

Department of Planning and Zoning

LOB #78:

ZONING ORDINANCE AMENDMENTS

Purpose

The Zoning Ordinance of Fairfax County is intended to promote the public health, safety and general welfare and to implement the Comprehensive Plan for the orderly and controlled development of the County. Fairfax County has had a Zoning Ordinance since 1941 and the current Zoning Ordinance was adopted in 1978. The Zoning Ordinance consists of a text, map and includes approved rezonings and all proffered conditions accepted as part of any approved rezoning. To be effective, Zoning Ordinances need to reflect the views of how land within a jurisdiction can or should be used at the present time as well as the future. Therefore, amendments to the text of the Zoning Ordinance are necessary to reflect changes in state codes, land use development patterns, new uses and policies that need to be accommodated within the County's land use regulations. These legislative changes require significant research, analysis and legal review to ensure that the County develops in a manner consistent with the Comprehensive Plan guidance and is reflective of the Board's policies and the County Vision Elements.

Description

This LOB is performed by staff in the Ordinance Administration Branch under the direction of the Zoning Administrator/Division Director. It is noted that the Ordinance Administration Branch is also responsible for the Zoning Interpretations, Inquiries and Appeals lines of business.

Amendments to the Zoning Ordinance text can range from the very simple editorial revisions to reflect changes in state code or other minor edits for clarification purposes, to a multi-year effort to create a new Zoning District to implement the Tysons Plan. Staff has recently concluded a multi-year effort to adopt a new Noise Ordinance, which is also administered by the Zoning Administration Division. The processing of a Zoning Ordinance amendment includes background research, coordination with the applicable stakeholders, drafting of the proposed amendment text and staff report, vetting of the proposed text with appropriate individuals and groups, public hearings before the Planning Commission and Board of Supervisors, Board approval, file close out, implementation, and potential monitoring activities. Implementation activities may include, but are not limited to, the training of the public and staff about the adopted amendment, updating websites and any applicable applications, publishing brochures and handouts, and the development of new procedures.

Requests for amendments to the Zoning Ordinance are generated from the Board, the Planning Commission, the Board of Zoning Appeals, staff, citizens, and industry representatives. In order to manage and prioritize these requests, staff prepares a Zoning Ordinance Amendment Work Program which is approved annually by the Board. The Work Program is comprised of two lists: Priority 1 and Priority 2. The Priority 1 list includes those items to be addressed in the up-coming year and the Priority 2 list includes items to be retained for future Priority 1 consideration. The 2015 Priority 1 Work Program adopted by the Board of Supervisors on July 28, 2015 contains a total of 37 amendments broken down as follows:

- 5 amendments previously authorized and scheduled for public hearings
- 21 amendments in various stages of research and analysis that have been carried over from the 2014 Work Program
- 11 amendments that are new to the Priority 1 Work Program

In addition to processing the text amendments, this LOB is responsible for maintaining the compiled text of the Zoning Ordinance and all amendments adopted through the preceding year. Staff is required to provide an up to date copy of the Zoning Ordinance for review by the public and to prepare certified copies of specific provisions upon request for use by other County agencies and the public. A current copy of the

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Zoning Ordinance, as amended, is maintained on the Department's website, along with copies of the Staff Reports for all authorized amendments. Staff maintains a List Serve Account for all adopted amendments.

Benefits

Benefits of this LOB include:

- Promotes the public health, safety and general welfare.
- Implements the County's Comprehensive Plan and other County policies such as affordable housing.
- Provides the regulatory guidance to boards, commissions, task forces, citizens and development industry on zoning and land development regulations.
- Responds to changing land use trends, policies and conditions with appropriate regulations to foster the development of healthy, attractive and safe communities.

Mandates

Part 2 of Article 18 of the Zoning Ordinance allows the text of the Zoning Ordinance to be amended and outlines the Zoning Ordinance amendment process.

