceptible companion or agricultural
 10 animal.

11 *Releasing agency* means a public or private animal shelter, humane society, animal
 12 welfare organization, society for the prevention of cruelty to animals, or other similar entity
 13 or home-based rescue that releases a companion animal for adoption, including the
 14 Fairfax County Animal Shelter.

15 *Rightful owner* means a person with a right of property in the animal.

16 *Service animal* means any dog or miniature horse that is individually trained to do work
 17 or perform tasks for the benefit of an individual with a disability, including a physical,
 18 sensory, psychiatric, intellectual, or other mental disability. Other species of animals,
 19 whether wild or domestic, trained or untrained, are not service animals for the purposes
 20 of this definition. The work or tasks performed by a service animal must be directly related
 21 to the handler's disability. Examples of work or tasks include, but are not limited to,
 22 assisting individuals who are blind or have low vision with navigation and other tasks,
 23 alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
 24 providing non-violent protection or rescue work, pulling a wheelchair, assisting an
 25 individual during a seizure, alerting individuals to the presence of allergens, retrieving
 26 items such as medicine or the telephone, providing physical support and assistance with
 27 balance and stability to individuals with mobility disabilities, and helping persons with
 28 psychiatric and neurological disabilities by preventing or interrupting impulsive or
 29 destructive behaviors. The crime deterrent effects of an animal's presence and the
 30 provision of emotional support, well-being, comfort, or companionship do not constitute
 31 work or tasks for the purposes of this definition.

32 *Suspected rabid animal* means any animal that has not been tested for rabies and that
 33 the Fairfax County Health Department considers to be a species at high risk for acquiring
 34 or transmitting rabies whether or not the animal is exhibiting clinical signs compatible with
 35 rabies and any animal the Fairfax County Health Department considers at low risk for
 36 acquiring or transmitting rabies that is exhibiting clinical signs compatible with rabies.

37 *Traveling animal exhibition* means any spectacle, display, act or event, including circuses
 38 and carnivals, where animals are maintained, whether or not the animals actually perform,
 39 the owners or operators of which do not have their principal place of business in Fairfax
 40 County, Virginia, and that are required to obtain a temporary special permit pursuant to

the Zoning Ordinance. Notwithstanding the foregoing, a horse or pony ride is not a traveling animal exhibition.

Unrestricted means not under the control of the owner or his agent either by leash, cord, chain, or primary enclosure when off the property or premises of the owner or custodian. An electronic device does not qualify as a leash, cord or chain.

Vicious animal means any animal or animals that constitute a physical threat to human beings or other animals, not to include vicious dogs.

Wild or exotic animal means any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals shall be excluded from this definition: (i) chinchillas, guinea pigs, hamsters, rats, mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians.

Section 41.1-1-2. - Enforcement.

The provisions of this Chapter shall be enforced by the animal control officer and deputy animal control officers, and may be enforced by other law-enforcement officers or as otherwise provided under Virginia law. Where specific reference is made to the Director of Health, he or she may enforce those provisions as well.

Section 41.1-1-5. - Compliance with State Comprehensive Animal Care Laws.

The provisions of this Chapter are intended to complement, not supersede, the state Comprehensive Animal Care Laws.

ARTICLE 2. - Animal Control and Rabies Control.

Section 41.1-2-1. - Vaccination of dogs and cats against rabies required.

Unless exempt pursuant to Virginia law, the owner or custodian of each dog and domesticated cat 4 months of age and older shall have it currently vaccinated against rabies. For the purposes of this section, currently vaccinated means the animal was (i) vaccinated by a licensed veterinarian or a licensed veterinary technician under the direct supervision of a licensed veterinarian on the premises and (ii) the animal was vaccinated and revaccinated in accordance with the current National Association of State Public

Health Veterinarian's Compendium of Animal Rabies Prevention and Control or as described on the U.S. Department of Agriculture approved vaccine label. The supervising veterinarian on the premises shall provide the owner or custodian of the dog or domesticated cat with a certificate of vaccination. The owner or custodian of the dog or domesticated cat shall promptly furnish, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or Director of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species. Any dog that has not been vaccinated as required by this Section shall be impounded, except that if the rightful owner of the dog can be immediately ascertained and located, then that owner shall be allowed to have custody of the animal, but may be subject to issuance of a summons for violation of this Section.

Section 41.1-2-2. - Dog license required; license tax on dogs and kennels.

(a) Except as otherwise provided herein, it is unlawful for any person to own a dog 4 months old or older in the County unless the dog is licensed by Fairfax County. Any dog not wearing a collar bearing a current license tag shall prima facie be deemed to be an unlicensed dog and in any proceeding under this Chapter the burden of proof of the fact that the dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog. No license tag shall be issued for any dog unless the Director of Tax Administration receives either the certificate of rabies vaccination required by Section 41.1-2-3, satisfactory evidence that such certificate has been obtained, or a rabies vaccination exemption certificate issued annually by the Director of Health. This subsection shall not apply to a releasing agency that has registered as such annually with the Animal Services Division.

(b) There is hereby provided and levied within the County an annual license tax of \$10.00 per dog, regardless of whether the dog is fertile or infertile.

(1) [Reserved.]

(2) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person, that is trained and serves as a service dog for a mobility-impaired person, or on any dog owned by a person having diplomatic status in the United States. As used in this section, "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond and "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

1
2 (c) *Duplicate License Tag.* If a dog license tag is lost, destroyed or stolen, the owner
3 shall at once apply to the Director of Tax Administration for a duplicate license tag,
4 presenting the original license receipt. Upon affidavit of the owner that the original license
5 tag has been lost, destroyed or stolen, the Director of Tax Administration shall issue a
6 duplicate license tag which the owner shall immediately affix to the collar of the dog. The
7 Director shall endorse the number of the duplicate and the date issued on the face of the
8 original license receipt. The fee for a duplicate tag for any dog is \$1.00.

9
10 (d) Upon application and payment of the license tax to the Director of Tax
11 Administration, the Director shall issue a dog license tag, which tag shall bear only the
12 words "Fairfax County, VA Dog Tag," an assigned number, and the current license year.

13
14 (e) It is unlawful to operate a kennel in the County unless it is licensed. The owner or
15 operator of a dog kennel shall pay an annual license tax of \$50.00 for up to but not more
16 than 50 dogs.

17
18 (f) The Director of the Department of Tax Administration shall keep a list of all licenses
19 issued annually, and a separate account of funds received from such tax. All unissued
20 license tags for the current license year shall be destroyed at the end of such year.

21
22 (g) *Displaying Receipts; Dogs To Wear Tags.* Dog license receipts, issued by the
23 Director of Tax Administration at the time of purchase of a dog license tag, and kennel
24 license tax receipts shall be preserved by the licensees and exhibited promptly upon
25 request for inspection by any animal control officer or other officer. Dog license tags shall
26 be securely fastened to a substantial collar by the owner and worn by the dog at all times,
27 except the owner of the dog may temporarily remove the tag required by this Section:

28
29 (1) When the dog is engaged in lawful hunting while accompanied by the owner;

30
31 (2) When the dog is competing in a dog show;

32
33 (3) When the dog has a skin condition which would be exacerbated by the wearing of
34 the collar;

35
36 (4) When the dog is confined;

37
38 (5) While the dog is engaged in a supervised formal obedience training class; or

39
40 (6) During formally sanctioned field trials.

Section 41.1-2-3. - Certificate of vaccination prerequisite to issuance of dog licenses.

(a) No license tag shall be issued for any dog unless the Director of Tax Administration receives either a certificate of rabies vaccination that complies with Section 41.1-2-1, satisfactory evidence that such certificate has been obtained, or a rabies vaccination exemption certificate issued annually by the Director of Health.

(b) The certificate of rabies vaccination shall show the date of vaccination, the type of vaccine used (whether modified live virus or inactivated virus), the rabies tag number, the expiration date of the vaccination, the sex and breed of the dog and the name of the owner.

Section 41.1-2-4. - Unrestricted dogs prohibited; leash law.

(a) No dog shall run unrestricted, as defined in Section 41.1-1-1, in the County. Any person who is the owner of a dog found unrestricted in the County shall be in violation of this Section. This Section shall not apply to any person who uses a dog under his direct supervision while lawfully hunting, while engaged in a supervised formal obedience training class or show, during formally sanctioned field trials, while a dog is in an area owned, leased, controlled, or operated by Fairfax County designated by resolution of the Board of Supervisors as an off-leash dog exercise area, or while a dog is in an area owned, leased, controlled, or operated by the Fairfax County Park Authority and designated by resolution of the Fairfax County Park Authority as an off-leash or dog exercise area, or while a dog is in an area, leased, controlled, or operated by the Northern Virginia Regional Park Authority and designated by resolution of the Northern Virginia Regional Park Authority Board as an off-leash or dog exercise area, or if a dog is a service animal whose handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). It is a violation of this Section for any owner of a dog to place such dog or allow it to be placed into custody of any person not physically capable of maintaining effective control of restricting such dog.

(b) Any dog found unrestricted in violation of subsection (a) shall be impounded, except that if the rightful owner of the dog can be immediately ascertained and located, then that owner shall be allowed to have custody of the animal, but may be subject to issuance of a summons for violation of this Section.

Section 41.1-2-5. - County animal shelter; confinement and disposition of stray animals; impoundment and boarding fees; adoption fees.

(a) The County Animal Shelter shall be operated and maintained in accordance with Virginia law, and it shall be accessible to the public at reasonable hours during the week.

(b) Except as otherwise provided by Section 41.1-2-9, whenever any animal is confined at the Animal Shelter, it shall be kept for a period of not less than 5 days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. If any animal confined at the Animal Shelter is claimed by its rightful owner, such owner shall be charged the applicable fee or fees set forth in this Section.

(c) Any animal impounded that is not suspected of being rabid may be redeemed by its rightful owner upon: (1) presentation of proof of ownership and personal identification; (2) payment of all applicable fees set forth in this Section; (3) if the animal being claimed is a dog or a cat that is 4 months of age or older, presentation of a certificate that shows the animal being claimed has been vaccinated for rabies in accordance with the requirements of Section 41.1-2-1; (4) if the animal being claimed is a dog that is 4 months old or older, presentation of evidence of payment of a valid dog license, as required by Section 41.1-2-2; and (5) payment of any necessary veterinary expenses incurred for the benefit of that animal by the Animal Shelter. Any rightful owner who fails to produce the certificate of vaccination or proof of payment of the license fee shall be allowed to have custody of the animal, but shall be subject to issuance of a summons for violation of Section 41.1-2-1 or Section 41.1-2-2. Any dog not redeemed may be destroyed in a humane manner or otherwise lawfully disposed of by the Director of the Animal Shelter or the designated agent of the Director. The Director or the designated agent of the Director shall not knowingly give, sell, or otherwise release any animal to any person who intends to use that animal for research purposes.

(d) Any person who adopts an animal from the Animal Shelter shall pay the applicable adoption fee set forth in this Section and shall sign an adoption contract agreeing to comply with laws regulating the adoption and ownership of the animal and to appropriately care for the animal. The Animal Shelter shall not release any dog or cat for adoption unless the animal is already sterilized or the person who adopts the animal signs an agreement as required by Virginia law to have the animal sterilized.

(e) Fee Schedules:

1	Impoundment fees:
2	
3	Dogs and cats, first impoundment \$ 25.00
4	Second impoundment 50.00
5	Third or subsequent impoundment 75.00
6	Livestock, under 150 pounds 50.00
7	Livestock, 150 pounds or more 100.00
8	Reptiles 20.00
9	Rodents, ferrets, and rabbits 20.00
10	
11	Boarding fees (for each day boarded):
12	
13	Dogs and cats 20.00
14	Livestock (under 150 pounds) 25.00
15	Livestock (150 pounds or more) 50.00
16	Reptiles 10.00
17	Rodents, ferrets, and rabbits 10.00
18	
19	Adoption fees:
20	
21	Dogs under six (6) months of age 200.00
22	Dogs age six (6) months through five (5) years 150.00
23	Dogs age six (6) years and older 100.00
24	Cats under six (6) months of age 150.00
25	Cats age six (6) months through five (5) years 75.00
26	Cats age six (6) years and older 50.00
27	Rabbits 30.00
28	Ferrets, Chinchillas and Hedgehogs 40.00
29	Hermit crabs 10.00
30	Reptiles 20.00
31	Guinea Pigs 15.00
32	Rodents (mice, hamsters, gerbils, rats) 5.00
33	Equine and bovine 200.00
34	Other livestock 50.00
35	Small birds (parakeets, finches, canaries) 10.00
36	Medium birds 75.00
37	Large birds 150.00
38	Poultry 20.00
39	

1 The Animal Shelter Director may waive or reduce the adoption, impoundment or boarding
2 fees established in this subsection (e) for good cause, including, but not limited to, special
3 adoption events.

4
5 (f) The owner of any animal that is held pursuant to Va. Code Ann. § 3.2-6569 for more
6 than 30 days shall post a bond in surety with the County in an amount equal to the cost
7 of boarding the animal for 9 months at the rates established in this Section. If the owner
8 satisfies this obligation by obtaining a commercial bond, then the bond must be issued by
9 a surety that is licensed to do business in Virginia and that has an A-IV or better rating
10 from A.M Best. Upon a request by an owner, the County may reduce the bond for good
11 cause shown.

12
13 **Section 41.1-2-8. - Confinement of animals suspected of having rabies.**

14
15 (a) Every person having knowledge of the existence in the County of an animal
16 apparently afflicted with rabies shall report immediately to the Director of Health the
17 existence of such animal, the place where seen, the owner's name, if known, and the
18 symptoms suggesting rabies.

19
20 (b) It shall be the duty of any of the officials charged with the enforcement of this
21 Chapter to impound in the Animal Shelter, at no expense to the owner, any animal
22 showing active signs of rabies or suspected of having rabies, or upon the request of the
23 owner and at his expense, the animal may be placed in the custody of a licensed
24 veterinarian. The animal shall be confined for such period of time as may be necessary
25 to establish a diagnosis. If confinement is impossible or impracticable, such animal shall
26 be euthanized upon the authorization of a licensed veterinarian or the Director of Health
27 by one of the methods approved by the State Veterinarian.

28
29 **Section 41.1-2-9. - Disposition of animals that have potentially exposed persons to**
30 **rabies.**

31
32 (a) The owner of an animal that has potentially exposed a person to rabies or any
33 person having knowledge of any animal which has potentially exposed a person to rabies
34 shall immediately notify the Director of Health. The owner of such animal shall permit the
35 Director of Health or any person charged with enforcement of this Chapter to immediately
36 examine such animal, and for dogs, cats and ferrets, the owner of such animal shall:

37
38 (1) Confine the animal in the County Animal Shelter for a period of 10 days and the
39 owner shall be responsible for paying the impoundment and boarding fees set forth in
40 Section 41.1-2-5;

(2) Confine the animal in the custody of licensed veterinarian or a licensed veterinary hospital for a period of 10 days at the owner's expense; or

(3) Confine the animal on the owner's premises for a period of 10 days. For the purposes of this section, confinement of a dog, cat or ferret means that the animal should be housed in a building, pen or some other suitable escape-proof enclosure and not removed from the enclosure unless on a leash and under the immediate control of a responsible adult while being kept either on the owner's property or in the immediate area associated with the owner's place of residence. The animal should not be moved or taken to another location, site or property unless permission is obtained from the Director of Health. At the first indication of the animal becoming ill, it is the responsibility of the owner or custodian to notify the Director of Health and take the animal to a veterinarian for an examination. If rabies is suspected, the animal should be immediately euthanized and tested for rabies.

(b) Any such dog, cat or ferret shall be released from confinement after the ten-day period only upon authorization of the Director of Health. If any animal being confined pursuant to this Section develops active symptoms of rabies prior to the expiration of the ten-day period, then that animal shall be euthanized and tested for rabies, and the person euthanizing any such animal shall comply with the requirements of Section 41.1-2-11.

(c) The disposition of any animal other than a dog, cat or ferret that has potentially exposed a person to rabies shall be as determined in the sole discretion of the Director of Health.

Section 41.1-2-10. - Confinement or isolation of animals potentially exposed to rabies.

Any person with knowledge of an animal potentially exposed to rabies shall immediately notify the Director of Health.

(a) Any dog, cat or ferret for which no proof of rabies vaccination is available and that is potentially exposed to rabies shall be placed under isolation for a period, not to exceed 6 months, at the expense of the owner. For the purposes of this section, isolation means a kennel in a veterinary hospital, commercial boarding establishment, or a pen at home that prevents direct contact between the animal and any human or other animal, but allows for feeding, watering, and cleaning. The Director of Health is responsible for approving the adequacy of the isolation unit. The owner has up to 14 days from the date of the exposure to place the dog, cat or ferret in isolation. At the discretion of the Director of

1 Health, rabies titer amnestic response results can be used to demonstrate a prior rabies
2 vaccine history. A rabies vaccination shall be administered as soon as possible after the
3 exposure. If isolation is not feasible, the dog, cat or ferret shall be euthanized by one of
4 the methods approved by the State Veterinarian.

5
6 (b) Any dog, cat or ferret with proof of a rabies vaccination that is potentially exposed to
7 rabies shall be revaccinated immediately following the exposure and shall be confined to
8 the premises of the owner in accordance with Section 41.1-2-9, or other site approved by
9 the Director of Health for a period of 45 days.

10
11 (c) The disposition of any animal other than a dog, cat or ferret that has been potentially
12 exposed to rabies shall be as determined in the sole discretion of the Director of Health.

13
14 **Section 41.1-2-11. - Regulations concerning animals dying of rabies.**

15
16 Any person who destroys an animal that is suspected of being rabid or any person who
17 has knowledge that an animal has died of rabies or is suspected of having died of rabies
18 shall immediately notify the Director of Health of the location of the body of such animal.
19 If requested by the Director of Health, the head of the animal shall be surrendered to any
20 person charged with the enforcement of this Chapter.

21
22 **Section 41.1-2-14. – Reserved.**

23
24 **Section 41.1-2-16. - Burial or cremation of dead animals and fowl.**

25
26 When the owner of any animal or fowl that has died knows of the death, such owner shall
27 forthwith have its body cremated or buried, or otherwise disposed of in a manner
28 acceptable to the Director of Health; alternatively, the owner may request such service
29 from the Animal Shelter. If, after notice, the owner of any companion animal that has died
30 fails to properly dispose of the animal, the animal control officer or other officer may bury
31 or cremate the animal and may recover, on behalf of the County, from the owner for the
32 cost of the disposal. If the owner of any other animal that has died fails to bury or cremate
33 the dead animal or fowl, any judge of a general district court, after notice to the owner if
34 he can be ascertained, shall authorize Animal Services Division or the Director of Health
35 to do so. In that event, the County shall be entitled to recover the actual cost of the
36 cremation or burial.

37
38
39 **ARTICLE 4. - Keeping of Wild, Exotic or Vicious Animals Prohibited.**
40

Section 41.1-4-1. - Keeping prohibited; exceptions.

No person shall keep or permit to be kept any wild, exotic or vicious animal, as those terms are defined in Section 41.1-1-1, for any purposes, except that this prohibition shall not apply to (i) a single certified service animal in a household, (ii) zoological parks, (iii) traveling animal exhibitions, (iv) circuses or (v) individuals, organizations, or veterinary clinics that are properly licensed or permitted by an agency of the Federal Government or Commonwealth of Virginia, including, but not limited to, wildlife rehabilitators and exhibitors. The wild or exotic animals of such licensed or permitted individuals or establishments shall not be exhibited or displayed in such a manner that persons other than their handlers can pet, fondle, or otherwise come in direct physical contact with such animals; however this prohibition shall not apply to the riding of elephants by persons other than the elephants' handlers while under the direct supervision of the elephants' handlers where such elephants are performing in zoological parks, animal exhibitions or circuses which are properly licensed by the Federal Government or the Commonwealth of Virginia and Fairfax County. Nothing in this Chapter shall be construed to permit the possession of any animal in violation of any law or regulation of the Federal Government or Commonwealth of Virginia.

Section 41.1-4-2. Notice required at place of sale.

Any person who offers for sale an exotic animal as defined by Section 41.1-1-1 shall post conspicuously at the place of sale or display the following notice:

"No person may lawfully keep or permit to be kept in Fairfax County, other than a certified service animal, any animal of a species naturally occurring or normally found in the wild within the continental United States, including, but not limited to, foxes, raccoons, skunks, wolves and squirrels, regardless of whether such animal has been bred in captivity; any animal of a species naturally occurring or normally found in the wild outside of the continental United States, including, but not limited to, non-human primates, lions, panthers, leopards, lynx and tigers, regardless of whether such animal has been bred in captivity; and any animal, insect, spider or scorpion venomous to humans. The following animals may be lawfully kept in Fairfax County: (i) chinchillas, guinea pigs, hamsters, rats mice and gerbils that have been bred in captivity and never known the wild; (ii) rabbits, ferrets, and hedgehogs that have been bred in captivity and never known the wild; (iii) birds that have been bred in captivity and never known the wild; and (iv) non-venomous reptiles and amphibians, other than crocodilians."

Section 41.1-4-3. - Disposition of Animals.

Any person who keeps a wild, exotic, or vicious animal in contravention of this Article may dispose of the animal by removal of the animal from Fairfax County, by giving or selling the animal to a zoological park or by releasing the animal to the Department of Animal Sheltering.

ARTICLE 5. - Traveling Animal Exhibitions.

Section 41.1-5-2. - Issuance of permit.

(a) The owner or operator of any traveling animal exhibition desiring to operate in Fairfax County shall make written application for permit on forms provided by the Animal Services Division no later than 21 days prior to the first performance of any spectacle, display, act or event. The application shall include but not be limited to the name of the owner of the traveling animal exhibition, all proposed locations in Fairfax County for the traveling animal exhibition, the date the traveling animal exhibition is to arrive in Fairfax County, the date of departure, all dates on which it is to perform at any location in Fairfax County, the owner's principal address and telephone number, the total length of time during which the traveling animal exhibition will operate in Fairfax County, a list of all locations at which the traveling animal exhibition has performed during the twelve-month period prior to making this application, whether or not the owner or operators of the traveling animal exhibition have been charged or convicted of an offense constituting cruelty to animals, a brief description of the acts or events to be performed and the signature of the owner or representative thereof. The applicant shall attach to the application a copy of a current and valid Exhibitor's License issued by the United States Department of Agriculture (USDA), and health certificates issued within 30 days of the date of the application by a licensed veterinarian for each animal to be exhibited in Fairfax County.

(b) The owner or operator of the traveling animal exhibition shall comply with the provisions of Section 41.1-4-1 and shall present upon demand by any law enforcement officer a current and valid USDA Exhibitor's License and valid health certificates issued within 30 days for each animal to be exhibited.

(c) All animals maintained by the traveling animal exhibition must be given adequate feed, adequate water, adequate shelter, adequate space for the particular type of animal depending upon its age, size and weight, adequate veterinary care when needed, and humane care and treatment. For the purposes of this Section, adequate care, adequate feed, adequate shelter, adequate space and adequate water shall have the meanings set forth in Va. Code § 3.2-6500, as amended.

(d) The Commander of the Animal Services Division shall issue a permit to the traveling animal exhibition if the traveling animal exhibition complies with the requirements of this Article and shall notify the Zoning Administrator that a permit has been issued. The permit will be valid for the length of time requested on the application not to exceed 21 days from the date of issuance.

(e) The Commander of the Animal Services Division may deny the application for permit if the traveling animal exhibition fails to comply with any of the requirements of this Article.

(f) Any costs of fees incurred by Fairfax County as a result of the permit process shall be charged to the traveling animal exhibition. Payment of all such costs shall be in addition to the \$50.00 permit fee required by this Article and shall be considered a precondition to the issuance of the permit.

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. That the provisions of this ordinance shall take effect upon adoption.

GIVEN under my hand this ____ day of _____, 2020.

Jill G. Cooper
Clerk for the Board of Supervisors

ADMINISTRATIVE - 10

Approval of Supplemental Appropriation Resolution AS 20247 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services as a Result of Funding Made Available Through the Community Services Block Grant to Address the COVID-19 Pandemic as Part of the CARES Act

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 20247 for the Department of Family Services to accept grant funding from the Virginia Department of Social Services in the amount of \$874,520, which will be used to provide emergency food assistance through Food for Others. This funding is available as a result of the Coronavirus Aid, Relief, and Economic Security (CARES) Act signed by the President on March 27, 2020 and distributed to entities receiving Community Services Block Grant (CSBG) funding. The grant period for the supplemental CSBG funding is May 22, 2020 to September 30, 2022. When grant funding expires, the County is under no obligation to continue funding the program. No Local Cash Match is required. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 20247 to accept funding from the Virginia Department of Social Services in the amount of \$874,520 in supplemental CSBG funding to be used for emergency food assistance. There are no new grant positions associated with this award and no Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board approval is requested on June 23, 2020.

BACKGROUND:

Fairfax County receives federal and state funds through the Community Services Block

Board Agenda Item
June 23, 2020

Grant program to provide services to individuals and families with incomes of less than 125 percent of the federal poverty guidelines. The Fairfax County Community Action Advisory Board (CAAB) is responsible for administering the CSBG funds. Current funding of more than \$1.0 million is disbursed as part of the Consolidated Community Funding Pool awards.

The CARES Act includes an additional \$1.0 billion in Community Services Block Grant funding. This funding was distributed via the existing formula to current community action agencies to address COVID19-related needs. As a result, Fairfax County is receiving an additional \$874,520. The CARES Act also increases the eligibility for individuals and families to 200 percent of the federal poverty guidelines for this funding. Funding will be used to increase emergency food distribution to clients earning 200 percent of Federal Poverty Level or below through Food for Others' community partners and mobile emergency food distribution. Clients will not be required to travel to the Food for Others warehouse in Merrifield. The mobile program will also provide choice for customers, allowing them to select items they need on Food for Others' website.

This funding, along with the \$20.0 million in Basic Needs Supplemental funding approved by the Board as part of the *FY 2020 Third Quarter Review*, are all part of the larger strategy to address emergency needs in the community.

FISCAL IMPACT:

Grant funding from the Virginia Department of Social Services in the amount of \$874,520 will be appropriated for emergency food assistance through Food for Others. No Local Cash Match is required. This action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated awards in FY 2020. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

No new grant positions will be created.

ENCLOSED DOCUMENTS:

- Attachment 1: Memorandum of Agreement with the Virginia Department of Social Services and Fairfax County
- Attachment 2: Supplemental Appropriation Resolution AS 20247

STAFF:

Tisha Deeghan, Deputy County Executive
Michael A. Becketts, Director, Department of Family Services

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES**

MEMORANDUM OF AGREEMENT (Sub-Award) # CVS-20-124-09

Between

**VIRGINIA DEPARTMENT OF SOCIAL SERVICES (VDSS)
DIVISION OF COMMUNITY & VOLUNTEER SERVICES**

801 East Main Street, 15th Floor
Richmond, VA 23219-2901

and

**Fairfax County Department of Family Services
12011 Government Center Parkway, Fairfax, Virginia 22035**

- I. PARTIES TO THE AGREEMENT:** This Memorandum of Agreement (hereinafter referred to as the “MOA”, “Sub-award”, “Contract” or “Agreement”) is made as of the date of the final signature below by and among the by the COMMONWEALTH OF VIRGINIA, DEPARTMENT OF SOCIAL SERVICES, hereinafter referred to as “VDSS”, “Grantee” or the “Department” and the COMMUNITY ACTION AGENCIES (CAA) hereinafter referred to as “subrecipient”.

WHEREAS VDSS requires certain services and the Subrecipient has agreed to perform such services;

THEREFORE, in consideration of their respective undertakings, the VDSS and the Subrecipient hereby agree to the following:

- II. PURPOSE:** The purpose of this Agreement is for the Virginia Department of Social Services to administer this grant in compliance with conditions set forth in the applicable Program Instructions, terms and conditions, Departmental regulations, and OMB Circulars.
- III. PERIOD OF AGREEMENT:**
- A. This Agreement shall become effective on **May 22, 2020**, or upon the date of the final signature below, whichever is later, and continue through **September 30, 2022**.
 - B. This Agreement may be renewed by VDSS upon written agreement of both parties for (one year **or** 5 successive one-year periods), under the terms of the current agreement, and at a reasonable time (approximately 60 days) prior to the expiration.
 - C. If this agreement is terminated, VDSS shall be liable only for payments of services rendered before the effective date of termination.

IV. SCOPE OF SERVICES and DELIVERABLES

The scope of services consists of the activities outlined in the subrecipient Activities/Work Plan/outcomes from the Application and Certification of Required Documentation. Subrecipients must provide services in the localities in which they are designated as the Community Action Agency. Individual services vary by agency, and are detailed in the Project Narrative Plan, herein as **Attachment A**. The CAA will be required to include outcomes/activities as well in their 2021 Community Action Plan.

V. REPORTING REQUIREMENTS

The subrecipient shall submit quarterly and financial reports to the Office on Volunteerism and Community Services (OVCS) in Richmond no later than 45 days following the end of each quarter. VDSS will provide the subrecipient the forms for the reports. The reports should be submitted into the reporting database provided by OVCS. The quarterly and financial reports are due November 15 for the first quarter; February 15, second quarter; May 15, third quarter; and August 15, fourth quarter. When any of these dates fall on a weekend or a holiday, the reports are due the following business day.

VI. FEDERAL AWARD INFORMATION

This subgrant award is being funded (*in whole or in part*) with federal funds as indicated below. The recipient of the funds is considered a Subrecipient.

This subgrant agreement is being funded with federal funds as follows:

Federal Awarding Agency:	<u>Virginia Department of Social Services (VDSS)</u>
Federal Award Identification Number (FAIN):	<u>2001VACSC3</u>
Federal Award Date:	<u>May 8, 2020</u>
CFDA Number:	<u>93.569</u>
Federal Award Project Description:	<u>Community Services Block Grant Supplemental (CARES Act)</u>
Amount of Federal Funds Obligated by this Action:	<u>\$16,008,042.00</u>

Note: This is not a Research and Development (R&D) Grant

There are general Federal cost principles that are applicable to all Federal Awards. These general principles are outlined in 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

VII. COMPENSATION/CONSIDERATION AND METHOD OF PAYMENT

Compensation to the Subrecipient for delivered services shall be as follows:

The Subrecipient shall be paid by the VDSS a maximum reimbursement of **\$874,520** in federal CSBG funds. For providing the services specified in this agreement, the subrecipient will be reimbursed monthly, unless VDSS has approved the expenditure statement to be submitted quarterly. The Subrecipient shall submit expenditure statements within **30** days following the end of the expenditure statement period for which services were performed. Considering the emergency nature of these funds, VDSS will accept invoices bi-monthly. Agencies should develop processes

that enable the submittal of invoices on regular intervals as much as possible. Agencies are not required to submit bi-monthly invoices.

Disbursement of funds will follow a cost-reimbursement procedure and will be for actual funds expended. Expenditures must be used to carry out the activities described in this agreement and in its attachments or by subsequent amendments approved by VDSS. Actual expenditures shall be itemized and invoiced pursuant to approved line item budget categories in Attachment C of the subgrant award agreement. Requests for reimbursement shall be submitted on a (monthly/quarterly) basis and must contain the agreement number and the Subrecipient's federal identification number. The subrecipient shall submit an expenditure statement showing no services delivered if that is the case in any invoice period.

The subrecipient should allow 30 days from the time expenditure statements are received by the VDSS until reimbursement is received. If errors are found in the expenditure statements, the 30 days will be from the date a corrected expenditure statement is received.

The Subrecipient must also submit the final request for reimbursement to VDSS within **15 days (by October 15, 2022)** after the expiration of the grant period on **September 30, 2022**.

Expenditures made pursuant to this Contract shall be for services and related matters as described in the approved Grantee Work Program and are subject to 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

1. No Contract funds shall be expended for:
 - a. Any expenses other than those necessarily incurred in the performance of the Contract.
 - b. The cost of meals for employees or officials of the Contractor except when on travel status. This does not exclude the cost of food for meetings/events necessary to achieve customer outcomes.
 - c. Costs incurred before the effective date of the Contract, unless incurred with the prior approval of the Purchasing Agency.
 - d. The payment of any salary or compensation to a federal employee.
 - e. Payment of any consultant fee, or honorarium, to any officer or employee of the Purchasing Agency or any State, municipality, or local agency for services normally paid for by such employee's regular salary, wage, and overtime compensation to such officers and employees consistent with the established personnel policies of the employing agency.
 - f. The payment of portions of any salary in excess of the proportion of actual time spent in carrying out the Contract.

- g. Deviations of greater than ten percent or \$500.00, whichever is more, of the budgeted line item contained in the Approved Budget without prior approval by the Purchasing Agency.
 - h. Services provided with federal CSBG funds to clients with incomes in excess of 200% of the HHS federal poverty guidelines.
 - i. Services not provided for in the Project Narrative (Attachment A) and the approved grantee Community Action Plan unless approved by the Purchasing Agency.
 - j. Purchase of any vehicle without written approval by the Purchasing Agency.
 - k. The purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility, unless approved by the federal Secretary of Health and Human Services.
- A. For providing the services and activities specified above, VDSS will compensate Subrecipient an amount not to exceed **\$874,520**, and as indicated in its Budget incorporated herein as **Attachment B**.
 - B. VDSS will pay subrecipient monthly/quarterly on a cost reimbursement basis for actual costs incurred and upon receipt of an itemized expenditure statement pursuant to approved line item budget categories in **Attachment B**, Budget. Monthly/Quarterly invoices shall be submitted to VDSS within fifteen (15) calendar days following the end of the month in which services and activities were provided. All invoices must be submitted within the grant management database by the appropriate agency contact.
 - D. Subrecipient should allow 30 days from the time reimbursement requests are received by VDSS until reimbursement is received. If errors are found in the reports or reimbursement request, the 30 days will be from the date errors are corrected.

VIII. ASSURANCES AND CERTIFICATIONS

- A. **ASSURANCES FOR NON-CONSTRUCTIVE AND PROGRAM (Standard Form 424B):** The Subrecipient shall agree and certify as defined by the Office of Management and Budget (OMB) by submitting a signed Assurances For Non-Constructive and Program (Standard Form 424B) as described in **Attachment C**.

