

**PLANNING COMMISSION
PUBLIC HEARING
STAFF REPORT**

SUBJECT: **ZOAM-2020-0001, Zoning Ordinance Rewrite**

ELECTION DISTRICT(S): Countywide

STAFF CONTACT(S): Judi Birkitt, Planning and Zoning
Charles Yudd, County Administration

PURPOSE: To hold a Public Hearing¹ on the following portions of the Zoning Ordinance Rewrite (ZO Rewrite) project: Chapter 7 Development Standards; Chapter 8: Signs; Chapter 10: Nonconformities and Adaptive Reuse; Chapter 11: Procedures; Chapter 12: Officials, Boards and Commissions; Chapter 13: Definitions and Rules of Interpretation; Appendix B: Acronyms; and Appendix C: Land Development Application Fees (Attachments 1 and 2).

RECOMMENDATION(S): Staff recommends the Planning Commission (Commission) forward ZOAM-2020-0001, Zoning Ordinance Rewrite, to a Work Session for further discussion.

BACKGROUND: The Zoning Ordinance regulates land use in Loudoun County and promotes orderly growth, development, and redevelopment, as well as the health, safety, and general welfare of the public. The Zoning Ordinance is the primary implementation tool for the *2019 Comprehensive Plan* (2019 CP), specifically its components, the *2019 General Plan* (2019 GP) and the *2019 Countywide Transportation Plan* (2019 CTP). The Zoning Ordinance is a *regulatory* document, whereas the Comprehensive Plan is a *policy* document that represents the community's long-term vision and provides guidance for governmental decision-makers.

The last comprehensive update of the Zoning Ordinance occurred in 2003. The ZO Rewrite project aims to rewrite the Zoning Ordinance to establish consistency between the County's regulatory and policy and documents. The Board of Supervisors (Board) endorsed (8-0-1: Meyer absent) the ZO Rewrite Project Plan on September 19, 2019² and approved (8-0-1: Briskman absent) the Resolution of Intent to Amend the Zoning Ordinance (ROIA)³ on November 16, 2021. The Project Plan and ROIA describe the Board's intent to rewrite the Zoning Ordinance to implement the 2019 CP, modernize land uses and definitions, improve document consistency and structure, improve

¹ This Public Hearing was advertised in the Loudoun Now newspaper on August 11, 18, and 25, 2022. On August 11, 2022, draft text was made available electronically on the County website and in paper format at the Information Desk on the first floor of the Loudoun County Government Center.

² [September 19, 2019, Board Business Meeting Item 14 – Zoning Ordinance Overhaul Project Plan](#)

³ [November 16, 2021, Board Business Meeting Item 07 – Zoning Ordinance Rewrite ROIA](#)

the legislative application review process, offer more administrative review processes, make improvements based on public input, and incorporate changes based upon revisions to the Code of Virginia.

Stand-Alone ZOAMs: Below are four stand-alone Zoning Ordinance Amendments (ZOAMs) being processed separately from the ZO Rewrite project.⁴ When the Board adopts these stand-alone ZOAMs, the adopted text will be rolled into the new Zoning Ordinance.

- Airport Impact Overlay District, ZOAM-2021-0002 and ZMAP-2021-0011
- Dulles Airport Solar Project, ZOAM-2022-0002 and ZMAP-2022-0011
- Prime Agricultural Soil and Cluster Subdivision, ZOAM-2020-0002
- Short Term Residential Rentals, ZOAM-2018-0001

Zoning Ordinance Committee: The Committee⁵ has played a critical role in the ZO Rewrite project. Formed by the Board on October 6, 2020, the Committee is comprised of citizen-members representing a broad spectrum of countywide stakeholder organizations and professional areas of expertise. Holding 40 meetings (32 Committee meetings and six Subcommittee meetings) to discuss the ZO Rewrite project between November 2020 and April 2022, the Committee has served as a sounding board for staff, reviewing and providing valuable feedback on early draft text, including over 2,500 comments in the online platform enCodePlus (Refer to Attachment 5). As a recommending body to the Commission, the Committee prepared a Findings and Recommendations Report, to identify areas recommended for additional work and inform the Commission and Board’s consideration of the draft Zoning Ordinance going forward. During the Public Hearing, the Chair and Vice Chair of the Zoning Ordinance Committee (Committee) will present the Committee’s Findings and Recommendations Report (Attachment 5).

Public Engagement: A critical component of the ZO Rewrite project has been and continues to be engaging stakeholders. To date, the County has held three rounds of public engagement, which are described in Table 1, with over 10,000 comments and comment letters submitted on draft text.⁶

Table 1. Zoning Ordinance Rewrite – Public Engagement Summary	
Phase	Summary
Round 1	<ul style="list-style-type: none"> • Staff held 29 public engagement meetings with 26 focus groups.⁷

⁴For more information, see [Active Zoning Ordinance Amendments](#).

⁵For information, see [Zoning Ordinance Committee](#).

⁶This staff report includes links to the public engagement comments from Rounds 1, 2, and 3 that speak to the chapters under consideration at the August 30, 2022 Planning Commission public hearing.

⁷Focus Groups: Affordable Dwelling Unit Advisory Board, Chamber of Commerce, Coalition of Loudoun Towns, Data Center Coalition, Dulles Area Association of Realtors, Dominion Energy, Economic Development Advisory Council, Equine Alliance, Heritage Commission, Historic District Review Committee, Housing Advisory Board, Loudoun Coalition of Homeowners and Condominium Associations, Loudoun County Preservation & Conservation Coalition, Loudoun Historic Village Alliance, Loudoun Soil & Water Conservation District, Loudoun Water, Metropolitan Washington Airports Authority, NAIOP/Commercial Real Estate Development Association, Northern Virginia Building Industry

