



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of June 11, 2011

**DATE:** June 2, 2011

**SUBJECT:** ZOA-11-01. Proposed amendments to the Arlington County Zoning Ordinance, Sections 3, 4, 18A, 20, 22, 25, 26A and 27, in order to regulate farmers' markets as open-air markets, and to permit open-air markets, subject to special exception use permit approval, in all commercial and industrial districts ('C' and 'M' Districts), and in "S-3A", "S-D", "CP-FBC", "MU-VS", "C-TH" and "P-S" Districts. Use permit approval would also be subject to submittal of a parking plan for customer and vendor parking sufficient to mitigate impacts on surrounding neighborhoods, and would require that no open-air market may operate within 100 feet of an 'R' District, or within 1,000 feet of another open-air market, unless otherwise permitted by the County Board.

#### **C. M. RECOMMENDATION:**

Adopt the attached ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance, Sections 3, 4, 18A, 20, 22, 25, 26A and 27 in order to regulate farmers markets as open-air markets and to permit open-air markets, subject to special exception use permit approval, in all commercial and industrial districts ('C' and 'M' Districts), and in "S-3A", "S-D", "CP-FBC", "MU-VS" and "P-S" Districts.

**ISSUES:** Sponsors of the six established Arlington farmers markets, other existing markets, and potential new markets who have contacted the County, have been notified of the intent to amend the Zoning Ordinance in order to regulate farmers' markets through use permit approval. Some farmers' market sponsors have expressed a preference for continuing to use the special event permit process, however, sponsors have indicated that they understand why the County is recommending regulation under the Zoning Ordinance. Market sponsors and ZOCO members remain concerned about the use permit fee and have requested that the County consider the impact of that fee on uses such as farmers' markets, which the County wants to promote. Continued concerns about the fee were also expressed at the Planning Commission. Staff will explore reducing the use permit fee for open-air markets.

County Manager: *BMD/GA*

County Attorney: *[Signature]* *[Signature]*

Staff: Deborah Albert, CPHD, Planning Division

PLA-5900

33.

**SUMMARY:** The County has not consistently regulated farmers markets. Historically, they were regulated as vegetable and fruit stands, but due to the extent and range of products currently sold at the County’s farmers’ markets, all are more appropriately classified as open-air markets, which incorporate regularly occurring outdoor markets selling goods to the public. However, in order to allow the six established farmers markets in the County to continue until the Zoning Ordinance could be amended to permit open-air markets in more areas, including those where the existing farmers’ markets are established, the County has recently temporarily permitted farmers’ markets through an administrative policy intended to permit occasional special events, such as parades and festivals. In order to regulate farmers’ markets in the same manner as recurring outdoor markets selling other goods, this is a request to adopt a Zoning Ordinance amendment that would facilitate regulation of farmers’ markets as open-air markets, and allow them, subject to use permit approval, in all commercial, industrial, public, and special districts.

**BACKGROUND:** The Zoning Ordinance was amended in 2001 to define open-air markets and permit them by special exception use permit approval in “C-3” Zoning Districts. Open-air markets are regularly recurring markets where groups of individual sellers offer goods for sale, not including garage sales, retail establishments with outdoor displays or motor vehicle dealerships. The 2001 amendment was in response to a request from the Clarendon Alliance to operate a flea market through a contract with the Georgetown Flea Market on a regular basis in Clarendon. Community review through the Zoning Ordinance Review Committee (ZORC) in 2001 recommended that open-air markets also be extended to “S-3A” and “C-2” Zoning Districts. However, staff did not support extending the use to other zoning districts at that time, recommending that the use remain limited in geographic scope until the County gained more experience with the use. In 2002, the Zoning Ordinance was amended again to permit open-air markets in the “C-O” Zoning District, in response to a request by the Clarendon Alliance to move the Georgetown Flea Market from Clarendon to a “C-O” property in the Courthouse area.

At the time, the open-air market use was not intended to be applied to farmers’ markets, as there was a vegetable and fruit stand use (regulated under the Zoning Ordinance, but not specifically defined) permitted as a matter of right in “C-1” Zoning Districts (and by reference in “MU-VS”, “C-2”, “C-3”, “C-O-A”, “C-R”, “C-M”, “M-1” and “M-2) that was applied to farmers’ markets.

**DISCUSSION:** Arlington has six established farmers’ markets operating in Courthouse, Clarendon, Crystal City, Rosslyn, Columbia Pike, and Ballston. Arlington’s farmers’ markets contribute to the “eat local food” movement, reducing energy consumption in the transport of foods. Additionally, these markets enliven gathering spaces, contributing to building community. While some of the existing markets are in zoning districts where open-air markets are already permitted, others are established in districts where open-air markets and/or vegetable and fruit stands have never been permitted. The table below shows the locations of established and proposed or potential farmers’ markets.