IX. GENERAL TERMS

- A. **AUDIT:** The subrecipient shall retain all books, records, and other documents relative to this contract for three years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, federal and/or state auditors shall have full access to and the right to examine any of said materials during said period.

The subrecipient further agrees to comply with the audit and reporting requirements defined by the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards Subpart F – Audit Requirements, as applicable. A subrecipient who expends \$750,000 or more in combined federal funding during the subrecipient's fiscal year is required at its expense to have an independent audit performed annually in accordance with the provisions of these parts. The single audit report(s) package must be submitted on-line to the Federal Audit Clearinghouse (FAC) within the earlier of thirty calendar days after receipt of the auditor's report(s) by the subrecipient, or nine months after the end of the audit period.

- B. **AUTHORITIES:** Nothing in this Agreement shall be construed as authority for either party to make commitments that will bind the other party beyond the scope of services contained herein. Furthermore, the Subrecipient shall not assign, sublet, or subcontract any work related to this agreement or any interest it may have herein without the prior written consent of VDSS.
- C. **APPLICABLE LAWS AND COURTS:** This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The subrecipient shall comply with all applicable federal, state and local laws, rules and regulations.
- D. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the VDSS shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- E. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The subrecipient assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and unless disclosure is required pursuant to court order, subpoena or other regulatory authority, will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Subrecipients who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Subrecipients shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Subrecipients and their employees working on this project may be required to sign a confidentiality statement.
- F. **DRUG-FREE WORKPLACE:** During the performance of this contract, the subrecipient agrees to (i) provide a drug-free workplace for the subrecipient's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the subrecipient that the subrecipient maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subrecipient, subcontractor or vendor. For awards of federal grant funds, failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a subrecipient, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- G. **LOBBYING PROHIBITIONS:** Federal grant funds may not be used by any subrecipient (at any tier) to support lobbying activities to influence proposed or pending federal or state legislation or appropriations. This prohibition is related to the use of federal grant funds and is not intended to affect an individual’s right or that of any organization, to petition Congress, or any other level of Government, through the use of other resources. (See 45 CFR Part 93) as described in **Attachment D.**
- H. **MODIFICATION OF AGREEMENT:** The grantee or subrecipient may modify this Agreement at any time provided that such modifications make specific reference to this Agreement, and are executed in writing, and signed by a duly authorized representative of both organizations. Such modifications shall not invalidate this Agreement, nor relieve the grantee or subrecipient from its obligations under this Agreement. The grantee may, in its discretion, amend this Agreement to conform with federal or state government guidelines, policies and available funding amounts, or for other reasons. If such modifications result in a change in funding, the scope of services, or schedule of activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written modifications signed by both grantee and subrecipient.
- I. **PRIME SUBRECIPIENT RESPONSIBILITIES:** If approval is granted by the grantee to subcontract any portion of this contract, the subrecipient shall be responsible for completely supervising and directing the work under the contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime subrecipient. The subrecipient agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
- J. **SAME-SEX MARRIAGE PROVISIONS:** In accordance with the decision in United States vs Windsor (133 S. Ct. 2675 (June 26, 2013)); Section 3 of the Defense of Marriage Act, codified at 1 USC 7, in any grant-related activity in which family, marital, or household considerations are, by statute or regulation, relevant for purposes of determining beneficiary eligibility or participation, grantees must treat same-sex spouses, marriages, and households on the same terms as opposite sex spouses, marriages, and households, respectively. “Same-Sex Spouses” means individuals of the same sex who have entered into marriages that are valid in the jurisdiction where performed, including any of the 50 states, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. “Same-Sex Marriages” means marriages between two individuals validly entered into in the jurisdiction where performed, including any of the 50 States, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. “Marriage” does not mean registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage.

K. **TERMINATION OF AGREEMENT:** This agreement may be terminated in whole or in part as follows (See §2 CFR 200.339):

- 1) Either party may terminate this Agreement at any time upon 30 days written notice to the other party. The subrecipient's written notification must set forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. Partial termination of the Scope of Services can only be undertaken with the prior approval of the grantee. In the event of any termination for convenience, at the grantee's option, all finished or unfinished documents, data, studies, surveys, photographs, reports, or other materials prepared by the subrecipient under this Agreement shall, at the option of the grantee, become the property of the grantee, and the subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to termination.
- 2) The grantee may terminate this Agreement, in whole or in part at any time, if the subrecipient fails to comply with federal statutes, regulations, or terms and conditions of the Agreement. Upon receipt of a notice of termination the subrecipient shall stop all work and the grantee will cease all payments. The termination decision may be considered by the grantee in evaluating future applications submitted by the subrecipient.
- 3) If the federal awarding agency terminates its agreement with the grantee, the grantee shall terminate the Agreement with the subrecipient.

L. **RECORDS ACCESS:** The federal awarding agency, Inspectors General, the Comptroller General of the United States, the grantee, and its authorized representatives shall have the right of access to any documents, papers, or other records of the subrecipient which are pertinent to this Agreement in order to make audits, examinations, excerpts, and transcripts. The right shall also include timely and reasonable access to the subrecipient's personnel for the purpose of interview and discussion related to such documents. (See § 200.336)

- M. **SUBCONTRACTS**: No portion of the work shall be subcontracted without prior written consent of the grantee. In the event that the subrecipient desires to subcontract some part of the work specified herein, the subrecipient shall furnish the grantee the names, qualifications and experience of their proposed subcontractor(s). The subrecipient shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
- N. **SUBRECIPIENT MONITORING**: The grantee may monitor and evaluate the subrecipient's performance under the agreement through analysis of required reports, expenditure statements, site visits, interviews with or surveys of relevant agencies/ organizations and individuals having knowledge of the subrecipient's services or operations, audit reports, and other mechanisms deemed appropriate by the grantee. The subrecipient shall furnish the grantee on request information regarding payments claimed for services under this agreement. All accounting records must be supported by source documentation and retained in order to show for what purpose funds were spent. All such records shall be made available and produced for inspection when required by the grantee, its authorized agents, and/or federal personnel.
- Should an audit by authorized state or federal officials result in disallowance of amounts previously paid to the subrecipient, the subrecipient shall reimburse the grantee upon demand.
- O. **E-VERIFY PROGRAM**: EFFECTIVE 12/1/13. Pursuant to *Code of Virginia*, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

EXECUTION: IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

Fairfax County Department of Family Services

Virginia Department of Social Services

Signature

Procurement Official Signature

Printed Name:

Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 20247

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held electronically (due to the State of Emergency caused by the COVID-19 pandemic) on June 23, 2020, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2020, the following supplemental appropriation is authorized, and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: G6767, Department of Family Services

Grants: 1CV6704-2020, CSBG Supplemental - CARES Act \$874,520

Reduce Appropriation to:

Agency: G8787, Unclassified Administrative Expenses

\$874,520

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: VA Department for Social Services, \$874,520

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
June 23, 2020

ADMINISTRATIVE - 11

Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21

ISSUE:

Board of Supervisors authorization to advertise a public hearing to amend Chapter 3, County Employees, Article 1, Personnel Administration, of the Code of the County of Fairfax. The proposed amendments are required as a result of SB 868 which was passed by the 2020 session of the General Assembly, signed by the Governor and takes effect July 1, 2020. The proposed amendments will be effective retroactive to July 1, 2020.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed County Code amendments.

TIMING:

Board action is requested on June 23, 2020, to advertise the public hearing before the Board on July 14, 2020 at 4:30 p.m.

BACKGROUND:

The 2020 session of the Virginia General Assembly passed SB 838, which was signed by the Governor on April 11, 2020, and takes effect July 1, 2020. SB 868 explicitly prohibits discrimination in public employment on the basis of sexual orientation and gender identity. Additionally, SB 868 added a new code section, Va. Code Ann. § 15.2-1500.1, which explicitly prohibits any "department, office, board, commission, agency, or instrumentality of local government" from discriminating in employment "on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran." As a result, Fairfax County Code 3-1-1, Definitions, and Fairfax County Code 3-1-21, Prohibited Practices, require amendment.

FISCAL IMPACT:

None.

Board Agenda Item
June 23, 2020

ENCLOSED DOCUMENT:

Attachment 1 – Proposed amendment to Fairfax County Code § 3-1-1, Definitions
Attachment 2 - Proposed amendment to Fairfax County Code § 3-1-21, Prohibited Practices

STAFF:

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Karen Gibbons, Deputy County Attorney

Section 3-1-1. - Purposes of Article; definitions.

(a) *Purposes.* The purposes of this Article are:

- (1) To place personnel administration on a merit basis in order to attract and retain for public service in the County Government employees with integrity and superior ability;
- (2) To strengthen the effectiveness of the County Government through the improvement of personnel administration;
- (3) To provide for a County merit system under which recruitment, appointment, and advancement of covered employees will be on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, status as a veteran, political affiliation, disability, or genetic information, and which will be administered in conformity with the Merit Principles set forth by the U.S. Office of Personnel Management (5 CFR 900) under authority of the Intergovernmental Personnel Act of 1970, as amended;
- (4) To provide for an exempt service which will be limited to positions so designated in accordance with this Article or by Personnel Regulations.

(b) *Authority.* The authority for this article is contained in *Va. Code Ann.* § 15.2-1506, which reads, in part, as follows: "Notwithstanding any other provision of law to the contrary, the governing body of every county, city and town which has more than fifteen employees shall establish by June thirty, nineteen hundred seventy-four, a grievance procedure for its employees to afford an immediate and fair method for the resolution of disputes which may arise between such public employer and its employees and a personnel system including a classification plan for service and uniform pay plan for all employees;" ~~and~~ *Va. Code Ann.* § 15.2-807, which reads, in part, as follows: "All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform;" and *Va. Code Ann.* § 15.2-1500.1 which explicitly prohibits discrimination in employment on the "basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran."¹ ¶

(c) *Applicability.*

- (1) This Article applies to all employees in the administrative service of the County who are appointed by the Board of Supervisors, County Executive or the head of a department, as provided in *Va. Code Ann.* §15.2-807.² ¶
- (2) This Article and any regulations or administrative directives or procedures issued under its authority also may be applied to designated employees of other public agencies within the County, pursuant to written agreements between the heads or governing boards of such agencies and the Human Resources Director of the County, subject to approval of the County Executive and Board of Supervisors, to the effect that the conditions of employment of such employees are to be administered under this Article in the same manner as if those employees were in the administrative service of the County.³ ¶

(d) *Severability.* Should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

(e) *Definitions.*

- (1) *Personnel Regulations.* A body of rules governing County personnel administration issued under authority of this Article by the Board of Supervisors after consideration of the recommendation of the County Civil Service Commission, and having the effect of ordinance.
- (2) *Competitive service.* All positions not specifically designated as exempt positions in accordance with this Article, and the employees appointed to fill such positions. Competitive positions must be filled in accordance with merit principles. Persons in the competitive service are considered career employees. They have all rights, benefits, privileges, protections and obligations set forth in this Article and Personnel Regulations.
- (3) *Exempt service.* Positions which are specifically so designated in accordance with this article and Personnel Regulations, and employees appointed to fill such positions. Exempt personnel are not merit employees. They may be appointed, classified, promoted to other exempt positions, demoted to other exempt positions and discharged without regard to the restrictions contained in this Article and Personnel Regulations, which apply to the competitive service. They are entitled to only such employee rights and benefits as are provided for various categories of exempt personnel elsewhere in this Article and Personnel Regulations or by the Board of Supervisors or in procedural directives issued by the County Executive or his or her designee.
- (4) *Full-time position.* Any position, whether authorized for the competitive service or exempt, which is authorized to be filled for at least 2080 scheduled hours in 12 consecutive months.
- (5) *Part-time position.* Any position, whether authorized for the competitive service or exempt, which does not meet the above criteria for full-time positions.
- (6) *Full-time employee.* Any employee, whether in the competitive service or exempt, who is regularly scheduled to work at least 2080 hours in 12 consecutive months.
- (7) *Part-time employee.* Any employee, whether in the competitive service or exempt, who does not meet the above criteria for full-time employees.
- (8) *Probationary employee.* Any employee in the competitive service serving in a probationary appointment as defined in § 3-1-13 of this Article and Personnel Regulations.
- (9) *Merit system.* The system of personnel administration applicable to the competitive service. It includes the provisions of this Article, other applicable provisions of County ordinances, County Personnel Regulations and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive or Human Resources Director.
- (10) *Merit employee.* Any employee in the competitive service.
- (11) *Department Head.* An employee appointed by the Board of Supervisors or the County Executive to oversee, direct, or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. All department head positions are assigned to the exempt service. All persons appointed as department heads on or after July 1, 1987, are exempt employees. Any department head appointed as a department head by the Board of Supervisors on or after July 1, 1987, may be removed by the Board of Supervisors with or without cause and in any event, may not grieve his or her removal under the County's grievance procedures. Any department head appointed by the County Executive may be removed by either the Board of Supervisors or the County Executive with or without cause and in any event, may not grieve his or her removal under the County's grievance procedure. (7-87-3; 32-8-3; 26-98-3; 35-05-3; 32-11-3; 40-19-3.)

Footnotes:

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As to appointment, tenure, suspension or removal and compensation of officers and employees, see Va. Code Ann., § 15.2-807, 15.2-808 and 15.2-809.

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Wherever used in this Article, the term "department" means "department," "office," "agency," or other administrative unit, the director of which reports to the County Executive, either directly or via a deputy county executive, or to the Board of Supervisors. Elected officials, persons appointed to fill vacancies in elective offices, and members of boards, authorities and commissions appointed by the Board of Supervisors are not employees in the sense of this article, although they may be compensated and receive such other benefits as State law or regulations, County ordinance or the Board of Supervisors may authorize.

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Public agencies authorized to execute such agreements include (but are not limited to) the offices of Constitutional Officers and individual members of the Board of Supervisors, the School Board, the Library Board, the Park Authority, the Housing Authority, the Fairfax/Falls Church Community Services Board, the Economic Development Authority, the Water Authority, the Industrial Authority, similar agencies established by the Board of Supervisors in the future, community centers and other service agencies established in small districts under authority of the Board of Supervisors, and State agencies located in and serving the County where such agreements are consistent with State law and regulations. Employees whose conditions of employment are to be administered pursuant to such agreements may be either merit system or exempt employees, as defined in this Article, whichever is specified in the applicable agreement.

Section 3-1-21. - Prohibited practices.

(a) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, promotion, reduction, removal or appointment held or made under the provisions of this Article or in any manner commit or attempt to commit any fraud preventing the impartial execution of the Personnel Regulations adopted pursuant to this Article.

(b) No person shall, either directly or indirectly, pay, render or give any money, service or other valuable thing to any person for, on account of or in connection with any test, appointment, promotion, reduction or removal in which he or she is concerned.

(c) No officer or employee of the County shall knowingly defeat, deceive or obstruct any person in his or her right to examination, eligibility certification or appointment under this Article or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the competitive service.

(d) No officer or employee of the County shall discriminate against any employee or applicant for employment with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement on the basis of race, color, sex, creed, religion, national origin, **pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, status as a veteran,** age, disability, or genetic information.

(e) No officer or employee of the County shall retaliate against any employee with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement because the employee has used or has participated in the County's grievance procedure, has complied with any law of the United States, or of the Commonwealth, or has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors, the County Executive, or other governmental authority. (7-87-3; 26-98-3; 35-05-3; 32-11-3.)

Board Agenda Item
June 23, 2020

ACTION - 1

Approval of FY 2020 Year-End Processing

ISSUE:

Board approval to allow staff to process payment vouchers for items previously approved and appropriated in FY 2020.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize staff to process payment vouchers for items previously approved and appropriated in FY 2020 for the interim period from July 1 until the Board approves the *FY 2020 Carryover Review*, which is scheduled for action on September 29, 2020.

TIMING:

Board approval is required on June 23, 2020, since the *FY 2020 Carryover Review* is not scheduled for Board action until September 29, 2020.

BACKGROUND:

The *FY 2020 Carryover Review* is scheduled for final action on September 29, 2020, following a public hearing. In the interim, Board approval is requested to allow staff to process payment vouchers for items previously approved and appropriated in FY 2020 such as capital construction projects and grant-funded programs for the period of July 1 to September 29, 2020, or until final action is taken on the *FY 2020 Carryover Review*. Similar action has been taken in prior years as part of the year-end closeout.

FISCAL IMPACT:

This item relates to funding for previously appropriated items approved in FY 2020 and carried forward to FY 2021 for payment.

ENCLOSED DOCUMENTS:

None.

STAFF:

Joe Mondoro, Chief Financial Officer
Christina Jackson, Director, Department of Management and Budget
Philip Hagen, Deputy Director, Department of Management and Budget

ACTION - 2

Approval of Revisions to Procedural Memorandum No. 11-01, Exempt Service

ISSUE:

Revisions to Fairfax County Procedural Memorandum No. 11-01, Exempt Service, are required as a result of action taken by the 2020 session of the Virginia General Assembly.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors approve the proposed revisions to Procedural Memorandum No. 11-01, Exempt Service, as specified below.

TIMING:

Board action is requested on June 23, 2020, so that the changes to Procedural Memorandum No. 11-01, Exempt Service, can take effect on July 1, 2020.

BACKGROUND:

The 2020 session of the Virginia General Assembly passed SB 838, which was signed by the Governor on April 11, 2020, and takes effect July 1, 2020. SB 868 explicitly prohibits discrimination in public employment on the basis of sexual orientation and gender identity. Additionally, SB 868 added a new code section, Va. Code Ann. § 15.2-1500.1, which explicitly prohibits any “department, office, board, commission, agency, or instrumentality of local government” from discriminating in employment “on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran.” Finally, SB 868 amended Va. Code Ann. § 15.2-1604 by making it an unlawful employment practice for a constitutional officer to discriminate in employment on the basis of age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or status as a veteran.

Procedural Memorandum No. 11-01 sets forth the policies applicable to the County’s exempt service and is issued by the County Executive pursuant Fairfax County Code 3-1-2 (c):

The County Executive shall issue procedural directives, with the approval of the Board of Supervisors, for administration of the exempt service. Only

Board Agenda Item
June 23, 2020

such provisions of this Article and of Personnel Regulations, which specifically state that they are applicable to exempt employees, or which are made applicable through procedural directives provided herein, shall apply to the exempt service.

Amendments are required to Procedural Memorandum No. 11-01 so that it explicitly prohibits discrimination in both the appointment and management of exempt employees, including but not limited to discrimination on the basis of pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or status as a veteran.

FISCAL IMPACT:
None noted.

ENCLOSED DOCUMENTS:
Attachment 1: Procedural Memorandum No. 11-01, Exempt Service, with proposed revisions

STAFF:
Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:
Karen Gibbons, Deputy County Attorney

Fairfax County, Virginia	PROCEDURAL MEMORANDUM No. 11-01	
TO: DEPARTMENT HEADS		DATE: March 6, 2020 July 1, 2020
INITIATED BY: DEPARTMENT OF HUMAN RESOURCES		COUNTY EXECUTIVE APPROVAL:
SUBJECT: EXEMPT SERVICE		

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I. PURPOSE.

Procedural Memorandum No. 11-01 establishes the personnel policies and procedures governing the administration of the exempt service for the County.

II. AUTHORITY AND SCOPE.

A. This procedural memorandum is issued by the County Executive with the approval of the Board of Supervisors pursuant to Fairfax County Code § 3-1-2(c).

B. This procedural memorandum supersedes Procedural Memorandum No. 11-01 dated ~~July 30,~~
~~2013~~ ~~March 6, 2020~~. The Board of Supervisors and County Executive expressly reserve the right to alter or amend any or all of the provisions of this procedural memorandum at any time.

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C. Any provision of this procedural memorandum that conflicts with any current or future section of the Code of Virginia, the Merit System Ordinance, or Personnel Regulations is without effect. The ineffectiveness of any conflicting provision shall in no way affect or impair the effectiveness of all other provisions of this procedural memorandum.

III. DEFINITIONS.

A. **APPOINTING AUTHORITY** means the officer, board, commission, person, or group of persons having the power by virtue of state law or County ordinance to make personnel appointments. The appointing authority is generally responsible for personnel administration within a given department or personnel area. As used in this procedural memorandum, the term "appointing authority" is synonymous with the term "department head."

B. **BOARD OF SUPERVISORS** means the Fairfax County Board of Supervisors.

- C. **CLASS** means a group of positions, which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specification and pay range.
- D. **COMPETITIVE SERVICE** means all officers and positions in the service of the County as defined in the Merit System Ordinance.
- E. **CONSTITUTIONAL OFFICERS** mean the Commonwealth's Attorney for Fairfax County, the Sheriff for Fairfax County, and the Clerk of the Circuit Court for Fairfax County.
- F. **COUNTY** means Fairfax County, Virginia.
- G. **COUNTY EMPLOYEE BENEFITS** means the benefits provided or offered by the County to merit employees, including, but not limited to the following:
- Health, dental and vision insurance;
 - Flexible spending accounts ("FSA");
 - Group term life insurance;
 - Long-term disability insurance;
 - Retirement Plan;
 - Deferred compensation plan;
 - Paid annual and sick leave; and
 - Paid holidays.
- H. **COUNTY CODE** means the Fairfax County Code.
- I. **DEPARTMENT HEAD** means an employee appointed by the Board of Supervisors or the County Executive to oversee, direct or manage a major functional division (personnel area) of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. As used in this procedural memorandum, the term "department head" is synonymous with the term "appointing authority."
- J. **ELECTED AND APPOINTED OFFICIALS** mean members of the Board of Supervisors, constitutional officers and the General Registrar for the County.
- K. **EXEMPT ATTACHED EMPLOYEE** means a person employed by a non-County public agency attached to the County for payroll purposes only pursuant to an agreement made in accordance with County Code §§ 3-1-1(c) and 3-1-2(b)(4).

- L. **EXEMPT BENEFITS ELIGIBLE EMPLOYEE** (non-merit benefits eligible), means an exempt employee who serves in an exempt benefits eligible position.
- M. **EXEMPT BENEFITS ELIGIBLE POSITION** (non-merit benefits eligible), means a position with scheduled work hours between 1,040 and 1,560 per calendar year.
- N. **EXEMPT EMPLOYEE** means an employee appointed to a position in the exempt service.
- O. **EXEMPT SERVICE** means positions specifically designated exempt under the Merit System Ordinance and Personnel Regulations.
- P. **EXEMPT TEMPORARY EMPLOYEE** means an exempt employee who serves in an exempt temporary position.
- Q. **EXEMPT TEMPORARY POSITION** means a position with scheduled work hours not exceeding 900 hours per calendar year.
- R. **MERIT EMPLOYEE** means an employee who serves in a merit position.
- S. **MERIT POSITION** means a position in the competitive service.
- T. **MERIT SYSTEM** means the system of personnel administration applicable to the competitive service. It is governed by the Merit System Ordinance, any applicable provisions of other County ordinances, Personnel Regulations, and all applicable and lawful personnel management directives of the Board of Supervisors, the County Executive, and Department of Human Resources Director.
- U. **MERIT SYSTEM ORDINANCE** means Article 1, Chapter 3, of the County Code.
- V. **PERSONNEL REGULATIONS** mean the Fairfax County Personnel Regulations.
- W. **SENIOR MANAGERS** mean all of the officials listed in appendix 1 to this procedural memorandum, unless stated otherwise herein.
- X. **EMPLOYEES OF APPOINTED AND ELECTED OFFICIALS** means all office staff of members of the Board of Supervisors, employees of constitutional officers subject to any agreements made in accordance with County Code §§ 3-1-1-(c) and 3-1-2(b)(4), including but not limited to assistant registrars.
- Y. **VETERAN** means any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

IV. CODES FOR POSITIONS IN THE EXEMPT SERVICE.

The Department of Human Resources shall assign the following Status Codes (Employee Groups) to the different categories of positions in the exempt service to facilitate processing of administrative matters relating to exempt employees:

Exempt Position Category	Status Code/Employee Group
Exempt Attached	D
Exempt Benefits Eligible	E
Exempt Temporary	G
Senior Managers	A, B
Employees of Appointed and Elected Officials	Varies

(The Department of Human Resources assigns merit employees to Status Code/Employee Group C.)

V. POLICIES FOR THE EXEMPT SERVICE.

A. Scope of Exempt Employee Rights and Benefits.

1. Rules governing merit system employees set forth in the County Code, Personnel Regulations, procedural memoranda, and other authorities are inapplicable to exempt service employees, unless one or more of the following provides otherwise:
 - a. This procedural memorandum;
 - b. An agreement made in accordance with County Code §§ 3-1-1-(c) and 3-1-(b)(4);
 - c. An employment contract;
 - d. An appointment resolution passed by the Board of Supervisors;
 - e. State law; or
 - f. The County Code.
2. Pursuant to County Code § 3-1-1(e)(3) and 3-1-1(c), the County Code sections, provisions of the Personnel Regulations, and procedural memoranda listed in appendix 2 to this procedural memorandum are applicable to exempt employees.
3. Senior managers have the same rights and benefits as merit employees, unless otherwise provided herein or by an employment contract or appointment resolution passed by the Board of Supervisors.
4. An exempt employee temporarily filling a merit position has only the rights and benefits due an exempt employee of his or her particular category.

B. Classification of Exempt Service Positions.

1. The Department of Human Resources shall classify all positions in the exempt service in the same manner it classifies positions in the competitive service under Chapter 3 of the Personnel Regulations.
2. When an exempt service position is reclassified, the incumbent exempt employee's class and grade are changed accordingly, and the exempt employee's salary in the new grade is determined by the rules that apply to merit employees when their positions are reclassified.

C. Appointment of Exempt Employees.

1. All appointments of exempt employees shall be based on the ability, training, and experience of the appointees, which are relevant to the work they are to perform.
 - a. The determination of the fitness of an exempt appointee is the responsibility of the appointing authority, as is ensuring that the process of filling positions in the exempt service under his or her authority conforms to all applicable laws, including but not limited to those requiring equal employment opportunities.
 - b. At the request of the appointing authority and with the concurrence of the Human Resources Director, the Department of Human Resources shall advertise, accept applications for, and assist the appointing authority in the screening and selection process when filling an exempt position.
2. Discrimination against applicants for positions in the exempt service based on race, color, creed, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, status as a veteran, or genetic information is prohibited.
3. An appointing authority shall take into consideration or give preference to the status of an applicant for a position in the exempt service as an honorably discharged veteran of the armed forces of the United States, provided such veteran meets all of the knowledge, skills, and eligibility requirements for the available position. Additional consideration shall be given to veterans who have a service-connected disability rating fixed by the United States Department of Veterans Affairs.
4. A retired merit employee may be hired as an exempt employee, subject to the applicable provisions of the County Code, Personnel Regulations, procedural memoranda, and Department of Human Resources policies.

Commented [J3]: Added , pregnancy, childbirth or related medical conditions,

Commented [J4]: Added sexual orientation, gender identity, status as a veteran,

D. Management of Exempt Employees.

1. An appointing authority is responsible for management of exempt employees subject to his or her authority, unless provided otherwise in this procedural memorandum.
2. Discrimination against exempt employees based on race, color, creed, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, status as a veteran, or genetic information is prohibited.
3. Exempt employees serve solely at the pleasure of their appointing authority. Accordingly, they have no right to participate in the grievance procedure provided by the Personnel Regulations.
4. Upon appointment, the salary for an exempt employee is determined by the appointing authority. The exempt employee's pay subsequently may be adjusted at the discretion of the appointing authority.
5. Exempt employees may be transferred from one position or class to another by their appointing authority.

Commented [J5]: Added pregnancy, childbirth or related medical conditions,

Commented [J6]: Added sexual orientation, gender identity, status as a veteran,

E. Exempt Employees' Pay and Benefits.

1. An exempt benefits eligible employee is eligible for the following County employee benefits and compensation:
 - a. Health, dental and vision insurance, and flexible spending accounts;
 - b. Overtime or compensatory time, call back pay, on-call and consecutive shift pay in accordance with Chapter 4 of the Personnel Regulations, and administrative leave when serving as an election worker; and
 - c. Administrative leave, as outlined in Chapter 10, at the discretion of his or her appointing authority.
2. An exempt temporary employee is eligible for the following County compensation:
 - a. Overtime or compensatory time, call back pay, on-call and consecutive shift pay in accordance with Chapter 4 of the Personnel Regulations, administrative leave when serving as an election worker; and

- b. Administrative leave, as outlined in Chapter 10, at the discretion of his or her appointing authority.
- 3. A senior manager is eligible for the same County employee benefits as merit employees, except as provided herein, or in an employment contract or appointment resolution passed by the Board of Supervisors.
 - a. A senior manager is ineligible to earn or accrue compensatory leave.
 - b. A senior manager shall accrue 26 days (208 hours) of annual leave and 13 days (104 hours) of sick leave each year, regardless of the length of his or her County service.
 - i. This annual and sick leave shall be added to the senior manager's annual and sick leave balances respectively at the beginning of each calendar year.
 - ii. A newly appointed senior manager shall receive prorated leave balances based upon the number of pay periods remaining in the calendar year of his or her appointment.
 - c. A senior manager is not required to record his or her time and attendance on an incremental basis, with the exception of leave for absences of one workday or more.
- 4. An employee of an elected or appointed official, is eligible for the same County benefits as merit employees, except as provided herein, or in an agreement made in accordance with County Code §§ 3-1-1(c) and 3-1-2(b)(4) or by the employee's employment arrangement with the official who is his or her appointing authority.
 - a. The employee may receive shift differential pay, holiday leave, overtime or compensatory time, or call back pay at the discretion of the elected official.
 - b. The employee has the option of participating in the appropriate retirement system.

F. Eligibility for the Competitive Service.

- 1. An exempt employee only can become a member of the competitive service when appointed to a merit position as a result of the competitive selection process provided for the merit system set forth in the Personnel Regulations. This rule applies even when an exempt employee is in an exempt position converted to a merit position.

2. Exempt employees may apply for positions in the competitive service listed as promotional opportunities open only to County employees.
3. If an exempt employee competes for and is appointed to a position in the competitive service, his or her initial grade and salary in the merit position shall be determined as specified in Chapter 4 of the Personnel Regulations.
 - a. The employee's appointment date shall be the date of merit appointment.
 - b. Exempt service is not counted in computing seniority under the procedures for effecting a reduction-in-force under Chapter Nine (9) of the Personnel Regulations.

G. Holding Multiple Positions (Concurrent Employment).

1. An employee may hold up to three positions with the County concurrently, provided the following conditions are met:
 - a. A current County employee who wants to serve simultaneously in multiple positions, may do so only if he or she receives approval from his or her current supervisor(s), and complies with the outside employment requirements outlined in Chapter 4 of the Personnel Regulations.
 - b. The positions held must be of the same Fair Labor Standards Act (FLSA) eligibility status, either FLSA exempt or FLSA non-exempt.
 - c. The positions held must have like work periods – either 7-day, 14-day or 28-day.
2. Employees holding multiple exempt positions must also abide by the following limitations on the number of hours worked in a calendar year.
 - a. Employees holding multiple exempt benefits eligible positions must work a combined total of no less than 1,040 hours and no more than 1,560 hours. Once the maximum hours threshold is reached, the employee will not be eligible to work again in an exempt benefits eligible or exempt temporary position until the beginning of the next calendar year, and must be terminated in FOCUS.
 - b. Employees holding multiple exempt temporary positions may work a combined total of no more than 900 hours. Once the maximum hours threshold is reached, the employee will not be eligible to work again in an exempt benefits eligible or exempt temporary position until the beginning of the next calendar year, and must be terminated in FOCUS.
 - c. Employees holding a combination of exempt temporary and exempt benefits eligible positions must work a combined total of no less than 1,040 hours and

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no more than 1,560 hours. Once the maximum hours threshold is reached, the employee will not be eligible to work again in an exempt benefits eligible or exempt temporary position until the beginning of the next calendar year, and must be terminated in FOCUS.

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APPENDIX 1
Senior Managers

Directors of the following agencies, departments, or offices (personnel areas):

Animal Sheltering	Neighborhood and Community Services
Cable and Consumer Services	Prevent and End Homelessness
Clerk Services	Park Authority
Code Compliance	Planning and Development
Economic Initiatives	Police
Emergency Management	Independent Police Auditor
Environmental & Energy Coordination	Procurement and Material Management
Facilities Management	Public Affairs
Family Services	Public Works and Environmental Services
Finance	Public Safety Communications
Fire and Rescue	Strategy Management
Health	Tax Administration
Housing and Community Development	Transportation
Human Resources	Vehicle Services
Human Rights and Equity Programs	
Information Technology	
Internal Audit	
Juvenile and Domestic Relations District Court	
Land Development Services	
Library	
Management and Budget	

Directors of the following authorities, functions, or entities:

Economic Development Authority	Public Safety and Transportation Operations Center (General Manager)
Financial and Programs Auditor	

Executive Directors to the following boards, commissions, and organizations:

Civil Service Commission	Planning Commission
Fairfax-Falls Church Community Services Board	Reston Community Center
McLean Community Center	Retirement Boards

Additional appointed officials:

Assistant County Executive	County Executive
Chief Financial Officer	Deputy County Executive
County Attorney	Executive Assistant to the County Executive
	General Registrar

APPENDIX 2
Fairfax County Code, Personnel Regulations
And Procedural Memoranda Applicable to Exempt Service

The application of the following Fairfax County Code sections, and Fairfax County Government Personnel Regulations and Procedural Memoranda varies according to an exempt employee's status/group (attached, benefits eligible, temporary, senior manager, or employee of an elected or appointed official). Specific application is itemized in the following four charts. Eligible exempt employees are subject to the specific terms, conditions and requirements outlined in the code, regulation or procedural memoranda based on job function and classification, and FLSA status.