Table 1. Zoning Ordinance Rewrite – Public Engagement Summary	
Phase	Summary
February 2020 – June 2020	<ul style="list-style-type: none"> • Staff held public engagement meetings with the Commission and ZOC. • During the public engagement meetings, staff asked open ended questions such as: <ul style="list-style-type: none"> ○ “What do you like and dislike about the Zoning Ordinance?” ○ “What do you like and dislike about the Zoning District provisions?” ○ “What do you like and dislike about the Development Standards?” • Focus groups provided 2,864 responses⁸ to staff’s open-ended questions. • County department staff provided 84 additional comments.
Round 2 October 2020 – April 2021	<ul style="list-style-type: none"> • Staff held 28 public engagement meetings with the same 26 focus groups, the Commission, and ZOC. • Staff informed focus groups, ZOC, and the Commission of the public comment themes staff heard during Round 1 and asked for clarification and additional input on the ZO Rewrite project. Staff also provided focus groups a preview of the online interactive platform, enCodePlus, which will be the format of the future adopted Zoning Ordinance. • Focus groups provided 496 comments⁹ during Round 2.
Round 3 April – July 2022	<ul style="list-style-type: none"> • Round 3 included a 90-day public comment period on an early draft Zoning Ordinance (April 18, 2022). Draft text was available to all stakeholders for review and comment between April 18, 2022, and July 18, 2022, through an online interactive platform. • Round 3 consisted of three in-person public engagement meetings (at the Government Center, Claude Moore Recreation and Community Center, and Dulles South Senior Center) and one virtual public engagement meeting. At these meetings, staff provided an overview of early draft Zoning Ordinance language and offered an opportunity for the public to ask questions and provide feedback. There were 64 participants for the open houses.

The draft Zoning Ordinance (August 5, 2022) the Commission will consider on August 30, 2022, factors in comments received during Rounds 1 and 2 of public engagement but does *not* reflect comments submitted during the recent 90-day comment period. The comment period was very successful, yielding 4,428 total comments and letters, specifically 4,230 individual comments through enCodePlus,¹⁰ 112 comment submissions by email, 67 comment submissions through the online form on the ZO Rewrite webpage, and 19 by phone.¹¹ These totals include comments from

Association, Piedmont Environmental Council, Planning Commission, Route 28 Property Owners Advisory Board, Rural Economic Development Council, Save Rural Loudoun, Visit Loudoun, and Zoning Ordinance Committee.

⁸ [Zoning Ordinance Rewrite – Round One Public Engagement Comments, February – June 2020](#)

⁹ [Zoning Ordinance Rewrite – Round Two Public Engagement Comments, October 2020 – April 2021](#)

¹⁰ [Zoning Ordinance Rewrite – Round Three Public Engagement Comments April – July 2022](#)

¹¹ [Supplemental Comments Received by Email and Through the Online Form \(January 2020 – July 2022\)](#)

all stakeholders, the public, Towns, utilities, the business community, preservation groups, County advisory bodies, and staff from various County departments. Staff are actively reviewing these comments, and throughout the Commission's review of the draft Zoning Ordinance, will continue to review and address comments, bringing forth additional recommendations for the Commission's consideration.

New Phase of Public Participation: The project has now entered a new public participation phase. On August 11, 2022, the County posted chapters of the Draft Zoning Ordinance on the ZO Rewrite project webpage¹² for public review in advance of the August 30, 2022, Commission Public Hearing. The public is welcome to speak¹³ at the Commission Public Hearing and may provide written comments at any time using the online form¹⁴ on the ZO Rewrite project page.

The public will have other opportunities to speak about draft Zoning Ordinance text. The Commission will hold another Public Hearing later this year to consider the remaining draft chapters of the Zoning Ordinance: Chapter 1 Introduction, Chapter 2 Zoning Districts, Chapter 3 Uses, Chapter 4 Use Specific Standards, Chapter 5 Overlay Districts, Chapter 6 Natural and Environment Resources, Section 7.02 Open Space Standards, Chapter 9 Attainable Housing, and Appendix A Legacy Districts. Then, the Commission will forward a revised recommended Draft Zoning Ordinance to the Board for consideration.

The Board will also hold a Public Hearing to receive additional public comments on the Commission's recommended Draft Zoning Ordinance. The Board and/or the Transportation and Land Use Committee are expected to hold a series of Work Sessions to further revise and refine Zoning Ordinance text prior to adoption. The Board-adopted Zoning Ordinance will repeal and replace the existing *Loudoun County Zoning Ordinance* (commonly known as the "Revised 1993 Zoning Ordinance") in its entirety and will be known as the *Loudoun County Zoning Ordinance*. The format of the adopted Zoning Ordinance will be the online interactive platform, enCodePlus.

STAFF RECOMMENDED DRAFT ZONING ORDINANCE

The draft Zoning Ordinance has been reorganized and renumbered into thirteen chapters and three appendices. Revisions have been made throughout the document for consistency, clarity, ease of use, and removing redundancy. The draft Zoning Ordinance has been extensively reorganized and rewritten and will repeal and replace the existing zoning ordinance in its entirety. Therefore, a redline version between the *Revised 1993 Zoning Ordinance* and the draft Zoning Ordinance (August 5, 2022) would not be useful.

The August 30, 2022, Commission Public Hearing covers the following six chapters and appendices¹⁵: Chapter 7: Development Standards, Chapter 8: Signs, Chapter 10: Nonconformities

¹² [Zoning Ordinance Rewrite Project Web Page](#)

¹³ [Sign up to Speak at the Planning Commission Public Hearing](#)

¹⁴ [Submit Comments on Draft Zoning Ordinance Text Using this Online Form](#)

and Adaptive Reuse, Chapter 11: Procedures, Chapter 12: Officials, Boards and Commissions, Chapter 13: Definitions and Rules of Interpretation, Appendix B: Acronyms, and Appendix C: Land Development Application Fees. Attachment 1 provides the draft text for these chapters. Attachment 2 is a redline document showing the differences between the April 18, 2022, version and the August 5, 2022, version, which is the subject of the August 30, 2022, Commission Public Hearing. The primary substantive differences between the April and August versions are:

- Added revised legislative application procedures.
- Added nonconforming provisions.
- Extensively revised the lighting standards, including adding Dark Sky standards.
- Consolidated parking ratio tables.
- Consolidated definitions in Chapter 13, the Definitions chapter.