**Farmers Markets**

<b>Market</b>	<b>Zoning District</b>	<b>Location</b>
<i>Established Farmers’ Markets</i>		
Courthouse	C-O	Parking lot adjacent to County Building

<b>Market</b>	<b>Zoning District</b>	<b>Location</b>
Ballston	C-O-A	Wellburn Square
Clarendon	C-3	Near Metro escalator
Columbia Pike	C-2	Park in front of Rite Aid (proposed to be moved in the future to S-3A property at Penrose Square)
Crystal City	C-O	Sidewalk on west side of Crystal Drive between 18 <sup>th</sup> & 20 <sup>th</sup> Streets
Rosslyn	C-O	1700 block of North Oak Street
<i>Proposed/Potential Farmers' Markets</i>		
Westover	S-3A	Reed/Westover Library (Special Event application submitted)
Nauck	C-2/S-3A	Town Center (Special Event application submitted)
Arlington Mill	S-3A	Community Center (no application submitted)
<i>Other Existing Markets(not farmers' markets)</i>		
Civitans Market	S-3A	I-66 Garage (near Washington-Lee High School)
Arlington Urban Village Market	C-O	15th Street (Courthouse) (existing open-air market use permit)
Ballston Arts and Crafts Market	C-O-A	Wellburn Square

Recently, farmers' markets have been permitted as special events as an interim measure until the Zoning Ordinance can be amended to consistently regulate them as a land use. Special event permits are not regulated by zoning, and are defined as non-recurring events on public spaces, such as pageants, celebrations, historical reenactments, parades, fairs, festivals, and the like. The special event application explicitly states that it is not intended for regularly recurring events such as farmers' markets. The special event process is controlled through an administrative policy (administrative policies are approved by the County Manager, rather than the County Board). While it is appropriate for one-time or occasional events to be approved through the special event process, temporary events that occur on a weekly or monthly basis over a majority of the year have more of an ongoing impact, and therefore should be regulated through zoning, which is specifically enabled in order to control land uses for the general purposes of promoting health, safety and welfare of the public.

While the existing vegetable and fruit stand use in the Zoning Ordinance was historically applied to farmers' markets, all of the established farmers' markets in the County have evolved to include more than just vegetables and fruits. Additionally, the vegetable and fruit stand use was more likely intended to be applied to a single vendor. From a land use perspective, the existing open-air market use may be applied to farmers' markets, as it is to outdoor markets selling other goods on a recurring basis. Such markets all involve vendors and customers, and require management of land use impacts, such as parking, trash removal, hours of operation and other site-specific impacts. Conditions associated with a use permit can be used to help mitigate potential land use impacts. Because other types of regularly recurring outdoor markets are already regulated as open-air markets through the Zoning Ordinance, it is appropriate that farmers' markets be similarly regulated, as the land use impacts are similar. In order to continue

to permit established farmers' markets throughout the County, and to accommodate future applications, a Zoning Ordinance amendment is proposed that would expand the areas in which open-air markets are currently permitted to all commercial and industrial, public and special districts, by special exception use permit approval by the County Board. The use permit approval would allow potential land use impacts to be managed through use permit conditions. The use permit review process would help to identify potential impacts and ensure that impacts on adjacent neighborhoods are minimized.

In drafting the proposed amendment, staff also considered the option of defining the vegetable and fruit stand use in the Zoning Ordinance to more broadly apply to the expanded range of products typically included in the County's six established farmers' markets, and therefore permit the use as a matter of right. Other local jurisdictions, such as the City of Alexandria, and Fairfax and Loudoun Counties regulate farmers' markets through zoning, some through special exception approval and some as a matter of right. Fairfax County requires special permit approval (equivalent to Arlington's use permit approval); Loudoun County requires special exception approval in some zoning districts; and the City of Alexandria allows city-sponsored farmers' markets as a matter of right in specific districts. Of the three, only Loudoun County defines "Farm Markets" in their Ordinance. In order to be defined as a "farm market" in Loudoun County, 25 percent of the products sold must be produced within the County. This is appropriate for a County that includes large tracts of rural and agricultural land, in order that the County's farm markets can directly support the County's agricultural, horticultural and aquacultural segments of the economy. In Arlington, which is predominantly urban, local products may originate from a broader geographic area, and staff prefers to allow each farmers' market sponsor to define the rules through which individual vendors may participate. With no specific criteria by which to differentiate a farmers' market from an open-air market selling other products, it was ultimately decided that the existing open-air market definition is sufficiently descriptive to apply to farmers' markets as well.

Staff proposes to amend the Zoning Ordinance to permit open-air markets in all commercial and industrial ('C' and 'M') zoning districts, and in "C-TH", "CP-FBC", "S-3A", "P-S" and "S-D" districts, as they are currently regulated in "C-3" and "C-O" Districts, with some refinements, to include requirements that:

- No open-air market may operate within 1,000 feet of another open-air market, unless modified by the County Board. This provision is included in the current regulation and is not proposed to be changed.
- No open-air market may operate within 100 feet of the boundary of an 'R' zoning district. This provision is included in the current regulation, however, staff proposes to allow the County Board to modify this provision for sites where potential impacts can be mitigated, as discussed below.
- An application for an open-air market shall include a parking plan for customer and vendor parking. This provision is also included in the existing regulation, however, additional zoning language is proposed in order to ensure that the parking plan provided is sufficient to mitigate adverse impacts to surrounding neighborhoods.

- Currently the open-air market use applies only to non-profit organizations. The proposed amendment would allow any organization to operate an open-air market, as the sponsor of the market has no differential impact on the land use so long as the market operates under all approved conditions.