A. Fairfax County Code Sections Pertaining to Employment

Section(s)	Subject(s)	Exempt Status/ Employee Group
3-1-19	Protection of Legitimate Political Activity of Employees	All
3-1-21	Prohibited Practices	All
3-1-22 (b-c)	Penalties for Violation of Article and Personnel Regulations	All
3-1-23 (a-d)	Criminal History Record Check and Fingerprinting; Appointment to Sensitive Positions	All
3-1-24	Right of Employees to Contact Elected Officials	All
3-5-2.1 (b-c)	Disclosure of Financial Interest	All
3-9-1 to 3-9-4	Restrictions on Activities of Former Officers and Employees	All

B. Fairfax County Personnel Regulations

Provision	Subject	Exempt Status/ Employee Group
§§ 1.2-2 and 1.2-3	Scope of Fairfax County Merit System Ordinance and Personnel Regulations	All
Ch. 2	Definitions	All
§ 4.15	Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time	All (based on FLSA status and job classification; at the discretion of the appointing authority for BOS staff)
§ 4.16-4	Outside Employment and Conflict of Interest	All
§ 5.5	Investigations and Fingerprinting	All

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§ 5.6	Medical Examinations	All (based on job classification)
§ 7.7	Appointment of Family Members	All
§ 9.4-2 and 5	Lay-Offs	Benefits eligible and temporary
§ 10.5	Unauthorized Absence	All
§ 10.22	Family and Medical Leave ¹ Under	All
§ 10.26	Compensatory Leave	Attached, Benefits Eligible, Temporary, and Employees of Elected and Appointed Officials, and for BOS staff, at the discretion of the appointing authority
§ 10.29 (except 10.29-2); 10.37	Military Leave, Administrative Leave	All
Chapter 10	Annual leave, sick leave, extraordinary sick leave, parental leave, leave for injury in line of duty, bereavement leave, volunteer activity leave, education leave, leave without pay, civil leave, holiday leave	Exempt employees of Elected and Appointed Officials and Senior Managers
§ 14.5	Employee Medical Records	All
Add. No. 1 to Ch. 16	Standards of Conduct	All
Add.No. 2 to Ch. 16	Code of Ethics for the Merit Service of Fairfax County, Virginia	All

¹ Leave use options for an employee in the exempt service under FMLA are limited to such leave as is available to the employee, based on his/her current employment status.

C. Fairfax County Procedural Memoranda

Number	Subject	Exempt Status/ Employee Group
02-08	Fairfax County's Language Access Policy	All
02-09	HIPPA Compliance	All
06-01	Workplace Violence Procedural Guidelines	All
11-01	Exempt Service	All
11-02	Financial Disclosure	All
70-04	Use of County Electronic Communications Services (Internet, Electronic Mail, Phonemail, and FAX, PDA)	All
02-02	Telework Program	All
02-10	Alternative Dispute Resolution	All
08-04	Alcoholic Beverages	All
25-27	Smoking Policy	All
08-03	Holiday Decorations	All
06-03	Travel Policies and Procedures	All
06-04	Use of Cellular Phones and Other Communication Equipment While Operating County Vehicles	All
06-05	Identity Theft Prevention Program Policies and Procedures	All
70-05	Information Security	All
02-04	Fraud Policy	All
12-16	Online Procurement of Office Supplies	All
10-04	Motor Pool	All
12-14	Separation of Duties	All
13-03	Endorsements or Recommendation of Products and Services by County Officials or Employees	All
12-09	Procedures for Using Small Purchase Orders	All
39-02	Employment Policies Relating to Pregnancy and Childbirth	All
39-03	Policy and Procedure for the Religious Accommodation Process in Employment	All
39-04	Policy and Procedure for Reasonable Accommodation Process in Employment	All
39-05	Policy and Procedure for Reasonable Accommodation of Services and Devices	All
39-06	Policy and Procedure on Harassment	All
39-07	Equal Employment Opportunity Reporting Requirements	All

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D. Fairfax County Personnel/Payroll Administration Policies and Procedures

Number	Subject	Exempt Status/ Employee Group
3	Advanced/Extraordinary Sick Leave	All (except Benefits Eligible and Temporary employees)
4	Underfill Assignments and Related Personnel Actions (non-public safety)	All
4A	Underfill Assignments and Related Personnel Actions (public safety)	All
8	Time and Attendance System and Controls	All
12	Medical Donor Program	All
13	Time and Attendance Reporting for All Employees Except 24-Hour Shift Fire Protection Personnel and Law Enforcement Personnel	All
14A	Time and Attendance Reporting for 24-Hour Shift Fire Protection Personnel as Defined in Personnel Regulations 2.28a	All
14B	Time and Attendance Reporting for Law Enforcement Personnel as Defined in Personnel Regulation 2.30a	All
15	Employee Identification Card	All
17	Military Leave	All
23	Injury Leave	All (with Benefits Eligible and Temporary employees subject to §3.3.5)
28	Dealing with Impaired Employees Suspected of Alcohol/Drug Use	All
29	Employee Eligibility Verification	All
30	Assisting Employees with Serious Chronic Illnesses	All
31	Leave for Inclement Weather or Other Emergencies	All (subject to conditions therein)
33	Employee Clearance Record	All
35	Commercial Motor Vehicle Safety Act of 1986	All
36	Leave Transfer	All (except Benefits Eligible and Temporary employees; transferred leave for military duty applies to merit employees only)

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37	Employee Civic Activities and Responsibilities	All (rules governing leave do not apply to Benefits Eligible and Temporary employees)
41	Applicant/Employee Medical Examinations – Non Public Safety	All
42	Procedures for Applicant Background Investigations	All (subject to conditions therein)
43A	Family and Medical Leave ^{1,2}	All
43B	Military Family and Medical Leave (MFML) ¹	All
48	Reemployed Annuitants	All
49	On-Call Compensation	Attached, Benefits Eligible, Temporary, and Employees of Elected or Appointed Officials
50	Computer Usage	All
51	Overtime Compensation	Attached, Benefits Eligible, Temporary, and Employees of Elected or Appointed Officials
52	Foreign Language Skills Compensation	All
53	Fitness for Duty Examinations	All
56	Credit Check Requirements for Positions of Trust	All (subject to conditions therein)
62	Telework	All

Commented [J8]: Added as new Telework PM.

¹ Leave use options for an employee in the exempt service under FMLA are limited to such leave as is available to the employee, based on his/her current employment status.

² For purposes of FMLA administration, “key employees” include all directors of agencies, departments, and offices, as outlined in appendix 1 of this memorandum. Under some circumstances, key employees are not guaranteed reinstatement provided to other employees under the Act.

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ACTION - 3

Approval of Revisions to Chapters 4, 7, 10, and 12 of the Personnel Regulations to Align Definitions and to Replace Parental Leave with Paid Family Leave

ISSUE:

Revisions to the Fairfax County Personnel Regulations are proposed to align definitions and to add paid family leave.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors approve the proposed revisions to Chapters 4, 7, 10, and 12 of the Personnel Regulations, as specified below.

TIMING:

Board action is requested on June 23, 2020, for Chapters 4, 7, and 12. Board action for Chapter 10 is to be determined.

BACKGROUND:

Periodically, the Department of Human Resources (DHR) brings forward proposed revisions to the Personnel Regulations for Board consideration.

These proposed revisions were to be discussed at the Board of Supervisors' March 17, 2020, meeting of the Personnel Committee, which was cancelled due to the events of COVID-19. In accordance with the Merit System Ordinance, these proposed revisions were scheduled for public hearing before the Civil Service Commission on April 24, 2020, which was postponed due to the events of COVID-19.

The advertised public hearing was held before the Civil Service Commission on June 4, 2020. At the hearing, the Department of Human Resources gave an overview of the proposed changes for each chapter. There was testimony offered by employees and employee groups, all in support of the proposed changes. Following the public hearing, the Civil Service Commission considered the below referenced proposed revisions to the Personnel Regulations. Prior to the hearing, extensive discussions occurred between DHR Staff, Office of County Attorney (OCA), employee groups and agency personnel to promote aligned understanding and agreement with the proposed changes. OCA reviewed all proposed changes.

The following content highlights proposed changes, by chapter:

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Chapter 4 — Pay Plan, Hours of Work and Overtime (Attachment 1)

Removed language referencing class title Animal Control Officers as no longer used and replaced with class title Animal Protection Police Officers.

Chapter 7— Certification and Appointment (Attachment 2)

Removed language referencing class title Animal Control Officers as no longer used and replaced with class title Animal Protection Police Officers. Added language regarding Paid Family Leave.

Chapter 10— Leave (Attachment 3)

Removed language referencing Parental Leave and added language referencing Paid Family Leave. Added Paid Family Leave as type of leave used for Family and Medical Leave.

Chapter 12— Performance Management (Attachment 4)

Updated reference to Section 7.5 to Section 7.5-3. Removed language referencing class title Animal Control Officer and replaced with class title Animal Protection Police Officer.

The Commission's comments are included as Attachment 5.

FISCAL IMPACT:

The twelve-month projected cost of paid family leave is \$7,510,000. This projection was developed assuming the same rate of leave usage for qualified Family Medical Leave Act (FMLA) absences for which employees currently use personal leave or leave without pay if they do not have sufficient leave. In addition, the estimated cost to maintain minimum staffing for the six-week period when paid family leave is being used by qualified employees, based on current costs, is approximately \$2,403,000.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Revisions to Chapter 4 of the Personnel Regulations
Attachment 2: Proposed Revisions to Chapter 7 of the Personnel Regulations
Attachment 3: Proposed Revisions to Chapter 10 of the Personnel Regulations
Attachment 4: Proposed Revisions to Chapter 12 of the Personnel Regulations
Attachment 5: Civil Service Commissioners' Memorandum

STAFF:

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Karen Gibbons, Deputy County Attorney

CHAPTER 4

Pay Plan, Hours of Work and Overtime

4.1 Pay Ranges

- 1 In preparing the pay plan, consideration shall be given to the duties and responsibilities of the various types of positions, the prevailing rates paid for comparable services in public and private employment and to experience in recruiting for such positions. Pay ranges shall include a minimum rate, a midpoint rate and a maximum rate for each class. Pay ranges assigned to classes consisting of public safety employees shall include such intermediate rates or steps as deemed necessary.
- 2 The rate of pay set forth in the plan shall include total pay in every form, except that it shall not include allowance for actual and necessary travel expense authorized and included as incident to employment. If subsistence, quarters or other maintenance is furnished to an employee, the reasonable value thereof shall be deducted from the rate of pay set forth in the plan. Exceptions to this provision must be approved by the Board of Supervisors.
- 3 When, in the opinion of the department head or deputy, following these rules results in an inequity, the Human Resources Director may authorize a salary adjustment if he /she concurs in the opinion of the department head or deputy.
- 4 Except as provided in these rules, performance pay increase dates shall not be affected by the adoption of the new pay plan.
- 5 Employee pay increases, to include performance pay increases and/or longevity increases, as provided in this chapter are subject to conditions outlined in the appropriate section of the regulations and are subject to available funding.

4.2 Starting Rate of Pay

- 1 The minimum rate of pay for a class shall normally be paid upon appointment.
- 2 Original appointment not to exceed the midpoint rate may be made if any of the following conditions exist:
 - a. The qualifications of the applicant significantly exceed the requirements for the class.
 - b. Difficulty of recruitment requires payment of a higher rate.

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- 3 Original appointment above the midpoint rate requires the approval of the Human Resources Director.
- 4 A former employee being reinstated, as defined in Chapter 2, will be appointed at a rate of pay equal to or greater than the rate he/she was receiving at the time of his/her separation, adjusted to reflect any cost of living or market pay adjustments pay to that pay grade since his/her separation.

4.3 Performance Pay Increase

- 1 Performance pay increases may be granted to those employees who meet the requirements specified for such increases. Employees considered not qualified for a performance pay increase shall be handled in accordance with the provisions of Chapter 12.

- 2 Eligibility

A non-public safety employee receiving less than the maximum scheduled rate for his/her grade may be granted a percentage salary increase not to exceed the amount authorized by the Board of Supervisors. A performance pay increase for a public safety employee advances him/her to the next step in the grade. Eligibility for performance pay increases is subject to available funding and the following:

- a. His/her work has met or exceeded the performance requirements established by his/her department head or designee to qualify for a pay increase. Public safety employees' performance must exceed the minimum performance standards to qualify for a performance pay increase. Effective August 1, 1990 employees who enlist, or are inducted into military service, or who are members of a reserve component of the armed forces of the United States who are ordered to active duty and return to County employment; upon their release from active duty and whose service is other than dishonorable shall be deemed to have satisfied this requirement for the period they are on active duty. The total length of active military service may not exceed five years.
- b. A performance review period is 12 months.

Notwithstanding the merit review periods listed above, effective July 13, 1991, the beginning of the first full pay period in FY 1992, all employees who have merit increment dates shall have their merit increment date extended by one year.

Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1991, which falls on July 13, 1991, would have a new increment date of the first day of payroll number 15 in 1992. An employee who had a merit increment date of the first day of payroll number 15 in 1992, which

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falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994.

Notwithstanding the merit review periods listed above, effective July 11, 1992, the beginning of the first full pay period in FY 1993, all employees who have merit increment dates shall have their merit increment date extended by one year. Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1992 which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993 which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994 which falls on July 9, 1994. An employee who had a merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994, would have a new merit increment date of the first day of payroll number 15 in 1995, which falls on July 8, 1995.

- 3 Each employee shall have a performance pay increase date established when he/she is initially appointed to a merit position.
 - a. For uniformed public service employees, that date corresponds to the beginning of the pay period in which he/she is appointed or promoted
 - b. Performance pay increase date for other employees corresponds with the first full pay period of the fiscal year. Partial pay periods do not count towards the performance pay increase date and initial probationary employees must be hired prior to April 1 to be eligible to receive performance increases in the given year.
- 4 Creditable service in the completion of performance review periods includes:
 - a. Continuous employment in the competitive service not including overtime.
 - b. Period of involuntary separation initiated by the department head followed by reinstatement after appeal by the Civil Service Commission under the grievance procedure, for which the Commission determines that the employee is entitled to back pay.
 - c. Honorable service with the armed forces by employees who enlist or are inducted into military service or who are members of a reserve component of the United States who are ordered to active duty and who return to County employment upon their release from active duty. The total length of active military service, which can be credited, may not exceed five years.

4.4 Outstanding Performance Award

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- 1 An employee who has completed their initial probationary period and performs the duties and responsibilities of his/her position in an outstanding manner and whose work generally is well above expectations shall be eligible to be considered for an outstanding performance award.
- 2 An outstanding performance award may be recommended by a department head or designee. Such outstanding performance award recommendation shall be in writing, shall state the reason for such recommendation and shall be submitted through the Deputy County Executive to the Human Resources Director, as appropriate, for implementation.
- 3 Outstanding performance awards may be granted in any dollar amount not to exceed \$1,000 the amount authorized by the Board of Supervisors.

4.5 Longevity Pay Increments

Public Safety employees shall receive a longevity increment increase after 15 years of service and reaching top step in grade. A second longevity increase is awarded after 20 years of service and reaching top step in grade (step 9).

Non-public safety employees may be eligible to receive longevity increases, in lieu of performance increases, after 20 and 25 years of service. These increases are awarded to employees who attain the required length of service before July 1 of the year funded.

4.6 Within-Grade Adjustment

When in the opinion of the County Executive, it is in the best interest of the County to do so, he/she may authorize a salary adjustment to encourage retention of highly qualified County employees and address pay inequities not to exceed the maximum rate of pay assigned to the employee's class.

4.7 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Except Public Safety Employees

If an employee other than a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

- 1 When a position is filled by promotion, the appointee shall receive a salary increase equal to 10% for one and two-grade promotions and 15% for promotions of three or more grades not to exceed the maximum rate of pay assigned to the new job class or the minimum rate of pay for the new job class whichever is greater.

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- 2 With the exception of disciplinary demotions or demotions during a promotional probationary period, when an employee is demoted, he/she shall be placed at the same salary in the new pay grade. If the employee's salary is greater than the maximum salary of the new pay grade, he/she shall be placed at the maximum salary for the new pay grade.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater.

- 3 When an employee is demoted for disciplinary reasons, he or she shall be placed at the salary in the new grade that is 5% less than his/her current salary not to exceed the maximum salary for the pay grade.
- 4 When an employee is demoted during a promotional probationary period, the employee's former rate of pay shall be reinstated in the new lower pay grade, not to exceed the maximum salary for the pay grade.
- 5 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.
- 6 Upon upward reclassification of a position, the incumbent shall receive a pay increase equal to 5% of the midpoint of the salary range for the new, higher pay job class or move to the minimum of the new range, whichever is greater not to exceed the maximum rate of pay for the new pay grade.
- 7 Upon review of a job class to determine if a regrade is warranted, the incumbents in the job class may be entitled to a pay adjustment regardless of whether the job class is regraded or not. The determination of pay increase eligibility and the amount of such pay increase will be made in accordance with procedures approved by the County Executive and the Board of Supervisors. In no case shall the employee's salary be less than the minimum or greater than the maximum for the new pay range.

4.8 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Public Safety Employees

If a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

- 1 When a position is filled by promotion, except as noted elsewhere in this chapter, the appointee shall receive the greater amount of the minimum rate for the class of the new position or an amount in excess of one normal within grade increase in the pay grade of the class of the position held prior to promotion. Such increase shall not be less than 5% and if the promotion is three grades or more, the employee shall be placed in the new grade at a step closest to their identified years of service threshold. The appointee shall

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receive a new performance pay increase date, which shall be calculated from the payroll number and year of his/her promotion.

- 2 When an employee is demoted, he/she shall be placed in the pay step in the new pay grade, which represents the closest dollar amount that is less than the former pay. An employee may be placed in a longevity step under this provision only if the employee meets the length of service requirement for that step. The performance pay increase date shall not change.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater and the performance pay increase date shall not change.

- 3 When an employee is demoted to his or her former job class during a promotional probationary period, the employee's former grade and step shall be reinstated. When an employee is demoted to a job class other than that in which he/she was serving at the time of promotion, he/she shall be placed at the step in the lower grade that is closest to, but not less than the employee was making prior to promotion. If the employee's pre-promotion performance pay increase (PPI) date falls between the date of promotion and the date of the subsequent demotion, the promotion date will be retained as the PPI date; otherwise the pre-promotion PPI date shall be reinstated.
- 4 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.
- 5 Upon upward reclassification/reallocation of a position, the incumbent shall receive the greater amount of either the minimum rate for the new grade or the next higher dollar rate in the new pay grade as compared to the dollar rate in the lower grade except in the following instances:
 - a. Employees who have served one year or more in a two-year review period and who upon reclassification/reallocation, move to a step with a one year review period, shall receive an additional step upon reclassification/ reallocation to the new grade. The employee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of the reclassification/reallocation using the performance review period for the new step.
 - b. Except as noted above, the performance pay increase date shall not change unless the reclassification/reallocation moves the employee to a step with a shorter review period. In such cases, the year of the performance pay increase date is reduced if the time between the effective date of the reclassification/reallocation action and the employee's performance pay increase date is more than one year.

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4.9 Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Police Officers, Deputy Sheriffs and ~~Animal Control Officers~~ Animal Protection Police Officers

Commented [A11]: Remove Animal Control Officers and replace with Animal Protection Police Officers

- 1 A Police Officer I promoted to Police Officer II, a Deputy Sheriff I promoted to Deputy Sheriff II, or an ~~Animal Control Officer I to II~~ Animal Protection Police Officers shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
- 2 A Police Officer II or Deputy Sheriff II who is receiving a proficiency pay adjustment and is promoted to Police Sergeant or Deputy Sheriff Sergeant respectively, shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
- 3 In all other cases, the normal rules affecting promotion, demotion, reallocation of positions, and transfer for public safety employees shall apply.

Commented [A12]: Remove Animal Control Officer I and II and replace with Animal Protection Police Officers

4.10 Allowances Granted Police Officers

- 1 Police Officers required to wear civilian clothes while on duty shall be granted a clothing allowance while such assignment lasts.

4.11 Allowances Granted Deputy Sheriffs

- 1 A Deputy Sheriff II who has a minimum of five (5) years of service as a sworn Deputy Sheriff with Fairfax County and who is certified by the Sheriff or designee as demonstrating exemplary expertise in an authorized Deputy Sheriff position, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Deputy Sheriff".
 - a. A Deputy Sheriff who is eligible for a proficiency pay adjustment shall be reassigned to pay grade C-19 and shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.
 - b. The number of Deputy Sheriff II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Deputy Sheriff II positions.

4.12 Allowances Granted Uniformed Fire Employees

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- 1 A Fire Technician who has a minimum of five (5) years of service as a uniformed Fire employee with Fairfax County, and who is certified by the Chief of Fire and Rescue or designee as demonstrating exemplary expertise in an authorized Fire Technician specialty, may be eligible to receive a fire proficiency pay adjustment and assume the work title of "Master Firefighter."
 - a. A Fire Technician who is eligible for a fire proficiency pay adjustment shall be reassigned to pay grade F-20 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.
 - b. The number of Fire Technicians receiving a fire proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Fire Technician positions.

4.13 Hours of Work

- 1 The regular work period for all full-time County employees, excluding law enforcement and fire protection personnel, shall be 40 hours worked or on paid leave (excluding meal periods) within a seven consecutive calendar day period beginning and ending as defined in Chapter 2. The schedule of hours for the workweek shall be determined by the department head or designee.
- 2 The regular work period for fire protection personnel shall be 28 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 28-day work period may vary depending on shift schedules and department needs.
- 3 The regular work period for law enforcement personnel shall be 14 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 14-day work period may vary depending on shift schedules and department needs.
- 4 The County Executive may authorize the inclusion of the meal period as actual work for shift positions.
- 5 All employees in the Merit System shall be entitled to a 15-minute rest period for each four hours of assigned work, during a duty day, as scheduled by the department head or designee. Whenever possible, the rest period shall be scheduled at the middle of each such four-hour period of work.
- 6 Shift Differential Premium Pay shall be authorized for all merit employees who are scheduled to work on fixed and/or rotating shifts that start at or after 1:00 P.M. wherein the hours scheduled on a shift after 4:00 P.M. are greater than the hours scheduled prior to 4:00 P.M., excluding employees who work flex-time schedules.

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If an employee whose regular shift schedule qualifies him/her for shift differential premium pay, reports to work prior to the start of their regular shift hours, he/she remains eligible for shift differential premium pay for all hours worked after 1:00 P.M. regardless of the time he/she actually begins working on that day. The hours worked before the beginning of the regular shift schedule are not eligible for shift differential.

- 7 The Evening Shift shall encompass all shift schedules, which begin between the hours of 1:00 P.M. and 7:59 P.M. The premium pay rate established for the Evening Shift shall apply for all regularly scheduled hours actually worked between 1:00 P.M. and 7:59 P.M.
- 8 The Night Shift shall encompass all shift schedules, which begin at 8:00 P.M. and thereafter. The premium pay rate established for the Night Shift shall apply for all regularly scheduled hours actually worked between 8:00 P.M. and 6:59 A.M.
- 9 Employees assigned to 24-Hour Shift Schedules shall be paid Shift Differential Premium Pay for all regularly scheduled hours actually worked between the hours of 4:00 P.M. and 7:00 A.M. and in accordance with established payroll procedures.
- 10 Employees are paid and earn leave based on data recorded in official time and attendance records. An "online" timesheet is used to document time worked and leave taken. There are two types of time and attendance reporting:
 - a. Employees required to use positive time reporting must record all absences and hours worked each pay period.
 - b. Employees required to use negative time reporting only record exceptions to their scheduled work hours. If no exceptions are entered, the employee is paid a biweekly amount based on their scheduled hours.

4.14 Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time

-1 Overtime.

FLSA overtime shall include all hours worked or on paid leave by an FLSA eligible employee (other than law enforcement and fire protection personnel) in excess of 40 hours in a work week.

Overtime for FLSA eligible law enforcement personnel (excluding sworn Police Officers, Animal Protection Police Officers, and Deputy Sheriffs scheduled to work a 40-hour week) shall include all hours worked or on paid leave in excess of 86 hours in a 14-day work period. Overtime for FLSA eligible law enforcement personnel in the Police Department and Deputy Sheriffs scheduled to work a 40-hour week shall include all hours worked or on paid leave in excess of 80 hours in a 14-day work period. Overtime for FLSA eligible fire protection personnel shall include all hours worked or on paid

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leave in excess of 212 hours in a 28-day work period. Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime. Overtime shall be kept to a minimum and shall be used to relieve occasional excessive workloads or emergencies, and not to provide for constant recurring requirements. Overtime may be mandated when related to the health, welfare or safety of either the public or employees. Except in emergency situations, all overtime worked by an employee shall be approved by the employee's supervisor or designee, verbally or in writing prior to the overtime being worked. Employees shall not work in excess of authorized scheduled hours without express approval of the supervisor.

-2 Eligibility.

Employees shall earn compensatory time or be paid for overtime hours actually worked in accordance with the following provisions:

- a. FLSA eligible employees excluding law enforcement and fire protection personnel as defined in Chapter 2:
 - (1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 40 hours during the designated seven consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.
 - (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the time actually worked is less than forty hours in a seven day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.
- b. Straight pay eligible employees shall, at the discretion of the department head or designee, earn straight compensatory time or be compensated at their hourly rate of pay for all time worked in excess of their scheduled work hours.
- c. Compensatory time eligible employees shall earn straight compensatory time for time worked in excess of their scheduled work hours.
- d. FLSA eligible fire protection personnel:

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- (1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 212 hours during the 28 consecutive day work period. If requested by the employee and approved by department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.
- (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 212 hours in a 28 day work period. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at the hourly rate of pay must be awarded.

All other Fire and Rescue Department employees shall be treated as described in Section 4.15 - 2a, b, or c.

e. FLSA eligible law enforcement personnel:

- (1) shall be compensated at one and one-half times their regular rate of pay for all hours worked or on paid leave in excess of 86 hours (80 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) during the 14 consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.
- (2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 86 hours (80 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) in a 14 day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.
- (3) shall be compensated at one and one-half times their hourly rate of pay for actual court time worked when such court time falls on the employee's scheduled day off or begins more than two hours prior to the employee's scheduled shift, regardless of the number of hours worked in a given work period.

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All other public safety employees shall be treated as described in Section 4.15 - 2a, b, or c.

-3 Holiday/Emergency Administrative Leave.

Pro-rata adjustments shall be made for the holiday usage rate for shift schedules other than 40 hours per week to ensure compliance with the provisions of Chapter 10.

- a. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day on which a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.
- b. When an employee is required to work due to an emergency, staff shortage or hours worked that are a part of the regular work week on a holiday (actual or observed), the employee shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime, if applicable.

To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

In addition, employees shall receive holiday compensation as follows:

- (1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday. If the employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.
- (2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.
- (3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.

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- c. When a holiday falls on an employee's scheduled day off, the employee shall be compensated as follows:
- (1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay. If an employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.
 - (2) Straight pay eligible employees shall at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay.
 - (3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding eight hours (4 hours for a half-day holiday).
- d. When a holiday falls on an employee's scheduled workday and the employee does not work, the employee shall receive holiday pay at the employee's hourly rate of pay. Full-time merit employees (other than Fire and Rescue Department employees on the 24-hour shift schedule) who are scheduled to work more than 8 hours due to departmental operational needs (this does not include employees who elect to work a compressed work week or flex schedule), shall be granted holiday time off with pay up to the regularly scheduled hours for a full holiday (or one-half of the regularly scheduled hours for a half holiday).
- e. In the event of extreme inclement weather or other emergency, wherein the general County government is closed by the County Executive and all employees are granted Emergency Administrative Leave, those employees required to perform emergency services shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime. In addition, the employee shall be compensated as follows:
- (1) FLSA eligible employees shall at the employee's discretion, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive. If the employee's compensatory leave balance is 240 hours (336 hours for fire protection personnel) or greater, the employee must be paid for these hours.
 - (2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted compensatory time or be paid at the

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employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

- (3) Compensatory time eligible employees shall be granted compensatory time for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

-4 Compensatory Time.

Compensatory time shall be earned and credited to an employee's records on the basis of actual hours worked in excess of the employee's scheduled hours. FLSA eligible employees who earn compensatory time for FLSA overtime hours worked (as defined 4.15 – 2 a(l), d(l), and e(l)) shall accrue 1 1/2 hours of compensatory time for each overtime hour worked.

All other compensatory time shall be accrued on an hour for hour basis. Compensatory time off for overtime worked shall be granted upon request of the employee, when approved by the department head or designee.

- a. In the event that an employee is granted compensatory time off in excess of the employee's accrued balance, the excess shall be charged against the employee's annual leave balance.
- b. Compensatory time not to exceed 240 hours may be carried forward from one calendar year to the next calendar year.
- c. County employees shall be awarded a terminal leave payment for any accrued compensatory time not to exceed a maximum of 240 hours (336 hours for fire protection personnel). This will be paid at the employee's current hourly rate of pay at the time of termination with the exception that FLSA eligible employees will be paid at the current regular rate or at the average regular rate for the last 3 years, whichever is greater.
- d. Notwithstanding the provisions of this section or any other provision of these personnel regulations or of the procedural directives governing the exempt service, effective July 1, 1998, senior managers shall not be eligible to earn or accrue compensatory leave. For purposes of this section, "senior managers" are noted in a procedural memorandum issued by the Human Resources Director.

Senior managers shall be credited with the amount of unused compensatory leave accrued as of July 1, 1998. Subject to the provisions of these regulations and any other applicable procedural directive, they may take such compensatory leave

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after July 1, 1998 until such leave balances are exhausted. Senior managers may carry over no more than 240 hours of previously accrued and unused compensatory leave into the 1999 calendar year. Upon separation, senior managers shall be granted a terminal leave payment for any such accrued and unused compensatory leave paid at the senior manager's current rate of pay, on an hourly basis, at the time of separation not to exceed a maximum of 240 hours.

-5 Call-Back Time.

Call-back time refers to situations wherein an employee is off duty and is called to return to work after departing from the workplace. It does not apply to those incidents where an employee is at work or has not departed from the work site and the work period is extended.

Employees called back to work shall be credited with a minimum of four hours overtime in each separate instance, excluding travel time, regardless of the hours actually worked.

- (a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for call-back hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.
- (b) Straight pay eligible employees shall, at department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all call-back time.
- (c) Compensatory time eligible employees on all pay scales shall earn straight compensatory time for all call-back time.

-6 Consecutive Shift Time.

Consecutive Shift time refers to situations wherein an employee has completed a full eight or more hour shift and is required to remain on duty a second consecutive shift to perform essential services during an emergency situation or to meet minimum State certification standards in the Department of Public Works and Environmental Services.

Employees required to perform 2nd consecutive shifts shall be compensated as follows:

- (a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for consecutive shift hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.

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- (b) Straight pay eligible employees shall, at the department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all consecutive shift time.
- (c) Compensatory time eligible employees shall earn straight compensatory time for all consecutive shift time.

4.15 Outside Employment; Violation of State Law on Conflict of Interests

- 1 Employees in the competitive service shall not engage in any employment, activity or enterprise, which has been or may be determined to be inconsistent, incompatible, or in conflict with duties, functions, or responsibilities of their County employment.
- 2 No employee in the competitive service shall hold any other position in any other governmental jurisdiction or in private employment, when such other position may have the effect of reducing the efficiency of such employee in the competitive service.
- 3 Employees in the competitive service who desire to accept outside employment in addition to their regular County positions shall inform their respective department head or designee of the nature and extent of such outside employment. The department head or designee shall thereupon determine whether or not the holding of such employment conflicts with the duties and responsibilities of said employee to the County.
- 4 Violation of the County's rules on outside employment or the Virginia State and Local Government Conflict of Interests Act or any successor statute thereto may be grounds for dismissal.

4.16 Application of Pay Policies to Deferred Retirement Option Plan (DROP) Participants

Notwithstanding any provision of this chapter to the contrary, employees who are participating in the Deferred Retirement Option Plan (DROP) are considered as merit employees and the pay provisions included in this chapter continue to apply during their DROP participation.

CHAPTER 7

Certification and Appointment

7.1 Appointments to the Competitive Service

- 1 Merit appointment indicates that the employee has been selected for appointment in accordance with the provisions of Chapters 5 and 6 of the Regulations. Merit employees shall receive annual and sick leave and other fringe benefits.
- 2 Merit positions may be filled from within or outside the merit system. Appointments from within the system may be promotions, lateral transfers or demotions.
- 3 Merit employees scheduled for 20 or more hours per week, including those in more than one merit position, shall have all the benefits of full-time merit employees, including:
 - A. Leave Accrual: Annual and sick leave will accrue as stated in Chapter 10 of the Fairfax County Personnel Regulations.
 - B. Health Benefits: Employees scheduled to work less than 31 hours per week may be subject to higher premium payments for certain benefits, in accordance with county benefits policy.
 - C. Performance Pay Increases: Employees holding more than one merit position are eligible to receive pay increases in all positions.

7.2 Status of Employees and Positions

- 1 Merit employees normally occupy positions in the competitive service and exempt employees normally occupy positions in the exempt service. In exceptional circumstances, however, particularly when it is urgent that a position be filled without delay, a merit employee may occupy a position in the exempt service or an exempt employee may occupy a position in the competitive service.
- 2 Except as provided in 7.2-3 below, a merit employee shall not have his/her status changed to exempt while assigned to a position in the exempt service when there has been no break in service. There shall be no change in the merit employee's rights and benefits entitlement while serving in an exempt service a position. When a merit employee is appointed to an exempt service a position, the personnel action request form shall indicate in what manner it is planned to return the employee to a merit position. The rules governing temporary acting promotion or demotion shall apply. Upon return to the merit position, the

employee's grade, salary and performance pay increase date shall be determined as if the exempt appointment had not occurred.

- 3 A merit employee may occupy an exempt position without a change in status for no longer than ninety days. A merit employee who accepts an appointment in excess of ninety days to an exempt position loses his/her merit status, but may be reinstated to a position in the competitive service at his/her former merit grade and salary within one calendar year of the end of the exempt appointment.

7.3 Certification of Applicants

- 1 Upon receipt of a personnel requisition, the Human Resources Director or designee shall promptly announce the vacancy and certify applicants following the procedures specified in Chapters 5 and 6.
- 2 Following the closing date of the job announcement, the Human Resources Director or designee will establish a certification list of the best qualified applicants and submit it to the agency contact

When creating the certification list, in addition to the employment standards, necessary knowledge, skills and abilities as defined in the class specification and position description, consideration shall be given to the following: the number of vacant positions to be filled from that list, applicant responses to supplemental application questions, preferred qualifications considered critical to successful performance in the job when approved by the Human Resources Director or designee, as well as the diversity needs as identified in the agency's Diversity Plan. Where possible, the certification list should contain at least ten applicants.

