



FAIRFAX COUNTY

PROPOSED ZONING ORDINANCE AMENDMENT

STAFF REPORT

County Code Amendments for Consistency with New Chapter 112.1

November 1, 2022

Hearing Dates

Planning Commission: December 8, 2022

Board of Supervisors: January 24, 2023

Staff Contact

Jennan Qato, Planner



Americans with Disabilities Act (ADA): Reasonable Accommodation is available upon 48 hours advance notice. For additional Information on ADA call 703-324-1334 or 711 (Virginia Relay Center).



PLANNING & DEVELOPMENT

**Zoning Administration Division
Government Center Parkway, Suite 807**

**Fairfax, Virginia 22035-5507
Phone 703-324-1314**

www.fairfaxcounty.gov/planning-development

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Background

On March 23, 2021, the Board of Supervisors adopted a new and modernized Zoning Ordinance that took effect on July 1, 2021. The proposed amendment will update various chapters of the County Code to reflect the new Zoning Ordinance as Chapter 112.1. In so doing, references to Chapter 112 will change to Chapter 112.1 and references to sections in the previous zoning ordinance will be updated. In the affected provisions, other minor editorial revisions (e.g., replacing “shall”) are included as well.

The proposed changes have been coordinated with staff from the appropriate departments. In addition to the updates described above, and as further discussed below under item #38, after consulting with the Department of Tax Administration (DTA), this amendment proposes to repeal Chapter 27, Establishments Permitting Dancing, as dance halls are no longer a use in the new Zoning Ordinance. They were replaced with a new use, Public Entertainment, which requires approval by the Board, either by special exception in the C-5 through C-8 and I-2 through I-6 Districts or in certain planned districts if shown on an approved development plan or if approved by special exception. Accessory entertainment is also allowed in conjunction with a restaurant if it meets the applicable use standards. DTA has indicated that, between FY 2018 and FY 2022, the annual revenue collections from the Dance Hall License fee ranged from \$2,060 to \$3,590.

Proposed Changes

The proposed changes are described in the table below and are shown in the draft Ordinance, Attachment 1 to the Board Item for these proposed County Code amendments. Where the provision contains the word "shall," it has been replaced with "will," "must," or other similar language. Where the provision contains the phrase "pursuant to," it has been replaced with "in accordance with," "under," or other similar language.

	County Code Reference	Description of Change
Chapter 1. – General Provisions.		
1	1-1-16. - Reorganization of departments, agencies and offices.	Replace the reference to Chapter 112 with Chapter 112.1.
Chapter 4. – Taxation and Finance.		
2	4-13-1. - Definitions.	Replace reference to "Article 20, Part 3" with subsection 9103.7.
3	4-24-1. - Definitions.	Replace reference to "Appendix 7 to Chapter 112" with Section 3102 of Chapter 112.1.
4	4-24-3.1. - Partial tax exemption for certain rehabilitated, renovated, or replacement commercial or industrial structures within certain districts.	Update the use names and replace the reference to "Chapter 112" with Chapter 112.1.
Chapter 30. – Minimum Private School and Child Care Facility Standards.		
5	30-1-1. - Definitions.	Replace the reference to "Article 20 of Chapter 112" with Article 9 of Chapter 112.1, and replace the references to mobile home with the correct term, manufactured home, as used in the Zoning Ordinance.
Chapter 31 – Peddlers, Solicitors and Canvassers.		
6	31-2-4. - Application for license.	Replace reference to Chapter 112 with Chapter 112.1, and delete the hyphen in non-residential.
Chapter 34. – Charitable Solutions.		
7	34-1-3. par. 12 - Application for license.	Replace reference to Chapter 112 with Chapter 112.1, and delete the hyphen in non-residential.
Chapter 41.1. – Animal Control and Care		
8	41.1-1-1. - Definitions	Replace reference to temporary special permit with administrative or special permit.
Chapter 82 – Motor Vehicles and Traffic		
9	82-5A-2. par. (h) - Definitions.	Replace reference to Chapter 112 with Chapter 112.1.
10	82-5B-1. - Definitions.	In the definition of Residential area, replace Chapter 112 with Chapter 112.1.

	County Code Reference	Description of Change
Chapter 101. – Subdivision Provisions		
11	101-1-12. - Validation of certain divisions of land recorded by metes and bounds or an unapproved plat before September 1, 1947.	Replace reference to Sect. 2-405 with subsection 5100.2.J.
12	101-1-14. - Validation of parcels.	Replace reference to Sect. 2-405 with subsection 5100.2.J.
13	101-2-1. par. 5 - Procedure.	Replace reference to “Part 8 of Article 2” with Section 5101.
14	101-2-2. Minimum Requirements.	Remove the reference to the R-P District, as that district has been removed from the Zoning Ordinance.
15	101-2-5. par. (c)(11) - Final subdivision plat.	In Paragraph (c)(11), replace reference to “Part 8 of Article 2” with Section 5101, and replace reference to “Par. 1 of Sect. 2-802” with subsection 5101.2.
16	101-2-8. - Cluster subdivision provisions.	Replace reference to Sect. 2-309 with subsection 5100.3.
17	101-3-4. par. (a), (b), (c), (d) - Definitions.	In Par. (b), replace the reference to Article 17 with Article 8. In Par. (d), replace the reference to Article 17 with Section 8100 of the Zoning Ordinance.
18	101-3-8. par. (b) - Calculation of pro rata road reimbursement payments.	Replace reference to Article 17 of the Zoning Ordinance with subsection 8100.7 of the Zoning Ordinance.
19	101-3-11. par (a) - Payment of pro rata road reimbursements.	Replace reference to “Part 7, Article 18” of the Zoning Ordinance with subsection 8100.9 of the Zoning Ordinance.
20	101-4-1. par. (5) - Definitions.	Replace reference to “yards” with the correct term, setbacks.
Chapter 104 – Erosion and Sedimentation Control.		
21	104-1-2. introductory par. - Applicability; regulated land-disturbing activities; submission and approval of a conservation plan.	Replace reference to “Paragraph 3 of Part 6 of Article 2 of the Zoning Ordinance” with Section 5104 of the Zoning Ordinance. Replace reference to “Part 6 of Article 18” of the Zoning Ordinance with subsection 8101.5 of the Zoning Ordinance.
Chapter 110. – Inoperative Motor Vehicles, Trailers and Semitrailers.		
22	110-3-2. - Exceptions.	Replace reference to Chapter 112 with Chapter 112.1.
23	110-3-7. - Storage of inoperative motor vehicles, trailers, or semitrailers.	Replace reference to Chapter 112 with Chapter 112.1.

