Town Council
Regular Meeting
Agenda Item 7.c.

Agenda Item: **Resolution 26-G-49 to initiate consideration of a Zoning Ordinance Text Amendment ZOTA #26-07 to amend Chapter 78 (ZONING), Article VII (Use Regulations), Section 78-71.1 (Residential Use Category) and Section 78-71.4 (Institutional and Community Service Use Category), to update sections for conformance with the Code of Virginia regarding affordable housing and religious organizations and other tax-exempt properties**

Meeting Date: August 25, 2026

Category: Consent

Prepared by: David Stromberg, Zoning Administrator

Description:
This Zoning Ordinance Text Amendment is required to make the Town of Herndon Zoning Ordinance consistent with the Code of Virginia. Section 15.2-2288.9 of the Code of Virginia is a new section that mandates localities to allow mixed-use or residential projects by-right (locality cannot require a special exception or rezoning) on land that is a property tax-exempt religious organization or a 501 (c)(3) property tax-exempt nonprofit organization.

A mixed-use or residential project must be allowed by-right if it meets all the following standards:

1. The property has been owned continuously by the tax-exempt religious organization or 501(c)(3) for five years.
2. At least 60 percent of the housing units are for affordable housing at 80 percent or less of the area median income for rental units and 120 percent of the area median income for for-sale units.
3. The affordability provisions are preserved for a minimum of 30 years.

A mixed-use or residential project allowed under these provisions is subject to town administrative review and must comply with state stormwater management requirements. The provisions of Section 15.2-2288.9 do not apply in locally adopted historic overlay districts.

Background/Timing Impact:
Section 15.2-2288.9 of the Code of Virginia was codified as a result of House Bill HB

1279 and Senate Bill SB 388 during the 2026 General Assembly session.

The provisions of this section of the Code of Virginia are effective starting January 1, 2027, until January 1, 2031. Adopting this resolution will allow staff to bring forward draft language to the Planning Commission for public hearing. Final draft language is expected to be brought for a public hearing before the Town Council prior to January 1, 2027.

Strategic Focus Area:
Environmental and Economic Sustainability

Fiscal Impact:
There is no immediate fiscal impact from initiating this item. Any future fiscal impact on the Town is unknown and would depend on whether the proposed amendment is adopted and the extent to which the program is used during its period of effectiveness.

Legal Impact:
The proposed Zoning Ordinance Text Amendment incorporates the mandatory provisions of Section 15.2-2288.9 of the Code of Virginia.

Staff Recommendation/Next Steps:
Adopt the initiating resolution for ZOTA #26-07.

Attachments:
1. Resolution (Proposed)