- 3 Applicants shall be certified in accordance with the following rules.
 - a. If a position has been announced exclusively as a promotional opportunity open only to current employees, only current County employees shall be certified.
 - b. Applicants shall be listed in alphabetical order on certification lists furnished to departments. The certification list shall identify the applicants who are veterans and veterans with a service-connected disability rating.
- 4 The Human Resources Director may delegate some or all of the actions described in this section to department heads.

7.4 Selection and Appointment

- 1 Before making any appointment, the department head or his/her designee shall review the applications of all certified applicants and shall interview at least one more than half of those certified.
- 2 For the purpose of this subsection, the department head's designee may be either an individual or a panel. Department heads are encouraged to use panels for all positions. When panels are used, either to review applications or to conduct interviews, they should be constituted with due regard for the demographic characteristics of the certified applicants. Due to the scope and rigorous nature of the selection procedures used for public safety job classes, interviews are not required for these job classes except when deemed appropriate at the discretion of the department head or deputy.
- 3 The department head or his/her designee should review and consider the performance records of current and former employees who are finalists for a job vacancy.
- 4 Department heads or deputies normally should complete the process of screening, interviewing and appointing within 30 calendar days of receipt of a certification list. If a period longer than 30 days is required to make a selection, department heads or deputies shall consider the likelihood that the best qualified applicants may no longer be available. This subsection does not apply to applicants for uniformed public safety positions, who are required to undergo additional screening after initial certification and whose appointments may be timed to coincide with the convening dates of training academy classes.
- 5 Appointment to a vacancy in the competitive service shall be made by the proper department head or deputy from those applicants certified by the Human Resources Director or designee. Such appointment shall be indicated by the completion of a personnel action request form.
- 6 No applicant shall seek or attempt to use any political endorsement in connection with any merit system appointment and no consideration shall be given to political or partisan affiliation, activity or endorsement in selecting candidates for original or promotional appointment in the merit service.
- 7 Every appointee shall be required to show proof of identity and proof of eligibility to work in the United States, before his/her appointment becomes effective.

7.5 Probationary Period

- 1 Except as noted in 7.5-2 below every merit appointee shall serve a probationary period of twelve months after original appointment (initial probationary period) or promotion (promotional probationary period). The probationary period shall be

used for closely observing the employee's work, for obtaining the most effective adjustment of a new employee to his/her position, and for separating any new employee or demoting any promoted employee whose performance does not meet the performance requirements.

- 2 Sworn police officers, ~~animal control officers~~ animal protection police officers, deputy sheriffs and uniformed firefighters shall serve an initial probationary period of twelve months commencing with the date of graduation from the appropriate training academy. Public safety communicators shall serve an initial probationary period of twelve months commencing upon graduation from the Department of Public Safety Communications Academy and the completion of a 10 week on the job training program. The performance pay increase date shall be determined by the date of original appointment. For all other merit employees, the initial probationary period shall commence with the date of appointment.
- 3 With the approval of the Human Resources Director, a department head or deputy may extend the initial or promotional probationary period in limited circumstances situations where the employee has been unable to perform the duties for which he or she was hired due to extended absence or extended period of restricted duty for medical reasons ~~due to~~ as covered by paid family leave (PFL) or FMLA for a period not to exceed 120 calendar days.
 - a. Requests for extension of the probationary period must be made in writing to the Human Resources Director stating the specific facts and circumstances justifying the request. The request for extension must be made in advance of the expiration of the employee's probationary period and may be granted under the following circumstances:
 - (1) when an employee is absent from work on an approved absence in excess of 30 calendar days during the probationary period;
 - (2) when an employee is unable to perform the assigned duties of the job for which he/she was hired for a period in excess of 30 days, such as when serving in a temporary light duty assignment to accommodate a medical condition.
 - b. Such extension shall commence on the date the employee resumes the assigned duties of the job for which he/she was hired.
- 4 An employee serving in the initial probationary period is eligible to apply for, be certified to, and be appointed to a class of a higher level. Under such circumstances, a promotional probationary period begins with the date of the promotion but the initial probationary period expires twelve months from initial appointment date unless extended in accordance with the provisions of this action.

Commented [AJ1]: Remove animal control officers and replace with animal protection police officers to reflect renaming of the classification title.

Commented [AJ2]: Adds language regarding paid family leave.

- 5 Unless alleging illegal discrimination, an employee serving an initial appointment probationary period including extensions authorized in accordance with this section has no right to grieve or appeal under these rules. Any employee who has satisfactorily completed an initial probationary period and who is serving a probationary period following promotion retains his/her grievance rights.

7.6 Underfill Appointments

- 1 With the approval of the Human Resources Director or designee, an applicant who does not meet all the employment standards as outlined in the class specification and approved position description for a merit class may be appointed competitively to fill a position in that class at a lower grade than that of the class under the conditions specified in this section.
- 2 Underfills are appropriate under the following circumstances:
 - a. When recruitment difficulties exist for a class at the authorized grade.
 - b. When appointees require specialized training and work experience within a particular function to meet the performance standards for the position at the authorized grade.
 - c. When underfilling a position is part of an authorized upward mobility program for career employees.
 - d. A reclassification action changes the classification of the position and the incumbent does not meet the minimum qualifications.
- 3 When it is planned or likely that a position will be underfilled, the vacancy announcement will so state.
- 4 Before making a formal offer of an underfill appointment, the department head or deputy shall prepare a written underfill agreement, which must be approved by the Human Resources Director or designee in advance of the offer. The agreement shall include at least the following information:
 - a. The specific training and experience requirements the employee must meet before promotion to the authorized grade.
 - b. The manner in which they are to be met and the time frame within which the appointee is expected to meet the performance standards for the position, which standards shall be included within the agreement.
 - c. A statement to the effect that promotion will be made without further competition when the appointee meets the terms of the agreement and the

performance standards of the authorized position; and that if the appointee fails to do so within the allotted time the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation or a statement to the effect that after successfully completing the terms of the agreement, the employee will be required to compete for promotion to the higher level position and if not selected, the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation.

- d. A statement that the employee's pay shall revert to its pre-agreement level if the employee, before satisfying the agreement's terms and conditions, discontinues performance under the agreement or takes a position with the County different than the one authorized under the agreement.
- 5 Underfill agreements normally will be for a period of not more than one year but may be for periods of up to four years in multi-tiered underfill agreements. The department head or deputy may extend an underfill agreement without the Human Resources Director approval if the employee necessarily is absent for more than 30 consecutive calendar days or because of the unavailability of required training. The department head or deputy must inform the Human Resources Director of all such extensions.

7.7 *Appointment of Family Members, Members of Household or Extended Relationships*

- 1 Except as provided herein, no applicant/employee shall be hired, reinstated, reemployed, transferred, promoted or demoted to a position which places him/her in a direct supervisory line as defined herein or otherwise permits them to participate in any personnel action relative to a family member or members of his/her household or extended relationships.
- 2 This prohibition may also be extended to positions, in which the duties involve access, review, verification, authorization, or approval of the transactions of family members, members of household, or extended relationships in financial, personnel, purchasing, or other sensitive matters, even though the respective functions are in different departments. Such positions will be identified by an affected department head or designee, with the approval of the Human Resources Director.
- 3 For purposes of this regulation, the definition of 'Extended Family Including Household Member' is defined in Chapter 2.
- 4 For the purposes of this regulation, "Extended Relationships" is defined as those personal relationships creating a potential conflict of interest or having the possibly of creating adverse impact (actual or perceived) on supervision, safety,

and security. Additionally, a direct supervisory line is defined as those situations where an employee, regardless of job description or title, has authority to hire, transfer, promote, assign, reward, discipline or terminate other employees or has responsibility to direct their work or conduct their performance evaluation. This also includes those situations where an employee effectively is able to recommend these actions where such recommendations are given substantive weight in the final decisions being made.

- 5 If a change occurs which causes employees to be in conflict with this regulation, one of the employees shall be transferred to a vacant position within the County. In the absence of an agreement which is satisfactory to all the concerned parties, the employee with the lower grade, or, if they are of the same grade, the employee with the fewer years of County service shall be transferred.
- 6 Requests for exceptions to this policy shall be submitted in writing to the Human Resources Director, who has the authority to waive this regulation when it is in the best interest of the County to do so. The approved exception request shall be maintained in each employee's respective personnel file.

7.8 Applicant Right of Appeal on Discriminatory Practices

- 1 An applicant who is not employed by the County at the time of his/her application and who believes he/she has been discriminated against on the basis of race, sex, color, religion, national origin, age, disability, political affiliation, genetic information or his or her status as a veteran or disabled veteran during the selection process may file an appeal on the alleged discriminatory practice. A bona fide occupational requirement for any position, the minimum age qualifications for public safety occupations, and the exclusion of family members, members of household, or extended relationships as defined in Section 7.7 shall not be appealable except as provided in Sec. 7.7-5
- 2 Such an appeal stating the alleged discriminatory practice and the corrective action desired must be filed in writing with the Director of the Office of Human Rights and Equity Programs within fifteen business days of the date the applicant knew or should have known that he/she was not selected for employment.
- 3 The Director of the Office of Human Rights and Equity Programs shall investigate the allegations and respond in writing to the applicant within twenty business days.
- 4 Should the applicant believe the Director of the Office of Human Rights and Equity Programs' response to be unsatisfactory, the applicant may file a written request for a hearing with the Civil Service Commission. The applicant's request for a hearing must contain a complete statement of the alleged discriminatory practice and the corrective action desired, and must be filed within fifteen

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business days of receipt of the Director of the Office of Human Rights and Equity Programs' response.

- 5 The Civil Service Commission shall set a time and place for such hearing to be held not more than thirty workdays after receipt of such request. At its discretion, the Commission may appoint a hearing officer to hear the appeal.
- 6 The hearing shall be conducted in accordance with hearing procedures adopted by the Civil Service Commission.
- 7 After the hearing, the Commission shall forward an advisory finding on the merit of the appeal and disposition of the case to the County Executive. The Commission does not have the authority to award or recommend monetary damages.

DRAFT

CHAPTER 10

Leave

10.1 Leave Defined

Leave is any authorized absence during regularly scheduled work hours that has been approved by proper authority. Leave may be authorized with or without pay. Absence without approval is considered unauthorized absence.

10.2 Leave Policy

All merit employees are encouraged to take annual leave for vacation purposes of two consecutive weeks each year. During the year, careful consideration shall be given to the desire and needs of employees in the granting of shorter periods of annual leave. Department heads or designees shall grant leave in accordance with these rules on the basis of the work requirements in the department, and whenever possible, the personal wishes of the employee.

10.3 Maintenance of Leave Records

The Department head or his/her designee shall be responsible for the maintenance of accurate leave records. Such records shall be kept on a form prescribed by the Human Resources Director, who may periodically inspect them to ensure that departments are adhering to the provisions of these rules.

10.4 Procedures for Requesting Leave

- 1 For all leave, with the exception of official holiday, unscheduled sick and administrative emergency leave, a request indicating the kind of leave, duration and dates of departure and return must be approved prior to the taking of the leave. The request for leave should be submitted to the department head or designee the same number of days prior to beginning the leave as the number of days leave requested. In the case of unscheduled sick leave, the request shall be completed and submitted for approval immediately upon the employee's return to duty.
- 2 Unless an absence is approved by the department head or his/her designee, an employee shall not be paid for any absences from scheduled work hours.

10.5 Unauthorized Absence

- 1 An employee who is absent from duty without approval shall:
 - a. Receive no pay for the duration of the absence;

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- b. Be subject to disciplinary action, which may include dismissal.
- 2 It is recognized there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case.
- 3 Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.

10.6 Types of Leave

The following types of leave, and no other, are officially established:

- 1 Annual leave (Section 10.7 - 10.12);
- 2 Sick leave (Section 10.13 - 10.21);
- 3 Extraordinary sick leave (Section 10.16);
- 4 ~~Parental Leave~~ Paid family leave (Section 10.23)
- 5 Leave for injury in line of duty (Section 10.24);
- 6 Bereavement leave (Section 10.25);
- 7 Compensatory leave (Section 10.26 - 10.28);
- 8 Military leave (Section 10.29);
- 9 Civil leave (Section 10.30);
- 10 Volunteer activity leave (Section 10.31);
- 11 Leave without pay (Section 10.32);
- 12 Education leave (Section 10.33);
- 13 Holiday leave (Section 10.34 - 10.35);
- 14 Administrative leave (Section 10.36);
- 15 Leave for inclement weather or other emergencies (Section 10.37).

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10.7 Granting Annual Leave

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Department heads or designees shall grant annual leave with pay in accordance with the following provisions:

- 1 Annual leave shall normally be granted unless a department head or designee specifically defers an employee's absence because of work requirements.
- 2 Annual leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs.

10.8 Crediting of Annual Leave

Annual leave shall be credited as follows for merit employees and senior managers as designated in Chapter 4.

- 1 During pay periods in which a merit employee is in paid status for at least one hour, annual leave shall be credited according to scheduled hours. Incumbents in positions with 80 scheduled work hours per pay period will receive the following annual leave credits, based on length of service:
 - a. Less than three years of service receive four (4) hours;
 - b. Three (3) years but less than fifteen (15) years receive six (6) hours;
 - c. Fifteen (15) and greater years of service receive eight (8) hours.
- 2 Merit employees with scheduled hours other than 80 hours per pay period shall receive leave prorated according to total scheduled hours. Employees working in more than one merit position will accrue annual leave in all positions.
- 3 Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting annual leave.
- 4 Employees reemployed or reinstated within one calendar year of their separation in good standing should have their annual leave computed on the basis of total years of service. Revised leave computation dates shall be rounded to the nearest day.
- 5 Employees with less than ten (10) years of service may accumulate annual leave up to 240 hours. Employees with ten (10) or more years of service may accumulate annual leave up to 320 hours.
- 6 Annual leave in excess of the limits imposed by this section existing at the end of each calendar year shall be converted to sick leave.
- 7 Employees shall not receive dual compensation from the County for annual leave.

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- 8 Employees designated as senior managers shall receive 208 hours (26 days) of annual leave at the beginning of each calendar year. Senior managers appointed after the start of a calendar year shall receive annual leave credit on a prorated basis for that year.

10.9 Debiting Annual Leave

Annual leave shall be debited as follows:

- 1 The amount of annual leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.
- 2 Annual leave shall be debited in no less than one-tenth hour units.
- 3 Overdrawn annual leave shall be debited in the following order: compensatory leave, leave without pay.

10.10 Transfer of Annual and Sick Leave

Annual or sick leave may be transferred from one employee to another employee in the following situations:

- 1 Annual or sick leave may be transferred from one employee to another when the employee-in-need has exhausted his/her sick leave and is facing an absence without pay due to his/her extended illness or that of an immediate family or household member as defined in Chapter 2, with the following provisions:
 - a. Annual or sick leave may be transferred to any County employee eligible to receive sick leave.
 - b. Employees transferring sick leave may not transfer more than 80 hours in any calendar year.
 - c. The employee transferring annual or sick leave relinquishes all rights to that leave. Annual or sick leave transferred under this policy cannot be recovered at a later date.
 - d. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.
 - e. Unused transferred leave may be transferred to another leave recipient or returned to the donor.
 - f. Transferred leave may be granted only to employees who have exhausted their sick leave balance and whose combined annual and compensatory leave balance does not

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exceed 80 hours (120 hours for 24-hour shift employees).

- g. This policy does not preclude or in any way limit the right of an employee to apply for advanced or extraordinary sick leave under existing procedures.
 - h. Final approval of leave transfer requests rests with the department head or designee.
 - i. An employee who returns to work before using all received transferred leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date transferred leave was approved.
- 2 Annual leave may be transferred from one employee to another when the employee-in-need is a member of the National Guard or an organized military reserve of the United States who has volunteered or been ordered to active duty pursuant to an order by the President of the United States or a competent State authority. The transfer of annual leave under this Section is subject to the following conditions:
- a. Annual leave may be transferred to any merit County employee who is a member of the National Guard or an organized military reserve of the United States.
 - b. The employee transferring annual leave relinquishes all rights to that leave. Annual leave transferred under this policy cannot be recovered at a later date. Once the leave has been used by the employee, it cannot be recovered.
 - c. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.
 - d. Transferred annual leave may only be used when the employee called to active military duty has reduced his/her accrued annual and compensatory leave to a combined balance no greater than 80 (120 hours for 24-hour shift employees) hours.
 - e. Final approval of leave transfer requests rests with the department head or designee.

10.11 Effect of Transfers on Annual Leave Credits

A merit employee who transfers from one department to another shall have his/her total annual leave credits transferred to the new department.

10.12 Effect of Separation on Annual Leave Credits

Upon separation, an employee shall be paid for the unused portion of his/her accrued annual leave, except as modified by the rules governing resignation without sufficient notice.

10.13 Sick Leave Policy

Sick leave shall be used when an employee is incapacitated by sickness or injury; for childbirth, placement of a child for adoption or foster care; for medical, dental, or optical diagnosis or treatment; for necessary care and attendance or death of a member of the employee's immediate family or household member, as defined in Chapter 2; exposure to a contagious disease when the attendance at duty jeopardizes the health of others. Sick leave for childbirth and adoption/foster care placement shall comply with the provisions in Section 10.22 of these Regulations.

10.14 Granting Ordinary Sick Leave

Department heads or designees shall grant sick leave with pay to merit employees in accordance with the following provisions:

- 1 Ordinary sick leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs;
- 2 Leave without pay may be granted for sickness extending beyond the earned credit;
- 3 For merit employees' annual or compensatory leave credits may be used for sick leave.

10.15 Granting Advance Sick Leave

- 1 Advance sick leave, not to exceed 192 hours (288 hours for 24-hour shift employees), may be granted to merit employees qualified to earn ordinary sick leave in cases of serious disability or ailments of the employee, the spouse, minor or disabled child, parent or parent-in-law of an employee when it is to the advantage of the County to do so.
- 2 Advance sick leave may be granted to employees whose combined annual and compensatory leave balance does not exceed 80 hours.
- 3 Advance sick leave shall not normally be advanced to a merit employee qualified to earn ordinary sick leave during his/her first year of service with the County.
- 4 Advance sick leave shall not be approved retroactively to restore hours previously charged to the employee's annual or compensatory leave balance for an ailment or disability.
- 5 When a department head or designee believes that a request for advance sick leave is justified, a personnel action form shall be prepared with the following supporting documentation:

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- a. The circumstances and the need for such leave verified by a physician's statement;
 - b. The time and date when accrued sick leave will be exhausted;
 - c. The number of hours of advance sick leave requested and date to which such leave will extend;
 - d. Probable return to duty and prospect for continued employment;
 - e. Recommendation of the department head or designee;
 - f. Statement notifying employee of the repayment requirement if advance sick leave is approved.
- 6 The Human Resources Director shall consider the information provided and make a recommendation to the County Executive.
- 7 Advance sick leave shall be approved by the County Executive or his/her designee.
- 8 Advance sick leave shall be charged to future accruals of sick leave. An employee may not use regular sick leave until the approved advance sick leave is repaid.
- 9 An employee who returns to work before using all approved advance sick leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date advance sick leave was first used.
- 10 An employee returning to work before using all approved advance sick leave may request an adjustment to his/her leave record to eliminate or reduce the remaining approved advance sick leave.
- 11 When an employee who receives advance sick leave leaves County service for any reason and the advance sick leave has not been repaid, the County will be financially reimbursed for the balance of sick leave remaining, except in the case of full disability or death.

10.16 Granting Extraordinary Sick Leave

- 1 When the above provisions do not adequately allow for the illness or injury of a merit employee qualified to earn sick leave, and when the department head or designee believes that it is to the advantage of the County to do so, he/she may request of the County Executive, through the Human Resources Director, that the employee be granted an extraordinary sick leave not to exceed 4 hours (6.0 hours for 24-hour shift employees) for each month of service.

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- 2 Extraordinary sick leave shall be recorded on the employee's leave record but shall not be charged to future accrued leave of any kind.

10.17 Crediting Sick Leave

Sick leave shall be credited as follows for merit employees and senior managers as designated in Chapter 4.

- 1 During pay periods in which a merit employee is in paid status for at least one hour, sick leave shall be credit based on scheduled hours. Incumbents in positions with 80 scheduled work hours per pay period will receive a four (4) hour sick leave credit.
- 2 Merit employees with scheduled hours other than 80 shall receive sick leave prorated accordingly. Employees holding multiple merit positions are eligible to accrue sick leave on scheduled hours in all positions.
- 3 Unused sick leave may be accumulated without limit.
- 4 Employees, when separated in good standing and reemployed or reinstated within one calendar year of separation, shall have their unused sick leave reinstated.
- 5 Senior managers shall receive 104 hours (13 days) of sick leave at the beginning of each calendar year. Sick leave balances granted senior managers appointed after the start of a calendar year shall be prorated accordingly.
- 6 Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting sick leave.

10.18 Debiting Sick Leave

Sick leave shall be debited as follows:

- 1 The amount of sick leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.
- 2 Sick leave shall be debited in no less than one-tenth hour units.
- 3 Overdrawn sick leave shall be debited in the following order: annual leave, compensatory leave, and leave without pay.

10.19 Effect of Transfer on Sick Leave Credits

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A merit employee who transfers from one department to another shall have his/her total sick leave credits transferred to the new department.

10.20 Effect of Separation on Sick Leave Credits

1. Sick leave credits shall not be paid to an employee upon separation.
2. Upon application for retirement, an employee's sick leave credits can be applied towards membership service credit at the rate of one month of credit for each 172 hours of accrued unused sick leave and prorated for any fraction of this amount.
3. Employees who are participants in the Deferred Retirement Option Plan may apply all sick leave credits towards membership service credit for retirement or retain 40 hours as an initial sick leave balance, while the remaining sick leave credits are applied towards membership service credit for retirement.

10.21 Other Factors Relative to Sick Leave

- 1 Reporting of sickness.
Employees who are absent from duty for reasons which entitle them to sick leave shall notify their respective supervisors within the time frame established by the Department unless physically unable to do so. Upon return to work, the employee shall submit immediately to his/her supervisor an authorization for leave form.
- 2 Medical certificate.
A department head or designee may require a medical statement for sick leave when it occurs before or after a holiday or other scheduled day off, or when it is in excess of two workdays. When an employee has a record of repetitious usage of short amounts of sick leave over an extended period a department head or designee may require a medical certificate for each day of sick leave taken. Employees shall be provided advance notice that a medical certificate will be required for future absences.
- 3 The department head or designee may require an employee returning from sick leave to take a medical examination, or, with the concurrence of the Human Resources Director, on such other occasions that he/she deems it in the best interest of the County. The medical examination shall be given by a medical doctor designated by the Human Resources Director or his designee.
- 4 Investigation of sickness. A department head or designee may investigate the alleged illness of an employee absent on sick leave.

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- 5 False or fraudulent use of sick leave. False or fraudulent use of sick leave shall be cause for disciplinary action against the offending employee. Such disciplinary action may include dismissal.
- 6 An employee on annual leave who presents a medical certificate giving the dates of illness may have that portion of his/her annual leave converted to sick leave.
- 7 Conversion of sick leave. Conversion of sick leave to annual leave shall not be permitted.
- 8 State worker's compensation insurance. An employee, who is eligible to receive state worker's compensation payments beyond the year of injury leave, may elect to use accumulated sick leave and/or annual leave. The use of such leave will be coordinated with worker's compensation payments so that the total amount received from both sources does not exceed the employee's full wage or salary until such sick and/or annual leave is depleted or until the employee returns to work.

Leave hours used will be calculated only on that portion of total compensation over the workers' compensation payment. While using sick and/or annual leave the employee will continue accruing sick and annual leave.

10.22 Family and Medical Leave

Eligible employees, as defined by the implementing regulations of the Family and Medical Leave Act, may take job-protected, unpaid leave, or substitute appropriate paid leave, for up to a total of 12 workweeks in any 12 months for the birth of a child, for the placement of child for adoption or foster care, because the employee is needed to care for a family member (child, spouse, parent or parent-in-law) with a serious health condition, because the employee's own serious health condition makes the employee unable to perform the functions of his or her job, or because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, parent or parent-in-law is a covered military member on covered active duty. In addition, eligible employees may take job-protected, unpaid leave or substitute appropriate paid leave for up to a total of 26 workweeks in a single 12-month period to care for a covered service member with a covered serious injury or illness. The terms "covered military member," "covered active duty," and "covered serious injury or illness" shall be defined as set forth in the Family and Medical Leave Act as amended.

Family and medical leave consists of any combination of sick leave, annual leave, paid family leave, compensatory leave, and leave without pay. Sick leave used for the purpose of family or medical leave must conform to the requirements in Section 10.13. If parental leave paid family leave (Section 10.23) is taken for the birth, adoption, or foster care placement of a child, the leave must be applied towards the employee's Family and Medical Leave entitlement if applicable.

- 1 Family and medical leave shall be granted to any merit employee for a period of up to

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twelve work weeks over a twelve-month period. The twelve-month period during which family and medical leave may be taken for the birth of or placement of a child shall expire at the end of the twelve-month period beginning on the date of birth or placement. Service member caregiver leave is granted for up to 26 workweeks during a single 12-month period on a per-covered service member and per-injury/illness basis. Work week is defined as the hours an employee is regularly scheduled to work in a seven (7) consecutive day period.

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- 2 The twelve-month period for family and medical leave usage shall commence with the first use of family or medical leave. The single twelve-month period for service member caregiver leave shall commence with the first day the eligible employee takes service member caregiver leave and ends 12 months after that date regardless of the 12-month period established for prior FMLA qualifying events.
- 3 Requests for leave beyond 12/26 work weeks are subject to regular leave policies with approval determined by the department head or designee.
- 4 Requests for family and medical leave must be made in writing and submitted 30 calendar days in advance whenever the necessity for such leave is foreseeable.
- 5 The mother may take six (6) weeks of sick leave immediately following the birth of her child. Use of additional sick leave requires medical certification. The ~~father~~ non-birthing parent may take four (4) weeks of sick immediately following the birth of ~~his~~ the child. Use of additional sick leave requires medical certification.
- 6 ~~Mothers and/or fathers~~ Parents and guardians may take four (4) weeks of sick leave immediately following placement of a child for adoption or foster care. Use of additional sick leave requires medical certification.
- 7 Family leave to include exigency leave may be taken on an intermittent or reduced schedule basis with the approval of the department head or designee. Medical leave may be taken on an intermittent or reduced schedule basis if certified as necessary by the health provider.
- 8 At the request of the department head or designee, the employee shall provide certification from a health care provider in connection with a request for medical leave. Additionally, an employee may be required to provide medical documentation concerning the continuing necessity for medical leave and in connection with any issue concerning his/her ability to return to work at the expiration of medical leave.
- 9 At the request of the department head or designee, the employee shall provide certification of a qualifying exigency in connection with a request for exigency leave.
- 10 At the discretion of the department head or designee, an employee requesting family leave for the birth or adoption of a child may be required to use all approved paid family leave.

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Commented [RDB6]: Replace 'his' with 'the'

Commented [RDB7]: Replace 'mothers and/or fathers' with Parents and guardians

Commented [RDB8]: Inserted 'an' before employee

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accrued annual or sick leave prior to use of leave without pay. Employees requesting family or medical leave for all other reasons may be required to use accrued sick, and/or annual leave prior to use of leave without pay.

Commented [RDB9]: Added paid family leave to be used prior to leave without pay (LWOP)

- 11 During the leave period, the County will provide coverage under the health insurance plan which the employee had selected prior to going on leave at the level and under the conditions coverage would have been provided if the employee had not gone on leave.
- 12 If the employee fails to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition for him or herself, children, spouse, parents, parents-in-law, or injured family service member or other circumstances beyond the control of the employee, the County may recover the employer's contribution to the health insurance premium paid during any period of unpaid leave.
- 13 No employee shall be prevented from returning to work prior to the expiration of the 12/26 week period.
- 14 Employees shall return to the position vacated or, with the approval of the Human Resources Director, to another position in the same class.
- 15 Employees who do not plan to return to work should notify their department no later than at the expiration of the leave. Failure to return to work without giving notice at the expiration of the leave without good cause may result in an unsatisfactory service separation.
- 16 This regulation shall be construed as to ensure compliance with the minimum requirements of the Family and Medical Leave Act of 1993.

10.23 ~~Parental Leave~~ Paid Family Leave

Commented [RDB10]: Replaced Parental Leave with Paid Family Leave

Paid leave granted to eligible employees for any qualifying reason that would be covered under the Family and Medical Leave Act (FMLA) of 1993 and as set forth in section 10.22 above. Paid family leave shall only be available for the qualifying reasons that would be covered under the Family Medical Leave Act on or after the effective date of this regulation.

Commented [RDB11]: Summary of paid family leave eligibility, coordination with FML, length of time for the utilization of PFL, process for requesting PFL, and additional details regarding the PFL process

-1 All merit employees, including those in their initial probationary period, are eligible for paid family leave (PFL). Merit employees in their initial probationary period become eligible for paid family leave on the first day of the month following the employee's date of original appointment.

Commented [RDB12]: Inserted language regarding eligibility for paid family leave

-2 Fulltime merit employees may be eligible to take up to total of 240 hours of paid family leave (360 hours for 24-hour staff) in a twelve-month period. Merit employees

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scheduled to work less than 80 hours per pay period may be eligible for paid family leave pro-rated on the basis of scheduled work hours per pay period in a twelve-month period.

Commented [RDB13]: Inserted language regarding amount of paid family leave based on employees scheduled work hours

-3 Paid family leave shall run concurrently with family and medical leave (Section 10.22) to the extent that family and medical leave is available to the employee.

Commented [RDB14]: Inserted language regarding paid family leave and FML

-4 The twelve-month period for paid family leave shall commence with the first use of paid family leave. Unused paid family leave hours do not carry over to another 12-month period.

Commented [RDB15]: Inserted language regarding when twelve month period for paid family leave and unused paid family leave shall not carry over

-5 Requests for paid family leave must be made in writing and submitted 30 calendar days in advance whenever the necessity for such leave is foreseeable.

Commented [RDB16]: Inserted language regarding requesting paid family leave

-6 Eligible employees are ~~only~~ entitled to a total of up to 6 weeks paid family leave ~~paid family leave once in a single twelve-month period.~~

Commented [RDB17]: Inserted language regarding total eligible amount of paid family leave; removed 'only' and 'paid family leave once' replaced with 'a total of up to 6 weeks paid family leave in a single twelve month period'

-7 Paid family leave can be taken on an intermittent (periodic) or consecutive (continuous) basis when certified as medically necessary by a healthcare provider. A request to use paid family leave on an intermittent basis which is not medically necessary (i.e. bonding time with a baby) must be coordinated and approved at the discretion of the department based on staffing and operational needs.

Commented [RDB18]: Provided language clarifying how intermittent PFL can be utilized by employees

-8 At the request of the department head or designee, the employee shall provide certification from a health care provider in connection with a request for paid family leave.

Commented [RDB19]: Inserted language about submission of a health care provider certification for the request of paid family leave

-9 At the request of the department head or designee, the employee shall provide certification of a qualifying exigency in connection with a request for paid family leave.

-10 Employees who are eligible for sick leave under sections 10.22-5 and 10.22-6 ~~must~~ may utilize sick leave prior to using paid family ~~medical~~ leave.

Commented [RDB20]: Inserted language to ensure consistency regarding use of sick leave as it relates to earlier sections of the chapter regarding FML; Updated language to remove 'must' and replace with 'may' removed 'medical'

-11 Employees must exhaust paid family leave prior to using leave without pay, donated leave, advance sick leave, or extraordinary sick leave.

Commented [RDB21]: Added 'extraordinary sick leave'

-12 Employees who leave County service while on paid family leave are not entitled to be paid for any unused portion of paid family leave.

-13 Employees who do not plan to return to work should notify their department no later than at the expiration of the paid family leave. Failure to return to work without giving notice at the expiration of the leave without good cause may result in an unsatisfactory service separation

Commented [RDB22]: Added language consistent with the requirements for an expiring Family Medical Leave (FML)

~~Paid leave granted for the birth, adoption, or foster care placement of a child. Merit employees are provided 80 hours per qualifying event (120 hours for full time 24 hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall have parental leave pro-rated on the basis of scheduled hours. The parental leave must be applied towards the employee's Family and Medical Leave entitlement if applicable. If an employee has already exhausted that entitlement for the qualifying period, the mother or father is still eligible to take the 80 hours of parental leave (120 hours for full time 24 hour shift fire protection employees).~~

~~Mothers and/or fathers are entitled to take up to 80 hours of paid parental leave (120 hours for full time 24 hour shift fire protection employees) up to 12 months immediately following the birth, adoption, or foster care placement of a child. Such time will run concurrently with Family Medical Leave (FML) to the extent that FML is available to the employee. In some instances when deemed medically necessary, parental leave may be taken prior to the birth. If an employee has already exhausted FML for the qualifying period, the mother or father is still eligible to take the 80 hours of parental leave.~~

Commented [RDB23]: Removal of previous Parental Leave section prior to the addition of paid family leave

10.24 Leave for Injury in Line of Duty

- 1 A merit employee who is injured while performing the duties of his/her position, without fault or negligence on his/her part, and who is accepted as compensable under the Virginia Worker's Compensation Act, shall be granted injury leave with pay, as approved by the County Executive or his/her designee. Such eligibility for injury leave with pay begins on the first day of injury and shall expire not later than twelve calendar months from the original injury date. Reinjuries do not extend the period of eligibility for injury leave. Such leave requires a medical certificate from an approved licensed physician authorized by the County to treat worker's compensation claims. This certificate must set forth the nature and extent of the injury and the probable period of disability.
- 2 Extensions of injury leave beyond twelve calendar months may be granted by the department head or designee. In no case shall the employee be granted injury leave in excess of 2080 (2912 for 24-hour shift fire protection employees) total hours. In evaluating such requests, the following elements shall be considered:
 - a. The circumstances in which the injury occurred to include consideration of the nature and extent of the injury;
 - b. The nature and extent of treatment providing that the employee has continued under the regular care of the authorized physician requiring an office visit at minimum intervals of at least once every three months; and providing that the medical records

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clearly substantiate a relationship between the current prescribed treatment and the original injury;

- c. The likelihood of the employee's return to duty;
 - d. The employee's past injury, leave and service record;
 - e. The employee's compliance with injury leave policies and requirements.
- 3 When possible, employees who have been injured but are not totally disabled, will be placed in temporary assignments without loss of pay with duties that fall within the medical restrictions prescribed by the treating physician.
- 4 When injury leave is used other leave benefits shall not accrue.
- 5 An employee on injury leave is expected to follow medical procedures and complete necessary forms/reports so as to ensure that worker's compensation payment will be credited to the appropriate account.
- 6 An employee on injury leave is specifically prohibited from engaging in activities that may impair his/her recovery. This includes:
- a. Engaging in strenuous recreational or other physical activities without the approval of the authorized physician.
 - b. Being employed or self-employed to perform work of any kind without the prior written approval of the authorized physician and the Human Resources Director.
- 7 An employee on injury leave is not required to remain at home, but is required to be available for contact by his/her supervisor and to notify the supervisor of any change of residence during authorized absence.
- 8 Failure of an employee on injury leave to follow prescribed procedures or to accept appropriate medical treatment, vocational rehabilitation, or medically appropriate temporary assignments, may result in disallowal of full salary continuation and reversion to straight worker's compensation wages, if eligible, for the time period of noncompliance, with the employee being liable for repayment of the monetary differential.