	County Code Reference	Description of Change
Chapter 114. – Agricultural and Forestal Districts of Statewide Significance		
24	114-1-4. par. (b) - Criteria for the Establishment, Modification, Renewal, Continuation or Termination of a District.	Remove the reference to the R-P District as that district has been removed from the Zoning Ordinance.
Chapter 115. – Local Agricultural and Forestal Districts.		
25	115-5-1. - par. (2) and (b)(5) - Criteria.	Remove the reference to the R-P District as that district has been removed from the Zoning Ordinance.
Chapter 118. – Chesapeake Bay Preservation Ordinance.		
26	118-3-2. par. (j) - General Performance Criteria for resource management areas and resource protection areas.	Replace reference to “yards” with the correct term, setbacks.
27	118-5-4. par. (a)(6) - Waivers for Loss of Buildable Area in a Resource Protection Area.	Replace reference to “Section 2-405 of Chapter 112” with subsection 5100.2.J
28	118-6-3. par. (d) - Required Notice for Public Hearings.	Replace reference to Article 18 of the Zoning Ordinance with Section 8100.
29	118-6-5. - Submission Requirements for Exception Requests.	Replace the reference to “Section 9-011, paragraph 2” with subsection 8101.3.B.
30	118-6-7. par. (c) - Exceptions for loss of buildable area in a resource protection area.	Replace reference to "Section 2-405 of Chapter 112" with subsection 5100.2.J.
Chapter 122. – Tree Conservation Ordinance.		
31	122-2-1. Table 1 - Ten-year Tree Canopy Requirements.	Remove the reference to the R-P District as that district has been removed from the Zoning Ordinance.
32	122-3-1. introductory par. and par. (a)4 - Tree conservation plans.	In the introductory paragraph, replace references to “Articles 13 and 17 of Chapter 112 (Zoning Ordinance)” with Section 5108 and subsection 8101.4 of Chapter 112.1 (Zoning Ordinance). In paragraph (a)4, replace reference to Article 17 with subsection 8101.4.
33	122-5-3. par. (b) - Criminal Violations and Penalties.	Replace reference to 112 (Zoning Ordinance) with 112.1 (Zoning Ordinance).
Chapter 124. Stormwater Management Ordinance.		
34	124-1-5. - Definitions.	In the definition of Floodplain, replace reference to Chapter 112 with Chapter 112.1.
35	124-4-2. par. B - Water Quality Design Criteria Requirements.	Replace reference to “Article 17 of Chapter 112 of the Code” with Section 8100 of Chapter 112.1 of the Code.

	County Code Reference	Description of Change
36	124-5-4. par. A.1. - Water Quality.	Replace reference to Article 17 of the Zoning Ordinance to subsection 8100.7 of the Zoning Ordinance.
Appendix A. – Flood Plains.		
37	Appendix A. - Flood Plains.	In the introductory paragraph, replace the reference to Article 20 of the Zoning Ordinance with Section 9104 and replace the reference to Part 2-900 with Section 5105.
Appendix Q. – Land Development Services Fee Schedule		
38	Appendix Q. – Land Development Services Fee Schedule	In the introductory paragraph, replace the reference to 112 (Zoning Ordinance) with 112.1 (Zoning Ordinance).
Chapter 27. – Establishments Permitting Dancing.		
39	Chapter 27. - Establishments Permitting Dancing.	Chapter 27 is proposed to be repealed. This Chapter requires an annual license tax of \$100 for an establishment permitting dancing. This is defined as any place open to the general public where dancing is permitted. The Chapter also requires the Zoning Administrator to issue a permit and prohibits the establishment from being open between the hours of 2:00 AM and 9:00 AM. With adoption of the new Zoning Ordinance, the dance hall use was removed and replaced with a new use, Public Entertainment, which requires approval by the Board, either by special exception in the C-5 through C-8 and I-2 through I-6 Districts or in certain planned districts if shown on an approved development plan or if approved by special exception. Accessory entertainment is also allowed in conjunction with a restaurant, if it meets the applicable standards. DTA has stated that, between FY 2018 and FY 2022, the revenue collections from the Dance Hall License fee ranged from \$2,060 to \$3,590

Summary

The proposed amendment will update the County Code to reflect the new Zoning Ordinance as Chapter 112.1. In addition, Chapter 27 is proposed to be repealed, as the dance hall use has been removed from the Zoning Ordinance. It is recommended that the amendment become effective at 12:01 a.m. on the day following adoption.

1 **AN ORDINANCE AMENDING**
2 **VARIOUS CHAPTERS OF THE FAIRFAX COUNTY CODE TO REFLECT THE NEW**
3 **CHAPTER 112.1 (ZONING ORDINANCE).**

4
5 **Draft of November 1, 2022**

6
7 **AN ORDINANCE** to repeal Chapter 27 in its entirety and to amend the
8 Fairfax County Code by amending and readopting Sections 1-1-16, 4-13-1,
9 4-24-1, 4-24-3.1, 30-1-1, 31-2-4, 34-1-3, 41.1-1-1, 82-5A-2, 82-5B-1, 101-
10 1-12, 101-1-14, 101-2-1, 101-2-2, 101-2-5, 101-2-8, 101-3-4, 101-3-8, 101-
11 3-11, 101-4-1, 104-1-2, 110-3-2, 110-3-7, 114-1-4, 115-5-1, 118-3-2, 118-
12 5-4, 118-6-3, 118-6-5, 118-6-7, 122-2-1, 122-3-1, 122-5-3, 124-1-5, 124-4-
13 2, 124-5-4, Appendix A, and Appendix Q.