**Commercial and Industrial Districts.** Commercial and industrial districts include all ‘C’ and ‘M’ zoning districts. Commercial districts allow general commercial uses such as retail and office use, as well as some mixed use areas. Industrial districts allow general industrial uses such as manufacturing, processing and packaging as well as commercial uses. When the open-air market use was first defined in the Zoning Ordinance in 2001, ZORC recommended that the use be permitted in “S-3A” and additional commercial districts. However, at the time, staff recommended that the County gain experience with the use before allowing it in other areas. The flea market, for which the use in the Ordinance was initially developed, successfully operated in two different locations. An antiques and collectibles market continues to operate in Courthouse, concurrent with the established farmers’ market at the same location. The last review of the antiques and collectibles market in 2006 indicated that the use had previously operated in compliance with the use permit conditions and with minimal complaints to County agencies. Open-air markets are compatible with other uses in the County’s commercial, mixed-use and industrial districts, and could contribute to the vibrancy of urban areas through the use of urban parks, plazas and other urban spaces. At this time it would be appropriate to permit the open-air market use in other commercial and industrial districts.

**Public and Special Districts.** Public and special districts include “S-3A”, “P-S” and “S-D” Zoning Districts. “S-3A” districts are intended to encourage undeveloped properties, and allow uses such as public, semi-public or private parks and recreational areas, cultural buildings, country clubs and cemeteries, among other uses. “S-D” and “P-S” districts, while less commonly used throughout the County, also allow public parks and recreational uses, public buildings and cultural facilities, among other uses, such as water treatment facilities and electric utility plants, which are permitted in “P-S” districts. Many of the county’s urban parks and plazas, some of which are designed to support programming such as recurring markets that create vibrancy within an urban area, are in “S-3A” districts. It would be beneficial to the County to be able to permit farmers’ and other public markets on public properties.

**Residential Districts.** Residential districts include ‘R’ and ‘RA’ zoning districts, which generally support single-family and multi-family uses, respectively. When the open-air market use was permitted in 2001, a provision was included to preclude location of an open-air market within 100 feet of the boundary of any ‘R’ district. This provision was in response to neighborhood concerns related to impacts of parking, noise and trash on residential neighborhoods. The proposed amendment would maintain this provision, however, it would allow the County Board to modify the distance from the boundary of any ‘R’ district if the applicant can demonstrate that there would be no undue adverse impacts on the adjacent neighborhood. While ‘R’ districts are predominantly made up of single-family dwellings, other uses such as churches, public utilities, schools, libraries, community centers, hospitals, and other institutional uses may also be permitted. In commercial areas adjacent to some of these other uses, an adequate buffer between the market and the adjacent residential area may already be

provided to help mitigate some of the impacts of the market on the neighborhood. The open-air market use is not proposed to be permitted in 'R' or 'RA' districts at this time.

**Proposed Zoning Ordinance Amendment:** Amendments to the following sections would permit open-air markets as described above:

- Add open-air market as a new special exception use to Section 22. "C-1-O", which by reference, would also permit open-air markets in "C-O-1.5", "C-O" Rosslyn", "C-O, "C-O-1.0", "C-O-2.5"
- Add open-air market as a new special exception use to Section 18A. "C-1-R", which by reference would also permit open-air markets in "C-1", "C-R", "C-2", "MU-VS", "C-O-A", "C-3", "CM", "M-1", "M-2", "M-3"
- Add open-air market as a new special exception use to:
  - Section 3: "S-3A", which by reference would permit them in "PS" Districts
  - Section 4. "S-D"
  - Section 20. "CP-FBC"
  - Section 26A. "C-TH"
- Remove open-air markets from "C-O" and "C-3", as the use would be permitted in these districts by reference to "C-1-O" and "C-1", respectively.

**Community Process:** Staff met with farmers' market sponsors on September 30, October 25, 2010, and April 29, 2011 in order to discuss the option of moving from special event permitting to use permit approval of farmers' markets. The proposed amendment was also reviewed by the Zoning Committee of the Planning Commission on April 21 and May 10, 2011, where farmers' market sponsors were also present. Issues discussed at these meetings included the special event process versus regulation under zoning, how markets can be regulated under zoning, special exception use permit process and fees, parking, and proximity to residential districts. ZOCO members also suggested minor modifications to the proposed zoning text, which have been incorporated into the proposed amendment. The above issues are discussed in detail below.

**Planning Commission:** The proposed amendment was heard by the Planning Commission on May 31, 2011, where the Commission voted 6-3 to recommend that the County Board adopt the proposed amendment.

**Zoning Fee:** Use permits for open-air markets incur a one-time fee at time of application, with no additional fee for scheduled reviews. The current use permit fee is \$1960, which is inclusive of a 10% automation enhancement fee. Generally zoning fees increase each year with the rate of inflation, typically ranging from 0 – 5% (no zoning fee increases were adopted with the fiscal year 2012 budget). Applications for use permit amendments have a fee of 50% of the original fee (currently approximately \$980), which would apply only if a change to the current use permit parameters or conditions was requested.