10.25 Bereavement Leave

Bereavement leave may be used to cover an absence resulting from the death of an employee's extended family or household member, as defined in Chapter 2. Department heads or designees shall grant bereavement leave with pay to merit employees in accordance with the following

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provisions:

- 1 Full time merit employees shall be eligible to use up to 16 hours of bereavement leave per calendar year (24 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall be eligible for bereavement leave on a pro-rated basis.
- 2 Bereavement leave may not be carried over from one calendar year to the next.
- 3 The amount of bereavement leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.
- 4 Bereavement leave shall be debited in no less than one-tenth hour units.
- 5 Sick leave may be granted for absences extending beyond bereavement leave eligibility in accordance with the sick leave provisions herein.

10.26 Compensatory Leave

- 1 Compensatory leave shall be credited to an employee as provided for in the rules governing overtime. Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting compensatory leave.
- 2 Compensatory time for overtime worked shall be granted at the discretion of the employee at a time convenient to and approved by the department head or designee.
- 3 Overdrawn compensatory leave shall be debited in the following order: annual leave, leave without pay.

10.27 Effect of Transfers on Compensatory Leave

An employee who transfers from one department to another shall have his/her compensatory leave transferred to the new department.

10.28 Effect of Separation on Compensatory Leave

An employee who is separated from service may only be paid for any accrued overtime for which he/she has not been granted compensatory leave in accordance with the provisions of section 4.15-4.

10.29 Military Leave

- 1 A merit employee who is a member of the National Guard or an organized military reserve

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of the United States, or is a former member of the Armed Services and has been reactivated by a competent authority shall be allowed military leave under the following circumstances:

- a. Leaves of absence with pay not to exceed fifteen workdays during any one federal fiscal year (October 1 - September 30) to attend federally funded military duty, including duty for training. For the purposes of this section, one 24-hour shift workday shall equate to two military leave workdays. The employee shall report to work in accordance with the following schedule:
 1. If the period of service is less than 31 days, the employee must report back to work not later than the beginning of the next regularly scheduled workday after the military duty, including travel time and an 8-hour rest period, is completed.
 2. If the period of service is more than 30 days but less than 181 days, the employee must report back to work not later than 14 calendar days after completing service.
 3. If the period of service is more than 180 days, the employee must report back to work not later than 90 days after completing service.
 4. If the employee is hospitalized or convalescing from an injury or illness incurred during the period of service, then the time for the employee to report back to work will be extended.
 - b. Leaves of absence without pay for training not covered above. The employee shall report to work the next regularly scheduled workday after the training period, including travel time and an 8-hour rest period, is completed.
- 2 A merit employee who is a member of the Virginia National Guard and who is called to emergency duty by the Governor to combat floods, riots, winter storms, hurricanes, or other disasters shall be allowed military leave with pay for each day of such service. A merit employee who is a member of any National Guard organization other than the State of Virginia and who is called to emergency duty by the competent authority of that state may elect to be placed on military leave without pay for each day of such service.
- 3 The employee shall notify his/her supervisor as far in advance as possible when taking military leave. The employee's notice may be either verbal or written. A copy of military orders may be requested but cannot be required. Failure to notify the County in advance shall not deprive the employee of rights and benefits.
- 4 An employee who leaves the County service in order to join the military forces of the United States or who is inducted into such service has resigned and is not considered to be on military leave. (Section 9.2-5).
- 5 In the event of any conflict between County regulations and federal or state law, the latter shall take precedence.

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10.30 Civil Leave

A merit employee shall be given time off without loss of pay when performing jury duty, when subpoenaed or requested to appear before a court, public body or commission except when the employee is a party to the suit, when performing emergency civilian duty in connection with national defense, or for the purpose of voting. Leave for the purpose of voting shall only be granted when the employee's work schedule prohibits voting before or after duty hours or through absentee balloting.

10.31 Volunteer Activity Leave

Volunteer activity leave may be used to participate in volunteer activities and initiatives to support the neighborhoods in which employees live and work to include educational and charitable institutions, religious/faith-based, and community service entities. Department heads or designees shall grant volunteer activity leave with pay to merit employees in accordance with the following provisions:

- 1 Full time merit employees shall be eligible to use up to 16 hours of volunteer activity leave per calendar year (24 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall be eligible for voluntary activity leave on a pro-rated basis.
- 2 Voluntary activity leave may not be carried over from one calendar year to the next.
- 3 The amount of voluntary activity leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.
- 4 Voluntary activity leave shall be debited in no less than one-tenth hour units.

10.32 Leave Without Pay

A department head or designee may grant a merit employee a leave without pay for a period not to exceed one year, subject to the following conditions:

- 1 Leave without pay shall be granted only when it is in the interests of the County to do so. The interests of the employee shall be considered when he/she has shown by his/her record to be of more than average value to the County and when it is desirable to return the employee even at some sacrifice.
- 2 At the expiration of a leave without pay, the employee shall be reinstated in the position

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he/she vacated or in any other vacant position in the same class.

- 3 The employee does not earn leave while on leave without pay.
- 4 Failure on the part of the employee to report promptly at the expiration of a leave without pay may be cause for dismissal.

10.33 Education Leave

A merit employee engaged in professional or technical work may be granted a leave of absence with full or partial pay for enrollment in a special institute or course of study of direct benefit to the County service, at the discretion of the department head or designee.

Such leave may be granted on the assumption that the employee will remain with the County service for a reasonable period to be recommended by the department head or designee, upon completion of the institute or course of study.

10.34 Holiday Leave

- 1 The following holidays are observed by the County and shall be granted to merit employees with pay, unless such employees are required to be on scheduled duty.
 - a. New Year's Day (January 1);
 - b. Martin Luther King, Jr.'s Birthday (Third Monday in January);
 - c. George Washington's Birthday – Presidents' Day (Third Monday in February);
 - d. Memorial Day (Last Monday in May);
 - e. Independence Day (July 4);
 - f. Labor Day (First Monday in September);
 - g. Columbus Day (Second Monday in October);
 - h. Veteran's Day;
 - j. Thanksgiving Day (Fourth Thursday in November);
 - k. Fall Holiday (Friday after Thanksgiving);
 - l. Christmas Eve (One-half day on December 24);

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- m. Christmas Day (December 25);
- n. Inauguration Day (January 20, every fourth year) when it falls on a business day, Monday through Friday.

-2 The County Executive may also set aside other days as holidays.

10.35 Granting Holiday Leave

The granting of holidays observed by the County shall be subject to the following provisions:

- 1 Holidays on a weekend.
When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, the following Monday shall be observed as the holiday.
- 2 Holiday on scheduled workday
 - a. Holiday on scheduled workday; employee works. Employees who are required to work on a holiday (actual or County observed) shall be compensated for the time worked in accordance with the rules governing hours and overtime. Holiday compensation will be provided on an hour for hour basis for an employee's regular scheduled hours not to include overtime hours. If an employee who would not normally work the holiday, is scheduled to work to meet staffing or other operational needs, the employee is entitled to receive holiday compensation for hours worked not to exceed the number of his/her regularly scheduled hours.
 - b. Holiday on scheduled workday; employee does not work. Employees who are required to work on a holiday (actual or County observed) but do not work, shall be compensated as follows. Holiday compensation will be provided on an hour for hour basis up to the number of regularly scheduled hours for that day.
- 3 Holiday on scheduled day off. Within the policy established in the section on holiday leave, whenever one of the designated holidays falls on an employee's scheduled day off, the employee shall be granted either holiday pay or holiday compensatory time in accordance with the rules governing hours and overtime. To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.
- 4 Holidays for merit part-time employees. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.

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- 5 Holidays during paid leave. A holiday falling within a period of paid leave shall not be counted as a workday in computing the amount of leave debited.
- 6 Holiday during unpaid leave. When a holiday falls within a period of leave without pay, the employee shall be granted either holiday pay or holiday compensatory time in accordance with the rules governing hours and overtime.
- 7 Appointment on a holiday. The appointment of a merit employee shall not be affected on a holiday except when the employee works that day.

10.36 Administrative Leave

- 1 Administrative leave shall be any paid leave authorized by the County Executive, which is not otherwise classified by these Regulations.
- 2 Administrative leave will normally¹ be granted to any full-time or part-time employee by an appointing authority or the County Executive for any of the following reasons:
 - a. Where an employee is required to appear before a public body, public agency, board or commission during normal working hours on matters relating to County business.
 - b. For the attendance in an official capacity during normal working hours as a representative of the County at meetings, symposiums, conferences, conventions or hearings.
 - c. During the investigation of an alleged improper act by an employee which may result in formal disciplinary actions and/or when the retention of the employee on an active duty status may be detrimental to the interests of the County or injurious to the employee, his/her fellow workers or the general public, Administrative Leave for this purpose will not exceed ten business days without prior approval of the County Executive. A memorandum to the Human Resources Director will be submitted by the department head or designee giving details of the Administrative Leave for all situations covered by this paragraph. In lieu of the use of Administrative Leave for situations of this type, a department head or designee may temporarily assign the employee to other duties.
 - d. For participation in the blood donor program for which purpose up to four hours may be granted, at the discretion of department head or designee, for each recuperative purpose.
 - e. For the purpose of undergoing a medical examination as may be required by the

¹ Exceptions to be justified and made a matter of record.
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employee's department head or designee.

- f. To recognize long term service to general county employees who earn length of service awards of 20, 25, 30, 35, 40 and 45 years or more shall be eligible for two days of administrative leave (24 hours for 24-hour shift firefighters) in the year after they have qualified for the length of service award.
 - g. To recognize outstanding performance such as Outstanding Performance Awards or Team Excellence Awards. The number of hours received for Outstanding Performance Awards or Team Excellence Awards shall be equal to one day of administrative leave (12 hours for 24-hour shift firefighters).
 - h. For officers of the Employees Advisory Council and employee organizations, who participate in payroll dues deduction to attend conventions and training related to employee relations. Administrative Leave for this purpose shall not exceed 30 workdays (240-hours) per year per employee organization. In the accrual of hours toward the 240-hour limit, one 24-hour shift shall equate to 16 hours of administrative leave. Employees must submit such leave requests as far in advance as possible and provide written verification upon return to duty of attendance at the convention or employee relations training. Respective employee group leaders are accountable for monitoring and ensuring compliance with this policy.
 - i. When a non-Office of Elections employee volunteers to work for *Fairfax County's* Office of Elections on an election day or completes training for election volunteer workers.
- 3 In addition to the provisions of paragraph -2 above, Administrative Leave may be granted to any full-time or part-time employee by the County Executive or his/her designee for any of the following reasons:
- a. Breakdown of essential facility services such as heating, air conditioning, or water or other problems wherein facilities must be closed and employees released early from work or not required to report to work.
 - b. Breakdowns of equipment making it impossible to accomplish assigned tasks.

10.37 Leave for Inclement Weather or Other Emergency

- 1 When extreme inclement weather or other emergencies occur, the County Executive or his/her designee shall have the option to declare one of the following types of leave:
 - a. Unscheduled Leave - may be declared by the County Executive or his/her designee when it is deemed advisable to provide employees flexibility regarding reporting to work due to inclement weather or other emergency. Unscheduled leave authorizes all employees, except

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those designated as emergency service personnel, to use their own leave to remain home from work or to leave work early without obtaining prior approval from their supervisor. Employees, however, must notify their supervisors if they opt to stay home on unscheduled leave. Employees may only use annual leave, compensatory leave, or leave without pay for this purpose. Such leave is authorized only for the period of time designated by the County Executive or his/her designee.

- b. Emergency Administrative Leave - may be declared by the County Executive or his/her designee when it is determined necessary to close the general County government due to extreme inclement weather or other emergency. Emergency administrative leave authorizes all merit County employees, except those designated as emergency service personnel, to remain home from work or to leave work early without prior approval of the supervisor and without the use of personal leave or leave without pay. Such leave shall be limited to the time periods designated by the County Executive or his/her designee. Employees required to work during a period of such emergency administrative leave shall receive extra compensation in accordance with provisions contained in Chapter 4.
- 2 When leave for inclement weather or other emergency is declared, emergency service personnel must report to work. Emergency service personnel are those employees, designated by the department head or designee, who due to the nature of the emergency, which has occurred, must report to work to ensure that public health and safety needs or critical departmental requirements are met.

CHAPTER 12

Performance Management

12.1 Introduction

Performance management is a continuing process for establishing a shared understanding between the supervisor and the employee about what is expected on the job and how it is to be achieved. Performance management promotes improved job performance, encourages skill development, and fosters performance at the highest level while increasing the probability of success for the employee and the workgroup through enhanced communication. The process has defined roles for both the employee and the supervisor.

-1 In performance management, the supervisor:

- a. Sets performance expectations for all positions under his/her control through accurate job descriptions.
- b. Discusses the employee's position description, his/her evaluation and performance expectations.
- c. Coaches each employee on their performance at regular intervals throughout the rating period, helps set goals for performance improvement, and supports professional development.
- d. Evaluates each employee's performance in writing at least annually.
- e. Assists in identifying training and developmental solutions to support maximum performance in the current position, and, career development opportunities to support future career advancement.

-2 To actively participate in the performance management process, the employee:

- a. Ensures an understanding of expectations and responsibilities by reviewing the position description and evaluation.
- b. Solicits performance feedback, periodically, throughout the year, including discussions of any obstacles or challenges that might hinder performance.
- c. Completes the self-assessment evaluation.

- d. Participates in the review discussion with his/her supervisor.
- e. Is accountable for his/her own improvement and development.

12.2 Authority and Responsibility

-1 Responsibility

- a. Department heads have authority for implementing and administering performance management and career development within their agencies to the same extent that they are responsible for other aspects of agency management.
- b. The immediate supervisor has responsibility for day-to-day performance management including coaching and formal evaluation of the employee. In unusual circumstances, department heads or designee may designate a higher-level supervisor to perform the function of the immediate supervisor when warranted.

- 2 Training

- a. Employees:
 - 1) Shall attend mandatory training, to include performance management training, and
 - 2) Shall certify that they understand their role and responsibilities in the performance management process.
- b. Supervisors and Reviewers:
 - 1) Shall attend mandatory training in performance management, offered periodically by the Department of Human Resources, as soon as possible after appointment to a supervisory role.
 - 2) Shall certify that they understand their role in performance management, including the process, proper form use, coaching, expectation setting, and career management support as soon as possible after appointment to a supervisory role.
 - 3) Shall ensure his or her subordinate staff attends mandatory training, including performance management training.

- c. Department heads shall ensure that all supervisors understand Fairfax County's performance and career management philosophies and procedures.

12.3 *Performance Management Cycle*

Performance management is a year-round collaborative process between the employee and his/her immediate supervisor. The process involves planning, coaching, developing, and reviewing job performance throughout the year. Performance management takes into consideration "what" the employee accomplishes during the performance cycle and "how" the employee accomplishes the work. The ongoing, two-way communication between an employee and his/her supervisor assists the employee in maximizing his/her job performance and career potential.

-1 Planning

- a. During the planning phase, both the employee and supervisor discuss job requirements and performance to ensure a common understanding of the evaluation criteria.
- b. During the planning phase, employees work with their supervisors to define, clarify and understand their performance expectations using the class specifications and position descriptions for guidance.
 - 1) Class specifications provide an overview of the typical duties associated with a job classification, as well as, outline the minimum qualifications and necessary knowledge, skills and abilities for each job class.
 - 2) Positions descriptions list requirements and job duties that are unique to each established position. Each department head or designee must maintain current position descriptions and performance requirements for all positions under his/her control.
- c. A Career Management Plan (CMP) is also initiated as part of the annual evaluation period planning process. The CMP documents development initiatives for the upcoming evaluation period designed to support employee growth and learning in the current position and/or prepare the employee for career advancement within the County.
 - 1) CMP completion is mandatory unless the supervisor and employee mutually agree it is not necessary for the given review period.

- 2) CMPs are also completed for initial and promotional probationary employees soon after appointment, in order to promote necessary development and successful onboarding.

-2 Coaching

- a. The coaching phase is a continuous cycle of observation, feedback, and redirection to ensure that the employee is on track to achieve the defined performance expectations. Coaching supports the employee in his or her efforts to perform at the optimal level.
- b. At any time during the review period, if the supervisor assesses the employee's overall performance as unsatisfactory or any component of performance as needing improvement; a coaching performance improvement plan (Coaching PIP) should be initiated. A Coaching PIP is a document which identifies employee performance and/or behavioral issues requiring improvement and the specific changes required for the employee to demonstrate passing performance in these areas on the next performance evaluation.
- c. Coaching PIPs are documents designed to support and coach the employee and are not disciplinary documents. Supervisors are responsible for issuing Coaching PIPs in a timely manner. Ideally the Coaching PIP will be completed early enough in the review cycle to enable the employee time to improve performance to an overall satisfactory level in each evaluation category. The length of the Coaching PIP period and when it is issued will vary based on the individual circumstances, not to exceed 120 days.

During the coaching performance improvement period, the employee and supervisor shall meet regularly to discuss performance progress; the employee shall be given biweekly written progress reports. The Coaching PIP is retained by the agency.

-3 Reviewing

During the reviewing phase, the supervisor and the employee discuss the employee's job performance throughout the rating period concluding with the formal written performance evaluation to be retained in the employee's personnel file. A critical component of the performance management process is ensuring that evaluations are conducted as required.

a. Timing of Formal Performance Evaluations

- 1) The Human Resources Director shall establish guidelines on how agencies will be informed that employee performance reviews are due. The Human Resources Director shall also establish guidelines to ensure that performance reviews are completed timely in accordance with these regulations. These guidelines shall be distributed to all department heads so they can inform the managers and supervisors within their respective departments.
- 2) Formal written performance evaluations must be conducted as follows:

a) Probationary

The initial probationary period is the working test or trial period of employment as set forth in section 7.5-3 of these regulations. If performance circumstances so warrant, a department head may terminate a probationary employee whose performance is unsatisfactory at any point during the initial probationary period.

Commented [A11]: Insert section of Chapter 7 for reference of probationary period extensions.

i. Non-Public Safety

Newly appointed county employees, other than police officers, deputy sheriffs, ~~animal protection police officers~~ ~~animal control officers~~, public safety communicators and firefighters, shall receive a written evaluation before the end of the first sixth months in the position and again during the annual performance review period.

Commented [A12]: Remove animal control officers and replace with animal protection police officers to reflect renaming of the classification title.

The six-month performance review should assess the employee's performance and formally advise the employee if improvement is needed in order to complete the probationary period successfully. The designated performance evaluation form is used for this 6-month evaluation.

Successful completion of the 12-month probationary period must be documented using the designated performance evaluation form. After completion of the initial probationary period, employees will continue to be evaluated at the conclusion of each annual performance review period.

ii. Public Safety

At the discretion of the Chief of Police, the Sheriff and the Chief of Fire and Rescue, the performance of newly appointed police officers, ~~animal protection police officers~~ ~~control officers~~, deputy sheriffs and firefighters may be reviewed formally in writing upon graduation from the Criminal Justice Academy or Fire and Rescue Academy, at which point their probationary periods begin. They also shall be reviewed during their probationary periods as specified above for other newly appointed employees. Because the Performance Pay Increase (PPI) date is determined by the date of appointment to the respective training academy, the first PPI date will occur before the probationary period ends. These employees therefore will be reviewed not less than two weeks before the PPI date and need not be reevaluated at the end of the probationary period unless a negative determination rating was given at the PPI date or is to be made at the end of the probationary period.

Commented [A13]: Remove animal control officers and replace with animal protection police officers to reflect renaming of the classification title.

iii. DPSC

At the discretion of the Director, Department of Public Safety Communications, the performance of newly appointed public safety communicators may be reviewed formally in writing upon graduation from the Department of Public Safety Communications Academy and completion of a 10 week on the job training program at which point their probationary periods begin. They also shall be reviewed during their probationary periods as specified above for other newly appointed employees. Because the PPI date is determined by the date of appointment to the academy, the first PPI date will occur before probation is ended. Therefore, these employees will be reviewed not later than two weeks before the PPI date. They do not need to be reevaluated at the end of the probationary period unless a negative determination rating was given at the PPI date or is to be made at the end of the probationary period.

b) Non-Probationary

All non-probationary, non-uniform public safety employees shall be evaluated in writing, at least annually, during the performance review period. Annual evaluation is required whether or not the employee is otherwise eligible for a performance pay increase.

c) Newly Promoted

Non-uniformed public safety employees who are promoted shall serve a 12-month promotional probationary period. Such employees shall be reviewed before the end of the sixth month following the date of the promotion and will be reviewed again during the annual performance review period. Additionally, successful completion of the 12-month probationary period must be documented on a form prescribed by the Director, Department of Human Resources, and maintained in the employee's personnel file.

d) Evaluations required due to transfer of employee or supervisor changes (change of rater):

i) Non-Public Safety

Except as otherwise noted in this chapter, if an employee's supervisor changes during the review period, the employee shall be reviewed by the incumbent supervisor prior to the supervisor's departure if he or she has supervised the employee for four months or more. When the new supervisor submits the next review, the time period covered will begin upon the transfer of supervisory responsibility.

In instances where a non-public safety employee is rated by more than one supervisor during the rating period, if the current supervisor has supervised the employee for eight months or more, the current supervisor's rating will be used as the final rating. If the current supervisor has supervised the employee for less than eight months, the final rating shall be calculated by weighting the ratings of all supervisors (who have supervised the employee for four months or more) during the rating period based on the number of months covered by their individual reviews.

ii) Public Safety

Because internal transfers often occur in the lower ranks, the public safety department heads or designees may establish procedures to determine how evaluations will be performed. These procedures will affect police first lieutenants, sheriff sergeants, fire captains and uniformed personnel of lesser ranks having two or more supervisors in a twelve-month period.

They will be rated jointly by all supervisors who had the individual under their command for two months or longer.

In the case of Police, Sheriff or Fire and Rescue personnel in higher ranks, where an employee is rated by more than one supervisor during the rating period, the final rating by the current supervisor shall be used for purposes of determining pay increase eligibility. When the current supervisor has supervised for less than three months, the evaluation shall be made after consideration of ratings conducting by previous supervisors.

12.4 Evaluation Completion Process

Standardized forms for formal performance evaluations are provided for both public safety and non-public safety employees.

-1 Preparation

a. Non-Public Safety

1) Self-Assessment/Employee

Employees shall be encouraged to complete a self-assessment performance evaluation, including the development plan for his or her current position. Unless the multi rater option is being used, this self-assessment is used for discussion purposes only and does not count as part of the final rating.

2) Draft Evaluation by Supervisor

The supervisor prepares the draft evaluation and consults with the reviewing authority as needed. The draft evaluation must identify any mandatory development areas.

b. Public Safety

Each public safety agency will conduct evaluations in accordance with the department's operating procedures. Although not required, employees may be invited to submit a self-evaluation for their job class or function as part of the annual evaluation process.

-2 Discussion

a. Non-Public Safety

During the initial discussion, the employee and supervisor meet to discuss the employee's self-assessment as well as the supervisor's preliminary assessment of the employee's performance for the review period. This provides an opportunity for the supervisor and employee to clarify their mutual understanding of job tasks and performance requirements. It also enables them to jointly set performance goals for the coming evaluation period.

Employee strengths as well as areas needing improvement should be discussed. Ideas from the employee about how the supervisor can better support the employee in achieving his/her performance expectations and career objectives can also be discussed at this time. The employee and supervisor should jointly determine the development plan for the upcoming year.

b. Public Safety

Public safety employees and supervisors should meet to discuss performance requirements and accomplishments during the rating period. Employees may be invited to submit a self-evaluation as part of that process.

-3 Completion of Performance Evaluation Form

Supervisor finalizes the evaluation form based on input from the employee's self-assessment and/or the discussion with the employee.

-4 Review of Completed Performance Evaluation Forms

a. Reviewer's Role

Each completed performance evaluation form shall be reviewed by a higher level supervisor designated by the department head or designee. Usually, the immediate supervisor of the evaluator serves as the reviewing authority. In all cases, the reviewing authority shall be at least one level above the supervisor who prepared and signed the evaluation. In no case shall the evaluator and reviewing authority be the same person.

b. Reviewer's Revision Rights

If the reviewing authority does not agree with the supervisor's rating, where possible, differences will be resolved between the reviewing authority and supervisor prior to issuing the final evaluation to the employee. Additionally, the reviewing authority may choose to revise the original rating(s) on the evaluation which would supersede the supervisor's ratings. Changes must not obscure the original supervisor's rating and must be initialed by the reviewer. In addition, the reviewer should provide an explanation for the changes.

-5 Final Evaluation Discussion

The final evaluation (including the career management plan) is then presented to the employee for signature and additional discussion. This discussion is an important part of the performance management process and should be used to provide any additional clarity needed to support the employee in the next review period.

At the end of the discussion, the employee is asked to sign the evaluation. The employee's signature attests only to the fact that the employee has seen and discussed the evaluation. It does not affect the employee's right to appeal if he or she disagrees with the evaluation. If the reviewer has made changes, the employee shall be afforded the opportunity to discuss the changes with the reviewer.

12.5 Advance Notice of Possible Negative Determination (10-Week Advance Notice)

-1 Negative Determination Definition

The term "negative determination" refers to a decision by a supervisor, with the concurrence of the reviewing authority, that an employee's performance is unsatisfactory and she or he is not eligible for an performance pay increase; or a public safety employee who is ineligible for a PPI due his/her step in grade, whose performance is rated below the level that would otherwise be necessary to qualify him/her for a PPI.

- 2 Ten Week Advance Notice and Performance Improvement Plan

Ten Week PIPs are documents designed to support and coach the employee. It is not a disciplinary document. When a supervisor determines that an employee might receive a negative determination, the supervisor shall consult with the reviewing authority. If the reviewing authority concurs, the supervisor shall notify the employee in writing at least 10 weeks in advance of the PPI date. The advance notice shall include a performance improvement

plan that identifies the performance deficiencies and related improvements in performance or changes in behavior required to obtain a satisfactory performance rating. A copy of the 10-week advance notice shall be forwarded to Employee Relations staff in the Department of Human Resources; the 10-week PIP is retained by the agency.

During the 10-week performance improvement period, the employee and supervisor shall meet regularly to discuss performance progress; the employee shall be given biweekly written progress reports.

If the behaviors/events causing the negative determination occurred less than ten weeks before the due date or in those cases where timely advance notice is not given, the supervisor should follow the procedures in Section 12.5-3.

- 3 Untimely Advance Notice And 10-week Performance Improvement Plan

In the event that a supervisor does not give the employee written notice of a possible negative determination at least ten weeks before the annual evaluation due date, the following procedures shall be followed:

- a. The written ten-week notice should be given as soon as possible stating the performance deficiencies and improvements required.
- b. The department head or designee shall advise the Human Resources Director, in writing, as to why the prescribed notice was not given to the employee ten weeks prior to due date, and, if appropriate, what measures have been taken to prevent recurrence.
- c. A copy of the 10-week advance notice shall be forwarded to Employee Relations staff in the Department of Human Resources.
- d. After completion of the ten-week period, an evaluation must be given as specified in 12.3-3.

12.6 Annual Evaluation Following 10-Week Advance Notice

The employee's evaluation should be given ten weeks after the written notice of a possible negative determination.

-1 Satisfactory Determination

- a. If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has improved sufficiently, a satisfactory

determination is made and the evaluation is entered into the human resources information system. The evaluation shall be forwarded to the Department of Human Resources.

- b. If the 10-week notice was given timely, the Performance Pay Increase (PPI) will be processed as scheduled, if applicable.

-2 Negative Determination

If, in the supervisor's, reviewing and/or appointing authority's opinion, the employee's performance has *not* improved sufficiently to warrant a satisfactory determination at the end of the ten-week notice period, a negative determination is made and the evaluation is entered into the human resources information system. The evaluation shall be forwarded to the Department of Human Resources.

- a. The PPI is not processed and a follow-up 120-day evaluation date is generated.
- b. A 120-day performance improvement plan is given to a non-probationary employee who receives a negative determination on the annual evaluation.
 - 1) 120-day PIPs are documents designed to support and coach the employee and are not disciplinary documents.
 - 2) This plan shall be in writing and shall identify the performance deficiencies and related improvements in performance or changes in behavior required to obtain a performance rating that would qualify the employee for a salary increase (if employee is otherwise eligible).
 - 3) The 120-day Performance Improvement Plan shall be issued concurrent with the evaluation. A copy shall be retained by the agency and a copy submitted to Employee Relations staff in the Department of Human Resources.
 - 3) During this 120-calendar day performance improvement period, the employee and supervisor shall meet regularly to discuss performance progress; the employee shall be given biweekly written progress reports.

12.7 Follow-up to 120-Day Evaluation

At the end of the 120-calendar day performance improvement period, an additional evaluation must be conducted.

- 1 Satisfactory Evaluation

The employee will receive the appropriate pay increase effective the first full pay period after the date of the 120-calendar day review if the advance notice was given timely. The PPI will be awarded retroactively to the PPI due date if the advance notice was not given in a timely manner.

- 2 Negative Determination

The employee will receive no pay increase and will not be eligible for further consideration for a pay increase until his or her next annual performance pay increase date. Additionally, the supervisor, working with the department head or designee, will determine what additional employment action, if any, is appropriate.

12.8 *Disciplinary Actions Issued to Employees on Performance Improvement Plans*

The county is committed to working productively with employees to improve performance and/or behavioral problems. All PIPs are intended to facilitate such improvement.

However, participation in a PIP does not preclude employees from receiving disciplinary actions, up to and including proposed dismissal from county employment. Such disciplinary actions shall be issued in accordance with Chapter 16 of these regulations.

Written reprimands, involuntary demotions, suspensions and separation from county employment, issued concurrently with a PIP, while the employee is subject to the conditions of a PIP, or closely following the completion of a PIP require the advance approval of the Human Resources Director.

12.9 *Signature Requirements*

Both the supervisor and the reviewer must sign the evaluation prior to the presentation of the final review to the employee for signature. Prior to entering the evaluation in the human resources information system, the employee must have been presented the evaluation with the opportunity to sign it, except when the employee is unavailable due to extended absence. If the employee elects *not* to sign the evaluation, the supervisor should note the date the employee was given the evaluation and that the employee opted not to sign.

12.10 *Distribution of and Access to Completed Evaluation Forms*

Evaluations provide a permanent record of employee performance and serve as a basis and documentation for a variety of formal personnel actions.

-1 Distribution

Completed performance evaluation forms shall be distributed as follows:

- a. One signed copy to the Department of Human Resources for permanent retention in the employee's official personnel file.
- b. One signed copy to the employee.
- c. One signed copy to be filed within the agency at an organizational level designated by the department head or designee. Large agencies may retain an additional copy to permit filing both at a central point and at a remote sub-unit within the agency.

-2 Confidentiality

Performance evaluation forms are confidential records. Access to them shall be restricted to the following:

- a. The employee rated.
- b. The department head and personnel within the department specifically authorized access to such records by the department head or designee.
- c. The Human Resources Director, who may make them available when needed in connection with personnel actions related to the employee.
- d. The Civil Service Commission in connection with any appeal or grievance where such records are pertinent to the matter before the Commission.
- e. The Office of the County Attorney in connection with any personnel actions, grievances, appeals, charges of discrimination filed with the U. S. Equal Opportunity Commission, or any other matters related to the employee's employment in which the County Attorney's Office is providing advice, legal counsel or representation.
- f. The Office of Human Rights and Equity Programs in connection with any personnel actions, grievances, appeals, charges of discrimination

filed with the U. S. Equal Opportunity Commission, or any other federal or state agencies, or any other matters referred to it for investigation, recommendation or mediation.

Except as provided above, in no case shall any evaluator, reviewing authority or other person with access to completed forms show any such form to any person other than the employee evaluated thereon without specific permission from the employee, appointing authority, or the Human Resources Director. Failure to maintain confidentiality of personnel records may result in disciplinary action. Department heads are responsible for establishing the necessary security for locally held copies of evaluations.

No public disclosure of information from such records shall be made except with the approval of the Human Resources Director after a determination that such disclosure is in the public interest and is allowable under the law.

12.11 Employee Complaint Rights

- 1 An employee who feels that an evaluation is inaccurate or unfair should first attempt to resolve the matter during the discussion with the supervisor mandated by Sec. 12.4-2(a) and 12.4-5, or discuss the concern with the reviewing authority.
- 2 If the employee remains dissatisfied, he/she may grieve the evaluation as a non-grievable complaint eligible to receive an advisory decision as set forth in Chapter 17 of these regulations.
- 3 Non-public safety employees who have completed their initial probationary period and are not satisfied with their 120-day performance improvement plan that followed a negative determination on a performance review, may appeal the 120 day performance improvement plan as a non-grievable complaint eligible to receive an advisory decision as set forth in Chapter 17 of these regulations.



