TOWN OF HERNDON, VIRGINIA

TOWN COUNCIL

ORDINANCE

NOVEMBER 17, 2026

Ordinance- **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 sections for 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.**

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia that:

1. The following sections or provisions of the Herndon Town Code (2000), as amended, are amended and re-ordained as follows:

CHAPTER 78 (ZONING)

Article VII. – USE REGULATIONS

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Sec. 78-71.1 – Residential use category

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(d) *Residential use category specific use standards.* All uses shall comply with all applicable standards in this chapter. In addition, the following standards shall apply, unless, in the judgment of the reviewing authority, exceptional circumstances warrant adjustment:

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(5) *Affordable housing on property that is a tax-exempt religious organization or a 501(c)3 property tax-exempt nonprofit organization.* A mixed-use or residential project is allowed by-right in all zoning districts, provided the mixed-use or

residential project complies with Section 15.2-2288.9 of the Code of Virginia, and the following standards.

(a) *Tax-exempt status*. The property has been owned continuously by the property tax-exempt religious organization or 501(c)(3) property tax-exempt organization for five years prior to the development application.

(b) *Dedicated affordable units*. At least 60 percent of the mixed use or residential project's total housing units are for affordable housing at 80 percent or less of the area median income, as defined by the U.S. Department of Housing and Urban Development income limits and rent schedules, for rental units and up to 120 percent of the area median income for for-sale units, and such affordability is recorded and preserved for a minimum of 30 years by deed restrictions or other legally binding requirements.

(c) *Maximum height.* The maximum height is the greater of 45 feet, or the height of the tallest existing building within 500 feet that was approved by-right.

(d) *Maximum density.* The maximum density is the greater of 20 dwelling units per acre, or the most intensive existing residential unit density within 500 feet of the property line of the proposed project. There is no maximum floor area ratio.

(e) *Required setback.* The maximum setback is the lesser of 10 feet, or the smallest setback allowed for any existing property within 500 feet.

(f) *Residential floor area.* A minimum of 70 percent of the gross floor area of the development shall be used for residential.

(g) *Nonresidential uses*. A maximum of 30 percent of the gross floor area of the development may consist of the following nonresidential uses.

1. Religious worship space, child day centers, health clinics, coffee shops, or other uses that are ancillary to the operation or mission of the property tax-exempt religious organization or 501(c)(3) property tax-exempt nonprofit organization.

(h) *Parking*. Notwithstanding the provisions of Section 78-100.2, Minimum off-street parking and loading standards, there shall be a minimum of one vehicle parking space per dwelling unit and one vehicle parking space per 300 square feet of nonresidential use.

(i) *Prohibited districts.* The provisions of this Section shall not apply to properties zoned O&LI, Office and Light Industrial, or properties adjacent to properties zoned O&LI. The provision of this Section shall not apply to properties with an industrial use or adjacent to an industrial use.

(j) *Historic District Overlay.* Nothing within this Section shall be construed as limiting the authority of Section 78-60.3, Historic District Overlay.

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Sec. 78-71.4. – Institutional and community service use category.

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(c) *Similar use types, accessory uses and prohibited use types.*

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(5) *Affordable housing on property owned by religious organizations and other tax-exempt organizations.* Affordable housing on property owned by religious organizations and other tax-exempt organizations shall be considered a by-right use, provided the project complies with Section 78-71.1(d)(5) of the zoning ordinance and Section 15.2-2288.9 of the Code of Virginia.

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2. This ordinance shall be effective on January 1, 2027.