Sponsors of farmers' markets have indicated that while they understand the need to regulate farmers' markets as open-air markets, they remain concerned about the fees required for use permits and use permit amendments. Given the amount of planned construction in the County, many markets anticipate the need to move to different locations in order to accommodate construction zones or take advantage of new locations. Because a use permit is tied to a specific location, a new use permit would be required to request approval for a new location and a new fee would be required. Farmers' market sponsors request that the County consider the impact of those fees. ZOCO members also expressed concerns that a fee should not discourage farmers' markets and the County should consider changing the fee or waiving it in some instances. At the Planning Commission hearing, Commission members continued to express concerns about the use permit fee given that farmers markets and markets promoting the arts are uses the County should encourage. Zoning fees are designed to cover time for staff review and advertising costs to the County. However, in order to continue to support and encourage farmers' markets, staff recommends that a reduced fee be considered specifically for open-air market use permits, as uses such as farmers' markets create vibrancy and provide a community amenity. Therefore, staff will continue to analyze the fee structure in order to recommend that a lower fee be established on the zoning fee schedule for consideration by the County Board.

Additionally, staff is working with sponsors of the six existing farmers' markets, as well as the existing Ballston Arts and Crafts market and the Civitans market to coordinate the timing of use permit applications for the open-air market use, and to help facilitate transition to regulation under zoning. Should the proposed amendment be adopted by the County Board, staff recommends that the County Board advertise use permit applications for the eight established markets (the Urban Village Market is already under an existing open-air market use permit) on their own motion. In this way, no fee would be incurred for the initial application for each of these markets.

Parking: One sponsor expressed concern about the requirement for submittal of a parking plan to scale. Most customers of their market arrive by walking or public transit and under the special events process, they are able to orally report how customers arrive and that vendors park in a nearby lot. The zoning requirement for a parking plan (already included in the areas where open-air markets are currently permitted) would not impose a higher parking standard for number of parking spaces than that required by the special event process, as the proposed requirement does not define a specific number of spaces for the use. However, the regulation would require that the plan be shown to scale in order to ensure that the plan is clear enough that the adequacy of the plan may be appropriately reviewed. A scaled parking plan may be easily provided through the use of existing public documents, so long as it clearly shows parking spaces and rights-of-way; this solution is acceptable to the concerned sponsor. Members of ZOCO present at the meeting also discussed the parking plan, and suggested that a clear understanding of vendor parking is important.

Regulation of Farmers' Markets: As described in the Discussion section of this report, special events permits are intended to apply only to non-recurring events. Land use impacts of regularly recurring temporary events are more lasting and ongoing than those of single day events, and therefore it is appropriate to regulate them through zoning. Staff did consider expanding the scope of the vegetable and fruit stand use to accommodate the range of products at the County's

farmers' markets, however, did not see a distinction between farmers' markets and outdoor markets selling other goods that would justify two different types of uses. Rather than specifically defining criteria to distinguish a farmers' market in the Zoning Ordinance, staff preferred to allow the individual market sponsors to define the criteria for being included in each market. Therefore, the existing open-air market use may be appropriately applied to farmers' markets as it is to markets selling other types of products. A broader definition of what defines a market is consistent with concerns expressed by farmers' market sponsors that they want to maintain control of what types of vendors and products may be included in their markets.

Distance from 'R' Districts: ZOCO members also discussed the requirement that a market not be located within 100 feet of an 'R' district. This requirement is in the adopted regulation, and was included in response to neighborhood concerns at that time. Representatives of a proposed farmers' market in Westover expressed concern about this requirement due to its impact on their potential location. One ZOCO member suggested that at this time, the use should also be extended to residential ('R' and 'RA') districts, however, another ZOCO member suggested that approval criteria would have to be more specific if the use were to be permitted in residential areas, particularly in 'R' districts. At this time, staff recommends continuing to limit the use to areas outside of 'R' and 'RA' districts, but has proposed allowing the County Board to modify the distance from an 'R' district in order to provide flexibility to assess potential impacts on an adjacent 'R' district on a site-specific basis.

Other: Farmers' market sponsors have requested that staff explore potential changes to regulations other than zoning that also apply to farmers' markets, including revising the timing of the food vendor licenses from a July 1 – June 30 schedule to a calendar year schedule to better align with the farmers' market season; the potential for waiving fees for reserved parking meters; and clarification of how and when food event license fees apply to chef demos at farmers' markets. While these issues would not be addressed with the proposed Zoning Ordinance amendment, staff will continue to explore these issues.

**CONCLUSION:** Staff recommends that the County Board adopt the attached ordinance to amend the Arlington County Zoning Ordinance, Sections 3, 4, 18A, 20, 22, 25, 26A and 27 to permit open-air markets, subject to special exception use permit approval, in all commercial and industrial districts ('C' and 'M' Districts), and in "S-3A", "S-D", "CP-FBC", "C-TH", "MU-VS" and "P-S" Districts.