14
15 **Be it ordained by the Board of Supervisors of Fairfax County:**

16
17 **1. That Chapter 27 is repealed in its entirety and Sections 1-1-16, 4-13-1, 4-24-1, 4-24-**
18 **3.1, 30-1-1, 31-2-4, 34-1-3, 41.1-1-1, 82-5A-2, 82-5B-1, 101-1-12, 101-1-14, 101-2-1, 101-2-2,**
19 **101-2-5, 101-2-8, 101-3-4, 101-3-8, 101-3-11, 101-4-1, 104-1-2, 110-3-2, 110-3-7, 114-1-4, 115-**
20 **5-1, 118-3-2, 118-5-4, 118-6-3, 118-6-5, 118-6-7, 122-2-1, 122-3-1, 122-5-3, 124-1-5, 124-4-2,**
21 **124-5-4, Appendix A, and Appendix Q of the Fairfax County Code are amended and**
22 **readopted as follows:**

23
24 **Chapter 1 – General Provisions**

25
26 **Article 1. General Provisions.**

27
28 **Section 1-1-16. Reorganization of departments, agencies and offices.**

29 (a)(1) All provisions of the County Code, including ~~Chapter 112, the Zoning Ordinance,~~
30 ~~Chapter 112.1 (Zoning Ordinance),~~ the Public Facilities Manual, and all other codified
31 and uncodified ordinances of Fairfax County that refer to the "Director of the
32 Department of Environmental Management," the "Department of Environmental
33 Management," its divisions, branches or sections, and officials thereof whose positions
34 ~~shall be~~ were retitled or changed in the reorganization, ~~shall~~ mean the "Director of the
35 Department of Public Works and Environmental Services," the "Department of Public
36 Works and Environmental Services," and the corresponding offices, divisions, branches
37 or sections, as the case may be, specified as part of the reorganization of the Departments
38 of Public Works, Environmental Management and part of General Services.

43 **Chapter 4 – Taxation and Finance**

44 **Article 13. Transient Occupancy Tax.**

45 **Section 4-13-1. Definitions.**

46 *Hotel* means any public or private hotel, inn, apartment hotel, hostelry, tourist home or house,
47 motel, rooming house, any place that offers Short-Term Lodging as defined in ~~Article 20, Part~~
48 ~~3~~subsection 9103.7 of the Fairfax County Zoning Ordinance, or other lodging place within the
49 County offering lodging for one or more persons at any one time, and the owner and operator
50 thereof, who, for compensation, furnishes lodging to any transients as hereinafter defined.

51
52 **Article 24. Partial Property Tax Exemption for Certain Rehabilitated Real Property.**

53 **Section 4-24-1. Definitions.**

54 *Commercial Revitalization District* means those Commercial Revitalization Districts specified
55 in ~~Appendix 7 to Chapter 112~~Section 3102 of Chapter 112.1 (Zoning Ordinance) of the Fairfax
56 County Code, the boundaries of which are established by the Official Zoning Map.

Section 4-24-3.1. - Partial tax exemption for certain rehabilitated, renovated, or replacement commercial or industrial structures within certain districts.

D. In addition to any other provision of this Section, if the total floor area of a commercial or industrial structure that is substantially rehabilitated, renovated, or replaced is more than 80,000 square feet, then the owner of such property ~~shall~~will be issued a partial tax exemption to the general real property tax only if the improved or replacement structure is or is part of a Mixed-Use Project. In order to qualify for an exemption authorized by this Section, a Mixed-Use Project must have two different uses, and each such use ~~shall~~must consist of at least 25 percent of the total gross floor area ratio of the entire Mixed-Use Project, and for the purposes of this Section, all business service ~~and supply~~ establishments, all ~~eating establishments~~restaurants, carryout restaurants, all financial institutions, including drive ~~in banks~~through financial institutions, all funeral homes, all ~~garment cleaning establishments~~personal service establishments, all health ~~clubs~~and exercise facilities, all ~~personal service establishments~~, all ~~pharmacies, including drive-in~~through pharmacies, all retail sales establishments, and all ~~theatres~~indoor commercial recreation, as such terms are defined in ~~Chapter 112~~Chapter 112.1 of the Fairfax County Code, the Fairfax County Zoning Ordinance, ~~shall~~will be considered retail uses. An owner of a Commercial or Industrial Structure that either is or is part of a Mixed-Use Project qualifying for partial exemption from the real property tax because of substantial rehabilitation, renovation, or replacement ~~shall~~will be issued a partial tax exemption to the general real property tax otherwise due on the fair market value of the total project in an amount that is equal to the value of the real property tax levy calculated on the difference in value between the Base Value of the qualifying Commercial or Industrial Structure and the initial fair market value of the completed substantially rehabilitated, renovated, or replaced Mixed-Use Project. However, in no case ~~shall~~will the assessed value of land be included in the partial exemption of a qualifying Mixed-Use Project. Any Multifamily Structures or units that are part of a Mixed-Use Project are subject to the same moderate Rental Apartment requirements as defined in this Article. The tax abatement period for Mixed-Use Projects ~~shall~~will be the same as for Commercial and Industrial Structures set forth in Section 4-24-3.1.