Trends and Challenges

The following trends and challenges have been identified:

- The current Zoning Ordinance was adopted in 1978 and was designed to implement a more suburban land use model with distinct districts for residential, commercial and industrial development. However, the future growth of the county is taking place in mixed use activity centers around transit station areas as well as in the older Community Business Centers in a more urban form. The Zoning Ordinance is one of several regulatory codes that should facilitate this type of urban mixed use development by providing the appropriate regulations for the evolving nature of development and urban structures.
- There is increasing demand to update outdated land uses and definitions to reflect changing development trends. Examples include: micro-breweries; food service operations that are not quite fast food but not full service restaurants; and innovative types of housing products including live/work units.
- Amendments to the Ordinance are continually needed to address state code changes and court decisions. Elements of both the County's Noise Ordinance and Sign provisions are based on outdated model ordinances that have been deemed unenforceable by the Courts and full rewrites of these codes are required.
- A number of surrounding jurisdictions, including Arlington County, Fairfax City, and Montgomery County, Maryland have undertaken major updates of their Zoning Ordinances and presented them in a more user friendly web based format.

While there is increasing pressure to undertake a major update of the Zoning Ordinance, such an undertaking will entail a significant commitment of financial and staff resources to accommodate what is usually a long multi-year effort with extensive outreach to property owners, the community and other stakeholders followed by legislative approval by the Board.

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Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
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FUNDING			
<u>Expenditures:</u>			
Compensation	\$288,293	\$278,812	\$286,502
Operating Expenses	25,477	20,601	20,541
Total Expenditures	\$313,770	\$299,413	\$307,043
General Fund Revenue	\$0	\$0	\$0
Net Cost/(Savings) to General Fund	\$313,770	\$299,413	\$307,043
POSITIONS			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	4 / 4	4 / 4	4 / 4
Total Positions	4 / 4	4 / 4	4 / 4

Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Number of Zoning Ordinance Amendments processed	10	8	12	12	12
Percent of Zoning Ordinance Amendments on the Priority 1 ZOAWP processed each year	37%	25%	38%	37%	37%

The metrics for this LOB measures the number of adopted Zoning Ordinance Amendments (ZOAs) processed and the percentage of ZOAs on the adopted Priority 1 ZOA Work Program (ZOAWP) processed each year. The objective of this metric is to process 50 percent of the amendments on the Priority 1 ZOAWP within the year. The number of ZOAs adopted each year is a quantifiable output for this LOB that can be used to compare output from year to year. However, the percentage metric is based on the number of Priority 1 items on the ZOAWP, which can vary from year to year. The more items on the Priority 1 ZOAWP, the harder it is to achieve a high percentage of completion. For purposes of the metric, processing a Zoning Ordinance amendment includes:

- Authorization of public hearings by the BOS
- Presentation and discussion of a proposed amendment to the BOS Development Process Committee (which is a Committee of the whole Board)
- Determination that a particular amendment is no longer necessary (Issue can be resolved by Zoning Administrator interpretation or change in circumstance)

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Since FY 2013, the average number of amendments processed has been 10, and the percentage of amendments processed is approximately 37 percent. Many of the amendments on the Work Program require significant staff research, analysis and outreach to stakeholders as well as multiple meetings with the Board's Development Process Committee prior to even being authorized. More often than not, these amendments become multi-year efforts which can impact the amount of staff resources available to process other amendments. Amendments are subject to legislative approval by the Board and obtaining consensus from stakeholders on these amendments prior to authorization has been expressed by some Board members as a prerequisite for authorization to advertise public hearings. This trend will make it increasingly difficult to process amendments within a year's time frame and will limit the number of amendments that can be completed each year. In addition, the staff assigned to the Zoning Ordinance Amendments LOB is also the same staff involved in the Zoning Interpretations, Inquiries and Appeals LOB. Due to the long-term nature of the amendment process, work on amendments is often delayed in order to process the more immediate requests from the public for compliance letters, use determinations and other interpretation requests.