## Appendix A: Comparison of Zoning and Special Events as Applied to Farmers Markets

	Vegetable and Fruit Stand	Open-Air Market	Special Events
How Regulated	<ul style="list-style-type: none"> <li>• Zoning Ordinance</li> <li>• By-right</li> <li>• “C-1”, “MU-VS”, “C-2”, “C-3”, “C-O-A”, “C-R”, “C-M”, “M-1”, “M-2”, “M-3” districts</li> </ul>	<ul style="list-style-type: none"> <li>• Zoning Ordinance</li> <li>• Subject to use Permit Approval</li> <li>• “C-3” and “C-O” districts</li> <li>• 4 of 6 existing farmers markets are in zoning districts where this use is permitted</li> </ul>	Administrative policy
Proposed change	No change proposed	Amend Zoning Ordinance to permit by use permit approval in all ‘C’ and ‘M’ districts, and in “C-TH”, “CP-FBC”, “S-3A”, “P-S” and “S-D”	No change proposed
Defined	Not defined in Zoning Ordinance	Defined in Zoning Ordinance: “An outdoor market held on a regular basis, and at which groups of individual sellers offer goods, new or used, for sale to the public. Open-air market shall not include garage sales not held on a regular basis, outdoor display or sales associated with retail establishments that are principally located in indoor facilities, or motor vehicle dealerships”	Defined on Special Event Application: “Pageants, celebrations, historical reenactments, entertainment, exhibitions, parades, fairs, festivals and similar events on public spaces. (Special Events as related to this application are not demonstrations, block parties, regularly repeating events such as Farmer’s Markets or casual public space use by citizens, visitors or tourists”
Application Review by	Zoning Staff	Zoning and Planning staff	Special Events Committee, (multi-disciplinary staff committee)
Public Review	None	Through use permit process and County Board public hearing	None
Approval	Administratively by Zoning	County Board approval required	Administrative approval by Special Events Committee
Parking	Parking plan may be required	<ul style="list-style-type: none"> <li>• Vendor and customer parking plan to scale required.</li> <li>• Proposed that plan is sufficient to mitigate adverse impacts.</li> <li>• A street map to scale may be used so long as it clearly shows parking spaces and right-of-way.</li> </ul>	Description of customer and vendor parking
Event location	<ul style="list-style-type: none"> <li>• No restrictions within permitted zoning districts</li> <li>• Property owner-imposed restrictions may apply</li> </ul>	<ul style="list-style-type: none"> <li>• Unless otherwise permitted by the County Board, not within 1,000 feet of another open- air market or within 100 feet of an ‘R’ district</li> <li>• Property owner-imposed restrictions may apply</li> </ul>	<ul style="list-style-type: none"> <li>• No defined restrictions</li> <li>• Property owner-imposed restrictions may apply</li> </ul>
Application Fee	No application fee	<ul style="list-style-type: none"> <li>• Use permit application fee of \$1960.20, inclusive 10% of automation enhancement fee (current as of adopted FY ‘2012 fee schedule)</li> <li>• Scheduled reviews have no fee and do not require re-submittal of application</li> <li>• Use permit amendment fee of 50% of the initial application fee (currently \$980.10)</li> </ul>	<ul style="list-style-type: none"> <li>• No application fee</li> <li>• Special events are one-time events</li> <li>• Application is required each time event occurs</li> <li>• Farmers markets have been temporarily permitted to apply annually for a special events permits</li> </ul>
Other fees	Regardless of approval process, farmers markets may be subject to other County fees as appropriate, including, but not limited to: use of metered parking, no parking signs, street/lane closure permits, sign permits, certificate of occupancy, street cleaning, mobile vendor license, temporary food license, public property usage		

**AN ORDINANCE TO AMEND, REENACT AND RECODIFY THE ARLINGTON COUNTY ZONING ORDINANCE, SECTIONS 3, 4, 18A, 20, 22, 25, 26A AND 27, IN ORDER TO PERMIT OPEN-AIR MARKETS, SUBJECT TO SPECIAL EXCEPTION USE PERMIT APPROVAL, IN ALL COMMERCIAL AND INDUSTRIAL DISTRICTS ('C' AND 'M' DISTRICTS), AND IN "S-3A", "S-D", "CP-FBC", "MU-VS", "C-TH" AND "P-S" DISTRICTS. USE PERMIT APPROVAL WOULD ALSO BE SUBJECT TO SUBMITTAL OF A PARKING PLAN FOR CUSTOMER AND VENDOR PARKING SUFFICIENT TO MITIGATE IMPACTS ON SURROUNDING NEIGHBORHOODS, AND SUCH THAT NO OPEN-AIR MARKET MAY OPERATE WITHIN 100 FEET OF AN 'R' DISTRICT, OR WITHIN 1,000 FEET OF ANOTHER OPEN-AIR MARKET, UNLESS OTHERWISE MODIFIED BY THE COUNTY BOARD; AND TO FACILITATE THE CREATION OF A CONVENIENT, ATTRACTIVE AND HARMONIOUS COMMUNITY; TO ENCOURAGE ECONOMIC DEVELOPMENT; AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE, AND GOOD ZONING PRACTICE.**

Be it ordained that the Arlington County Zoning Ordinance provisions in Sections 3, 4, 18A, 20, 22, 25, 26A and 27 are hereby amended, reenacted and recodified as follows, in order to permit open-air markets, subject to special exception use permit approval, in all commercial and industrial districts ('C' and 'M' Districts), and in "S-3A", "S-D", "CP-FBC", "MU-VS", "C-TH" and "P-S" Districts. Use permit approval will also be subject to submittal of a parking plan for customer and vendor parking sufficient to mitigate impacts on surrounding neighborhoods, and such that no open-air market may operate within 100 feet of an 'R' District, or within 1,000 feet of another open-air market, unless otherwise modified by the County Board; and to facilitate the creation of a convenient, attractive and harmonious community; to encourage economic development; and for other reasons required by the public necessity, convenience and general welfare, and good zoning practice:

\* \* \*

Zoning text proposed to be added is denoted with underline. Zoning text proposed to be removed is shown with ~~striketrough~~. Text in [brackets] is editorial only and is not intended to be incorporated into the Zoning Ordinance.