Chapter 27 – Establishments Permitting Dancing

ARTICLE 1. -- General Requirements.^{1H}

Footnotes:

~~---(I)---~~

~~1. As to regulation of dance halls in counties, see Va. Code Ann., §§ 18.2-432 to 18.2-433.~~

~~Section 27-1-1. -- Definition.~~

~~For the purposes of this Article, an establishment permitting dancing shall mean any place open to the general public where dancing is permitted.~~

~~(1954 Code, vol. 1, § 6-1; 1961 Code, § 10-1.)~~

~~Section 27-1-2. -- Exception as to certain dances.~~

~~This Article shall not be construed to apply to dances held for benevolent or charitable purposes or when dances are conducted under the auspices of religious, educational, civic or military organizations.~~

~~(1954 Code, vol. 1, § 6-9; 1961 Code, § 10-9.)~~

~~**Section 27-1-3. --Reserved.**~~

~~**Section 27-1-4. --License required; tax; term; renewal; transferability.**~~^[2]

~~(a) It shall be unlawful for any person to operate or conduct an establishment permitting dancing in the County without having first paid a license tax and obtained a license as provided in this Article. The license shall be issued by the Supervisor of Assessments, and the tax for such license shall be One Hundred Dollars (\$100.00).~~

~~(b) Licenses issued pursuant to this Article shall be for the entire calendar year and shall not be prorated. Applicants who fail to renew a license by January 31 of each year shall pay a penalty of ten percent (10%) of the license tax.~~

~~(c) Licenses issued pursuant to this Article shall not be transferable or assignable.~~

~~(1954 Code, vol. 1, § § 604, 5, 6, 7, 8; 1961 Code, § § 10-4, 5, 6, 7, 8.)~~

Footnotes:

~~—(2)—~~

~~2. As to amount of license tax that may be imposed by the County, see Va. Code Ann., § 18.2-433.~~

~~**Section 27-1-5. --Permit required.**~~

~~(a) It shall be unlawful for any person to operate or conduct an establishment permitting dancing in the County, without having first obtained a permit from the Zoning Administrator. Application for such a permit shall be made to the Zoning Administrator on forms to be provided for by him.~~

~~(b) A permit may be revoked by the Zoning Administrator if:~~

~~(1) The establishment fails to operate in accordance with the provisions of this Article.~~

~~(2) The establishment is not operating in compliance with the Zoning Chapter of this Code.~~

~~(c) Revocation or denial of a permit may be appealed in writing to the County Executive.~~

~~(Code 1954, Vol. 1, § 6-5.)~~

~~**Section 27-1-6. --Prohibited hours of operation.**~~^[3]

It shall be unlawful for any person conducting an establishment permitting dancing to have such establishment open between the hours of 2:00 A.M. and 9:00 A.M.

(1954 Code, vol. 1, § 6-3; 1961 Code, § 10-3; 5-77-27.)

Footnotes:

—(3)—

3. As to prescribing the hours or times during which licensed public dance halls may be kept open and operated in County, see Va. Code Ann., § 18.2-433.

~~Section 27-1-7. -- Penalty.~~

~~The penalty for a violation of any provision under this Article shall be a fine of not more than Five Hundred Dollars (\$500.00).~~

~~(1976.)~~

[RESERVED]

Chapter 30 – Minimum Private School and Child Care Facility Standards

Article 1. In General

Section 30-1-1. - Definitions.

Home child care facility means any facility located in a dwelling or ~~mobile~~manufactured home, as defined in ~~Article 20 of Chapter 112~~Article 9 of Chapter 112.1 of the Fairfax County Code (the Zoning Ordinance), where a person, for compensation, regularly provides care, protection, supervision and guidance to one or more children who do not reside in the facility and who are not attended by a parent, guardian or legal custodian while they are in that facility, during a part of the day for at least four days of a calendar week. If, on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children in a structure other than a dwelling or ~~mobile~~manufactured home, as defined in the Zoning Ordinance, that facility ~~shall~~will be deemed to be a child care center and included within those facilities defined in this Section. A home child care facility does not include: (i) any family day home licensed by the Commonwealth ~~pursuant to~~under Virginia Code § 63.2-1701 or any facility exempted from licensure by Virginia Code § 63.2-1715; (ii) any dwelling or ~~mobile~~manufactured home where a person provides care solely for children who reside there; or (iii) any dwelling or ~~mobile~~manufactured home where a person provides care solely for relatives of the resident owner or tenant. However, if on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children who do not reside in that dwelling or ~~mobile~~manufactured home and who are not attended by a

parent, guardian or legal custodian while they are in that dwelling or ~~mobile~~manufactured home during a part of the day for at least four days of a calendar week, and a home child care facility is established thereby, then any children who are related to the person who provides such care and are present in that dwelling or ~~mobile~~manufactured home and any other children who reside in that dwelling or ~~mobile~~manufactured home ~~shall~~will be counted and considered in determining whether the facility complies with the provisions of this Chapter.

Chapter 31 – Peddlers, Solicitors, and Canvassers

Article 2. Licenses

Section 31-2-4. - Application for license.

(a)(10) Any other permits or licenses required under other applicable County or state laws or regulations to enable the applicant to peddle or solicit in the manner or location indicated [in] his or her application, specifically including, for example, any special permits or ~~non-residential~~nonresidential use permits required by the Zoning Ordinance (~~Chapter 112~~Chapter 112.1 of the County Code).

Chapter 34 – Charitable Solicitations

Article 1. In General

Section 34-1-3. - Application for license.

(12) Any other permits or licenses required under other applicable County or State laws or regulations to enable the applicant to solicit in the manner or location indicated in his or her application, specifically including, for example, any special permits or ~~non-residential~~nonresidential use permits required by the zoning ordinance (~~Chapter 112~~Chapter 112.1 of the County Code).

Chapter 41.1 – Animal Control and Care

Article 1. In General

Section 41.1-1-1. – Definitions.

Traveling animal exhibition means any spectacle, display, act or event, including circuses 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~~temporary administrative or special permit pursuant to the Zoning Ordinance. Notwithstanding the foregoing, a horse or pony ride is not a traveling animal exhibition.

219 **Chapter 82 – Motor Vehicles and Traffic**

220 **Article 5A. Residential Permit Parking Districts**

221 **Section 82-5A-2. - Definitions.**

- 222 (h) *Residential area* ~~shall~~ means that side of any street, road or highway adjacent to
223 property: used exclusively as a residence; contained in any one of the residential (R)
224 districts; or contained in the residential portion of any of the planned development (P)
225 districts set forth in the Zoning Ordinance, ~~Chapter 112~~Chapter 112.1 of this Code.

