

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia (“the Board”), on May 7, 2024, at which meeting a quorum was present, the following resolution was adopted:

WHEREAS, on March 23, 2021, the Board voted to repeal the 1978 Zoning Ordinance and replace it with a modernized Ordinance (“zMOD”), to take effect on July 1, 2021, as Chapter 112.1 of the Code of Fairfax County Virginia; and

WHEREAS, on March 23, 2023, the Supreme Court of Virginia issued an opinion declaring the zMOD Ordinance void *ab initio* because it was heard and adopted at Board meetings held via electronic means due to the COVID-19 pandemic, although those meetings were properly noticed, they were broadcast and streamed to the public in real time, and the public had opportunity to speak via telephone and prerecorded video—and in fact 70 persons actually testified; and

WHEREAS, on May 9, 2023, the Board of Supervisors readopted the modernized Zoning Ordinance—including all amendments approved since the 2021 adoption—codifying it as County Code Chapter 112.2; and

WHEREAS, in adopting Chapter 112.2, the Board also adopted an enactment clause providing that, for any period when Chapters 112.1 and 112.2 are both in effect, Chapter 112.1 will supersede Chapter 112.2 (also known as “the supersession clause”); and

WHEREAS the Virginia General Assembly passed legislation during the 2024 session, House Bill 816 (“HB 816”), to take effect July 1, 2024, declaring that Virginia Code § 2.2-3708.2 is declarative of existing law since March 20, 2020, with respect to the Governor’s declared state of emergency due to COVID-19; and

WHEREAS HB 816 validates action taken at meetings of a public body held by electronic means between March 20, 2020, and July 1, 2021, with respect to the Virginia Freedom of Information Act if the body provided public notice, public access, and opportunity for public comment as required by specified statutes; and

WHEREAS the Board provided the requisite public notice, public access, and opportunity for public comment before adopting the zMOD Ordinance during its electronic meetings on March 9 and 23, 2021, so the supersession clause dictates that Chapter 112.1 will supersede and be the governing Zoning Ordinance as of July 1, 2024; and

WHEREAS the Board approved seven sets of amendments to Chapter 112.2, including parking and loading; outdoor lighting around Turner Farm Park Observatory; sign regulations, part II; landscaping and screening; outdoor dining; minor and editorial revisions and changes to reflect Virginia Code updates; and application fees and planned district recreational minimum expenditure; and the Board seeks to readopt those amendments to make them part of Chapter 112.1; and

Parking and Loading

WHEREAS the need to comprehensively update and modernize parking regulations was identified as an important component of the County’s overall effort to update and modernize the Zoning Ordinance, as a comprehensive review had not been done since 1988, so parking was added to the Zoning Ordinance Work Program in 2020; and

WHEREAS the County has invested substantial resources in construction of multimodal infrastructure to promote both public transportation—including Metrorail and the Fairfax Connector—and enhanced opportunities for walkability and bikeability and has aligned planning for higher-intensity and -density land development to this infrastructure all with the intent to reduce reliance on auto travel; and

WHEREAS providing dedicated auto parking is still a necessity in Fairfax County, the amount of dedicated parking must be right sized to address current and future land development activities; and

WHEREAS requiring less parking in transit areas supports the Strategic Plan and One Fairfax Policy to promote dense, transit-oriented, and mixed-use development; and

WHEREAS reducing unnecessary parking supports the Strategic Plan and One Fairfax Policy by reducing direct and indirect environmental impacts, such as heat island effects, water runoff issues, lost opportunity costs for green alternatives, and inefficient use of valuable land area; and

WHEREAS reducing unnecessary parking supports placemaking as identified in the Strategic Plan and supports places where members of the community want to gather and where businesses can grow; and

WHEREAS simplification and updating of the loading requirements is essential to ensure adequate facilities are being provided; and

WHEREAS bicycle parking is an essential element in a multimodal transportation system, and lack of secure bicycle parking is a common barrier to bicycling as a convenient, healthy, affordable, and environmentally friendly mode of transportation; and

Outdoor Lighting around Turner Farm Park Observatory

WHEREAS the purpose of the existing regulations for outdoor lighting is to reduce glare, light trespass, and light pollution, and promote safety, and energy conservation; and

WHEREAS Virginia Code § 15.2-920 allows localities to regulate outdoor lighting around astronomical facilities; and

WHEREAS to date the Turner Farm Park Observatory is the only astronomical facility subject to the Zoning Ordinance; and

WHEREAS the amendment to protect dark skies around the Observatory would do so by limiting exemptions from certain outdoor lighting regulations and reducing or adding limits on lumens on

properties located within one-half mile around the Observatory—while allowing lawfully existing outdoor lighting to remain; and

Sign Regulations Part II

WHEREAS in 2019 the Board adopted a Part I Zoning Ordinance amendment to the sign regulations focused on content-neutrality and identified the need for a Part II amendment to focus on a broader review of sign regulations; and

WHEREAS staff and industry representatives have identified necessary changes to sign regulations to reflect best practices; and

WHEREAS high-definition technology and modern screens require revisiting the appropriate brightness levels for electronic display signs; and

WHEREAS the current comprehensive sign plan, special exception, and special permit applications for sign modifications are proposed to be consolidated into one special exception application type with revised review criteria and standards; and

WHEREAS codified review standards and submission criteria for the sign modification process will help streamline and ensure consistency in the development review process; and

WHEREAS additional sign regulations—such as those related to signs in or immediately adjacent to reserved parking spaces, window signs, signs associated with a subdivision, signs for multifamily developments, building-mounted signs, ordering signs for uses with a drive-through, and the appeal timeframe for minor signs—should also be revised based on staff experience in applying the existing regulations; and