This staff report provides an overview of the “key” differences between the chapters under consideration on August 30, 2022, and the existing provisions in the *Revised 1993 Zoning Ordinance*. Given that the Zoning Ordinance has been comprehensively rewritten, this report does not detail every difference between the existing and new Zoning Ordinance. Instead, this report relays key differences, which are major changes with potential impacts to stakeholders or of topics of public interest. Additional information about the key differences is provided in the Key Change Matrix (Attachment 3), which describes in greater detail the existing regulation in the *Revised 1993 Zoning Ordinance*, the new regulation, the reason for the change, findings and recommendations from the ZOC, input themes from the public, and staff’s recommendation.

Chapter 7 Development Standards: Development Standards are the minimum requirements an applicant must meet when developing or redeveloping a site. Development standards cover a broad range of topics including parking, open space, landscaping, buffering, screening, lighting, noise, utilities, road access, and road and pedestrian networks. Development standards apply to most new development or redevelopment projects, whether by-right or legislative, and to multiple, or in some cases all, zoning districts.

Site Development (Section 7.01): This section contains the basic regulations for new site development, such as lot sizes, yards, density, building height, and transitions to neighboring uses.

Changes: There are three significant changes to Section 7.01, Site Development, as further discussed in the Key Change Matrix.

- Consolidating and increasing the applicability of requirements to vary residential lot sizes
- Requiring new development to transition to existing neighbors
- Adding new provisions to clarify buffers, setbacks, and yards

Public Comment Themes: Public comments on this section are summarized into the following two themes:

1. *Variation in Lot Sizes:* Public comments express concern that variation in lot sizes is overly prescriptive and could increase the cost of housing.

2. *Transitions Standards*: Participants indicate the draft transition standards could be too prescriptive, as they do not account for when adjacent property is under-improved or otherwise likely to redevelop to a more intense land use.

Tree Planting, Replacement, and Preservation (Section 7.03) Landscaping, Buffers, and Screening (Section 7.04): Draft Sections 7.03 and 7.04 replace existing Sections 5-1300 and 5-1400 of the Revised 1993 Zoning Ordinance. These sections regulate canopy coverage, buffer type, buffer and planting configurations, and plant unit requirements. Some regulations related to landscaping, tree planting, and tree conservation are contained in the Facilities Standards Manual (FSM), and not the Zoning Ordinance (i.e., Sections 7.302, Tree Conservation and Regulation Plans, 7.303, Tree Protection, Section 7.304, Forest Management Plans, Section 7.300, Tree Conservation, Section 7.301, Landscaping Plantings, and 7.305, Reforestation Standards). Table 3-Trees and Shrubs in Section 7.305 of the FSM also regulates which specific plant species may be used to meet planting requirements.

The Zoning Ordinance and FSM regulations for these sections were comprehensively updated on January 1, 2020, with Zoning Ordinance Amendment (ZOAM)-2017-0005 and Development Ordinance Amendment (DOAM)-2018-0001. ZOAM-2017-0005 and DOAM-2018-0001 focused on providing greater flexibility in buffering and landscaping requirements, which supports the creative approaches to streetscapes and transitions among uses, particularly in areas where a vertical or horizontal mix of uses is envisioned, critical to the place type and quality development concepts in the 2019 GP.

Changes: The following three key changes are included in the draft text:

- Added provisions requiring that a minimum of 50% of plant units provided to meet landscaping and buffer requirements (including any combination of existing and/or new) must consist of native species. The minimum percentage of native species required by the Zoning Ordinance can be further adjusted from the drafted 50% minimum at the direction of the Commission and public comment.
- Added regulations clarifying that invasive species may not be used as existing vegetation to meet landscaping requirements and must be removed in order for the area of existing vegetation to meet requirements. The removal of the invasive species from an area must also be maintained for a minimum of 4 years after establishment of the buffer. Additional standards regulating the degree of and duration for removal of existing invasive species on a site can be explored at the direction of the Commission and public comment.
- Planned future updates to the FSM will further align tree planting and tree conservation regulations in the FSM with recent updates to the Virginia Code.

Public Comment Themes: Key public comment themes received for Sections 7.03, Tree Planting, Replacement and Preservation, and 7.04, Landscaping, Buffers, and Screening, follow:

1. *Native Plants*: There should be a minimum required percentage of native planting components to fulfill planting requirements. Comments call for requiring up to 100% of provided plantings to be native plant species.

2. *Removal of Invasive Species*: Participants commented that all invasive species on a site should be removed during the development process and the site should be maintained permanently to be free of the invasive species.

Light, Noise, and Vibration (Section 7.05): Previously described as “performance standards,” this section contains zoning regulations relating to light, noise, and vibration.

Changes: The key change to Section 7.05, Light, Noise, and Vibration, compared to Section 5-1500, Performance Standards, in the current Zoning Ordinance, is an update to light and glare standards to implement the 2019 GP (see the attached Key Change Matrix). No substantive revisions have been made to the noise and vibration standards. Further, Stone Quarrying, Extraction and Mining Standards are moved to Chapter 4, Use-Specific Standards; Steep Slope Standards are moved to Chapter 6, Natural and Environmental Resources; and Administration and Enforcement of Performance Standards are moved to Chapter 11, Procedures. Since the April 2022 draft, staff has extensively rewritten Section 7.05.02 Light and Glare to incorporate the Dark Sky standards.

Public Comment Themes: Consistently throughout the ZO Rewrite project, comments advocate for strengthening lighting and glare standards (i.e., building lighting, outdoor event lighting, athletic field lighting, sign lighting) to minimize impacts upon neighboring properties. Public comments on this section may be grouped into the following three themes:

1. *Dark Sky Standards*: Incorporate the International Dark-Sky Association’s Dark Sky standards, particularly light zones.
2. *Limit Exemptions*: Exemptions should be limited and applicable to bona fide agriculture. Temporary seasonal or holiday lighting should be defined as from Thanksgiving to January 15, 6AM to 10PM.
3. *Private and Public Facilities*: Public and private facilities, such as athletic fields, should be held to the same light and glare standards.