226 **Article 5B. Prohibition Against Parking Watercraft, Trailers, Motor Homes, and Other**
227 **Devices in Certain Areas.**

228 **Section 82-5B-1. - Definitions.**

229 *Residential area* means that side of any street, road or highway adjacent to property: used
230 exclusively as a residence; contained in any one of the residential (R) districts; or contained in
231 the residential portion of any planned development (P) districts set forth in the Zoning
232 Ordinance, ~~Chapter 112~~Chapter 112.1 of this Code.

234 **Chapter 101 – Subdivision Provisions**

236 **Article 1. In General**

237 **Section 101-1-12. - Validation of certain divisions of land recorded by metes and bounds or**
238 **an unapproved plat before September 1, 1947.**

- 239
240 (a) All divisions of land undertaken by the recordation among the land records of Fairfax
241 County prior to September 1, 1947, of a metes and bounds description or a plat not
242 approved by the appropriate County board, agency or official that complied with all
243 applicable provisions of the Zoning Ordinance in effect at the time the description or
244 plat was recorded or at some time thereafter, or meet the provisions of ~~Sect. 2-~~
245 ~~405~~subsection 5100.2.J of the Zoning Ordinance, except as noted in paragraph (b), are
246 hereby validated and ~~shall~~will for all purposes be deemed to be in compliance with all
247 provisions of the Subdivision Ordinance in effect at the time they were recorded as if
248 they had fully complied with all provisions of ~~said~~the Subdivision Ordinance.
249
250 (b) Any lot or parcel that is the result of a division of land undertaken by the recordation
251 among the land records of Fairfax County prior to September 1, 1947, of a metes and
252 bounds description or a plat not approved by the appropriate County board, agency or
253 official which did not comply with the applicable minimum district size, lot area and/or
254 lot width provisions of the Zoning Ordinance in effect at the time the description or plat
255 was recorded or at some time thereafter, or does not meet the provisions of ~~Sect. 2-~~
256 ~~405~~subsection 5100.2.J of the Zoning Ordinance is hereby designated as an outlot
257 under the Subdivision Ordinance and ~~shall~~will not constitute a buildable lot.

Section 101-1-14. - Validation of parcels.

(a) QUALIFICATION FOR VALIDATION BASED ON DOCUMENTS RECORDED AFTER AUGUST 31, 1947. A parcel of land described or depicted in a metes and bounds description or a plat not approved by the appropriate County board, agency or official, which description or plat was recorded among the land records of Fairfax County after August 31, 1947, is hereby validated even though such parcel had not been approved ~~pursuant to~~under the provisions of the Subdivision Ordinance in effect at the time of recordation if:

(1) The parcel created by such metes and bounds description or unapproved plat complied with all applicable provisions of the Zoning Ordinance in effect at the time the description or plat was recorded or at some time thereafter, or meets the provisions of ~~Sect. 2-405~~subsection 5100.2.J of the Zoning Ordinance; and

(b) Any lot or parcel that is the result of a division of land undertaken by the recordation among the land records of Fairfax County after August 31, 1947, of a metes and bounds description or a plat not approved by the appropriate County board, agency or official which did not comply with the applicable minimum district size, lot area and/or lot width provisions of the Zoning Ordinance in effect at the time the description or plat was recorded or at some time thereafter, or does not meet the provisions of ~~Sect. 2-405~~subsection 5100.2.J of the Zoning Ordinance is hereby designated as an outlot under the Subdivision Ordinance and ~~shall~~does not constitute a buildable lot.

Article 2. Subdivision Application Procedure and Approval Process.

Section 101-2-1. - Procedure.

Whenever any subdivision of land is proposed, the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the following procedure.

(5) Subdivision plats proposing the development or construction of affordable dwelling units in accordance with ~~Part 8 of Article 2~~Section 5101 of the Zoning Ordinance ~~shall~~will be processed within 280 days from the receipt thereof, provided such plats substantially comply with all ordinance requirements when submitted. The calculation of the review period ~~shall~~will include only that time the plats are in for County review; and ~~shall~~will not include such time as may be required for revisions or modifications in order to comply with ordinance requirements.

Section 101-2-2. - Minimum requirements.

The following shall be considered desirable minimum requirements and may be varied or waived only in specific cases by the County Executive or, only in the case of specific requests to waive the public street frontage requirement, by the Board of Supervisors; such variance or waiver may be granted with or without conditions only upon a finding, after consideration of a recommendation from the Director of Land Development Services subsequent to the notice provisions contained in Paragraph 101-2-2(19) herein, or in the case of a specific request to waive the public street frontage requirement, after notice of the public hearings has been sent as provided below, that the waiver or variance of any minimum requirement will not adversely affect adequacy of provisions for those items set forth in Section 101-2-2; provided however, that lots in the R-A, ~~R-P~~, R-C, or R-E Districts which were created on private streets shall be ineligible for a waiver of the requirement that all parcels shall front on dedicated recorded public streets for any subsequent divisions or redivisions under the Subdivision Ordinance. In the case of a specific request to waive the public street frontage requirement, the Board of Supervisors may grant such a waiver provided the private street which provides access to the application property has been constructed and recorded among the Fairfax County land records on or before June 28, 1993 and provided further that such waiver is in conformance with the applicable recommendations of the Comprehensive Plan. A lot shall not be eligible for a waiver of public street frontage requirements unless:

Section 101-2-5. - Final subdivision plat.

(c)(11) The specific lots which will contain affordable dwelling units ~~pursuant to Part 8 of Article 2~~ in accordance with Section 5101 of the Zoning Ordinance ~~shall~~must be designated on the final subdivision plat. For multiple section developments where not all the required affordable dwelling units are to be provided in the first section of the development, the final subdivision plat for the first section and all subsequent sections ~~shall~~must contain a notation identifying in which section(s) the affordable dwelling units will be or have been provided and a total of all affordable dwelling units for which such plat(s) have been approved.