1 **SECTION 3. "S-3A" SPECIAL DISTRICTS**

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3 \* \* \*

4 **A. Uses Permitted.**

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6 \* \* \*

- 7  
8 10. Conditional uses: The following uses may also be permitted subject to securing a  
9 use permit as provided in Section 36.G., "Use Permits":

10  
11 \* \* \*

13 m. Open-air markets, which shall be subject to conditions approved by the  
14 County Board at the time of use permit approval including but not limited  
15 to conditions governing customer and vendor parking, landscaping,  
16 maintenance, impact on neighboring residential areas, management of  
17 trash, management of noise, times and days of the week of operation,  
18 including the number of vendors that would be permitted under the use  
19 permit. In addition, any open-air market shall meet the following  
20 requirements:

21 (1) No open-air market shall be located within one thousand (1,000)  
22 feet of another open-air market. However, the County Board may  
23 modify this requirement as part of the use permit review process, if  
24 it finds that the location of the open-air market in proximity to  
25 other market(s) will not have a substantial adverse impact on  
26 surrounding neighborhoods;

27 (2) No open-air market shall be located within one hundred (100) feet  
28 of the boundary of any "R" zoning district. However, the County  
29 Board may modify this requirement as part of the use permit  
30 review process if it finds that the location of the open-air market in  
31 proximity to an "R" zoning district will not have a substantial  
32 adverse impact on surrounding neighborhoods; and

33 (3) An application for a use permit for an open-air market shall  
34 include a parking plan that is drawn to scale, showing the number  
35 and location of customer and vendor parking spaces. Customer and  
36 vendor parking identified as available for market use shall be  
37 sufficient to not have a substantial adverse impact on the  
38 surrounding neighborhoods.

39 \* \* \*

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42 **SECTION 4. "S-D" SPECIAL DEVELOPMENT DISTRICTS**

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44 The following regulations shall apply in all "S-D" Districts:

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46 **A. Uses Permitted.**

47 \* \* \*

48 5. Conditional uses: The following uses may also be permitted subject to securing a  
49 use permit and site plan approval as provided for in Section 36, under "Use  
50 Permits" and "Site Plan Approval":

51 \* \* \*

52  
53  
54 g. Open-air markets are permitted subject to obtaining a use permit, and  
55 subject to all conditions placed on the use permit by the County Board at  
56 the time of approval including but not limited to conditions governing  
57 customer and vendor parking, landscaping, maintenance, impact on  
58 neighboring residential areas, management of trash, management of noise,

59 times and days of the week of operation, including the number of vendors  
60 that would be permitted under the use permit. In addition, any open-air  
61 market shall meet the following requirements:

62 (1) No open-air market shall be located within one thousand (1,000)  
63 feet of another open-air market. However, the County Board may  
64 modify this requirement as part of the use permit review process, if  
65 it finds that the location of the open-air market in proximity to  
66 other market(s) will not have a substantial adverse impact on  
67 surrounding neighborhoods;

68 (2) No open-air market shall be located within one hundred (100) feet  
69 of the boundary of any "R" zoning district. However, the County  
70 Board may modify this requirement as part of the use permit  
71 review process, if it finds that the location of the open-air market  
72 in proximity to an "R" zoning district will not have a substantial  
73 adverse impact on surrounding neighborhoods; and

74 (3) An application for a use permit for an open-air market shall  
75 include a parking plan that is drawn to scale, showing the number  
76 and location of customer and vendor parking spaces. Customer and  
77 vendor parking identified as available for market use shall be  
78 sufficient to not have a substantial adverse impact on the  
79 surrounding neighborhoods.

80  
81 \* \* \*

82  
83 **SECTION 18A. "C-1-R" RESTRICTED LOCAL COMMERCIAL DISTRICTS**

84  
85 \* \* \*

86  
87 The following regulations shall apply in all "C-1-R" Districts:

88  
89 **A. Uses Permitted.**

90 \* \* \*

- 91  
92 17. Conditional Uses: The following uses may also be permitted subject to securing a  
93 use permit as provided in Section 36.G., "Use Permits."  
94 a. Uses permitted and conducted in kiosks in accordance with the  
95 requirements of Section 31.A.18.  
96 b. Open-air markets, which shall be subject to conditions placed on the use  
97 permit by the County Board at the time of approval including but not  
98 limited to conditions governing customer and vendor parking,  
99 landscaping, maintenance, impact on neighboring residential areas,  
100 management of trash, management of noise, times and days of the week of  
101 operation, including the number of vendors that would be permitted under  
102 the use permit. In addition, any open-air market shall meet the following  
103 requirements:

- (1) No open-air market shall be located within one thousand (1,000) feet of another open-air market. However, the County Board may modify this requirement as part of the use permit review process, if it finds that the location of the open-air market in proximity to other market(s) will not have a substantial adverse impact on surrounding neighborhoods;
- (2) No open-air market shall be located within one hundred (100) feet of the boundary of any "R" zoning district. However, the County Board may modify this requirement as part of the use permit review process, if it finds that the location of the open-air market in proximity to an "R" zoning district will not have a substantial adverse impact on surrounding neighborhoods; and
- (3) An application for a use permit for an open-air market shall include a parking plan that is drawn to scale, showing the number and location of customer and vendor parking spaces. Customer and vendor parking identified as available for market use shall be sufficient to not have a substantial adverse impact on the surrounding neighborhoods.

\* \* \*

**SECTION 20. "CP-FBC" – COLUMBIA PIKE FORM BASED CODE DISTRICTS**

\* \* \*

**B. Special Exceptions.**

Any of the following uses may be established subject to obtaining a use permit as provided in Section 36, "Use Permits," for each such use, and provided that the property has been redeveloped pursuant to the Form Based Code. . . .

\* \* \*

- 10. Nightclubs and restaurants, providing live entertainment, including dance halls.
- 11. Open-air markets, which shall be subject to conditions placed on the use permit by the County Board at the time of approval including but not limited to conditions governing customer and vendor parking , landscaping, maintenance, impact on neighboring residential areas, management of trash, management of noise, times and days of the week of operation, including the number of vendors that would be permitted under the use permit. In addition, any open-air market shall meet the following requirements:
  - a. No open-air market shall be located within one thousand (1,000) feet of another open-air market. However, the County Board may modify this requirement as part of the use permit review process, if it finds that the location of the open-air market in proximity to other market(s) will not have a substantial adverse impact on surrounding neighborhoods;

- 148 b. No open-air market shall be located within one hundred (100) feet of the  
 149 boundary of any "R" zoning district. However, the County Board may modify  
 150 this requirement as part of the use permit review process, if it finds that the  
 151 location of the open-air market in proximity to an "R" zoning district will not  
 152 have a substantial adverse impact on surrounding neighborhoods; and  
 153 c. An application for a use permit for an open-air market shall include a parking plan  
 154 that is drawn to scale, showing the number and location of customer and vendor  
 155 parking spaces. Customer and vendor parking identified as available for market  
 156 use shall be sufficient to not have a substantial adverse impact on the surrounding  
 157 neighborhoods.

158  
 159 [renumber subsequent uses accordingly]

160  
 161 \* \* \*

162  
 163 **SECTION 22. "C-1-O" LIMITED COMMERCIAL PROFESSIONAL OFFICE**  
 164 **BUILDING DISTRICTS**

165  
 166 The intent of this classification is to provide areas for nonretail commercial uses such as offices  
 167 and financial institutions in a low-intensity manner. (6-25-77)

168 The following regulations shall apply in all "C-1-O" Districts:

169 **A. Uses Permitted.**

170  
 171 \* \* \*

- 172  
 173 4. Conditional uses: The following uses may also be permitted subject to securing a  
 174 use permit as provided in Section 36.G., "Use Permits."  
 175 a. Uses permitted and conducted in kiosks in accordance with the  
 176 requirements of Section 31.A.18.  
 177 b. Open-air markets, which shall be subject to conditions placed on the use  
 178 permit by the County Board at the time of approval including but not  
 179 limited to conditions governing customer and vendor parking for,  
 180 landscaping, maintenance, impact on neighboring residential areas,  
 181 management of trash, management of noise, times and days of the week of  
 182 operation, including the number of vendors that would be permitted under  
 183 the use permit. In addition, any open-air market shall meet the following  
 184 requirements:  
 185 (1) No open-air market shall be located within one thousand (1,000)  
 186 feet of another open-air market. However, the County Board may  
 187 modify this requirement as part of the use permit review process, if  
 188 it finds that the location of the open-air market in proximity to  
 189 other market(s) will not have a substantial adverse impact on  
 190 surrounding neighborhoods;  
 191 (2) No open-air market shall be located within one hundred (100) feet  
 192 of the boundary of any "R" zoning district. However, the County  
 193 Board may modify this requirement as part of the use permit

194 review process, if it finds that the location of the open-air market  
195 in proximity to an "R" zoning district will not have a substantial  
196 adverse impact on surrounding neighborhoods; and  
197 (3) An application for a use permit for an open-air market shall  
198 include a parking plan that is drawn to scale, showing the number  
199 and location of customer and vendor parking spaces. Customer and  
200 vendor parking identified as available for market use shall be  
201 sufficient to not have a substantial adverse impact on the  
202 surrounding neighborhoods.