Landscaping and Screening

WHEREAS, while updates to the landscaping and screening regulations in the Zoning Ordinance have occurred over the years to address tree conservation and other specific needs, there is a need for a comprehensive review of these regulations; and

WHEREAS the need to comprehensively update the landscaping and screening regulations was identified as an important component of the County’s overall effort to update and modernize the Zoning Ordinance and was added to the Zoning Ordinance Work Program in 2022; and

WHEREAS protecting and conserving natural resources that provide ecological and health benefits, such as native species and environmentally tolerant species, supports the Strategic Plan, the Resilient Fairfax Climate Adaption and Resilience Plan, and the Community-wide Energy and Climate Action Plan by reducing environmental impacts related to climate change, Urban Heat Island effect, and urban flooding; and

WHEREAS increasing interior parking lot landscaping, requiring shade structures for parking structures, and creating a spatial distribution requirement for interior parking lot landscaping would increase the shade provided to parked vehicles, which provides environmental benefits such as carbon sequestration and reduces the environmental impacts of Urban Heat Island effect; and

WHEREAS, a new requirement to provide street frontage trees would help to increase shade along walkways, create more enticing areas for people to visit, and facilitate placemaking; and

WHEREAS requiring shrub plantings within peripheral parking lot landscaping can reduce vehicle headlight glare for neighboring properties as well as vehicles traveling in the right-of-way; and

WHEREAS simplifying and updating the transitional screening and barrier requirements is essential to ensure appropriate screening is provided; and

Outdoor Dining

WHEREAS, in response to the challenges posed by the COVID-19 pandemic, the Board adopted an emergency ordinance to aid businesses, including food establishments, in adapting to the restrictions and prohibitions on indoor gatherings; and

WHEREAS, given the short-term nature of the emergency ordinance, the Board adopted an uncodified ordinance to continue those regulations during the balance of the COVID-19 state of emergency and its immediate aftermath; and

WHEREAS, based on the positive response and minimal complaints received, the Board directed staff to explore ways to continue the outdoor dining program beyond the end of the uncodified ordinance; and

WHEREAS the proposed amendment aims to mostly maintain the approach outlined in the uncodified ordinance that permits outdoor dining on private property by right, subject to particular standards, and to introduce a new administrative permit process for outdoor dining in parking lots; and

WHEREAS the standards in the proposed amendment encompass the regulations outlined in the uncodified ordinance that address a variety of topics, including ADA, alcohol, furniture, life safety, location, parking, pedestrian circulation, and signs; and

WHEREAS, in proposing these outdoor dining standards, staff solicited input from stakeholders and researched neighboring jurisdictions for best practices; and

WHEREAS outdoor dining can significantly improve the pedestrian experience throughout the County by activating the street-level pedestrian environment, increasing vibrancy, promoting economic stability in commercial districts, and making public areas more social and active; and

WHEREAS the proposed amendment will minimize potential adverse impacts on surrounding properties; and

Minor and Editorial Revisions And Changes To Reflect Virginia Code Updates

WHEREAS certain revisions are needed to correct typographical and editorial errors or inadvertent omissions and make other minor revisions; and

WHEREAS it is desirable to clarify the intent of certain Zoning Ordinance provisions and make changes necessary to address recent Virginia Code amendments, including advertising requirements; and

WHEREAS the amendment would expand personal service use permissions in office districts, where they are compatible with other uses; and

WHEREAS the amendment would codify sanitary sewer submission requirements to streamline the development review process; and

Application Fees and Planned District Recreational Minimum Expenditure

WHEREAS Virginia Code § 15.2-2286(A)(6) provides for the collection of fees to cover the cost of making inspections, issuing permits, advertising notices and other expenses incidental to the administration of a zoning ordinance or to the filing or processing of any appeal or amendment thereto; and

WHEREAS the application fees currently set forth in Chapter 112.1 were last comprehensively increased on July 1, 2011, and currently recover approximately 18 percent of the administrative costs associated with the processing of zoning applications, such as applications for special permits, special exceptions, rezonings, and other similar zoning requests; and

WHEREAS staff believes that an increase of up to 35 percent for most application fees is reasonable—with half of that increase taking effect on July 1, 2024, and the other half on July 1, 2025—and that such an increase is necessary to recover costs due to increased salaries and rising inflation since the last fee update; and

WHEREAS staff believes an increase from \$1,900 to \$2,400—with half taking effect on July 1 2024, and the other half on July 1, 2025—for the minimum expenditure for recreational facilities in the PDH, PDC, PRM, and PTC Districts is reasonable and necessary to align with market conditions given increases in the Construction Cost Index since the last update; and


WHEREAS, when the Board adopted Chapter 112.2, that amendment also changed the new effective date in several subsections and corrected a special permit submission requirement, and the Board wishes to consider similar changes to Chapter 112.1; and

WHEREAS, by adoption of this Resolution, the Board directs staff to prepare and advertise public hearings on amendments to Chapter 112.1 (Zoning Ordinance) of the County Code; and

WHEREAS the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revisions to the Fairfax County Zoning Ordinance relating to parking and loading; outdoor lighting around Turner Farm Park Observatory; sign regulations, part II; landscaping and screening; outdoor dining; minor and editorial revisions and changes to reflect Virginia Code updates; and application fees and planned district recreational minimum expenditure;

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons, the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:



Jill G. Cooper
Clerk to the Board of Supervisors