Parking (Section 7.06): Section 7.06, Parking, replaces Section 5-1100 in the current Zoning Ordinance. The number of required parking spaces, location and design of parking areas, and new requirements for bicycle parking, car-share spaces, and electric vehicle charging stations are set forth in this section. The consulting firm, White & Smith, LLC., in collaboration with staff, prepared the new parking chapter. The consultant, Rhys Wilson, recommended updating the parking regulations to support implementation of the 2019 GP over time and provide the flexibility to be responsive to evolving travel and parking demands and emerging technological advances. This flexibility can be attained through flexible parking standards and updated administrative processes. The 2019 GP and 2019 CTP include policies to minimize an overabundance of parking, promote bicycle use as an alternative form of transportation through provision of sufficient bicycling amenities and secure parking, and support parking adjustments when alternative parking arrangements are accessible.

Changes: Key changes to the parking regulations include the following, which are further described in the Key Change Matrix:

- Created new parking regulations to correspond to the development patterns, policy areas, and place types in the 2019 GP instead of conventional parking requirements predicated solely on land use.
- Revised the parking ratios used to determine the required number of parking spaces on a site.
- Added new parking ratio maximums—in addition to parking ratio minimums—to lessen the aesthetic and environmental impacts associated with excessively large parking areas that are underutilized.
- Added new parking requirements for electric vehicle charging stations to reflect the anticipated continued increase in the number of electric vehicles.
- Added new parking requirements for bicycles and motorcycle/scooters.
- Added new requirements for car-share parking.
- Added new parking requirements for villages.
- Clarified and revised the administrative authority to approve parking adjustments.

Public Comment Themes: Throughout the ZO Rewrite process, staff has received comments that the parking chapter needs further vetting. Staff anticipates bringing this chapter to the Commission to discuss during a future work session. Additionally, staff received public comments on the following themes:

1. *Electric Vehicle Charging Stations:* A common sentiment is that electric vehicles are a relatively new phenomenon, and their future is unclear. Requirements should be fully vetted before adoption to ensure the County does not unnecessarily burden applicants to address a potentially fleeting trend.
2. *Parking in Residential Areas:* A frequently cited concern is that residential areas are generally under-parked—and this issue is especially noticeable in attached and multifamily residential neighborhoods. Mandating parking maximums in residential areas may exacerbate the problem.
3. *Motorcycle/Scooter Parking:* Participants found specific motorcycle/scooter parking requirements unnecessary as they are not regulated in the FSM and motorists can park these vehicles in regular parking spaces.
4. *Parking Maximums:* While some public comments supported parking maximums, others indicated that strict adherence to both parking minimums and maximums places undue limitations on applicants and could result in developments with not enough parking.
5. *Village Parking:* Participants recommended not adding parking requirements for villages until village area plans are completed.
6. *Reduced Parking for Attainable Housing:* Participants suggested two approaches: 1) reducing parking requirements for attainable housing units and 2) reducing parking requirements to incentivize providing more than the minimum affordable housing units.
7. *Parking Adjustments:* Parking adjustments should be an administrative process.

Transportation (Section 7.07): The Transportation section consolidates the various road access, road network, and visibility at intersection provisions from the current Zoning Ordinance into one new section. The 2019 GP and 2019 CTP include policies supporting bicycle and pedestrian infrastructure and non-motorized connectivity.

Changes: The following key change is included in the draft text:

- Added new regulations to require pedestrian and bicycle networks, including minimum widths for pedestrian and bicycle facilities.

Public Comment Themes: Staff received several comments on the following topic:

1. *Too Many Width Options:* Table 7.07.03-1 includes too many types of non-motorized facilities and associated minimum required widths, and some of the minimum required widths appear to be inconsistent with the FSM. Staff advises the widths are consistent with the 2019 CTP and FSM changes will be considered following adoption of the Zoning Ordinance to ensure consistency between the two documents.

Utilities (Section 7.08) and Owners Associations (Section 7.09): The remaining two sections relating to land development are discussed in this portion of the report. The two sections are new locations for existing regulations that are currently located in the various zoning districts. While staff received comments from Loudoun Water, the draft text does not yet incorporate those comments. Staff will work with Loudoun Water to resolve issues and make recommendations for the Commission's consideration at a future work session.

Changes: The largest change is the reorganization of the various utility and Owners Association regulations currently located among the various zoning districts regulations. Changes include:

- All utility distribution lines must be underground;
- Utilities as much as practicable must conform to natural topography, minimize steep slopes and natural drainage, and not conflict with vehicular and pedestrian connections;
- Sewer and water service in the Leesburg JLMA can be provided by Loudoun Water;
- Transitional Policy Area (TPA) Zoning Districts must be served by public sewer and water pursuant to Section 1066.09 of the Codified Ordinances;
- Suburban Policy Area (SPA) and Urban Policy Area (UPA) Zoning Districts must be served by central sewer and water; and
- Require Owners Associations for all new development with common facilities, except when private roads with maintenance agreements are the only common area.

Public Comment Themes: Staff received public comments on the following major themes:

1. *Central Sewer and Water Exemption:* Provide an exemption to the central water and sewer requirement in SPA and UPA Zoning Districts for temporary uses if located a specified distance from sewer and water lines.
2. *Utility Conformance:* The requirement that utilities, to the extent practicable, must conform to natural topography, minimize steep slopes and natural drainage, and allow vehicular and pedestrian interconnections is too prescriptive and should be deleted.
3. *Leesburg JLMA Sewer and Water:* Update to acknowledge Loudoun Water can provide water and sewer in the Leesburg JLMA.
4. *Owners Associations Requirement:* Participants expressed concern with requiring Owners Associations and reporting requirements.