County of Fairfax, Virginia

MEMORANDUM

DATE: June 5, 2020

TO: Catherine Spage, Director
Department of Human Resources

FROM: Nicole Rawlings, Executive Director
Civil Service Commission *Nicole Rawlings*

SUBJECT: Public Hearing on Proposed Revisions to the Personnel Regulations - 4, 7, 10, 12 and 17

Following an advertised electronic public hearing held on June 4, 2020, the Civil Service Commission considered revisions to the above referenced Chapters of the Personnel Regulations. Members of the Commission participating in the public hearing included Farzin Farzad, Jason Fong, Thomas Garnett, John Harris, Herb Kemp, Patrick Morrison, Nancy Rice, Sara Simmons, John Townes and Deborah Woolen.

Cathy Spage, Director, Department of Human Resources (DHR) provided an overview of the proposed changes for each chapter. In addition, she provided the historical context of the proposed Paid Family Leave (PFL) policy. Ms. Spage shared that the PFL initiative was initially introduced at the July 16, 2019 Board of Supervisor's meeting by Chairman Jeffrey C. McKay. She explained that the objective of the initiative is to offer Fairfax County employees the option of taking PFL when they or a family member has a serious health condition. This aligns with our strategic plan to foster a flexible workplace environment for the current as well as for our future workforce.

Ms. Spage explained that PFL would provide up to 6 weeks based on an employee's assigned scheduled hours of leave for a medical event as defined by the Family Medical Leave Act (FMLA) of 1993 as amended. Employees would be able to use PFL for the employee's own serious health condition, birth and care of the eligible employee's child, or placement for adoption or foster care of a child with the employee, and the care of a family member (spouse, child, parent and parent in-laws) who has a serious health condition.

Ms. Spage further shared that staff conducted a leave study between July and October of 2019 that included several of the surrounding jurisdictions and the Commonwealth's paid leave programs. In November 2019, the results of the study and staff's next step recommendations were presented to the Board of Supervisor's Personnel Committee. Staff conducted informational meetings with stakeholders, including employee group representatives, executive leadership, the senior management team, agency Human Resources staff and agency specific leadership, beginning in December 2019 and continuing through early March 2020. The meetings provided an overview of PFL, the policy, changes to the Fairfax County Personnel Regulations and included a question and answer period.

Civil Service Commission
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Catherine Spage
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Ms. Spage also noted that staff took the following actions in preparation for the Civil Service Commission Public Hearing:

- Updated the impacted existing Personnel Regulations;
- Created an FAQ document for employees and stakeholders;
- Created a draft new Procedural Memorandum for Paid Family Leave; and
- Reviewed and updated the impacted existing procedural memorandums and payroll policies.

Ms. Spage lastly noted that in addition to the jurisdictional and Commonwealth comparisons, and eligibility requirements, staff also evaluated current County leave utilization, and cost estimates for PFL once implemented.

Ms. Spage was accompanied by Shelley Scianna, Deputy Director, DHR; Diane Roteman, Employee Relations Division Director, DHR and Leia Huggins-Ellis, Family Medical Leave Coordinator for the County, DHR.

The proposed changes were presented as follows:

Chapter 4

The proposed changes to Chapter Subtitle 4.9 and Section 4.9-1: remove the language referencing the class title Animal Control Officers and replaces it with Animal Protection Police Officers.

Chapter 7

The proposed changes to Section 7.5-2: remove the language referencing the class title Animal Control Officers and replaces it with Animal Protection Police Officers.

The proposed changes to Section 7.5-3: add language regarding Paid Family Leave.

Chapter 10

The proposed changes to Chapter 10: remove the language referencing Parental Leave and add language regarding Paid Family Leave in Section 10.6-4; add Paid Family Leave as a type of leave used for Family Medical Leave in Section 10.22; remove the word father in Section 10.22-5 and replace it with non-birthing parent; remove the language mothers and/or fathers in Section 10.22-6 and replace it with parents or guardians; add language paid family leave being used before any other types in Section 10.22-10; and remove language referencing Parental Leave and replace with language regarding Paid Family Leave in Section 10.23.

The advertised proposed language for Section 10.23-6 read:

“Eligible employees are only entitled to paid family leave once in a twelve-month period.”

DHR amended the proposed language by removing the word “only” and “once” from the statement and reframing it to eliminate any confusion for employees and departments.

The new proposed language presented for Section 10.23-6 reads, “Eligible employees are entitled to a total of up to 6 weeks of paid family leave in a single twelve-month period.”

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The advertised proposed language for Section 10.23-10 read, "Employees who are eligible for sick leave under sections 10.22-5 and 10.22-6 must utilize sick leave prior to using paid family medical leave."

The updated proposed language for Section 10.23-10 was modified by removing the word "must" and "medical" to ensure that employees are not confused or misdirected to exhaust their sick leave prior to being able to use paid family leave, specifically new parents, following the birth, adoption, or foster care placement of a child.

The new proposed language presented for Section 10.23-10 now reads, "Employees who are eligible for sick leave under sections 10.22-5 and 10.22-6 may utilize sick leave prior to using paid family leave."

Chapter 12

The proposed changes to Chapter 12 update Section 12.3-3a2a to reference Chapter 7.5 to 7.5-3. Remove language referencing class title Animal Control Officer and replace it with Animal Protection Police Officer.

Chapter 17

The proposed changes to Chapter 17 add the language pregnancy, childbirth and related medical condition, sexual orientation, gender identity consistent with recently passed state legislation to Section 17.3-2d.

The following people registered to speak in advance of the public hearing and provided comment: David Lyons, Fairfax Worker's Coalition (FWC); Anne Henderson, FWC; Christopher Parker, FWC; Myrna Hammond, FWC; Tammy Wondong, Service Employees International Union (SEIU); Samantha Whitfield, SEIU; Ashley White, SEIU; Michelle Starr, SEIU; Karen Conchar, SEIU; David Broder, SEIU; Tara Gibson, Family Friendly Economy; and Stephanie White, International Association of Firefighters, Local 2068. Jon Miskell, FWC; Marcus Clark, FWC; Eugene Holmes, FWC; Hai Tran, FWC; Ronald Burgess, FWC; also registered but were unable to participate. Carol Taylor, FWC, provided comment in their stead. County employee, Cathleen Sherin, also provided comment.

All speakers provided testimony in support of the proposed PFL provisions.

The PFL policy, as proposed, is prospective and provides that PFL shall only be available for qualifying reasons that would be covered under FMLA on or after the PFL policy effective date. Ms. Starr, Mr. Broder and Ms. Conchar, however, further requested the Commission recommend the adoption of language that would grant PFL eligibility to employees whose FMLA entitlement began prior to and will continue after the effective date of the PFL policy. There was also some discussion regarding when PFL will become effective.

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The members of the Civil Service Commission participating in the Public Hearing voted unanimously to recommend that the Board of Supervisors approve the proposed changes for Chapters, 4, 7, 12 and 17 as advertised and Chapter 10 with the amendments to Sections 10.23-6 and 10.23-10 presented by DHR.

If the Commission can be of further assistance in clarifying these proposed changes, please let me know.

cc: Board of Supervisors
Commissioners, Civil Service Commission
Bryan J. Hill, County Executive
Karen Gibbons, Deputy County Attorney
Vicki Kammerude, Chair, EAC
Ron Kuley, President, Local 2068
Joseph Abbate, President, Fairfax Deputy Sheriff's Union, SEIU
Brad Carruthers, President, Fraternal Order of Police, Lodge 77
Sean Corcoran, IUPA, Local 5000
Tammie Wondong, President, FCEGU, SEIU
Kirt Cleveland, Fairfax Workers Coalition
Brenda C. Zwack, Esq., AFSCME Local 3001
Karen Conchar, SEIU 512

ACTION - 4

Approval of the Fall 2020 Bond Referenda for Transportation, Parks and Park Facilities, Libraries, and Community Health and Human Services Facilities

ISSUE:

Board approval for four bond referenda on November 3, 2020, totaling \$441 million, and adoption of the enclosed resolutions requesting the Circuit Court to order the referenda authorizing the issuance of such bonds. These bond funds, if approved, would be used to pay for the County's share of the Washington Metropolitan Area Transit Authority (WMATA) Capital Improvement Program; and capital improvements and replacement of existing County facilities associated with Parks and Park Facilities, Libraries, and Community Health and Human Services Facilities. The bond referenda schedule of events is included as Attachment 1.

RECOMMENDATION:

The County Executive recommends that the Board:

1. Adopt the proposed resolution (Attachment 2), directing the County Attorney to petition the Circuit Court to order a Transportation bond referendum on November 3, 2020; and
2. Adopt the proposed resolution (Attachment 3), directing the County Attorney to petition the Circuit Court to order a Parks and Park Facilities bond referendum on November 3, 2020; and
3. Adopt the proposed resolution (Attachment 4), directing the County Attorney to petition the Circuit Court to order a Libraries bond referendum on November 3, 2020; and
4. Adopt the proposed resolution (Attachment 5), directing the County Attorney to petition the Circuit Court to order a Community Health and Human Services Facilities bond referendum on November 3, 2020; and
5. Authorize the preparation and distribution of an informational pamphlet about the bonds that is mailed to all County households.

TIMING:

Board action is requested on June 23, 2020, to obtain court orders for each referendum in sufficient time for inclusion on the same ballot as the November 3, 2020, General Election and for staff to prepare and provide information to the public. Staff will return to the Board with an Action Item on July 28, 2020, for authorization to print and distribute

an explanatory County bond referendum statement (known as the “Plain English Statement”).

BACKGROUND:

As part of the FY 2021- FY 2025 Advertised Capital Improvement Program (CIP) (With Future Fiscal Years to 2030), the County Bond Referenda plan for November 2020 totaled \$466 million covering four project categories: Transportation (\$160 million), Parks and Park Facilities (Fairfax County Park Authority \$100 million + Northern Virginia Regional Park Authority (NVRPA) (\$12 million), Community Health and Human Services Facilities (\$104 million), and Libraries (\$90 million).

Due to the impact of the COVID-19 pandemic, the County’s FY 2021 Updated Budget Proposal was released in April 2020 to reflect a drastically altered operating budget. There was one adjustment made to the CIP for the Community Health and Human Services Facilities bond planned for November 2020. The amount was reduced by \$25 million from \$104 million to \$79 million to reflect the deferral of the Early Childhood Education Facilities project due to challenges in funding the associated operating expenditures. The total FY 2021 Updated CIP 2020 Bond Referenda was thus revised from \$466 million to \$441 million. The budget timeline also recommended approval of the CIP be deferred from May to June to allow additional time for Board consideration. County staff presented the FY 2021-FY 2025 CIP at the Board’s Budget Committee on June 2, 2020. The Board recommended proceeding with the \$441 million Bond Referenda plan subject to a series of follow on Budget questions and answers related to the proposed projects and process. Additional information is provided as follows for each of the project categories for proposed bond funding.

Transportation - \$160 million

If approved by voters in November, Fairfax County will use the bond funds to pay for its share of WMATA’s Capital Improvement Program (WMATA CIP). The WMATA CIP includes safety and system maintenance projects needed to reach a state of good repair, new rail cars and power upgrades for running eight car trains, additional buses for operating Priority Corridor Networks, and rail station improvements to increase the capacity of the Metrorail system infrastructure. A \$160 million figure is included in the fall 2020 bond referendum to support an approximate \$40 million annual capital contribution for the next four years.

Parks and Park Facilities - \$112 million

County Park Authority \$100 million + Northern Virginia Regional Park Authority (NVRPA) \$12 million

Shifting and expanding leisure interests increase the demand for parks and park facilities, and the County Park Authority recently completed a needs assessment to develop the next 10-year park capital plan. An amount of \$100 million is proposed to address priority needs identified in the needs assessment, previously identified funding needs, and the growing need to maintain the Park Authority's aging infrastructure. Project funding will include land acquisition to ensure adequate parkland for future generations, new park facilities, and continued renovation and replacement of aging and well-used facilities.

The fall 2020 parks and park facilities bond referendum also includes \$12 million to sustain the County's capital contribution to the NVRPA for an additional four years, beginning in FY 2021. FY 2020 represented the last year of a four-year bond program to support the County's contribution to the NVRPA capital budget for FY 2017 through FY 2020. The NVRPA owns over 8,500 acres in Fairfax County, most of which protect environmentally sensitive watersheds along the Potomac, Bull Run, and Occoquan Rivers. NVRPA's capital improvement and land acquisition costs are shared by its six member jurisdictions: the counties of Fairfax, Loudoun, and Arlington, and the cities of Fairfax, Alexandria, and Falls Church. The primary focus of NVRPA's capital program is to continue the restoration, renovation, and modernization of existing park facilities, many of which were developed or constructed more than 20 years ago.

Libraries - \$90 million

Four of the County's libraries are recommended to be renovated and upgraded or built on a new site, and are included in the fall 2020 referendum, including Patrick Henry Community (\$23 million), Sherwood Regional (\$18 million), George Mason Regional (\$15 million) and Kingstowne Regional (\$34 million), the last of which will be relocated. These existing facilities were built between 1967 and 1971 and need renovations and upgrades to serve the community and prolong the life of buildings and building subsystems. The renovations will provide for upgrades to the building systems for operations and energy efficiency; updates to the power and technology capacity for more public access computers and wireless networking to meet the technological demands of patrons; and a more efficient layout and use of the available space.

Community Health and Human Services Facilities - \$79 million

An amount of \$58 million is proposed to renovate or relocate the Joseph Willard Health Center, which is a licensed medical, nursing, dental, pharmacy, speech and hearing,

and X-ray service facility. Space reconfiguration, modification, and expansion is needed to meet current and future service demands. The facility was built in 1954 and building upgrades would allow the Health Department to provide essential services that must be maintained at all times in the event of emergencies.

An amount of \$21 million is proposed to renovate the Crossroads facility, which provides substance abuse education, counseling, vocational rehabilitation, psychiatric services, medication monitoring, drug testing, case management, and transition support toward independent living. Facility updates are required to address outdated equipment, HVAC, plumbing, electrical, and mechanical systems. At any given time, there are 50-60 individuals on the wait list. As part of the renovation project, staff is reviewing the opportunity to use existing space more efficiently to reduce waiting lists.

Bond Referenda Process

In Virginia, a referendum can be put on the ballot for consideration by the voters only if the referendum is ordered by the court. Each of the four attached Resolutions directs the County Attorney to provide a certified copy of the adopted Resolution to the Circuit Court and to petition it to order the referendum on the question as stated in Section 1 of each Resolution. Fairfax County's bond referendum questions are always worded exactly as stated in the Board's Resolution. Staff has formatted the Resolutions to make it easy to identify the language that will appear on the ballot and staff has separately set out the ballot questions in Attachment 7. The law requires the Court to enter the orders if the requests are found to be "in proper order." Upon entry of the orders, the Clerk of Court is required to send copies to the State Board of Elections. The Fairfax County Electoral Board and General Registrar will then prepare the ballots in time to make them available to voters beginning with absentee voting on September 19, 2020.

It is important to note that while the projects cited for the County's share of the WMATA CIP, Parks and Park Facilities, Libraries, and Community Health and Human Services Facilities represent the current proposals regarding what projects to fund, the ballot questions are phrased more generally to allow the Board flexibility as to precisely which projects to fund with the bond proceeds. Therefore, should circumstances change the scope of or the need for any of the listed projects, the Board may use the bond proceeds for similar projects, so long as the projects are within the uses described in the ballot question.

Assuming referenda approval from the voters, the Board has a minimum of eight years and maximum of ten years to direct staff to sell these bonds. County staff typically pursue a General Obligation bond sale annually in January, but the County is not legally required to do so. This discretion provides County staff the ability to monitor the ongoing COVID-19 impact on the economy, review municipal bond market conditions,

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and the affordability of the projected debt service payments on the County budget. Staff will provide an update to the Board on these factors at the mid-year FY 2021 budget review.

Public Information Materials

To help inform the public about the referendum, the Office of Public Affairs traditionally prepares and distributes an informational pamphlet that is mailed to all County households. The Board is asked to authorize this pamphlet's development and distribution.

The pamphlet will describe the intended use for the bond funds, as well as offer information on bond financing, the cost of borrowing, the effect of borrowing on the tax rate, and other financial information. A draft of the 2020 bond pamphlet will be distributed to the Board for review this summer, and then mailed out to County households in early October. A copy of the pamphlet used in 2016 is attached for reference (See Attachment 6).

Virginia law does not permit local governments to use the list of registered voters to provide information to voters on referenda. Therefore, the County will use a commercial mailing firm to deliver the pamphlet to all County households in October.

As in past years, the pamphlet will be translated into some of the most widely spoken non-English languages in the County, including Korean, Spanish, and Vietnamese. As required by Section 203 of the Voting Rights Act of 1965, as amended, and the 2016 designation of the Director of the Bureau of the Census, the County will provide all election information in Vietnamese and Spanish as well as in English.

Both the English and non-English language versions of the pamphlet will be posted on the County's Web site in late September to coincide with the start of absentee voting. However, only the English language version of the pamphlet will be mailed to County households.

To inform the public, the Office of Public Affairs also will work with the County agencies involved in the referendum. This includes providing information to the media, publishing information in print and electronic newsletters, outreach to residents, posting information online, and using social media sites.

Additionally, state law requires localities to prepare a plain English statement of bond referendum questions. Unlike the other informational materials described above, the plain English statement may be distributed in the polling places, along with the Spanish and Vietnamese versions as required by the Voting Rights Act. The statement must include the ballot question and a neutral explanation of not more than 500 words prepared by the locality's attorney. Staff will prepare plain English statements for the Board's consideration on July 28, 2020.

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June 23, 2020

FISCAL IMPACT:

The County bonds are anticipated to be sold according to actual cash requirements over the next several years. These sales will be subject to approval by the Board of Supervisors and based on the affordability of the debt service payments. Annual debt service payments associated with the 2020 Bond Referenda have been incorporated into the County's long-term debt ratio projections, and referenced in the FY 2021 - FY 2025 Advertised Capital Improvement Program (With Future Fiscal Years to FY 2030). Debt service payments and debt ratio projections will be updated and included in the FY 2021 - FY 2025 Adopted Capital Improvement Program (With Future Fiscal Years to FY 2030) following Board approval on June 23, 2020. Expenses associated with the printing, translating and mailing of the bond information pamphlet will be paid out of existing appropriations in Fund 20000, Consolidated County and Schools Debt Service Fund.

ENCLOSED DOCUMENTS:

- Attachment 1: Bond Referenda Schedule of Events
- Attachment 2: Board of Supervisors Resolution Requesting an Order for a Referendum on the Issuance of Bonds in the Amount of \$160,000,000 for Transportation
- Attachment 3: Board of Supervisors Resolution Requesting an Order for a Referendum on the Issuance of Bonds in the Amount of \$112,000,000 for Parks and Park Facilities
- Attachment 4: Board of Supervisors Resolution Requesting an Order for a Referendum on the Issuance of Bonds in the Amount of \$90,000,000 for Libraries
- Attachment 5: Board of Supervisors Resolution Requesting an Order for a Referendum on the Issuance of Bonds in the Amount of \$79,000,000 for Community Health and Human Services Facilities
- Attachment 6: 2016 Bond Information Pamphlet
- Attachment 7: Bond referenda questions
- Attachment 8: Virginia Code § 24.2-684 (how referendum elections are called and held, and the results ascertained and certified)

STAFF:

Joseph Mondoro, Chief Financial Officer
Tisha Deeghan, Deputy County Executive
Rachel Flynn, Deputy County Executive
Christina Jackson, Director, Department of Management and Budget
Tom Biesiadny, Director, Fairfax County Department of Transportation
Kirk Kincannon, Director, Fairfax County Park Authority
Jessica Hudson, Director, Fairfax County Public Library
Gloria Addo-Ayensu, Director, Health Department
Daryl Washington, Executive Director, Fairfax-Falls Church Community Services Board
Samantha Hudson, Planning and Capital Projects Manager, Office of Strategy

Board Agenda Item
June 23, 2020

Management for Health and Human Services
Martha Reed, Capital Projects Coordinator, Department of Management and Budget
Joseph LaHait, Debt Manager, Department of Management and Budget

ASSIGNED COUNSEL:

Erin C. Ward, Deputy County Attorney
Martin Desjardins, Assistant County Attorney

**Proposed Schedule of Events
Fall 2020 Bond Referenda –
Transportation, Parks and Park Facilities, Libraries, and Community Health and
Human Services Facilities**

Date	Item
February 25, 2020	County Executive released the FY 2021 Advertised Budget Plan
April 7, 2020	County Executive released the FY 2021 Updated Budget Plan
May 5, 2020	FY 2021 Budget Markup
May 12, 2020	FY 2021 Budget Adoption
June 2, 2020	Board Budget Committee Meeting on FY 2021-2025 Advertised Capital Improvement Program
June 23, 2020	Board of Supervisors Approval of the FY 2021-2025 Capital Improvement Program Board of Supervisors Adopts Resolutions for fall 2020 bond referenda
NLT July 1, 2020	County Attorney files Petitions and Resolutions with the Circuit Court.
July 2020 (est.)	Circuit Court enters orders that the referenda be held on November 3, 2020.
July 28, 2020	Board approval of “plain language” statements that include the ballot question and a neutral explanation of not more than 500 words for each referendum.
September 19, 2020	Absentee voting begins.
September 19, 2020	Publication of notice of election.
October 2020	Mailing of bond pamphlets to all County households.
November 3, 2020	Election Day.
Mid-November 2020	Electoral Board certifies election results to the State Board of Elections, the Clerk of the Board of Supervisors, and the Clerk of the Circuit Court.
November / December 2020	County Attorney moves for entry of final orders; Circuit Court enters final orders.

Resolution to Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money, and Issue Bonds, in Addition to the Transportation Improvements and Facilities Bonds Previously Authorized, in the Maximum Aggregate Principal Amount of \$160,000,000 to Finance the Cost of Transportation Improvements and Facilities

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held electronically (due to the State of Emergency caused by the COVID-19 pandemic) on Tuesday, June 23, 2020, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Board of Supervisors of Fairfax County, Virginia, has determined that bonds in the maximum aggregate principal amount of \$160,000,000 should be issued to finance Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving, and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock, and equipment in the Washington metropolitan area (collectively "Transportation Improvements and Facilities"); and

WHEREAS, the Board of Supervisors has determined that the Transportation Improvements and Facilities cannot be provided for from current revenues; and

WHEREAS, the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance, including reimbursement to the County for the temporary financing for, the cost of Transportation Improvements and Facilities, Fairfax County should contract a debt, borrow money, and issue bonds, in addition to bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of \$160,000,000; and

WHEREAS, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore,

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that:

Section 1. The Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 3, 2020, on the following question:

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds, in addition to the transportation improvements and facilities bonds previously authorized, in the maximum aggregate principal amount of \$160,000,000 for the purpose of financing Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving, and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock, and equipment in the Washington metropolitan area?

Section 2. The County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this Resolution and to petition the Fairfax County Circuit Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 3, 2020.

Section 3. The members, officers, legal counsel, agents, and employees of the Board of Supervisors and Fairfax County are hereby authorized and directed to do all acts and things

required of them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 3, 2020.

Given under my hand on this _____ day of June 2020.

Jill G. Cooper
Clerk for the Board of Supervisors

Resolution to Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money, and Issue Bonds, in Addition to the Parks and Park Facilities Bonds Previously Authorized, in the Maximum Aggregate Principal Amount of \$112,000,000 to Finance the Cost of Parks and Park Facilities

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held electronically (due to the State of Emergency caused by the COVID-19 pandemic) on Tuesday, June 23, 2020, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Board of Supervisors of Fairfax County, Virginia, has determined that bonds in the maximum aggregate principal amount of \$112,000,000 should be issued for the following purposes: (i) \$100,000,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, reconstruct, develop, and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) \$12,000,000 principal amount to finance Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, reconstruct, develop, and equip parks and park facilities (collectively "Parks and Park Facilities"); and

WHEREAS, the Board of Supervisors has determined that the Parks and Park Facilities cannot be provided for from current revenues; and

WHEREAS, the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance, including reimbursement to the County for the temporary financing for, the cost of Parks and Park Facilities, Fairfax County should contract a debt, borrow money, and issue bonds, in addition to bonds previously authorized for parks and park facilities, in the maximum aggregate principal amount of \$112,000,000; and

WHEREAS, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore,

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that:

Section 1. The Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 3, 2020, on the following question:

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds, in addition to the parks and park facilities bonds previously authorized, in the maximum aggregate principal amount of \$112,000,000 for the following purposes: (i) \$100,000,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, reconstruct, develop, and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) \$12,000,000 principal amount to finance Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, reconstruct, develop, and equip parks and park facilities?

Section 2. The County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this Resolution and to petition the Fairfax County Circuit Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 3, 2020.

Section 3. The members, officers, legal counsel, agents, and employees of the Board of Supervisors and Fairfax County are hereby authorized and directed to do all acts and things required of them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 3, 2020.

Given under my hand on this _____ day of June 2020.

Jill G. Cooper
Clerk for the Board of Supervisors

Resolution to Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money, and Issue Bonds, in Addition to the Public Library Facilities Bonds Previously Authorized, in the Maximum Aggregate Principal Amount of \$90,000,000 to Finance the Cost of Public Library Facilities

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held electronically (due to the State of Emergency caused by the COVID-19 pandemic) on Tuesday, June 23, 2020, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Board of Supervisors of Fairfax County, Virginia, has determined that bonds in the maximum aggregate principal amount of \$90,000,000 should be issued to finance the costs of projects to provide public library facilities, including financing the cost of the construction, reconstruction, enlargement, and equipment of existing and additional library facilities and the acquisition of necessary land (collectively “Public Library Facilities”); and

WHEREAS, the Board of Supervisors has determined that the Public Library Facilities cannot be provided for from current revenues; and

WHEREAS, the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance, including reimbursement to the County for the temporary financing for, the cost of Public Library Facilities, Fairfax County should contract a debt, borrow money, and issue bonds, in addition to bonds previously authorized for public library facilities, in the maximum aggregate principal amount of \$90,000,000; and

WHEREAS, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore,

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that:

Section 1. The Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 3, 2020, on the following question:

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds in addition to the public library facilities bonds previously authorized, in the maximum aggregate principal amount of \$90,000,000 for the purpose of providing funds, with any other available funds, to finance the cost to provide public library facilities, including the construction, reconstruction, enlargement, and equipment of existing and additional library facilities and the acquisition of necessary land?

Section 2. The County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this Resolution and to petition the Fairfax County Circuit Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 3, 2020.

Section 3. The members, officers, legal counsel, agents, and employees of the Board of Supervisors and Fairfax County are hereby authorized and directed to do all acts and things required of them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 3, 2020.

Given under my hand on this _____ day of June 2020.

Jill G. Cooper
Clerk for the Board of Supervisors

Resolution to Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money, and Issue Bonds, in Addition to the Human Services Facilities Bonds Previously Authorized, in the Maximum Aggregate Principal Amount of \$79,000,000 to Finance the Cost of Community Health and Human Services Facilities

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held electronically (due to the State of Emergency caused by the COVID-19 pandemic) on Tuesday, June 23, 2020, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Board of Supervisors of Fairfax County, Virginia, has determined that bonds in the maximum aggregate principal amount of \$79,000,000 should be issued to finance the costs of projects to provide community health and human services facilities, including financing the cost of the construction, reconstruction, enlargement, and equipment of existing and additional community health and human services facilities and the acquisition of necessary land (collectively “Community Health and Human Services Facilities”); and

WHEREAS, the Board of Supervisors has determined that the Community Health and Human Services Facilities cannot be provided for from current revenues; and

WHEREAS, the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance, including reimbursement to the County for the temporary financing for, the cost of Community Health and Human Services Facilities, Fairfax County should contract a debt, borrow money, and issue bonds, in addition to bonds previously authorized for human services facilities, in the maximum aggregate principal amount of \$79,000,000; and

WHEREAS, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore,

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that:

Section 1. The Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 3, 2020, on the following question:

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds, in addition to the human services facilities bonds previously authorized, in the maximum aggregate principal amount of \$79,000,000 for the purpose of providing funds, with any other available funds, to finance the cost to provide community health and human services facilities, including the construction, reconstruction, enlargement, and equipment of existing and additional community health and human services facilities and the acquisition of necessary land?

Section 2. The County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this Resolution and to petition the Fairfax County Circuit Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 3, 2020.

Section 3. The members, officers, legal counsel, agents, and employees of the Board of Supervisors and Fairfax County are hereby authorized and directed to do all acts and things required of them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 3, 2020.

Given under my hand on this _____ day of June 2020.

Jill G. Cooper
Clerk for the Board of Supervisors



FAIRFAX COUNTY BOARD OF SUPERVISORS

2016 Bond Referendum Information

Bond Issues on the Ballot on Nov. 8

In the Nov. 8 general election, **Fairfax County voters will be asked to vote YES or NO on three bond referendum questions.** The referenda are for transportation bonds, park bonds and human services and community development bonds. If a majority of voters approves a referendum, the county currently plans to issue general obligation bonds to fund the improvements described in each question.

- The **transportation referendum** question asks if the county may issue up to **\$120 million in bonds to fund the county's share of Metro's Capital Improvement Program** and road improvements.
- The **parks referendum** question asks if the county may issue up to **\$107 million in bonds for additional parks and park facilities**, preservation of open space and the improvement of existing parks owned and operated by the Fairfax County Park Authority and by the Northern Virginia Regional Park Authority.
- The human services and community development referendum question asks if the county may issue up to **\$85 million in bonds for human services facilities and community development facilities.**

The county's current plans for the proceeds of bonds that may be authorized by these three referenda are set forth below. The county may in the future alter these specific plans, but in such a case the county would have to use the funds for a purpose described in the ballot questions.

Transportation Bond, \$120 Million

This referendum asks Fairfax County voters whether the Board of Supervisors should be authorized to contract a debt and issue bonds in the maximum principal amount of \$120,000,000 to finance Fairfax County's share, under the Washington Metropolitan Area Transit Authority (Metro) Compact, of the cost of transportation improvements and facilities in the Washington metropolitan area, and to finance improvements to primary and secondary state highways and ancillary related improvements and facilities. If a majority of voters approves the question, the county would be allowed to issue bonds to fund transportation facilities as described herein.

The county currently plans to use the proceeds from this \$120,000,000 bond referendum to finance Fairfax County's share of Metro's Capital Improvement Program. The goal of that Capital Improvement Program is to provide safe and reliable public transit service, and **it includes expenditures in the following eight categories: vehicles and vehicle parts; rail system infrastructure rehabilitation; maintenance facilities; rail power systems and technology; track and structure; passenger facilities; maintenance equipment; and other transit-related facilities.** The highest priority in that Capital Improvement Program is placed on improving the safety of the system, including but not limited to, fixing the track signal system, replacing the oldest railcars and buses, buying equipment to improve trackside worker protection and adding new safety features to existing railcars and buses.

Metro's Capital Improvement Program is a \$6 billion, six-year program, including \$950 million in Fiscal Year 2017. **The six-year program includes the purchase of 300 replacement railcars, 250 buses and the construction of new bus garages (including one in Fairfax County).** Fairfax County's share of the current six-year Capital Improvement Program is \$182 million. Fairfax County plans to use the bonds authorized by this referendum, along with state funding and other local funds, to fund the county's share of the six-year Capital Improvement Program.

Parks and Park Facilities, \$107 Million

This referendum asks Fairfax County voters whether the Board of Supervisors should be authorized to contract a debt and issue bonds in the maximum principal amount of \$107,000,000 for additional parks and park facilities, preservation of open space and the improvement of existing parks owned and operated by the Fairfax County Park Authority (\$94,700,000) and by the Northern Virginia Regional Park Authority (\$12,300,000). If a majority of voters approves the question, the county would be allowed to issue bonds to fund parks and park facilities as described herein. The county's current plans for the proceeds of bonds that may be authorized by this referendum are described below. **The county currently plans to use \$94,700,000 of bonds from this referendum for improvements and facilities identified in a study the Fairfax County Park Authority** recently conducted to evaluate the county's recreational needs over the next 10 years. The improvements and facilities include capital projects related to natural and cultural resources, such as ecological restorations and historic site preservation projects at Colvin Run Mill and Sully Historic Site; land acquisition to serve park-deficient areas and protect resources; countywide renovation and upgrades of aging community park facilities, such as playgrounds, courts, infrastructure and trails; the renovation of Mount Vernon RECenter; and new and expanded facilities to improve service delivery, including a baseball complex to serve the entire county.

Also, the county is a member of the Northern Virginia Regional Park Authority (NVRPA), which provides parks and recreational facilities in the county and elsewhere in Northern Virginia for our residents and visitors. **The county currently plans to use \$12,300,000 of bonds from this referendum to pay the county's contribution to NVRPA's Capital Improvement Program.** The primary focus of that program is to continue the restoration, renovation and modernization of existing park facilities, many of which were developed or constructed more than 25 years ago. **The bonds will be used to fund an annual \$3 million capital contribution to NVRPA over the next four years and to make a \$300,000 contribution to support the planned Jean R. Packard Occoquan Center.**

Human Services and Community Development, \$85 Million

This question seeks voter authorization for the county to issue \$85 million of bonds for human services and community development. If approved, the county currently plans to use this bond money to finance the cost of human services facilities and community development facilities.

The county currently plans to use **\$48 million of bonds from this referendum to renovate, expand or replace four of the county's shelters** which can no longer meet "crisis/emergency" needs of homeless individuals and families in the community. The county shelters are full to capacity every night of the week throughout the year.

The Patrick Henry Shelter provides emergency 30-day accommodations to homeless families. The current shelter has a capacity to serve seven families with an additional two emergency overflow units. The multi-story facility was constructed in 1952 and last renovated in 1985, over 30 years ago. The building subsystems are well beyond their intended life cycle and the facility is highly utilized and experiences 24/7 wear and tear.

The Embry Rucker Shelter provides temporary emergency shelter to homeless families and unaccompanied adults. The shelter has the capacity to serve 10 families as well as 29 adults. The shelter also serves as a cold-weather overflow (hypothermia) center. This one-story building was constructed in 1987 and has had no major renovations during its 29 years of operation. The building subsystems are well beyond their intended life cycle and the facility is highly utilized and experiences 24/7 wear and tear.