Additionally, at the time of final subdivision plat submission, the owner and/or applicant ~~shall~~must submit an affidavit which ~~shall~~must include:

- A. The names of the owners of each parcel of the sites or portions thereof at one location, as such term is defined in ~~Par. 1 of Sect. 2-802~~subsection 5101.2 of the Zoning Ordinance; and
- B. The Fairfax County Property Identification Map Number, parcel size and zoning district classification for each parcel which is part of the site or portion thereof.

Section 101-2-8. - Cluster subdivision provisions.

- (b) Open space ~~shall~~must be provided ~~pursuant to~~in accordance with the regulations of the zoning district in which located and ~~Sect. 2-309~~subsection 5100.3 of the Zoning Ordinance. To the greatest extent possible and as determined by the Urban Forest Management Division, existing trees ~~shall~~must be preserved within the open space area.

Article 3. Pro Rata Road Reimbursement Districts.

Section 101-3-4. - Definitions.

For the purposes of this Article, the following words and phrases ~~shall~~ have the following meanings:

- (a) Initial subdivider or developer ~~shall~~means the person or entity who has constructed public road improvements within an approved Pro Rata Road Reimbursement District and who is entitled to receive pro rata road reimbursement payments from certain subsequent subdividers and developers within the District. The initial subdivider or developer ~~shall~~will be the record title owner of the parcel designated at the time of adoption of a District ~~pursuant to~~under Section 101-3-9. There may be only one (1) initial subdivider or developer per District.
- (b) *Developer* ~~shall~~means the record title owner of property, the development of which is subject to Article 17~~8~~, of the Zoning Ordinance, and the record title owner of property upon which a single-family detached dwelling is constructed on a lot within a recorded subdivision plat approved after the effective date of adoption of a Pro Rata Road Reimbursement District.
- (c) *Petitioner* ~~shall~~means a subdivider or developer who has constructed public road improvements and who has submitted a petition requesting adoption of a Pro Rata Road Reimbursement District by the Board of Supervisors whereby he would be entitled to receive pro rata reimbursement payments from other subdividers and developers within the District.
- (d) *Public road improvements* ~~shall~~means the construction of new or the widening of existing minor arterial streets and principal arterial streets as such streets are defined in the Zoning Ordinance, including construction of related drainage improvements and utility relocations required as a result of such construction. The term "public road improvements" ~~shall~~ also include~~s~~s installation of traffic lights and highway signs required by the Virginia Department of Transportation (VDOT) or the Director. Such term ~~shall~~does not include the construction of improvements required under Article 2 of this Chapter or ~~Article 17~~Section 8100 of the Zoning Ordinance, which improvements are necessary to serve a particular development.

Section 101-3-8. - Calculation of pro rata road reimbursement payments.

- (b) The following formula ~~shall~~will be used to determine the pro rata reimbursement rate per vehicle trip per day:

[Cost of public road improvements within proposed District constructed at petitioner's expense (exclusive of improvements required ~~pursuant to~~under Article 2 of this Chapter or ~~Article 17~~subsection 8100.7 of the Zoning Ordinance)] divided by [Total estimated number of vehicle trips per day (vpd) on the road segments for which reimbursement is sought) = \$ amount per vpd.

Section 101-3-11. - Payment of pro rata road reimbursements.

- (a) Required pro rata road reimbursement payments ~~shall~~must be made prior to the issuance of any residential or nonresidential use permit required ~~pursuant to Part 7, Article 18~~by subsection 8100.9 of the Zoning Ordinance.

Article 4. Definitions.

Section 101-4-1. - Definitions.

- (5) *Minor adjustment of property lines* means a subdivision where the division or redivision of a tract, plot or parcel of land which reallocates or consolidates land area of contiguous lots or parcels, but which does not result in the creation of any additional lot(s), parcels or outlots or any increase in density, and which does not create or aggravate an existing noncompliance with regard to minimum lot area, minimum lot width, or minimum required ~~yards~~setbacks.

Chapter 104 – Erosion and Sedimentation Control

Article 1. Purpose and Administration

Section 104-1-2. - Applicability; regulated land-disturbing activities; submission and approval of a conservation plan.

Except as noted herein, no person may engage in any land-disturbing activity in Fairfax County until he has submitted to the County a conservation plan for the land-disturbing activity and the plan has been reviewed and approved by the Director. The conservation plan ~~shall~~must be included in the grading plan required ~~under Paragraph 3 of Part 6 of Article 2~~Section 5104 of the Zoning Ordinance unless the following applies. Where the land-disturbing activity results from the demolition of a single family dwelling, demolition of an accessory structure to a single family dwelling, construction of an addition to a single family dwelling as defined in Chapter 61 of the Code, or construction of an accessory structure to a single family dwelling, that results in a disturbed area of 5,000 square feet or less and does not require the installation of water quality controls or other drainage improvements, the conservation plan may be included in a plat certified by a land surveyor, engineer, landscape architect or architect authorized by the State to practice as such meeting the requirements of ~~Part 6 of Article 18~~subsection 8101.5 of the Zoning

Ordinance in lieu of a grading plan. The standards in Section 104-1-8 are to be used by the applicant when making a submittal under the provisions of this Chapter and in the preparation of a conservation plan. The Director, in considering the adequacy of a submitted plan, ~~shall~~will be guided by these standards. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan ~~shall~~must provide the name of an individual holding a certificate of competence to the Director, as provided in § 62.1-44.15:52 of the Code of Virginia, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan ~~shall~~will be subject to the penalties provided in this Chapter. In order to prevent further erosion, the County may require approval of a conservation plan for any land identified as an erosion impact area. The provisions of this Article ~~shall~~do not limit the powers or duties presently exercised by the State Water Control Board or the Department of Mines, Minerals and Energy.