5. *Limit Owners Associations:* There were sentiments that Owners Associations should not be permitted to prohibit growing food or keeping chickens for eggs for personal use. The Code of Virginia does not permit the County to limit the powers of Owners Associations related to personal food production.
6. *Stormwater Management Facilities:* Stormwater management facilities should be included in the list of items to be maintained by Owners Associations.

Chapter 8 Signs: The consulting firm, White & Smith, LLC., in collaboration with staff, prepared the new sign ordinance. The consultant, Mark White, began by preparing a Sign Regulation Analysis,¹⁶ which included a review and inventory of the sign policies in the 2019 GP and an audit of the current sign regulations to identify any legal, regulatory, or administrative issues. The consultant's key findings were to avoid regulating a sign's content (what the sign says), purpose (i.e., identifying a business or advertising a product), and user (i.e., commercial or noncommercial).

Loudoun County's existing sign regulations (Article 5, Division C) have been in place in various forms since the 1972 Zoning Ordinance, and there have been changes in the law in recent years. The most significant change is the United States Supreme Court's 2015 decision in *Reed v. Town of Gilbert*, which generally prohibits regulations that discriminate based on a sign's content (i.e., what a sign says). Draft sign regulations have been extensively rewritten and reorganized, with the goal of making them content-neutral and a focus upon regulating a sign's physical characteristics, such as size, height, setback, number, and illumination.

Changes: Key changes are summarized below and discussed further in the Key Change Matrix.

- Replace existing sign categories based on the sign's message or user with new sign categories organized by physical characteristics:
 - Freestanding Signs (Section 8.04) – ground, pole, and sidewalk sign types
 - Attached Signs (Section 8.05) – wall and window signs
 - Incidental Signs (Section 8.06) – lamp post banners, de minimis, temporary, and other incidental signs
- Group sign regulations by the following zoning district categories: Urban/Mixed Use, Neighborhood (principally residential districts), Commercial, Employment/Industrial, and Rural and set different sign type, dimensional, and design standards by zoning district categories. Clarify that only listed signs are permitted.
- Add regulations for digital signs in Commercial, Employment/Industrial and Urban/Mixed Use districts instead of relying on the SIDP process.
- Add regulations for murals.
- Codify existing practices that signs are subject to sign permits or Sign Development Plans, and Planned Development Master Plans govern signs in Planned Development Districts.
- Codify and clarify the existing practice that current safety requirements and sight triangle clearance applies to all signs, not just temporary signs.

¹⁶ [Sign Regulation Analysis White and Smith LLC – December 3, 2021](#)

Prohibited Signs (Section 8.03): This subsection codifies the current practice that signs not specifically listed as permitted are prohibited. While rewritten for content neutrality, the draft text continues to prohibit the same signs prohibited in the *Revised 1993 Zoning Ordinance*: off-premise signs (i.e., billboards), snipe signs (i.e., a sign fastened to a utility pole), attention-getting devices (i.e., feather signs or inflated devices), illuminated signs that cast glare on a public road or adjacent property, and outlines of a building or sign with exposed neon illumination or other permanent lights without approval of a SIDP. There was legal uncertainty about prohibiting off-premise signs based on several recent court cases ruling that off-premise sign categories are content-based. In April, however, the United States Supreme Court confirmed that off-premise sign categories on their face are not content-based (*City of Austin v. Reagan National Advertising*, 142 S.Ct. 1464 (U.S. 2022)). However, off-premise sign regulations cannot preference individual messages or users, other than government signs.

Murals (Section 8.05): The existing Zoning Ordinance is silent regarding murals, and murals are currently treated the same as any wall sign. The draft Zoning Ordinance includes provisions specifically for murals. Staff would like to discuss with the Commission during a future work session the draft provisions for murals, which are painted wall signs, and sculptural art, which is a three-dimensional sign, and murals.

Historic Signs (Section 8.07): This is an entirely new section that allows for the protection of historic signs through a historic designation process. A property owner may apply to designate a sign as an Historic Landmark in the National Register of Historic Places, the Virginia Landmark Register, or the County Heritage Register. As drafted, a designated historic sign may exceed the dimensional and design requirements for other signs, and a designated historic sign is a legally established conforming sign. While the existing Zoning Ordinance addresses historical markers that identify historical sites and buildings, it is silent on signs that have historic significance.

Digital Signs (8.08): The existing Zoning Ordinance prohibits digital signs, without legislative approval of a Sign Development Plan (SIDP). The draft Zoning Ordinance allows digital signs by right in walkable, mixed-use urban areas. Staff would like to discuss this further with the Commission during a future work session.

Sign Permits (Section 8.09): The existing sign regulations generally require sign permits issued by the Zoning Administrator prior to installing a sign. The following signs are currently exempt and do not require a sign permit: government signs/official notices, historical markers; danger, aviation, railroad, bridge, ferry transportation, red cross, and similar signs; no hunting, no fishing, or no trespassing signs; residential name signs; window or display (non-business) signs; and de minimis signs. The draft text carries forward the sign permit requirement, but removes the exemptions, which are either content-based or addressed in another section of the sign chapter.

Sign Survey: Before preparing the draft sign regulations, staff and the County's consultant prepared a survey to gain initial insights. Some of the themes generated from that survey are summarized below.¹⁷

1. *Sign Development Plans:* Considering modifications to the sign regulations through a legislative process takes too much time and leads to unpredictable outcomes for businesses and residents.
2. *Ground Sign Size:* The maximum size for ground signs should be scaled to the size of the parcel or the street the property fronts.
3. *Wall Sign Size:* The maximum size for wall signs should be scaled to the size of the building façade.
4. *Objective of Sign Ordinance:* The most important objective of the sign regulations should be to provide well-designed signs integrated with the character of the site.

Chapter 10 Nonconformities and Adaptive Reuse: Chapter 10 provides Zoning regulations related to nonconformities and new regulations for adaptive reuse. The proposed changes and scope reasons for the proposed changes for sections 10.01 General Requirements, 10.02 Nonconforming Uses, 10.03 Nonconforming Structures, and 10.04 Nonconforming Lots are provided together. The full discussion of Section 10.05 Adaptive Reuse is provided later in this staff report.