The Eleanor Kennedy Shelter provides temporary emergency shelter to homeless unaccompanied men and women. The shelter has the capacity to serve 50 adults. This two-story building was originally constructed in 1918 as a water pumping station and converted to the shelter in 1986. The facility was last renovated in 1986 and has not received any major renovations since. The exterior and the interior of the building are in need of significant upgrades. The building subsystems are well beyond their intended life cycle and the facility is highly utilized and experiences 24/7 wear and tear. The shelter also serves as a cold weather overflow (hypothermia) center.

The Baileys Shelter provides temporary emergency shelter to homeless unaccompanied men and women. The shelter has the capacity to serve 50 adults. The shelter also serves as a daytime drop-in center and main operations center for the region's cold weather (hypothermia) prevention program. This one-story facility is over 27 years old and has had no major renovations since it was constructed. The building subsystems are well beyond their intended life cycle and the facility is highly utilized and experiences 24/7 wear and tear.

The county currently plans to use the remaining **\$37 million of bonds from this referendum to replace the Sully Senior Center and to construct a new Lorton Community Center.** The existing Sully Senior Center, which provides social, recreational and health/wellness activities and programs for older adults, must be relocated because the current site is in a right-of-way that is currently being designed for a new interchange. The existing Lorton Senior Center, which similarly provides programs for older adults, is currently housed in leased space that is scheduled to expire in 2018. The bonds would finance the construction of the Sully and Lorton Community Centers, to replace the existing facilities. **These two new community centers would continue to provide programming for older adults, while also having the capacity to meet other community needs, such as after-school programming for children and teens, and health and wellness programs for youth and adults.** Consolidating the provision of these services in the Sully and Lorton facilities aligns with the county's efforts to promote multi-service sites.

For more information on these centers, call the Department of Neighborhood and Community Services at 703-324-4600, TTY 711, or visit www.fairfaxcounty.gov/ncs/2016bond.htm.

What Are Bonds?

Bonds are a form of long-term borrowing used by most local governments to finance public facilities and infrastructure. Bond financing makes it possible to build facilities and infrastructure based on future population estimates and to spread the cost equitably over the useful life of the facilities. This kind of financing allows the cost of a facility to be spread over a number of years so that each generation of taxpayers contributes a proportionate share for the use of these long-term investments.

Q Why referenda?

A Virginia law requires that voters in Fairfax County approve general obligation bonds through a referendum. You have the opportunity to vote either YES or NO on the question. If a majority votes YES on a question, then the Fairfax County Board of Supervisors will be authorized to sell bonds for the purpose described in the ballot question. If a majority votes NO on a question, the county cannot issue general obligation bonds to finance the purpose described in the question unless authorized in another referendum.

Q Will these bonds cause a property tax rate increase?

A The bond program is designed not to contribute to an increase in your property tax rate. Fairfax County has adopted a prudent financial management policy designed to protect its triple-A bond rating. Under the program, the county's net long-term debt is not to exceed 3 percent of the total market value of taxable real and personal property in the county. It also provides that annual debt service (the cost of principal and interest payments) be kept below 10 percent of annual combined general fund disbursements, and that bond sales shall not exceed an average principal amount of \$275 million per year or \$1.375 billion over five years.

For FY 2017, the county's projected actual net long-term debt is 1.19 percent of the market value of all taxable real and personal property. Debt service costs in FY 2017 are projected to be 8.32 percent of the combined general fund disbursements. The FY 2017-2021 Capital Improvement Program adopted by the Fairfax County Board of Supervisors on April 19, 2016, anticipates issuance of an average of \$275 million of general obligation bonds per year. Of this amount, approximately \$155 million (56 percent) is for the Fairfax County Public Schools and \$120 million (44 percent) is for the county. This policy is expected to keep debt service at approximately 9 percent of general fund disbursements, which will maintain a balance between operating expenses and long-term capital needs.

Q Can the bonds on the Nov. 8 ballot be used for other purposes?

A Proceeds of the sale of bonds authorized for a specific purpose may not, by law, be used for any purpose other than the purpose specified in the referendum question. In other

words, the proceeds of the sale of parks bonds may not be used to finance other projects, such as transportation projects. Although this pamphlet describes the county's current plans for the use of the bond proceeds, the county would be permitted to issue bonds for any purpose described in the ballot questions.

Q What is the cost of borrowing?

A Borrowing always entails interest costs. Since the interest earned by holders of municipal bonds is usually exempt from federal taxes, interest rates for these bonds generally are lower than the rate charged for private loans. Fairfax County has the highest credit rating possible for any government: triple-A from Moody's Investors Service Inc.; from S & P Global Ratings; and from Fitch Ratings. As of January 2016, Fairfax County is one of only 11 states, 46 counties and 33 cities to hold a triple-A bond rating from all three rating agencies. For this reason, Fairfax County's bonds sell at relatively low interest rates compared to other tax-free bonds.

Q Why not pay for capital improvements on a pay-as-you-go basis?

A If capital construction was financed on a pay-as-you-go basis out of current tax revenues, expenditures would be paid for in a much shorter time frame, which could necessitate tax rate increases or a significant reduction in other county services. Bonding spreads the cost of major projects of general benefit to the county over future years and ensures that both current and future residents and users share in the payment. Without bond funding, capital improvement budgeting is less predictable.

Q What is the county's total bonded indebtedness?

A As of July 2016, the total of general obligation bond and other tax-supported debt outstanding from FY 2016 through FY 2044 is \$2.972 billion in principal and \$1.064 billion in interest. During the next five years, \$1.61 billion, or approximately 40 percent of the total debt, is scheduled to be paid off.

Q What percentage of my taxes goes toward paying for the bonds?

A During the past 20 years, the share of taxes used to pay debt service has fluctuated from 7.5 percent to a high of 9.3 percent. For FY 2017, it is projected to be 8.32 percent and

is projected to remain at or slightly above 9 percent based on current market and conservative revenue forecasts while assuming passage of the bond referenda this fall for transportation, parks and park facilities, and human services and community development.

Q What are the benefits of Fairfax County's triple-A bond ratings?

A The county's triple-A bond ratings lower the county's borrowing costs. The county's policy of rapid debt retirement and strong debt management guidelines serves to keep debt per capita and net debt as a percentage of estimated market value of taxable property at low levels. Since 1978, the county has saved over \$772.42 million on bond and refunding sales as a result of the triple-A rating when compared to industry

benchmarks of other municipal bond issuers.

Q Why put forth additional referenda if there are still unsold bonds?

A Fairfax County bond packages are planned to fund specific projects. This means that all previous bond authorizations were planned for or are obligated to specific projects. These projects often take a number of years to complete. Bonds are sold only as the money is needed, resulting in substantial amounts of authorized, but unissued, bonds. Prudent financial management dictates that the proportionate amount of bonds be sold to coincide with the annual cash flow requirements for construction costs associated with the respective capital projects.

Some pro and con arguments about financing capital projects through bond funding.

PRO

Some people think that bond financing is a vital part of the county's comprehensive approach to the challenge of funding needed infrastructure and capital facilities. Here are some of the arguments used by proponents of bond funding:

- Bonding spreads the cost of major projects of general benefit to county residents over future years and ensures that both current and future residents and users share in the payment.
- Spreading the cost of major projects permits the county to accomplish more projects sooner than would pay-as-you-go using only current tax revenues.
- Constructing the proposed county facility improvement projects from current general tax dollars cannot be accomplished without substantial cuts to current programs or increased revenues from taxes and fees.
- Prudent use of long-term debt can be accomplished without having any adverse impact on the county's bond ratings or the tax rate.

CON

Some people think that the issuing of general obligation bonds is neither justified nor a viable solution to the county's capital infrastructure and facility needs. Here are some of the arguments used by opponents of bond funding:

- Issuing general obligation bonds results in a long-term future obligation for the county that may create an unmanageable burden on future taxpayers. Pay-as-you-go financing would not create long-term debt.
- Costs for infrastructure and facilities should be borne by those directly using or benefiting from them, not by all taxpayers.
- These facilities could be fully or partially paid for out of the current revenues by cutting or eliminating other programs.
- The funds otherwise spent on debt service could support a substantial pay-as-you-go program of capital construction adequate to meet the county's needs.

FAIRFAX COUNTY BOARD OF SUPERVISORS

Sharon Bulova, Chairman, At-Large

Penelope A. Gross, Vice Chairman,
Mason District

John C. Cook, Braddock District

John W. Foust, Dranesville District

Catherine M. Hudgins, Hunter Mill District

Jeffrey C. McKay, Lee District

Daniel G. Storck, Mount Vernon District

Linda Q. Smyth, Providence District

Pat Herrity, Springfield District

Kathy L. Smith, Sully District

For contact information, visit www.fairfaxcounty.gov/government/board.

In-Person Absentee Voting for 2016 Election

Fairfax County has several locations available for absentee voting in person, including hours every Saturday in October. There are 19 reasons you may be eligible to vote absentee. Last day is Saturday, Nov. 5.

Go to www.fairfaxcounty.gov/elections/absentee for more information, including addresses and hours.

In-Person Absentee Voting Locations:

- Fairfax County Government Center
- Providence Community Center
- Franconia Governmental Center
- McLean Governmental Center
- North County Governmental Center
- West Springfield Governmental Center
- Mason Governmental Center
- Mount Vernon Governmental Center
- Sully Governmental Center
- Lorton Library (Saturdays only)

Votación Ausente en Persona para las Elecciones del 2016

El Condado de Fairfax tiene varias ubicaciones disponibles para votar ausente en persona, incluyendo los sábados en el mes de octubre. Hay 19 razones por las que usted puede calificar para votar en ausencia. El último sábado es el 5 de noviembre.

Para mayor información incluyendo direcciones y horas de oficina vaya a: www.fairfaxcounty.gov/elections/absentee

Ubicación de las Oficinas para la Votación en Ausencia

- Fairfax County Government Center
- Providence Community Center
- Franconia Governmental Center
- McLean Governmental Center
- North County Governmental Center
- West Springfield Governmental Center
- Mason Governmental Center
- Mount Vernon Governmental Center
- Sully Governmental Center
- Lorton Library (abierto los sábados únicamente)

To request this information in an alternate format, call the Office of Public Affairs at 703-324-7329, TTY 711.

Fall 2016

2016 Bond Referendum Information for Residents

FAIRFAX COUNTY BOARD OF SUPERVISORS

RESIDENTIAL CUSTOMER

ECRWSS

PRST STD
U.S. POSTAGE
PAID
PERMIT 722
MERRIFIELD VA

Fairfax County Office of Public Affairs
12000 Government Center Parkway, Suite 551
Fairfax, VA 22035



TRANSPORTATION BONDS

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds, in addition to the transportation improvements and facilities bonds previously authorized, in the maximum aggregate principal amount of \$160,000,000 for the purpose of financing Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving, and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock, and equipment in the Washington metropolitan area?

PARKS AND PARK FACILITIES BONDS

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds, in addition to the parks and park facilities bonds previously authorized, in the maximum aggregate principal amount of \$112,000,000 for the following purposes: (i) \$100,000,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, reconstruct, develop, and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) \$12,000,000 principal amount to finance Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, reconstruct, develop, and equip parks and park facilities?

LIBRARIES

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds in addition to the public library facilities bonds previously authorized, in the maximum aggregate principal amount of \$90,000,000 for the purpose of providing funds, with any other available funds, to finance the cost to provide public library facilities, including the construction, reconstruction, enlargement, and equipment of existing and additional library facilities and the acquisition of necessary land?

COMMUNITY HEALTH AND HUMAN SERVICES FACILITIES

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue bonds, in addition to the human services facilities bonds previously authorized, in the maximum aggregate principal amount of \$79,000,000 for the purpose of providing funds, with any other available funds, to finance the cost to provide community health and human services facilities, including the construction, reconstruction, enlargement, and equipment of existing and additional community health and human services facilities and the acquisition of necessary land?

Code of Virginia
 Title 24.2. Elections
 Chapter 6. The Election

§ 24.2-684. How referendum elections called and held, and the results ascertained and certified

Notwithstanding any other provision of any law or charter to the contrary, the provisions of this section shall govern all referenda.

No referendum shall be placed on the ballot unless specifically authorized by statute or by charter.

Whenever any question is to be submitted to the voters of any county, city, town, or other local subdivision, the referendum shall in every case be held pursuant to a court order as provided in this section. The court order calling a referendum shall state the question to appear on the ballot in plain English as that term is defined in § 24.2-687. The order shall be entered and the election held within a reasonable period of time subsequent to the receipt of the request for the referendum if the request is found to be in proper order. The court order shall set the date for the referendum in conformity with the requirements of § 24.2-682.

A copy of the court order calling a referendum shall be sent immediately to the State Board by the clerk of the court in which the order was issued.

The ballot shall be prepared by the appropriate general registrar and distributed to the appropriate precincts. On the day fixed for the referendum, the regular election officers shall open the polls and take the sense of the qualified voters of the county, city, town, or other local subdivision, as the case may be, on the question so submitted. The ballots for use at any such election shall be printed to state the question as follows:

"(Here state briefly the question submitted)

☐ Yes

☐ No"

The ballots shall be printed, marked, and counted and returns made and canvassed as in other elections. The results shall be certified by the secretary of the appropriate electoral board to the State Board, to the court ordering the election, and to such other authority as may be proper to accomplish the purpose of the election.

Code 1950, § 24-141; 1966, c. 115; 1970, c. 462, § 24.1-165; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1978, cc. 258, 304; 1979, c. 37; 1980, c. 639; 1981, c. 367; 1982, cc. 498, 650; 1983, c. 461; 1991, c. 592; 1993, c. 641; 1994, c. 142; 1996, c. 297; 2016, cc. 18, 492.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

ACTION - 5

Approval of Revisions to Chapter 17 of the Personnel Regulations Due to Legislation Passed by the General Assembly

ISSUE:

Revisions to the Fairfax County Personnel Regulations are proposed to ensure compliance with Va. Code § 15.2-1507.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors approve the proposed revisions to Chapter 17 of the Personnel Regulations, as specified below.

TIMING:

Board action is requested on June 23, 2020, and the revisions will be effective July 1, 2020, to align with the effective date of the amendment to Va. Code § 15.2-1507 (statute that prescribes what a local grievance procedure must contain).

BACKGROUND:

The County's grievance procedure is set forth in Chapter 17 of the Personnel Regulations. During the 2020 session of the General Assembly, SB868 was passed and signed into law by the Governor. SB868 amended Va. Code § 15.2-1507 by requiring a local grievance procedure to include within the definition of a grievance discrimination on the basis of "marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, or status as a veteran."

In accordance with the Merit System Ordinance, the proposed revisions were forwarded to the Civil Service Commission to be added to a previously scheduled public hearing. The advertised public hearing was held before the Civil Service Commission on June 4, 2020. At the hearing, the Department of Human Resources gave an overview of the proposed changes for Chapter 17. There was testimony offered by employees and employee groups, all in support of the proposed changes. OCA reviewed all proposed changes.

The following content highlights proposed changes to Chapter 17:

Board Agenda Item
June 23, 2020

Chapter 17— Grievance Procedure (Attachment 1)

Added to Section 17.3-2(d) that discrimination against an employee based on “pregnancy, childbirth or related medical conditions, sexual orientation, gender identity” are types of grievable complaints which receive binding decisions from a three-member panel of the Civil Service Commission.

The Commission's comments are included as Attachment 2.

FISCAL IMPACT:

None noted.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Revisions to Chapter 17 of the Personnel Regulations

Attachment 2: Civil Service Commission's Memorandum

STAFF:

Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:

Karen Gibbons, Deputy County Attorney

CHAPTER 17

GRIEVANCE PROCEDURE

17.1 Purpose

The purpose of the grievance procedure is to provide a fair, detailed process whereby employees may voice complaints concerning issues related to their personal employment experience and/or circumstance with the County. The objective is to improve employee-management relations through a prompt and fair method of resolving problems.

17.2 Coverage of Personnel

- 1 All merit employees in the competitive service of the County who have satisfactorily completed their initial probationary period are eligible to file complaints under this procedure.
- 2 Excluded from the grievance procedure are the following:
 - a Employees in the exempt service, except as specifically provided otherwise in the procedural directives for the administration of the exempt service issued by the County Executive with the approval of the Board of Supervisors pursuant to Fairfax County Code § 3-1-2(c);
 - b Employees serving their initial probationary periods unless their complaints include allegations of discrimination as defined in Section 17.3-2d and 17.3-2e;
 - c Sworn police employees who have elected to proceed under the "Law-Enforcement Officers Procedural Guarantee Act." Such employees shall be given written notification of their right to initiate a grievance under the County's Grievance Procedure. They may choose to file the grievance under either procedure, but not both

17.3 Types of Complaints

- 1 Employee complaints will be classified at the point of grievability determination (see Section 17.5-4) as one of the following:
 - a Grievable, with a binding decision from a hearing panel of the Civil Service Commission;
 - b Nongrievable but eligible for a hearing and an advisory decision from a hearing officer appointed by the Chair of the Civil Service Commission;

- c. Nongrievable with no hearing.
- 2 Grievable complaints which receive binding decisions from a three-member panel of the Civil Service Commission hearing the appeal include:
 - a. Dismissals, unsatisfactory service separations, demotions and suspensions;
 - b. The application of specific County personnel policies, procedures, rules and regulations;
 - c. Acts of retaliation as a result of utilization of this procedure, or for participation in the grievance of another county employee;
 - d. Discrimination against an employee, including a probationary employee, on the basis of race, color, creed, religion, age, disability, national origin, sex, political affiliation, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, union affiliation, genetic information, veterans status, or disabled veterans status;
 - e. Discrimination or retaliation against an employee, including a probationary employee, because of participation in political activities permitted under state law and County ordinances or failure to participate in political activities, whether permitted or not by state law or County ordinance;
 - f. Acts of retaliation because the employee (i) has complied with any law of the United States or of the Commonwealth, (ii) has reported any violation of such law to a governmental authority, (iii) has sought any change in law before the Congress of the United States or the General Assembly (iv) has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors Audit Committee, the Auditor to the Board, his/her department head, or to any other federal, state, or County government authority, such as the Commonwealth's Attorney for the County of Fairfax, or the U.S. Attorney for the Eastern District of Virginia.
 - g. For the purpose of sub-paragraphs (c) and (f) of this section, there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.
- 3 Nongrievable complaints eligible to receive advisory decisions from a hearing officer appointed by the Chair of the Civil Service Commission include:
 - a. The physical plant;
 - b. The methods and conditions of the specific job;
 - c. Relations with fellow employees;

Commented [AJ1]: Added pregnancy, childbirth or related medical conditions, sexual orientation, gender identity,

- d. Performance appraisals;
- e. Written reprimands;
- f. 120-day Performance Improvement Plans (as defined in section 12.6-2(b) and provided for in 12.11-2 of these regulations).

17.4 Nongrievable Complaints

- 1 Complaints that are not grievable under this procedure include:
 - a. The establishment and revision of wages or salaries, position classification, employee benefits;
 - b. Oral reprimands;
 - c. The contents of ordinances, statutes, or established personnel policies, procedures, rules and regulations;
 - d. Failure to promote, except where the employee contends that established promotional policies or procedures were not followed or applied fairly;
 - e. Discharge, lay-off or suspension from duties because of lack of work or reduction-in-work-force, except where such actions affect an employee who has been reinstated within the previous six months by the Civil Service Commission as the result of the final determination of a grievance. In such cases, the department must show that there was a valid business reason for the action and that the employee was notified of such reason in writing prior to the effective date of the action;
 - f. Management of County employees including the right to make personnel appointments in accordance with adopted selection policies and techniques, to establish rules and regulations governing work performance and performance evaluations, to transfer and assign employees within the County, to determine the need for shift operation and rotation of the workweek, to assign overtime, to determine job training and career development, and to determine duties or actions in emergency situations.
- 2 Appeals of position classification are handled in accordance with the criteria set forth in Section 3.6.

17.5 Steps of the Procedure

-1 Step 1: Immediate Supervisor

An employee who has a complaint shall discuss the problem directly with his/her supervisor within twenty (20) business days of the date the employee should have reasonably gained knowledge of the event giving rise to the complaint.

A verbal reply by the Supervisor shall be made to the complaint during the discussion or within five business days following the meeting.

-2 Step 2: Division Supervisor

If the complaint is not resolved after the first step meeting and where there is a division supervisor, the employee may reduce the complaint to writing on "Complaint Form - Second Step." All grievance forms are obtainable from the Department of Human Resources.

The employee shall specify the relief sought through the use of this procedure. The fully completed Complaint Form shall be delivered by the employee to the division supervisor within five (5) business days of the first step meeting or the supervisor's reply, if given at a later date. The division supervisor shall meet with the employee within five business days of receipt of the Complaint Form.

A written reply by the division supervisor shall be made to the complaint within five business days following the meeting.

-3 Step 3: Department Head

If the reply from the second step meeting is not acceptable to the employee, or where no division supervisor exists, the employee may appeal the last response to the department head.

"Complaint Form - Third Step" shall be completed by the employee and delivered to the department head within five business days of receipt of the last response. The department head shall meet with the employee within five business days of receipt of the Complaint Form.

A written reply by the department head shall be made to the complaint within five business days following the meeting.

When it is necessary for a department head to obtain relevant technical guidance from a centralized department director (i.e. human resources, budget, procurement) in order to respond to a grievance, a written request for assistance will be made to the alternate department head outlining the scope of the issue and

assistance required. The complainant's department head retains responsibility for providing the written Step 3 response.

-4 Step 4: Grievability Determination

- a. When a complaint cannot be satisfactorily resolved pursuant to Steps 1 through 3 above, the employee shall request on the appropriate form a determination concerning the grievability of the complaint within ten business days of receipt of the third step reply.
- b. All requests for grievability determination shall be submitted to the County Executive. The County Executive will determine whether the employee is entitled to access to the grievance procedure and if the complaint is grievable, and if so, based upon the criteria set forth in Section 17.3, establish whether the grievant shall receive a binding or an advisory decision. Grievability and access determinations by the County Executive shall be made within ten calendar days of receipt of such request.
- c. Decisions regarding grievability and access are appealable only to the Fairfax County Circuit Court. Such appeals shall be made by filing a notice of appeal with the County Executive within ten calendar days from the date of receipt of the decision. The County Executive, or his/her designee, shall transmit to the Clerk of the Circuit Court a copy of the County Executive's decision, a copy of the notice of appeal, and the exhibits constituting the record of the grievance within ten calendar days of receipt of the notice of appeal. A list of the evidence furnished to the County shall also be provided to the grievant.
- d. The Circuit Court shall have a hearing on the issue of grievability and/or access within thirty (30) days of receipt of the record of the grievance by the Circuit Court Clerk. The Court may affirm, reverse or modify the decision of the County Executive.
- e. The decision of the Circuit Court is final and is not appealable. Procedures governing the review by the Circuit Court are found in Virginia Code §15.2-1507(a)(9).
- f. In no case shall the County or Commonwealth's Attorney be authorized to decide the issue of grievability.

-5 Step 5: Appeal to the Civil Service Commission

- a. If the complaint has been determined to be grievable, with a binding decision or nongrievable with an advisory decision as provided herein, the employee may file a request for hearing on the appropriate form with the Fairfax

County Civil Service Commission. The employee shall file the request within ten business days following the receipt of the determination that the complaint is grievable.

- b. Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee's appeal request. Appeals of complaints that have been determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after the receipt of the employee's appeal request. The Executive Director of the Commission in scheduling hearings on appeals shall give priority on its docket to dismissal and unsatisfactory service separation cases. The Executive Director of the Commission shall notify the employee and the department head in writing of the time and place of the appeal hearing.
- c. The jurisdiction and authority of the hearing panels of the Civil Service Commission shall be confined exclusively to those complaints previously determined to be grievable as provided herein. While a panel of the Commission hearing the appeal has authority to determine the appropriate application of an existing rule or policy, they do not have the authority to add to, detract from, alter, amend or modify in any way County or department policy or procedure, and its findings shall be consistent with all applicable laws and ordinances.
- d. No member of the Civil Service Commission or an appointed hearing officer shall hear a grievance if he/she has direct involvement with the grievance being heard, or with the complaint or dispute giving rise to the grievance. The following relatives of a participant in the grievance process or a participant's spouse are prohibited from hearing said grievance: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin.

17.6 Remedies

- 1 The panel of the Commission hearing the appeal is empowered to uphold or reverse the action being grieved or, in appropriate circumstances, choose a modified remedy.
- 2 In grievances entitled to a binding decision the following guidelines pertaining to remedial action shall apply:
 - a Dismissals and Unsatisfactory Service Separations-The panel of the Commission hearing the appeal may deny relief, reinstate the employee while imposing lesser disciplinary actions such as demotion or suspension, or reinstate the employee.

- b. Disciplinary Demotions pursuant to Personnel Regulation 16.5-5 - The panel of the Commission hearing the appeal may deny relief, impose lesser disciplinary sanctions, or revoke the disciplinary demotion.
- c. Suspensions - The panel of the Commission hearing the appeal may deny relief, impose a lesser suspension, instruct that a written reprimand be substituted for the suspension, or revoke the disciplinary suspension.
- d. Back Pay and Restoration of Benefits in Appeals of Dismissals, Demotions, Suspensions, and Unsatisfactory Service Separations:
 - i. If an employee is reinstated, he/she shall be given back pay for the period of separation contingent upon his/her making full disclosure of all earnings he/she received during separation, which shall be an offset against back pay. In the event the employee fails to provide to the panel of the Commission hearing the appeal such evidence as it deems necessary to determine the amount of the offset, the employee shall forfeit his/her right to back pay.
 - ii. In cases of suspension, the employee shall be entitled to back pay for the period of suspension revoked by the panel of the Commission hearing the appeal under the same conditions as sub-section (1).
 - iii. A lesser sanction in dismissal cases shall include a suspension without pay covering some or all of the period of separation, notwithstanding any other provision of the Personnel Regulations.
 - iv. In the event that the panel of the Commission hearing the appeal imposes a demotion in lieu of an unsatisfactory service separation or dismissal, back pay may be awarded, at the discretion of the panel of the Commission hearing the appeal, for the period of separation at the rate of pay for the lower level classification.
 - v. Back pay shall be computed on the basis of the employee's regularly scheduled hours of work and shall not include any overtime that the employee might have earned.
 - vi. For any period of time that an employee is entitled to receive back pay, he/she shall be given service credit towards retirement and shall be reinstated in the appropriate retirement system with his/her previous plan election, provided that he/she repays into the system all contributions that he/she withdrew on separation. The employer shall ensure that all contributions and deductions attributable to such service are made.

- vii Similarly, for purposes of accruing leave, the employee shall be given credit towards his/her total years of service for any period of time that he/she is entitled to back pay. The employee shall also be credited with any leave that he/she would have accrued during that period.
 - viii Upon reinstatement, the employee shall be placed in the health plan that he/she was in at the time of separation with the same options that he/she had previously elected. The effective date of coverage will be the first of the month following reinstatement. A reinstated employee may opt for retroactive coverage in the event that it would be to his or her advantage. The employee must pay his or her share of retroactive coverage premiums. Claims expenses incurred for the retroactive period will be adjusted upon payment of the premium and the employee will be reimbursed for out-of-pocket costs above those he or she will have incurred had the coverage been in effect. The employee may be reimbursed for monies expended by the employee to obtain medical insurance during the period of separation up to the amount of the employer's contribution that would have been incurred had the employee been in service during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs incurred during the period of separation. In the event the employee elected to continue his or her County health insurance under COBRA during the period of separation, the employee shall be reimbursed the difference between the premium he or she paid under COBRA and what he or she would have paid had he or she continued to be employed during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs during the period of separation, except as provided above.
 - ix. Upon reinstatement, an employee's salary shall be adjusted to reflect any performance pay increases that would have been received had the employee not been separated.
 - f. Promotions - The panel of the Commission hearing the appeal may deny relief, order the promotional procedure redone, order a retroactive promotion, order the grievant promoted immediately if there is an available vacancy or promoted to the next available vacancy.
- 3 In cases other than dismissals, unsatisfactory service separations, demotions, suspensions, or performance evaluations, the panel of the Commission hearing the appeal may deny the relief sought by the employee or grant such relief as is necessary to place the employee in the situation he/she would have been in had the Personnel Regulations or policies been properly interpreted and/or applied in the first instance. In no event shall the employee be awarded any damages, nor shall the

relief granted by the panel of the Commission hearing the appeal affect the rights of other employees.

- 4 Acts of Reprisal and Discrimination - Where the panel of the Commission hearing the appeal determines that any act of reprisal or discrimination as defined in this chapter is the reason for the adverse employment action grieved by the employee, the panel of the Commission hearing the appeal shall have the authority to revoke the adverse employment action. In the event the adverse employment action is one of the actions described in Sections 2 or 3 of this section, the panel of the Commission hearing the appeal may apply the remedial actions provided under those subsections. The panel of the Commission hearing the appeal shall also affirm such adverse employment actions taken to the extent that they were not the result of reprisal or discrimination.
- 5 Damages, Attorney's Fee and Costs - The panel of the Commission hearing the appeal shall have no authority to order the payment of damages of the grievant's or the County's attorney's fees or costs.
- 6 Recommendations - Regardless of whether the panel of the Commission hearing the appeal grants the individual grievant any relief, such panel may make whatever recommendations to the Board of Supervisors or County Executive it deems appropriate.

17.7 Conduct of Grievance Step Meetings

- 1 Personal face-to-face meetings are required at all steps. The employee and the County management may have a representative present at all steps. If the employee is represented by legal counsel, management likewise has the option of being represented by counsel. The parties to the grievance may by mutual agreement waive any or all intermediate steps or meetings, with the exception of the initial complaint, reducing the complaint to writing and the request for grievability determination. Upon written request from the grievant to the Department head, County management shall waive the first and second step grievance meetings in cases of termination, suspension, or demotion. Time spent attending grievance step meetings, Circuit Court hearings or a hearing before a panel of the Civil Service Commission during the grievant's regularly scheduled hours shall be considered work time and the use of personal leave is not required.
- 2 At all steps, appropriate witnesses also may be asked to provide information. Witnesses shall be present only while actually providing testimony.
- 3 In any complaint involving a charge of discrimination, at the request of any party to the grievance, the Director of the Office of Equity Programs, or his/her designee, may attend step meetings.

17.8 Grievant's Expenses

- 1 The grievant must bear any cost involved in employing representation or in preparing or presenting his/her case.
- 2 Whenever possible, grievances will be handled during the regularly scheduled workhours of the parties involved. Civil Service Commission hearings are held during the County's business day whenever possible.
- 3 A panel of the Civil Service Commission has no authority to award legal fees or punitive damages.

17.9 Extension of Time

- 1 The parties to the grievance, by mutual agreement, or the County Executive or his/her designee, upon the request of one of the parties and showing of just cause, may extend any or all of the time periods established in this procedure.

17.10 Compliance with Procedural Requirements of this Procedure

- 1 After the initial filing of a written complaint, failure of either the employee or the respondent to comply with all substantial procedural requirements of the grievance procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Executive, or his/her designee.
- 2 The County Executive, or his/her designee, may require a clear written explanation of the basis for just cause extensions or exceptions to any of the substantial procedural requirements. The County Executive, or his/her designee, shall determine all compliance issues.
- 3 Any party aggrieved by the determination of the County Executive or his/her designee on a compliance issue may obtain judicial review of the determination by filing a petition with the Fairfax County Circuit Court within thirty days of the compliance determination.

17.11 Resolution Prior to Hearing

Any grievance shall be considered settled at the completion of any step if all parties are satisfied. In fact, it is expected that the great majority of grievances will be settled at the first or second step. However, nothing in this procedure should be construed as limiting the employee's right to exhaust the remedies provided by this

procedure.

17.12 Hearings

- 1 Hearings shall be conducted as described in Addendum 1 to Chapter 17.
- 2 Hearings shall be open to the public. However, upon request of either party, the hearing shall be private. The hearing officer or the panel of the Commission hearing the appeal, by majority vote, may close a hearing to the public if the testimony about to be presented might impugn the personal reputation of a party or witness to said hearing, or if the right to privacy of such party or witness requires that the hearing be closed. Parties and their representatives shall be allowed to attend the hearing at all times. All witnesses shall be excluded from the hearing, except when testifying, at the request of either party.
- 3 Failure of either party without just cause to comply with all substantial procedural requirements at the hearing shall result in a decision in favor of the other party in accordance with the procedures under Pers. Reg. §17.10.
- 4 The decision of the panel of the Commission hearing the appeal shall be announced after the deliberations by that hearing panel at the conclusion of the hearing and shall be filed in writing by the Chairperson of that hearing panel of the Civil Service Commission or by the Hearing Officer with the parties not later than ten business days after the completion of the hearing. Copies of the decision shall be transmitted to the Human Resources Director, the employee, the employee's department head and the County Executive. The Hearing Officer also shall transmit a copy of the advisory decision to the Executive Director of the Civil Service Commission.
- 5 The majority decision of the panel of the Commission hearing the appeal shall be final and binding. Either party may petition the Fairfax County Circuit Court for an order requiring implementation of a binding decision from the panel of the Commission hearing the appeal. Notwithstanding any other provision of this chapter to the contrary, a final decision of a panel of the Civil Service Commission hearing the appeal rendered under this procedure which would result in the reinstatement of any employee of the Sheriff's Department, who had been terminated for cause, may be reviewed by the Fairfax County Circuit Court upon the petition of the County. Such review by the Circuit Court shall be limited to the question of whether the decision of the panel of the Civil Service Commission hearing the appeal was consistent with the provisions of law and written policy.
- 6 The decision of the Hearing Officer shall be advisory to the County Executive.
- 7 All decisions in the grievance procedure shall be consistent with the provisions of

law and written policy. Any challenge to the relief granted by the decision of a panel of Civil Service Commission hearing the appeal on the grounds of inconsistency with written policy shall be submitted by either party within five (5) workdays to the County Executive, or his/her designee, who is empowered to decide such questions and to direct reconsideration by the Commission, where appropriate. If the County Executive or his/her designee has a direct involvement in the grievance the decision shall be made by the Commonwealth's Attorney. Notwithstanding the above, after receipt of a decision of a hearing panel of the Civil Service Commission the County Executive or his/her designee, may on his/her own action, within ten business days, remand to the panel of the Commission that heard the appeal for further consideration a decision in which the relief granted appears to be inconsistent with written policy.