203 \* \* \*

204  
205  
206 **SECTION 25. "C-O" COMMERCIAL OFFICE BUILDING, HOTEL AND MULTIPLE-**  
207 **FAMILY DWELLING DISTRICTS**

208 \* \* \*

209  
210 **B. Special Exceptions.**

211 \* \* \*

212  
213 ~~2. Use permits.~~

214 a. ~~By use permit approval as provided in Section 36.G. "Use Permits:" Open air~~  
215 ~~markets operated by nonprofit organizations are permitted subject to obtaining a~~  
216 ~~use permit. The use shall be regulated by all conditions placed on the use permit~~  
217 ~~by the County Board at the time of approval including but not limited to~~  
218 ~~conditions governing customer and vendor parking for vendors and customers,~~  
219 ~~landscaping, maintenance, impact on neighboring residential areas, management~~  
220 ~~of trash, management of noise, times and days of the week of operation, including~~  
221 ~~the number of vendors that would be permitted under the use permit. In addition,~~  
222 ~~any open air market shall meet the following requirements:~~

223 (1) ~~No open air market shall be located within one thousand (1,000) feet of~~  
224 ~~another open air market. However, the County Board may modify this~~  
225 ~~requirement as part of the use permit review process, if it finds that the~~  
226 ~~location of the open air market will not have a substantial adverse impact~~  
227 ~~on surrounding neighborhoods;~~

228 (2) ~~No open air market shall be located within one hundred (100) feet of the~~  
229 ~~boundary of any "R" zoning district and;~~

230 (3) ~~An application for a use permit for an open air market shall include a~~  
231 ~~parking plan that is drawn to scale, showing the number and location of~~  
232 ~~customer and vendor parking spaces.~~

233 \* \* \*

234  
235  
236 **SECTION 26A. "C-TH" COMMERCIAL TOWN HOUSE DISTRICTS**

237 \* \* \*

239 **B. Special Exceptions.**

240  
241 Any of the following uses may be established subject to obtaining a use permit as provided in  
242 Section 36, "Use Permits," for each such use:

243  
244 \* \* \*

- 245 8. Mortuary or funeral home, including a cremation unit within a mortuary or
- 246 funeral home.
- 247 9. Open-air markets, which shall be subject to conditions placed on the use permit
- 248 by the County Board at the time of approval including but not limited to
- 249 conditions governing customer and vendor parking, landscaping, maintenance,
- 250 impact on neighboring residential areas, management of trash, management of
- 251 noise, times and days of the week of operation, including the number of vendors
- 252 that would be permitted under the use permit. In addition, any open-air market
- 253 shall meet the following requirements:
  - 254 a. No open-air market shall be located within one thousand (1,000) feet of
  - 255 another open-air market. However, the County Board may modify this
  - 256 requirement as part of the use permit review process, if it finds that the
  - 257 location of the open-air market in proximity to other market(s) will not
  - 258 have a substantial adverse impact on surrounding neighborhoods;
  - 259 b. No open-air market shall be located within one hundred (100) feet of the
  - 260 boundary of any "R" zoning district. However, the County Board may
  - 261 modify this requirement as part of the use permit review process, if it finds
  - 262 that the location of the open-air market in proximity to an "R" zoning
  - 263 district will not have a substantial adverse impact on surrounding
  - 264 neighborhoods; and
  - 265 c. An application for a use permit for an open-air market shall include a
  - 266 parking plan that is drawn to scale, showing the number and location of
  - 267 customer and vendor parking spaces. Customer and vendor parking
  - 268 identified as available for market use shall be sufficient to not have a
  - 269 substantial adverse impact on the surrounding neighborhoods.

270  
271 [renumber subsequent uses accordingly]

272  
273 \* \* \*

274  
275 **SECTION 27. "C-3" GENERAL COMMERCIAL DISTRICTS**

276  
277 \* \* \*

278 **D. Special Exceptions.**

- 279
- 280 ~~1. Open Air Markets operated by nonprofit organizations are permitted subject to obtaining~~
- 281 ~~a use permit as provided in Section 36.G. "Use Permits." The use shall be regulated by all~~
- 282 ~~conditions placed on the use permit by the County Board at the time of approval~~
- 283 ~~including but not limited to conditions governing customer and vendor parking,~~
- 284 ~~landscaping, maintenance, impact on neighboring residential areas, management of trash,~~



285 management of noise, times and days of the week of operation, including the number of  
286 vendors that would be permitted under the use permit. In addition, any open air market  
287 shall meet the following requirements:

- 288 ~~\_\_\_\_\_ a. \_\_\_\_\_ No open air market shall be located within one thousand (1,000) feet of another~~  
289 ~~open air market. However, the County Board may modify this requirement as a~~  
290 ~~part of use permit review process, if it finds that the location of the open air~~  
291 ~~markets will not have a substantial adverse impact on surrounding neighborhoods;~~
- 292 ~~\_\_\_\_\_ b. \_\_\_\_\_ No open air market shall be located within one hundred (100) feet of the~~  
293 ~~boundary of any "R" zoning district; and~~
- 294 ~~\_\_\_\_\_ c. \_\_\_\_\_ An application for a use permit for an open air market shall include a parking plan~~  
295 ~~that is drawn to scale, showing the number and location of customer and vendor~~  
296 ~~parking spaces.~~

297  
298 [renumber subsequent uses accordingly, and update section references in Section 27 and Section  
299 31]

- 300
- 301 2. In areas designated "Medium Density Mixed Use" and located within the "Clarendon  
302 Revitalization District" as designated on the General Land Use Plan...

303  
304 \* \* \*