General Requirements (Section 10.01) Nonconforming Uses (Section 10.02), Nonconforming Structures (Section 10.03), Nonconforming Lots (Section 10.04): The first four sections of Chapter 10 are derived from existing provisions in Section 1-400, Nonconformities in the current Zoning Ordinance.

Changes: Key changes are as follows:

- Eliminates the five additional SPEX factors for consideration and one-year timeframe for abandonment specific to removing nonconforming status;
- Clarified that nonconforming uses are for primary uses only;
- Added regulations for nonconforming conversion condominiums;
- Allowed for removal of signs that have been abandoned for 2 years, as provided for in the Code of Virginia § 15.2-2307 (G); and
- Allowed for expansion of historic structures.

Public Comment Themes: Staff received public comments on the following major themes:

1. *Applicability:* Concern was expressed about the impacts to existing businesses and properties becoming nonconforming with the adoption of a new Zoning Ordinance. Chapter 10 provides regulations for treating legally established structures, uses, and lots that become nonconforming due to zoning amendments, including the adoption of a new Zoning Ordinance. The similar concepts of grandfathering and vested rights will be

¹⁷ [October 6, 2021, Zoning Ordinance Committee Meeting – Sign Survey Results](#)

addressed in Section 1.02 Application of the Zoning Ordinance and presented at a future public hearing.

2. *Impact to Older Buildings*: Support was received for extending the two-year time limit to reestablishing nonconforming uses in buildings over 50 years old.
3. *Nonconforming Conversion Condominium*: Participants questioned the need to include these provisions.
4. *Nonconforming Structure Reconstruction*: Concern with requirement that replacement structure occupy the same footprint instead of same ground area and floor area ratio.
5. *Nonconforming Lots*: Comments include clarifying what constitutes a nonconforming lot and how that relates to uses which have different lot requirements or development standards such as buffers, yards, and setbacks.

Adaptive Reuse (Section 10.05): The Adaptive Reuse section is a wholly new set of regulations added to the draft Zoning Ordinance. The addition of Adaptive Reuse regulations implements 2019 GP and Heritage Preservation Plan policies identifying adaptive reuse as a method to protect historic resources and reinforce community character and sense of place and identity. Additionally, community groups with an interest in historic preservation and the protection of rural historic villages identified the need for adaptive reuse standards to utilize and prolong the life of important historic resources in their communities. The 2019 GP defines adaptive reuse as the “repurposing of an existing structure to accommodate new uses while preserving the structure. This often involves improving existing buildings to allow for modern design and building program preferences.” Adaptive reuse is a longstanding tool used in the field of historic preservation to protect important historic resources by using a building for a purpose other than which it was originally built or designed for. Since these uses may not be allowed in the zoning district where the resource is located or the building to be reused may not meet current lot and building standards, the standards provide flexibility by allowing certain uses and lot and building standards to be applied upon adaptive reuse.

Public Comment Themes: Staff received public comments about Adaptive Reuse regarding the following major themes.

- Expand eligibility for adaptive reuse to include properties listed on the Loudoun County Historic Register and/or identified by the Loudoun County Heritage Commission.
- Revise the Eligibility requirements of Section 10.05.B.3 to make adaptive reuse less financially burdensome.
- Allow the Historic District Review Committee (HDRC) to review applications for adaptive reuse when historically significant properties do not meet the Standards and Requirements of Section 10.05.C.1. When a property is located outside of a Historic Overlay District, where County-adopted guidelines apply, the Secretary of Interior Standards should be used to review applications.
- Expand the list of uses allowed for a property that is adaptively reused to include kennels in agricultural buildings by special exception; wood, metal, and stone crafts; and a use that was present for at least 10% of the building’s existence.

Chapter 11 Procedures: Chapter 11 provides a new location for all zoning procedures. This is a change from the existing Zoning Ordinance, which includes many procedures within the various regulations. The 90-day public comment period for the April 18, 2022, Draft Zoning Ordinance did not include the new Legislative Application Review Process in the following Sections, as the draft text was not yet ready at that time: Sections 11.01, General Process Administration; 11.10.01, Zoning Ordinance Amendment; 11.10.02, Zoning Map Amendment; 11.10.05, Zoning Concept Plan Amendment; and 11.11.01.

Determination (Section 11.02), Administrative Waivers and Modifications (Section 11.03), Zoning Permit (Section 11.04), Sign Permit (Section 11.05), Site Plan (Section 11.06), Subdivision (Section 11.07): These sections provide procedures for administrative processes.

Changes: Key changes are as follows:

- Add specific procedures for Determinations and Administrative Waivers and Modifications;
- Provide all Zoning Permit procedures in one section;
- Place the Sign Permit procedure with other procedures instead of within sign regulations;
- Eliminate sketch plans;
- Revise Site Plan requirements to be more comprehensive as well as clarifying that Site Plan and subdivision applications are processed per FSM and LSDO requirements; and
- Nonconforming conversion condominiums are subject to SPEX approval.

Public Comment Themes: Comments regarding the administrative procedures pertain to the following themes:

1. *Zoning Permit Requirements:* There were several comments regarding Zoning Permit requirements. These comments included additional regulations such as requiring Health Department review of Zoning Permits, expanding the requirement prior to “development” in the Floodplain Overlay District (FOD) to include the LOD and MOD, and requiring that all Zoning Permits not create adverse impacts on surrounding properties. Other comments included altering the “agricultural uses as provided in the definition of Agriculture” to “‘bona fide agriculture’ not to include high intensity uses that draw the public”.
2. *Temporary Special Events:* Participants questioned the rationale for allowing multiple temporary special events on the same property concurrently.
3. *Site Plan Requirements:* Comments regarding Site Plan requirements included adding an exemption for electric vehicle charging stations, requiring submittal materials to include locations of high-quality wildlife and habitats on adjacent properties, and exempting farm-based tourism uses, such as wayside stands, from requiring a Site Plan.