Chapter 110 – Inoperative Motor Vehicles

Article 3. Inoperative Motor Vehicles, Trailers, and Semitrailers.

Section 110-3-2. - Exceptions.

Section 110-3-1 ~~shall~~does not preclude the placement or storage of any inoperative motor vehicle, trailer, or semitrailer on any property containing a heavy equipment and specialized vehicle sale, rental and service establishment, a junkyard, a motor vehicle storage and impoundment yard, a service station, a vehicle light service establishment, a vehicle major service establishment or a vehicle sale, rental and ancillary service establishment, ~~provided~~ such as long as that placement or storage is in accordance with the applicable provisions of ~~Chapter 112~~Chapter 112.1 (Zoning Ordinance) for such uses; nor ~~shall~~does Section 110-3-1 apply to a licensed business that is regularly engaged in business as an automobile dealer, a salvage dealer or scrap processor. Notwithstanding any other provisions of this Chapter, if the owner of an inoperative motor vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle being used for the restoration or repair may remain on the property.

Section 110-3-7. - Storage of inoperative motor vehicles, trailers, or semitrailers.

Any inoperative motor vehicle, trailer, or semitrailer removed in accordance with ~~pursuant to~~ Section 110-3-6 may be stored at any impoundment yard or other storage area designated by the Chief of Police, provided such storage is in accordance with the applicable provisions of Chapter 112.1 (Zoning Ordinance) for such uses.

460 **Chapter 114 – Agricultural and Forestal Districts of Statewide Significance**

461
462 **Article 1. In General.**

463 **Section 114-1-4. - Criteria for the Establishment, Modification, Renewal, Continuation or**
464 **Termination of a District.**

465 (b) All lands in the district should be zoned to the ~~R-P~~, R-C, R-A, or R-E District.

466
467 **Chapter 115 – Local Agricultural and Forestal Districts**

468
469 **Article 5. Criteria for Establishment, Modification, Renewal or Termination of a District.**

470 **Section 115-5-1. - Criteria.**

471 The following criteria ~~shall~~will be used as a guide in recommendations and decisions on
472 whether to establish, modify, renew, continue or terminate local agricultural and forestal
473 districts:

474 *Criteria Group A:* All the following criteria should be met by all proposed districts:

475 (2) All lands in the district should be zoned to the ~~R-P~~, R-C, R-A or R-E District.

476 (b) *Criteria Group B:* In addition to meeting all of the Criteria for Group A, all properties in
477 the district should meet as well at least two (2) of the following criteria:

478 (5) The land is zoned R-A, ~~R-P~~ or R-C.

479
480 **Chapter 118 – Chesapeake Bay Preservation Ordinance**

481
482 **Article 3. Land Use and Development Performance Criteria.**

483 **Section 118-3-2. - General performance criteria for resource management areas**
484 **and resource protection areas.**

485 (j) The buildable areas allowed on each lot must be delineated on all preliminary plans,
486 site plans, minor site plans, subdivision plans, infill lot grading plans, conservation
487 plans, rough grading plans, and public improvement plans. The buildable area must be
488 based on: 1) the performance criteria specified in Article 3 of this Code, 2) the
489 minimum required ~~yard~~setbacks of the zoning district in which the lot is located, and
490 3) any other relevant easements or limitations on lot coverage.

Article 5. Nonconformities, Waivers, Exceptions, and Exemptions.

Section 118-5-4. - Waivers for Loss of Buildable Area in a Resource Protection Area.

- (6) The lot or parcel must meet the minimum lot size specified for the zoning district in which located or meet the requirements of ~~Section 2-405 of Chapter 112, subsection 5100.2.J of Chapter 112.1~~ and any other applicable ordinances and laws;

Article 6. Exceptions

Section 118-6-3. - Required Notice for Public Hearings.

- (d) If an exception is heard concurrently with a public hearing on proposed rezoning or special exception applications, notification of the proposed exception ~~shall~~must be conducted concurrently with the rezoning and special exception notification and ~~shall~~must meet the requirements of ~~Article 18~~Section 8100 of the Zoning Ordinance in lieu of paragraph (c) above.

Section 118-6-5. - Submission Requirements for Exception Requests.

Submission Requirements for Exception Requests:

- (c) Fourteen copies of a plat which meets the submission requirements of Zoning Ordinance ~~Section 9-011, paragraph 2-subsection 8101.3.B~~

Section 118-6-7. - Exceptions for loss of buildable area in a resource protection area.

- (c) The lot or parcel must meet the minimum lot size specified for the zoning district in which located or meet the requirements of ~~Section 2-405 of Chapter 112, subsection 5100.2.J of Chapter 112.1~~, the Zoning Ordinance, and any other applicable ordinances and laws;

Chapter 122 – Tree Conservation Ordinance

Article 2. Tree Conservation During Land Development.

Section 122-2-1. - Ten-year Tree Canopy Requirements.

Table 1 10-Year Tree Canopy Requirements

Use or Zoning District	Percentage of site to be covered by tree canopy in 10 years
Dedicated school, athletic field, nonwooded active recreation area	Ten percent (10%)
Commercial Revitalization District	See Note Below
Commercial; Industrial; PDC; R-20; R-30; PDH-20; PDH-30; PDH-40; PRM; R-MHP;	Ten percent (10%)

medium and high-density areas of a PRC District	
R-12; R-16; PDH-12; PDH-16	Fifteen percent (15%)
R-5; R-8; PDH-5; PDH-8	Twenty percent (20%)
R-3; R-4; PDH-3; PDH-4	Twenty-five percent (25%)
R-A; R-P ; R-C; R-E; R-1; R-2; PDH-1; PDH-2; and low-density areas of a PRC District	Thirty percent (30%)
Note: In Commercial Revitalization Districts, the above requirements shall apply to the extent feasible for <u>to the</u> expansion or enlargement of existing developments and shall be applicable for <u>to</u> redevelopment and new developments. Expansion, enlargement, redevelopment and new developments shall be as <u>are</u> defined by the Zoning Ordinance.	