17.13 Severability

Should any article, section, subsection, sentence, clause, or phrase of these regulations, procedures and/or addenda, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

ADDENDUM NUMBER 1

PROCEDURE FOR GRIEVANCE HEARINGS AND APPEALS

Preamble

The panel of the Commission hearing the appeal shall not be bound by Statutory or Common Law rules of pleading or evidence. Hearings will be conducted so as to ascertain the rights of the parties accurately and expeditiously.

The Commission

The Commission consists of twelve members who will sit in rotating panels of three to hear grievance appeals. The panel of three members will be selected as follows and will meet as needed to hear and decide those matters determined to be grievable under the grievance procedure.

Commissioners will be randomly assigned to a schedule to conduct appeal hearings. When a hearing is scheduled, the next three Commissioners on the schedule will be contacted to participate in that hearing. If a Commissioner is unable to participate in a hearing for which he/she has been selected, the next available member on the schedule will be contacted. When the absence of a scheduled panel member cannot be avoided, no hearing can be conducted by a panel unless all three members designated to hear that appeal are present throughout the hearing. In this situation, the next available member on the schedule will be contacted to serve on that panel. If an appeal is settled or withdrawn prior to the scheduled hearing, the panel members assigned to hear that appeal will be assigned to the next appeal scheduled. Once each Commissioner has been selected from the schedule to serve on a panel, the twelve Commissioners will again be randomly assigned to a new schedule. The schedule and the assigned panel members are considered confidential. The names of the panel members will not be released prior to a scheduled hearing.

The first Commissioner who is selected from the schedule and is able to participate in the hearing will serve as chair for that hearing.

Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee's appeal request. Appeals of complaints that have been determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or, by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after receipt of the employee's appeal request.

A simple majority of the hearing panel will prevail in any decision made by the panel. The panel hearings will be held during the County's normal business hours continuing until all evidence has been heard and arguments made. Upon the conclusion of the evidence and argument, the hearing

panel will recess the hearing while it deliberates in closed session and makes its findings. Upon the conclusion of the panel's deliberations, the panel will come out of closed session and resume the hearing to cast the panel members' individual votes, state the findings of the panel, and conclude the hearing. A written decision prepared by the Hearing Officer and signed by the chair of the panel that heard the appeal will be filed with the Executive Director and distributed to the parties within ten business days of the conclusion of the hearing.

The Hearing Officer

The Hearing Officer is an independent attorney retained by the Commission to conduct hearings on grievances which receive advisory decisions and to advise the panel of the Commission hearing the appeal concerning legal and procedural matters in cases in which the parties are represented by counsel. The Hearing Officer does not vote on matters before the panel of the Commission hearing the appeal and participates in deliberations only to the extent of advising the panel of the Commission hearing the appeal concerning legal and procedural matters. The Hearing Officer is responsible for conducting hearings in an orderly and expeditious fashion; and makes rules on evidentiary and procedural questions. The rulings are advisory and may be overturned by the panel of the Commission hearing the appeal.

In hearings before the panel of the Commission hearing the appeal in which the parties are not represented by counsel, and at all prehearing conferences, the Executive Director of the Commission shall act as hearing officer.

A. Prehearing Requirements

- A Prehearing Conference will be held by the Prehearing Officer prior to a panel hearing or the Hearing Officer. The following matters will be addressed:
 1. Definition of the scope of the case, the specific issues to be presented to the panel of the Commission hearing the appeal, and the specific regulations and/or ordinances allegedly violated.
 2. Stipulations and agreements which will expedite the hearing are greatly encouraged, including but not limited to (1) stipulations of fact; (2) stipulations as to evidence which will be admitted without objection; (3) stipulations with respect to testimony which will be admitted in written form.
 3. All exhibits and documents will be exchanged at or before the Prehearing Conference. Documents shall be marked for identification and tabbed for ease of reference. Any exhibit not provided at or before the Prehearing Conference will not be admitted as evidence, absent a showing of good cause. If as a result of the Prehearing Conference there is an outstanding request for the production of documents, such request must be complied with not later than ten business days prior to the date of the hearing, or the date set in the Prehearing Conference Report, whichever is sooner. Any objection to

the admissibility of a proposed exhibit or document shall be raised no later than the date set at the Prehearing Conference and if not resolved, the issue will be clearly defined by the Prehearing Officer for consideration by the panel of the Commission hearing the appeal or the Hearing Officer.

4. Witness lists will be exchanged at or before the scheduled Prehearing Conference. Any witness not so designated will not be permitted to testify, absent a showing of good cause. If as a result of the Prehearing Conference, there are to be deletions or additions to the witness lists, such changes will be submitted no later than ten business days prior to the date of the hearing, or the Prehearing Conference Report, whichever is sooner. Witness lists shall include the name, address and telephone number of each witness identified and a brief statement of the substance of the expected testimony. If, upon the petition of a party, the County Executive finds that a witness who is listed by a party and who is a County employee has relevant, material, and non-cumulative testimony and that the party seeking to call the witness at the panel hearing has been unable to secure attendance of the witness before the hearing panel despite the party's reasonable and diligent efforts, the County Executive shall order the County employee witness to appear at the hearing to give testimony. Upon such order to appear being issued by the County Executive to a County employee, any County employee so ordered who fails to appear at the hearing may be subject to disciplinary action as provided in Chapter 16.
5. County management shall provide the Commission with copies of the grievance record as part of its exhibits submitted at the Prehearing Conference. A copy of the grievance record shall be provided to the grievant by County management at the same time but in no event any later than ten days prior to the hearing before the panel of the Commission hearing the appeal.
6. The hearing date(s) will be set at the Prehearing Conference in accordance with the time estimates provided by both parties.

B. Continuances

Requests for continuances shall be in writing with a copy to the opposing party and submitted to the panel of the Commission hearing the appeal and/or Hearing Officer at least five workdays prior to the hearing date. The panel of the Commission hearing the appeal and/or Hearing Officer may grant such requests only where good cause is shown.

C. Hearing Procedure

Hearings on appeals will be heard by the panel of the Commission hearing the appeal or the Hearing Officer in accordance with the following order and procedures:

1. Opening statement by the moving party. (The County shall be considered as the moving party in suspensions, demotions, dismissals and Unsatisfactory Service Separations. In all other cases, the employee is considered to be the moving party.)
2. Opening statement by the responding party.
3. Presentation of moving party's case by direct examination.
4. Cross-examination.
5. Questions, if any, by members of the hearing panel or the Hearing Officer.
6. Redirect and recross examination.
7. Presentation of responding party's case by direct examination.
8. Cross-examination.
9. Questions, if any, by members of the hearing panel or the Hearing Officer.
10. Redirect and recross examination.
11. Presentation of rebuttal witnesses, if any, by moving party by direct examination may be presented in documentary form. Rebuttal testimony should ordinarily be included in the party's original presentation. However, rebuttal evidence may be permitted where, in the judgment of the panel of the Commission hearing the appeal or the Hearing Officer, it is necessary to the party to rebut new material, which could not reasonably have been anticipated. The panel of the Commission hearing the appeal or the Hearing Officer will judge the necessity of rebuttal testimony on the basis of a proffer or statement by the party seeking to introduce the rebuttal.
12. Cross-examination, questions, if any, by members of the hearing panel or the Hearing Officer, redirect and recross examination of rebuttal witnesses. If rebuttal evidence is in documentary form, provision shall be made for response by opposing party.
13. Closing statement by moving party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the Commission hearing the appeal or the Hearing Officer.
14. Closing statement by responding party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the Commission hearing the appeal or the Hearing Officer.

15. The hearing record may be held open upon request of either party or upon the panel of the Commission hearing the appeal or the Hearing Officer's own motion for the receipt of additional exhibits or documentary evidence which in the opinion of the panel of the Commission hearing the appeal or the Hearing Officer are necessary for a full and complete hearing. Any opposing party shall be allowed a period of ten calendar days after such receipt to respond thereto. If the panel of the Commission hearing the appeal or the Hearing Officer finds that additional oral testimony is necessary, a hearing may be recessed for scheduling of such testimony.
16. The panel of the Commission hearing the appeal may alter the foregoing procedures in a hearing if it deems it necessary to afford the parties a full and equal opportunity to all parties for the presentation of their evidence.

D. Record of Hearing

Recorded tapes will serve as the formal record of grievance hearings. Any party to the appeal may obtain a copy upon payment of reproduction and administrative costs.

E. Posthearing Procedures

1. Reopening Hearing

A hearing may be reopened by the panel of the Commission hearing the appeal or the Hearing Officer at any time prior to final decision on the ground of newly discovered evidence or for other good cause shown and if the panel of the Commission hearing the appeal or the Hearing Officer finds that reopening the hearing is required for a full and true disclosure of facts or to assure that the parties receive a fair hearing in accordance with the relevant law and regulations. Petitions for reopening shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. If a party files a petition for reopening the hearing, the opposing party shall file a response to said petition within five calendar days of service of the petition.

2. Reconsideration

The Hearing Officer or the panel of the Commission hearing the appeal, upon majority vote, may reconsider a Decision prior to the actual implementation of that decision. The panel of the Commission hearing the appeal or the Hearing Officer will only reconsider on the ground of newly discovered evidence or other good cause shown. Petitions for reconsideration shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. Petitions for reconsideration must be filed with the panel of the Commission hearing the appeal and or the Hearing Officer within five calendar days of receipt of the decision. The opposing party shall file a response to said petition within five calendar days of service of the petition.



County of Fairfax, Virginia

MEMORANDUM

DATE: June 5, 2020

TO: Catherine Spage, Director
Department of Human Resources

FROM: Nicole Rawlings, Executive Director
Civil Service Commission *Nicole Rawlings*

SUBJECT: Public Hearing on Proposed Revisions to the Personnel Regulations - 4, 7, 10, 12 and 17

Following an advertised electronic public hearing held on June 4, 2020, the Civil Service Commission considered revisions to the above referenced Chapters of the Personnel Regulations. Members of the Commission participating in the public hearing included Farzin Farzad, Jason Fong, Thomas Garnett, John Harris, Herb Kemp, Patrick Morrison, Nancy Rice, Sara Simmons, John Townes and Deborah Woolen.

Cathy Spage, Director, Department of Human Resources (DHR) provided an overview of the proposed changes for each chapter. In addition, she provided the historical context of the proposed Paid Family Leave (PFL) policy. Ms. Spage shared that the PFL initiative was initially introduced at the July 16, 2019 Board of Supervisor's meeting by Chairman Jeffrey C. McKay. She explained that the objective of the initiative is to offer Fairfax County employees the option of taking PFL when they or a family member has a serious health condition. This aligns with our strategic plan to foster a flexible workplace environment for the current as well as for our future workforce.

Ms. Spage explained that PFL would provide up to 6 weeks based on an employee's assigned scheduled hours of leave for a medical event as defined by the Family Medical Leave Act (FMLA) of 1993 as amended. Employees would be able to use PFL for the employee's own serious health condition, birth and care of the eligible employee's child, or placement for adoption or foster care of a child with the employee, and the care of a family member (spouse, child, parent and parent in-laws) who has a serious health condition.

Ms. Spage further shared that staff conducted a leave study between July and October of 2019 that included several of the surrounding jurisdictions and the Commonwealth's paid leave programs. In November 2019, the results of the study and staff's next step recommendations were presented to the Board of Supervisor's Personnel Committee. Staff conducted informational meetings with stakeholders, including employee group representatives, executive leadership, the senior management team, agency Human Resources staff and agency specific leadership, beginning in December 2019 and continuing through early March 2020. The meetings provided an overview of PFL, the policy, changes to the Fairfax County Personnel Regulations and included a question and answer period.

Civil Service Commission
12000 Government Center Parkway, Suite 258
Fairfax, Virginia 22035
Phone 703-324-2930 Fax 703-653-9431
www.fairfaxcounty.gov

Catherine Spage
Page 2

Ms. Spage also noted that staff took the following actions in preparation for the Civil Service Commission Public Hearing:

- Updated the impacted existing Personnel Regulations;
- Created an FAQ document for employees and stakeholders;
- Created a draft new Procedural Memorandum for Paid Family Leave; and
- Reviewed and updated the impacted existing procedural memorandums and payroll policies.

Ms. Spage lastly noted that in addition to the jurisdictional and Commonwealth comparisons, and eligibility requirements, staff also evaluated current County leave utilization, and cost estimates for PFL once implemented.

Ms. Spage was accompanied by Shelley Scianna, Deputy Director, DHR; Diane Roteman, Employee Relations Division Director, DHR and Leia Huggins-Ellis, Family Medical Leave Coordinator for the County, DHR.

The proposed changes were presented as follows:

Chapter 4

The proposed changes to Chapter Subtitle 4.9 and Section 4.9-1: remove the language referencing the class title Animal Control Officers and replaces it with Animal Protection Police Officers.

Chapter 7

The proposed changes to Section 7.5-2: remove the language referencing the class title Animal Control Officers and replaces it with Animal Protection Police Officers.

The proposed changes to Section 7.5-3: add language regarding Paid Family Leave.

Chapter 10

The proposed changes to Chapter 10: remove the language referencing Parental Leave and add language regarding Paid Family Leave in Section 10.6-4; add Paid Family Leave as a type of leave used for Family Medical Leave in Section 10.22; remove the word father in Section 10.22-5 and replace it with non-birthing parent; remove the language mothers and/or fathers in Section 10.22-6 and replace it with parents or guardians; add language paid family leave being used before any other types in Section 10.22-10; and remove language referencing Parental Leave and replace with language regarding Paid Family Leave in Section 10.23.

The advertised proposed language for Section 10.23-6 read:

“Eligible employees are only entitled to paid family leave once in a twelve-month period.”

DHR amended the proposed language by removing the word “only” and “once” from the statement and reframing it to eliminate any confusion for employees and departments.

The new proposed language presented for Section 10.23-6 reads, “Eligible employees are entitled to a total of up to 6 weeks of paid family leave in a single twelve-month period.”

Catherine Spage

Page 3

The advertised proposed language for Section 10.23-10 read, “Employees who are eligible for sick leave under sections 10.22-5 and 10.22-6 must utilize sick leave prior to using paid family medical leave.”

The updated proposed language for Section 10.23-10 was modified by removing the word “must” and “medical” to ensure that employees are not confused or misdirected to exhaust their sick leave prior to being able to use paid family leave, specifically new parents, following the birth, adoption, or foster care placement of a child.

The new proposed language presented for Section 10.23-10 now reads, “Employees who are eligible for sick leave under sections 10.22-5 and 10.22-6 may utilize sick leave prior to using paid family leave.”

Chapter 12

The proposed changes to Chapter 12 update Section 12.3-3a2a to reference Chapter 7.5 to 7.5-3. Remove language referencing class title Animal Control Officer and replace it with Animal Protection Police Officer.

Chapter 17

The proposed changes to Chapter 17 add the language pregnancy, childbirth and related medical condition, sexual orientation, gender identity consistent with recently passed state legislation to Section 17.3-2d.

The following people registered to speak in advance of the public hearing and provided comment: David Lyons, Fairfax Worker’s Coalition (FWC); Anne Henderson, FWC; Christopher Parker, FWC; Myrna Hammond, FWC; Tammy Wondong, Service Employees International Union (SEIU); Samantha Whitfield, SEIU; Ashley White, SEIU; Michelle Starr, SEIU; Karen Conchar, SEIU; David Broder, SEIU; Tara Gibson, Family Friendly Economy; and Stephanie White, International Association of Firefighters, Local 2068. Jon Miskell, FWC; Marcus Clark, FWC; Eugene Holmes, FWC; Hai Tran, FWC; Ronald Burgess, FWC; also registered but were unable to participate. Carol Taylor, FWC, provided comment in their stead. County employee, Cathleen Sherin, also provided comment.

All speakers provided testimony in support of the proposed PFL provisions.

The PFL policy, as proposed, is prospective and provides that PFL shall only be available for qualifying reasons that would be covered under FMLA on or after the PFL policy effective date. Ms. Starr, Mr. Broder and Ms. Conchar, however, further requested the Commission recommend the adoption of language that would grant PFL eligibility to employees whose FMLA entitlement began prior to and will continue after the effective date of the PFL policy. There was also some discussion regarding when PFL will become effective.

Catherine Spage

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The members of the Civil Service Commission participating in the Public Hearing voted unanimously to recommend that the Board of Supervisors approve the proposed changes for Chapters, 4, 7, 12 and 17 as advertised and Chapter 10 with the amendments to Sections 10.23-6 and 10.23-10 presented by DHR.

If the Commission can be of further assistance in clarifying these proposed changes, please let me know.

cc: Board of Supervisors
Commissioners, Civil Service Commission
Bryan J. Hill, County Executive
Karen Gibbons, Deputy County Attorney
Vicki Kammerude, Chair, EAC
Ron Kuley, President, Local 2068
Joseph Abbate, President, Fairfax Deputy Sheriff's Union, SEIU
Brad Carruthers, President, Fraternal Order of Police, Lodge 77
Sean Corcoran, IUPA, Local 5000
Tammie Wondong, President, FCEGU, SEIU
Kirt Cleveland, Fairfax Workers Coalition
Brenda C. Zwack, Esq., AFSCME Local 3001
Karen Conchar, SEIU 512

Board Agenda Item
June 23, 2020

3:00 p.m.

Public Hearing to Consider Adopting a Reduction in the Late Payment Penalty Ordinances for Real Estate and Personal Property Taxes for Tax Year 2020

ISSUE:

A public hearing to consider amending two ordinances in Chapter 4, Taxation and Finance of the *Code of the County of Fairfax, Virginia* to reduce the Late Payment Penalty for Real Estate and Personal Property Taxes and to eliminate the additional late payment penalty for Personal Property taxes past due more than 30 days for tax year 2020 pursuant to Fairfax County Code §§ 4-10-1 and 4-17.1-9.

RECOMMENDATION:

The County Executive recommends that, following a public hearing, the Board adopts the proposed amendments to two ordinances amending Chapter 4, Taxation and Finance of the *Code of the County of Fairfax, Virginia* to reduce the Late Payment Penalty for Real Estate and Personal Property Taxes and to eliminate the additional late payment penalty for Personal Property taxes past due more than 30 days for tax year 2020 pursuant to Fairfax County Code §§ 4-10-1 and 4-17.1-9.

This ordinance is limited to tax year 2020 and is intended to alleviate the negative financial impact stemming from the potential spread of COVID-19. If approved, the ordinance will assist residents and businesses in Fairfax County.

TIMING:

On June 9, 2020, the Board authorized advertisement of a public hearing to be held on June 23, 2020 at 3:00 p.m.

BACKGROUND:

As a result of the potential spread of COVID-19, a communicable disease of public health threat, the Governor of Virginia declared a state of emergency on March 12, 2020, in which he directed local governments to render appropriate assistance to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible. On March 17, 2020, the Board met in an emergency session to approve a local Declaration of Emergency considering the COVID-19 pandemic. In response to Board direction and input from the community, staff has been looking for ways to assist County businesses and residents.

Board Agenda Item
June 23, 2020

On March 24, 2020, the Board passed two resolutions to help individuals and businesses. The first resolution extended the deadline to file returns for Personal Property Taxes by both individuals and businesses to June 1, 2020. The second extended the deadline to pay the first half of Real Estate taxes by 30 days to August 28, 2020.

These proposed temporary-ordinance amendments will reduce the late payment penalty rate from 10% to 5% and provide additional relief during COVID-19 conditions to taxpayers who are unable to make timely Real Estate tax and Personal Property tax payments for tax year 2020. Also, the additional late payment penalty of 15% for tax year 2020 Personal Property tax payments past due more than 30 days is proposed to be temporarily eliminated. If approved, the ordinance changes will take effect immediately. DTA also intends to eliminate other administrative fees for tax year 2020 – these changes do not require ordinance changes.

FISCAL IMPACT:

The fiscal impact is one of reduced revenues from penalties, as well as a potential delay in the receipt of some tax revenue. The impacts on revenues will vary depending on the number of taxpayers who are unable to pay by the tax deadlines. Based on the late payment penalties and fees assessed in FY 2019, the estimated revenue loss for these adjustments is projected to be approximately \$11 million. The fiscal impact will be offset by an equal benefit to County businesses and residents.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed ordinance amendments to reduce the Real Estate tax and Personal Property Tax late payment penalties for tax year 2020.

STAFF:

Joseph M. Mondoro, Chief Financial Officer
Jaydeep “Jay” Doshi, Director, Department of Tax Administration (DTA)
Christina Jackson, Director, Department of Management and Budget (DMB)
Albena Assenova, Revenue and Economic Analysis Coordinator, DMB
E. Scott Sizemore, Director, Revenue Collection Division, DTA
Juan B. Rengel, Director, Personal Property and Business License Division, DTA
Kimberly Sebulnia, Asst. Director, Revenue Collection Division, DTA

ASSIGNED COUNSEL:

Corinne N. Lockett, Senior Assistant County Attorney

**AN ORDINANCE AMENDING
ARTICLES 10 AND 17.1 OF CHAPTER 4 OF THE FAIRFAX COUNTY CODE,
RELATING TO LATE PAYMENT PENALTIES ON REAL ESTATE AND PERSONAL
PROPERTY TAXES**

**AN ORDINANCE to amend the Fairfax County Code by amending and
readopting Sections 4-10-1 and 4-17.1-9 to reduce the late payment
penalties related to the payment of real estate and personal property taxes
for tax year 2020.**

Be it ordained by the Board of Supervisors of Fairfax County:

- 1. That Sections 4-10-1 and 4-17.1-9 of the Fairfax County Code are amended and
readopted, as follows:**

ARTICLE 10. – Billing for Taxes on Real Property.

**Section 4-10-1. - Levy; tax rate; semi-annual installments; assessment of new buildings;
when taxes payable; penalty and interest.**

- (a) All real estate within the territorial boundaries of the County subject to taxation under the constitution and laws of the Commonwealth of Virginia shall be taxed at the rate established annually by resolution of the Board of Supervisors, and except as otherwise provided by this section, all taxes on such real property shall be due and payable to the County in two equal installments, the first installment shall be paid not later than July 28 of each year, and the second installment shall be paid not later than December 5 of each year. If the first installment of such real estate tax is not paid on or before July 28, the amount of such installment shall be past due as of that date, and if the second installment is not paid on or before December 5, the amount of such second installment shall be past due as of that date. Any payment of real estate taxes on a particular parcel of real property after a penalty has accrued shall be applied first to the payment of any balance due on such parcel of real property.
- (b) All new buildings shall be assessed when substantially completed or fit for use and occupancy, regardless of the date of completion or fitness, and the Director of the Fairfax County Department of Tax Administration shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the Director of the Department of Tax Administration and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year and (ii) the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment made under this Section after November 1 of any year, no

penalty for nonpayment shall be imposed until the last to occur of (i) December 5 of such year or (ii) thirty days following the date of the official billing.

(c) Except as otherwise provided by this Section, if any real estate tax payment is past due, there shall be added and collected as part thereof a late payment penalty in an amount equal to ten percent of the amount past due. For tax year 2020 assessments only, there shall be added and collected as part thereof a late payment penalty in an amount equal to five percent of the amount past due. In addition to such late payment penalty, interest shall be due on such past-due taxes and penalty, commencing the first day following the day such taxes are due at the applicable interest rate in Section 4-20-3.

(d) The Director of the Department of Tax Administration may waive the penalty and interest for failure to pay a tax if such failure was not in any way the fault of the taxpayer.

ARTICLE 17.1. – Personal Property Tax.

Section 4-17.1-9. - Late payments penalties.

(A) Except as set forth herein, any person failing to pay personal property tax on or before the payment dates set forth by [Section 4-17.1-8](#) shall incur a penalty thereon of ten percent which shall be added to the amount of taxes due. Any person failing to pay tax year 2020 personal property tax assessments on or before the payment dates set forth by Section 4-17.1-8 shall incur a penalty thereon of five percent which shall be added to the amount of the taxes due.

(B) Notwithstanding subsection (A), in the case of delinquent personal property taxes, assessed in accordance with [Article 17.1](#), that are more than 30 days past due, the late payment penalty shall increase to twenty five percent of the taxes assessable. The increased late penalty provided for in this paragraph (B) shall not apply to tax year 2020 personal property tax assessments.

(C) For purposes of this section, any late filing penalty that may be assessed in accordance with [Section 4-17.1-7](#) shall become a part of the tax due and shall be included as part of the basis upon which any late payment penalty is calculated.

(D) And, in addition to such penalty, interest shall be due on such taxes and penalty, commencing the first day following the day such taxes are due, at the applicable interest rate specified in [Section 4-20-3](#).

(E) The Director of the Department of Tax Administration, or to his employees as he may so delegate, may waive penalty and interest for failure to pay a tax if such failure was not the fault of the taxpayer.

2. That the provisions of this ordinance shall take effect immediately upon adoption.

GIVEN under my hand this _____ day of _____, 2020.

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Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

Board Agenda Item
June 23, 2020

3:30 p.m.

Public Hearing on RZ 2019-SP-014 (Brightview Senior Living Development, LLC) to Rezone from R-1 and WS to PDH-4 and WS to Permit Additional Land Area for an Independent Living and Assisted Living Facility with No Increase in Density or Intensity, Located on Approximately 0.16 Acres of Land (Springfield District) (Concurrent with PCA/CDPA 2017-SP-017)

and

Public Hearing on PCA/CDPA 2017-SP-017 (Brightview Senior Living Development, LLC) to Amend the Proffers and Conceptual Development Plan for RZ 2017-SP-017, Previously Approved for an Independent Living and Assisted Living Facility, to Permit an Independent Living and Assisted Living Facility and Associated Modifications to Proffers and Site Design at a Density of 15.16 Dwelling Units per Acre and a Floor Area Ratio of 0.21, Located on Approximately 5.62 Acres of Land Zoned PDH-4 and WS (Springfield District) (Concurrent with RZ 2019-SP-014)

This property is located on the S. side of Lee Hwy. approx. 450 ft. W. of Summit Dr. Tax Map 55-4 ((1)) 36B.

This property is located on the S. side of Lee Hwy. approx. 450 ft. W. of its intersection with Summit Dr. Tax Map 55-4 ((1)) 31A.

On April 14, 2020, the Board of Supervisors deferred these public hearings to June 23, 2020, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On February 26, 2020, the Planning Commission voted 11-0 (Commissioner Clarke was absent from the vote) to recommend to the Board of Supervisors the following actions:

- Approval of RZ 2019-SP-014 and the associated Conceptual Development Plan (CDP), CDP 2019-SP-014, subject to the execution of proffered conditions consistent with those dated February 26, 2020;
- Approval of PCA 2017-SP-017 and the associated Conceptual Development Plan Amendment (CDPA), CDPA 2017-SP-017, subject to the execution of proffered conditions consistent with those dated February 26, 2020;

Board Agenda Item
June 23, 2020

- Modification of Par. 3 of Sect. 13-305 of the Zoning Ordinance to modify the transitional screening planting requirements along the western property line in favor of using the existing vegetation supplemented with the proposed plantings as shown on the CDP/FDP/CDPA/FDPA;
- Modification of Par. 3 of Sect. 13-305 of the Zoning Ordinance to modify the placement of the barrier requirement to the periphery of the western property line as shown on the CDP/FDP/CDPA/FDPA;
- Reaffirmation of the modification of Par. 3 of Sect. 13-305 of the Zoning Ordinance to modify the transitional screening planting requirements along the northern, southern, and eastern property lines in favor of using the existing vegetation supplemented with the proposed plantings as shown on the CDP/FDP/CDPA/FDPA;
- Reaffirmation of the modification of Par. 3 of Sect. 13-305 of the Zoning Ordinance to modify the placement of the barrier requirement to the periphery of the eastern and southern property line as shown on the CDP/FDP/CDPA/FDPA;
- Reaffirmation of the waiver of Par. 3 of Sect. 13-305 of the Zoning Ordinance to waive the barrier requirement along the northern property line;
- Reaffirmation of the modification of Par. 13 of Section 11-203 of the Zoning Ordinance to modify the loading space requirement for three loading spaces in lieu of that shown on the CDP/FDP/CDPA/FDPA;
- Reaffirmation of the modification of Pars. 2 and 3 of Sect. 17-201 of the Zoning Ordinance of the construction requirements for the shared use path and service drive along Lee Highway in lieu of that shown on the CDP/FDP/CDPA/FDPA;
- Reaffirmation of the waiver of Par. 3 of Section 17-201 of the Zoning Ordinance to waive the requirement to provide interparcel access to east and west in lieu of the service drive as shown on the CDP/FDP/CDPA/FDPA; and
- Reaffirmation of the waiver of Par. 2 of Sect. 17-201 of the Zoning Ordinance to waive the requirement to construct a sidewalk along Lee Highway in lieu of the Shared Use Path as shown on the CDP/FDP/CDPA/FDPA.

In a related action, the Planning Commission voted 11-0 (Commissioner Clarke was absent from the vote) to approve FDP 2019-SP-014 and FDPA 2017-SP-017, subject to the development conditions dated February 5, 2020.

Board Agenda Item
June 23, 2020

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Kelly Atkinson, Planner, DPD

Board Agenda Item
June 23, 2020

3:30 p.m.

Public Hearing on PCA 93-H-043 (Michael F. Flaherty) to Amend the Proffers for RZ 1993-H-043 to Permit Deletion of Land Area, Located on Approximately 15,310 Square Feet of Land Zoned R-2 (Hunter Mill District)

This property is located on the E. side of Lupine Dr. and N. side of Drewlaine Dr. approx. 900 ft. N. of its intersection with Old Courthouse Rd. Tax Map 28-4 ((34)) E.

PLANNING COMMISSION RECOMMENDATION:

On May 14, 2020, the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval of PCA 93-H-043.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Joseph Onyebuchi, Planner, DPD

Board Agenda Item
June 23, 2020

3:30 p.m.

Public Hearing on SEA 2017-SP-028 (Seritage SRC Finance LLC) to Amend the SE 2017-SP-028, Previously Approved for a Waiver of Certain Sign Regulations to Permit Additional Sign Area and Modifications to Development Conditions, Located on Approximately 15.07 Acres of Land Zoned C-7 and HC (Springfield District)

This property is located at 12000 L. Fair Oaks Mall, Fairfax, 22033. Tax Map 46-3 ((8)) 2.

PLANNING COMMISSION RECOMMENDATION:

On May 14, 2020, the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval of SEA 2017-SP-028, subject to the proposed development conditions contained in Appendix 1 of the Staff Report.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Zachary Fountain, Planner, DPD

Board Agenda Item
June 23, 2020

4:00 p.m.

Public Hearing on RZ 2019-LE-012 (Brightview Senior Living Development, LLC) to Rezone from R-1 to PDC to Permit a Continuing Care Facility and Church with Child Care Center with an Overall Floor Area Ratio of 0.62 and Approval of the Conceptual Development Plan, Located on Approximately 7.61 Acres of Land (Lee District)

This property is located on the E. side of Telegraph Rd., S. of its intersection with Mission Ct. Tax Map 92-1 ((1)) 23 and 24.

PLANNING COMMISSION RECOMMENDATION:

On May 20, 2020, the Planning Commission voted 11-0-1 (Commissioner Carter abstained from the vote) to recommend to the Board of Supervisors the following actions:

- Approval of RZ 2019-LE-012, subject to the execution of proffered conditions consistent with those dated May 20, 2020;
- Modification of the transitional screening requirement along the western and northern property lines in favor of the landscaping shown on the CDP/FDP;
- Modification of the required barrier along the northern property line in favor of the existing barrier shown on the CDP/FDP;
- Waiver of the required barrier along the western property line; and
- Modification of the peripheral parking lot landscaping in favor of the landscaping as shown on the CDP/FDP.

In a related action, the Planning Commission voted 11-0-1 (Commissioner Carter abstained from the vote) to approve FDP 2019-LE-012, subject to the proposed development conditions dated April 29, 2020.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

Board Agenda Item
June 23, 2020

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Daniel Creed, Planner, DPD

Board Agenda Item
June 23, 2020

4:00 p.m.

Public Hearing on RZ 2019-BR-019 (Conley Development, LLC) to Rezone from R-1 to R-2 to Permit Residential Development with a Total Density of 2.0 Dwelling Units per Acre, Located on Approximately 1.0 Acres of Land (Braddock District)

This property is located on the W. side of Olley Ln., approximately 865 ft. S. of its intersection with Little River Turnpike. Tax Map 58-4 ((12)) 8.

PLANNING COMMISSION RECOMMENDATION:

On May 20, 2020, the Planning Commission voted 11-0 (Commissioner Ulfelder was absent from the vote) to recommend to the Board of Supervisors approval of RZ 2019-BR-019 and its associated Generalized Development Plan (GDP), subject to the execution of proffered conditions consistent with those dated May 20, 2020.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Emma Estes, Planner, DPD

Board Agenda Item
June 23, 2020

4:00 p.m.

Public Hearing on SEA 2006-HM-017-02 (Centreville Road LC) to Amend SE 2006-HM-017, Previously Approved for a Child Care Center, to Permit Deletion of Land Area and Associated Modifications to Site Design and Development Conditions, Located on Approximately 2.61 Acres of Land Zoned R-1 (Hunter Mill District)

This property is located at 2745 and 2747 Centreville Rd., Herndon, 20171. Tax Map 25-1 ((1)) 34C and 34D.

On June 9, 2020, the Board of Supervisors deferred this public hearing to June 23, 2020 at 4:00 p.m.

PLANNING COMMISSION RECOMMENDATION:

On May 6, 2020, the Planning Commission voted 11-0 (Commissioner Cortina was absent from the meeting) to recommend to the Board of Supervisors approval of SEA 2006-HM-017-02, subject to the proposed development conditions dated March 3, 2020.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Joseph Onyebuchi, Planner, DPD

Board Agenda Item
June 23, 2020

4:30 p.m.

Public Comment on Issues of Concern