Variance (Section 11.08), Commission Permit (Section 11.09), Zoning Modification (Section 11.12), Historic Overlay District Reviews (Section 11.13): These sections represent application procedures that require Board, Board of Zoning Appeals (BZA), Commission, or Historic District Review Committee (HDRC) review.

Changes: Key changes, further discussed in the Key Changes Matrix, include:

- Update Variance approval criteria to match the Code of Virginia.
- Clarify when a Commission Permit is required or exempt based on the Code of Virginia.
- Specify that Commission Permits must be reviewed by the Commission at a public meeting, but not at a Public Hearing.
- Require Pre-Review for Commission Permits, except for telecommunications facilities.
- Specify that the Board receives all Commission Permits after the Commission has acted (or failed to act resulting in an approved Commission Permit).
- Require Pre-Review for Zoning Modifications.
- Zoning Modifications approval criteria includes a new requirement that the proposal must further a specific policy, strategy, or action of the Comprehensive Plan.

Enforcement (Section 11.14), Appeals (Section 11.15), Density Credit for Public Facilities (Section 11.16), Parking Adjustments (Section 11.17): These sections provide additional zoning procedures.

Changes: Key changes are as follows:

- Amend the Appeals regulations to include procedures for all types of appeals to BZA, HDRC, and the Board;
- Consolidate the density credit process; and
- No longer require a Board resolution to approve density credits; and
- Place the Parking Adjustment procedure with other procedures instead of within parking regulations.

Public Comment Theme: Staff received comments during public engagement addressing the following major theme:

1. *Increase Enforcement Action:* Comments included requests for proactive enforcement actions and penalties for willful misstatements on permits, require land violations be returned to pre-violation conditions, require active enforcement, increase penalties, and reduce times to cite between violations.

General Process Administration (Section 11.01): This section outlines the basic purpose of the chapter and provides elements that are applicable to multiple procedures, such as fees, submittal requirements, Public Hearings, and withdrawals. The 90-day public comment period for the April 18, 2022, Draft Zoning Ordinance did not include this section, as the draft text was not yet ready at that time.

Changes: Section 11.01 has several changes to improve the legislative review process as provided in the November 16, 2021, ROIA¹⁸. Key changes include:

- Establish Pre-Review by the Board before official acceptance of legislative applications;
- Provide updated application withdrawal requirements in a central location;
- Revise placard notice requirements to remedy missing placards; and

¹⁸ [Item 07 Zoning Ordinance Rewrite ROIA.pdf](#)

- Streamline inactive application procedures to encourage applicants to be responsible for pursuing their applications.

Zoning Amendment (Section 11.10): This group of sections provides the regulations for zoning amendments, including Zoning Map Amendment (ZMAP), Zoning Ordinance Amendment (ZOAM), and Zoning Concept Plan Amendment (ZCPA) applications as well as Proffers and Concept Development Plan (CDP) requirements. Also included are additional requirements for ZMAP applications of specific zoning districts.¹⁹ The 90-day public comment period for the April 18, 2022, Draft Zoning Ordinance did not include this section, as the draft text was not yet ready at that time.

Changes: Key changes, discussed further in the Key Changes Matrix, include:

- Update who can initiate ZMAP and ZOAM applications to comply with Code of Virginia § 15.2-2286(A)(7).
- Require Pre-Review for ZMAP and ZCPA applications.
- Replace existing two-referral process for 20-calendar-day staff reviews that can be repeated until either the applicant requests or the Director forwards the application to the Commission.
- Provide for one Commission Work Session, provided the applicant agrees to suspend the review period.
- Update ZMAP (and ZCPA) Factors for Consideration with factors that relate directly to the General Plan and Countywide Transportation Plan.
- Revise ZOAM Factors for Consideration to match Code of Virginia § 15.2-2283.
- Require substantial conformance to approved CDPs.
- Permit administrative change by the Zoning Administrator to CDPs for updates in conformance with current zoning district regulations unless specified in the proffers; and to allow accessory structures into setbacks or buffers between residential developments no longer required by the Zoning Ordinance.

Special Exception Review (Section 11.11): This group of sections provides the regulations for Special Exception (SPEX), Minor Special Exception (SPMI), Sign Development Plan (SIDP), and Special Exception for Errors in Location (SPEL) applications. Also included are additional requirements for these applications when provided in the Zoning Ordinance. The 90-day public comment period for the April 18, 2022, Draft Zoning Ordinance did not include this section, as the draft text was not yet ready at that time.

Changes: Key changes, which are further discussed in the Key Changes Matrix, include:

- Revise the SPEX review process to correspond to the new ZMAP process, such as review times, Pre-Review, staff reviews, and scheduling for Public Hearing.

¹⁹ Due to their relationship to Zoning Districts, Section 11.10.06 Urban Districts – Additional Requirements, Section 11.10.07 Suburban Mixed Use (SM) – Additional Requirements, and Section 11.10.09 Planned Development (PD) – Additional Requirements will be presented at a future Public Hearing.

- Replace six current SPEX (and SPMI) Factors for Consideration with factors that relate directly to the General Plan and Countywide Transportation Plan.
- Provide for Commission review of SPMI applications when processed concurrently with other related applications or as directed by the Board during pre-review.
- Require Pre-Review for SPEX and SPMI applications.
- Provide for SIDP requests to be decided by the BZA.
- Provide additional requirements for SPEX applications that exceed light and glare standards of Section 7.05.02 including additional submittal materials and additional factors for consideration.
- Provide Nonconforming Conversion Condominiums SPEX Factors for Consideration to conform with Code of Virginia § 55.1-1905(E).

Chapter 12 Officials, Boards, and Commissions: Chapter 12 provides a new location for Zoning regulations related to the Zoning Administrator, Commission, BZA, and the HDRC. The text for Chapter 12 is derived from R93ZO Article 6, Division A: Boards and Commissions and Section 6-401, Zoning Administrator. The other sections of Article 6 are included in draft Chapter 11.