Article 3. Plan Requirements.

Section 122-3-1. - Tree conservation plans.

Tree conservation plans ~~shall~~ must be submitted for review and approval by the Director as provided below and in accordance with the tree conservation plan provisions of Chapters 104 (Erosion and Sedimentation Control Ordinance), Chapter 101 (Subdivision Ordinance), and ~~Articles 13~~ Section 5108 and 47-subsection 8101.4 of Chapter 112.1 (Zoning Ordinance) of the Code.

- (a) 4. Tree conservation plans ~~shall~~ must be submitted as part of all site plans as required by ~~Article 17~~ subsection 8101.4 of the Zoning Ordinance.

Article 5. Violations and Penalties.

Section 122-5-3. - Criminal Violations and Penalties.

- (b) The remedy provided for in this Section ~~shall be~~ is in addition to any other remedies provided by law including, but not limited to, violations of Chapters 101 (Subdivision Ordinance), 104 (Erosion and Sedimentation Control Ordinance), 112.1 (Zoning Ordinance), and 118 (Chesapeake Bay Preservation Ordinance) of the Code; however, the designation of a particular violation of this Ordinance for a civil penalty precludes criminal prosecution or sanction, except for any infraction that results in civil penalties that total \$5,000 or more.

545 **Chapter 124 – Stormwater Management Ordinance**

546
547 **Article 1. General Provisions.**

548 **Section 124-1-5. - Definitions.**

549 "Floodplain" means the area adjacent to a channel, river, stream, or other water body that is
550 susceptible to being inundated by water normally associated with the 100-year flood or storm
551 event. This includes, but is not limited to, any floodplain designated by the Federal Emergency
552 Management Agency or meets the definition of floodplain in Chapter 112.1 (Zoning Ordinance)
553 of the Code.
554

555 **Article 4. Technical Criteria for Regulated Land-Disturbing Activities.**

556 **Section 124-4-2. - Water Quality Design Criteria Requirements.**

- 557 B. The Board has established a Water Supply Protection Overlay District (WSPOD) in the
558 Occoquan Watershed to prevent water quality degradation of the Occoquan Reservoir
559 due to pollutant loadings within the watershed. WSPOD boundaries have been
560 established on the Official Zoning Map. Use limitations are established which require
561 that there shall must be water quality control measures designed to reduce the projected
562 phosphorus runoff by at least one-half for any subdivision which is subject to the
563 provisions of Chapter 101 of the Code or any use requiring the approval of a site plan in
564 accordance with the provisions of ~~Article 17~~Section 8100 of Chapter 112.1 of the Code,
565 unless a modification or waiver is approved by the Director. In no instance ~~shall~~will the
566 requirement for water quality control measures be modified or waived except where
567 existing site characteristics make the provision impractical or unreasonable on-site and an
568 alternative provision is not or cannot be accommodated off-site, and where it can be
569 established that the modification or waiver will not affect the achievement of the water
570 quality goals for the public water supply watershed as set forth in the adopted
571 comprehensive plan.

572 **Article 5. Technical Criteria for Regulated Land-Disturbing Activities: Grandfathered**
573 **Projects and Projects Subject to Time Limits on Applicability of Approved Design Criteria.**

574 **Section 124-5-4. - Water Quality.**

- 575 A.1. For development, the projected total phosphorus runoff pollution load for the proposed
576 development ~~shall~~must be reduced by no less than forty (40) percent compared to
577 phosphorus loads projected for the development without BMPs. This requirement
578 ~~shall~~will not apply to any development that does not require a site plan ~~pursuant to~~under
579 ~~Article 17~~subsection 8100.7 of the Zoning Ordinance, that does not require subdivision
580 approval ~~pursuant to~~under Chapter 101 of the Fairfax County Code, and that does not
581 result in an impervious area of 18% or greater on the lot or parcel on which the
582 development will occur.

584 **APPENDIX A. - Flood Plains.**

585 The maps and studies cited below depict areas designated as floodplain by Fairfax County. They
586 represent only a portion of the total area of Fairfax County that satisfies the definition of
587 floodplain in ~~Article 20~~ Section 9104 of the Zoning Ordinance. Floodplain studies prepared in
588 accordance with the provisions of the Public Facilities Manual which propose changes to the
589 flood elevations and/or flooding limits shown on these maps and studies cited below may be
590 approved by the Director of Land Development Services if physical changes have occurred
591 which have rendered these maps inaccurate or if physical changes are proposed within the
592 existing floodplain which meet the provisions of ~~Part 2-900~~ Section 5105 of the Zoning
593 Ordinance.
594

595 **APPENDIX Q. - Land Development Services Fee Schedule**

596 This fee schedule establishes the fees charged, by Land Development Services and the Fire
597 Marshal, for building and site development activities ~~pursuant to~~ under the authority granted by
598 §§ 15.2-2241(A) (9), 15.2-2286(A)(6), 62.1-44.15:54(J), 36-98.3, 36-105, 62.1-44.15:28(A)
599 and 62.1-44.15:29 of the Code of Virginia and Chapters 2 (Property Under County Control),
600 61 (Building Provisions), 64 (Mechanical Provisions), 65 (Plumbing and Gas Provisions), 66
601 (Electrical Provisions), 101 (Subdivision Ordinance), 104 (Erosion and Sediment Control
602 Ordinance), 112.1 (Zoning Ordinance), and 124 (Stormwater Management Ordinance) of the
603 Code of the County of Fairfax, Virginia (the Code).
604

605 **2. That the provisions of this ordinance are severable, and if any provision of this**
606 **ordinance or any application thereof is held invalid, that invalidity will not affect the other**
607 **provisions or applications of this ordinance that can be given effect without the invalid**
608 **provision or application.**
609

610 **3. That this Ordinance will become effective on January 24, 2023.**
611

612
613 GIVEN under my hand this _____ day of _____, 2023
614

615 _____
616
617 Clerk to the Board of Supervisors