Town Council Regular Meeting
Agenda Item 5.c.

Agenda Item: **Ordinance 26-O-25 to adopt 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), and other sections as deemed necessary and appropriate to update conformance with the Code of Virginia to permit mixed-use or residential projects by-right on land owned by a property tax-exempt religious organization or a 501 (c)(3) property tax-exempt nonprofit organization**

Meeting Date: November 17, 2026

Category: Public Hearings

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 owned by 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 the following key 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 up to 120 percent of the area median income for for-sale units.
3. The affordability provisions are preserved for a minimum of 30 years.
4. The density does not exceed 20 dwelling units per acre (du/ac).
5. The height does not exceed 45 feet.
6. No more than 30 percent of the floor area of a mixed-used project is used for non-residential uses.

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 industrially zoned

districts. In Herndon, this includes the O&LI, Office and Light Industrial, zoning district.

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.

The Town Council initiated this ZOTA at its August 25, 2026, regular meeting. The Planning Commission voted 7-0 to recommend approval of this ZOTA at its regular meeting on October 19, 2026.

Timing Impact:
If adopted, this ZOTA will have an effective date of January 1, 2027.

Fiscal Impact:
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:
Staff recommends approval of Zoning Ordinance Text Amendment ZOTA #26-07.

Attachments:
1. Ordinance (Proposed)
2. Code of Virginia Section 15.2-2288.9
3. Legal Ad