Changes: Changes include updating Commission, BZA, and HDRC membership and updates to reflect Code of Virginia requirements, notably:

- Composition of the Commission to match current practice of nine members, each appointed by a Board member representing the eight election districts and one at-large, instead of five to 15 members selected by the Board, which mirrored the Code of Virginia.
- BZA to consist of seven members appointed from candidates screened and forwarded by the County Administrator to match current practice though not codified.
- Elected Town Officials are eligible to serve on the BZA in conformance with Code of Virginia § 15.2-2308(A).
- HDRC to consist of five to seven members, instead of a minimum of five members with no maximum.

Public Comment Themes: Staff received public comment on Chapter 12, Officials, Boards, and Commissions addressing the following major topic.

1. *Zoning Administrator Decisions:* Participants expressed concerns with the difference between 30-day appeal periods and new 60-day limit on decisions by the Zoning Administrator.

Chapter 13 Definitions and Rules of Interpretation: Chapter 13 provides a new location for all definitions, except for those applying to the Floodplain Overlay District (FOD), which will be reviewed as part of proposed Chapter 5: Overlay Districts. Chapter 13 also includes the guidelines for the interpretation of the zoning ordinance, relative maps, and district boundaries, as well as reference to the appeals process. The definitions have been revised and simplified where appropriate and detailed use regulations, which at times were included in definitions, are instead contained in the use-specific standards. This approach, along with the classification and category structure, will assist with use determinations as the market develops new uses. Definitions found

in the *Revised 1993 Zoning Ordinance* that have been deemed to be outdated or redundant have been deleted. With this revision definitions have been formulated to define new terms and to address uses not contemplated or considered in the current zoning ordinance.

Interpretation of the Zoning Ordinance (Section 13.01): This section of Chapter 13 is derived from existing provisions in Sections 1-201 Provisions are Minimum Requirements, 1-202 Interpretation of Terms, 1-203 Unspecified Uses, 1-204 Adding Unspecified Uses to the District Regulations, and 1-205 Limitations and Methods for Measurements of Lots, Yards and Related Terms. This section identifies the provisions and guidelines for interpreting the terminology and language of the Zoning Ordinance.

Changes: Language was added to clarify the use of the phrase “such as” which will be interpreted to mean “including, but not limited to.” Limitations and Methods for Measurements of Lots, Yards and Related Terms (R93ZO Section 1-205), have been relocated to the Development Standards chapter.

Interpretation of Map and District Boundaries (Section 13.02): This section of Chapter 13 is derived from existing provisions in R93ZO Sections 1-300 Zoning Map and Zoning District Boundaries and 6-407 Map Determinations and Boundary Determinations. This section identifies the provisions and guidelines for interpreting the zoning map and districts of the Zoning Ordinance, as well as the appeals process.

Changes: Changes to this section follow:

- Language has been added to identify the source documentation of the zoning map as maintained by the Office of Mapping and Geographic Information.
- Map Determinations and Boundary Determinations have been relocated from Chapter 6 Administration to this section to consolidate all the interpretation language.
- River and Stream Corridor Resources has been added to the list of environmental resources found within the environmental overlay districts and steep slope maps.

Definitions (Section 13.03): This section of Chapter 13 is derived from existing provisions in R93ZO Article 8, Definitions. This section defines terms used throughout the Zoning Ordinance. Staff have added new terms, revised existing terms, and deleted terms no longer in use or needed. Attachment 4 consists of the following three tables detailing new, revised, and deleted terms:

- *New Terms:* Table 1 provides a listing of the terms and definitions that are new to the Zoning Ordinance. The 164 newly defined terms are the result of historic need, as well as the need to define terms for emerging uses and based on new regulations and standards.
- *Revised Terms:* Table 2 lists the terms and definitions that have been revised along with the reason for the revision. These 30 revised terms are the result of historic need, as well as the need to redefine terms based on new regulations and standards. Minor revisions and wordsmithing that do not have an impact on the meaning of definitions have also been made but are not included in the table.
- *Deleted Terms:* Table 3 provides a listing of 21 definitions that have been deleted as a result of being outdated, redundant, no longer mentioned in the Zoning Ordinance, or

consolidated within other new or revised definitions. Staff continues to review the definitions chapter for additional terms that could be deleted.

Appendix B Acronyms: Included in the Draft Zoning Ordinance (August 5, 2022) is a new appendix of acronyms to assist users in understanding the abbreviated terms used throughout the Zoning Ordinance. As the ZO Rewrite project progresses through the public process, staff will continue to recommend additional acronyms.

Appendix C Fees: Appendix C to the Draft Zoning Ordinance contains the existing land development fee schedule for applications administered by the Department of Planning and Zoning. No fees have changed. The existing schedule has been carried forward from the current Zoning Ordinance. This fee schedule was added to the *Revised 1993 Zoning Ordinance* following Board approval (9-0) on May 11, 2022, of ZOAM-2021-0003, Establish New Fees for Certain Traffic Data Collection and Traffic Warrant Studies, and Incorporate the Existing Land Development Application Fee Schedule as a New Zoning Ordinance Appendix.

During the 90-day public comment period, participants expressed a preference for fees to remain separate from the Zoning Ordinance, stating the Board could more easily modify the fee schedule by resolution than through the Zoning Ordinance Amendment process. Pursuant to Virginia Code § 15.2-107, any fees imposed or amended under the County's zoning authority shall be adopted by ordinance after Public Hearing and advertisement in accordance with Virginia Code § 15.2-2204. Staff recommends the fee schedule remains as an appendix to the Zoning Ordinance to comply with Virginia Code.

DRAFT MOTIONS:

1. I move that the Planning Commission forward ZOAM-2020-0001, Zoning Ordinance Rewrite to a Work Session for further discussion.

OR

2. I move an alternate motion.

ATTACHMENT(S):

1. Draft Loudoun County Zoning Ordinance (August 5, 2022)
2. Draft Loudoun County Zoning Ordinance – Redline (April 18, 2022 versus August 5, 2022)
3. Key Changes Matrix
4. Draft Definitions: New, Revised, and Deleted
5. Zoning Ordinance Committee Findings and Recommendations Report