



DUMFRIES, VIRGINIA

Virginia's Oldest Continuously Chartered Town
CHARTERED 1749 INCORPORATED 1961

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October 14, 2016

STAFF REPORT

ZONING TEXT AMENDMENT ZTA 2016-002

Applicable Ordinances: Article I, Secs. 70-2.2, 70-25 (new)
Article III, Secs. 70-215, 70-256, 70-290, 70-324, and 70-491

Proposal: To revise and update the regulations associated with trash enclosures

Staff Recommendation: Staff recommends approval of ZTA 2016-002, as drafted in the recommended text found in Appendix 1.

Executive Summary

Based on feedback from Town Council and the Planning Commission, staff recommends centralizing the Zoning Ordinance's trash enclosure language in a new Sec. 70-25 in Article I of the Zoning Ordinance. The new regulations would clarify the need for trash to be stored within receptacles behind a screening enclosure. The regulations would broaden a property owner's options for achieving the required enclosure, similar to Prince William County's zoning laws and others throughout the Commonwealth.

Since the Town of Dumfries has adopted the County's Design and Construction Standards Manual (DCSM), the construction requirements for the enclosures should mimic the DCSM requirements and be no more stringent than those requirements.

The Virginia Uniform Statewide Building Code regulates the provision of dumpster pads for trash enclosures; staff recommends referencing the Building Code to clarify that the dumpster pad will need approval from the Building Official.

Community Development Department
Nick Rogers, AICP, Community Development Director

BACKGROUND

On July 19th, 2016, Town Council directed staff to initiate a review of the Zoning Ordinance's trash enclosure regulations. Based on feedback from local businesses, the current regulations created compliance challenges due to requirement to have two gates. Businesses reported that trash collectors would not close the gates or that the gates would be damaged, which would result in businesses violating the Zoning Ordinance. Staff was directed to explore the prospect of a three-sided enclosure.

On September 12th, 2016, the Planning Commission discussed the trash enclosure regulations during their work session. Commissioner West circulated field research demonstrating that property owners were at varying levels of compliance with the current regulations. Mayor Foreman discussed the Council's intent behind initiating the Zoning Text Amendment (ZTA). After discussing the goals and objectives of trash enclosures, the Commission provided a series of shared comments:

- A three-sided enclosure was not unanimously supported due to safety concerns;
- Any changes to the regulations could be implemented on new development projects, since property owners who had established their site design prior to the adoption of the regulations would be permitted to continue with a partial enclosure or without an enclosure due to the Zoning Ordinance's nonconforming use regulations;
- Trash enclosures made refuse collection areas more aesthetically pleasing, and served a role in protecting property values;
- Any change to the regulations should be clear and simple, with few options;
- Trash enclosures should not have a permanent opening that faces a street;
- Requiring too many gates unnecessarily increases the enclosure's size;
- It was not necessary to have two gates; and,
- Keeping a gate would prevent the visibility of unsightly trash if the gate was maintained properly.

A copy of the proposed text amendment is included as Appendix 1, with a suggested motion for action in Appendix 2. The text amendment's review schedule is in Appendix 3, and excerpts from Prince William County's Zoning Ordinance and Design and Construction and Standards Manual (DCSM) are enclosed in Appendix 4 and 5, respectively. The staff background memo used at the September 12, 2016 is enclosed as Appendix 6.

STANDARD OF REVIEW (§70-646)

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Council may by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated by resolution of the Town Council, by motion of the Planning Commission, or by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of a proposed zoning map amendment (otherwise known as a rezoning).

A petition for an amendment may be withdrawn at any time but, if the planning commission has commenced its hearings on the petition, a petition covering any of the same described land will not

be reconsidered within 12 months of withdrawal. This provision shall not be held to impair the right of either the planning commission or the council to propose any amendment to this chapter on its motion at any time.

CONFORMANCE TO THE COMPREHENSIVE PLAN

In the Comprehensive Plan's analysis of Dumfries' existing commercial corridors, the Plan says that "[t]he age of many of the existing [commercial] structures and the lack of design uniformity and detail contributes to the need for aesthetic improvements within the Route 1 commercial corridor."¹ The Plan's Redevelopment Policy on page 96 encourages "the redevelopment of existing strip commercial development to promote walkability and high quality aesthetics." The Plan further recommends that parking lot location, configuration, access points, and screening should balance vehicular and pedestrian connectivity. These themes of improving the visual character of the Town's commercial areas are woven throughout the Land Use chapter's implementation action strategies.

ZONING ORDINANCE ANALYSIS

Trash Enclosures: The existing Zoning Ordinance regulations create specific parameters for the enclosure of refuse removal areas. The regulations mandate adequate screening from all adjoining properties constructed with materials compatible to the surrounding area. Trash enclosures are required to have two gates; one for pedestrian access and another for trash collection vehicles to use. Moreover, the Zoning Ordinance stipulates requirements for a concrete pad underneath the enclosure area with an additional 10-foot extension to support the weight of the trash collection vehicle.

When comparing the Town's language to that of other jurisdictions throughout the Commonwealth, staff discovered that the Town's language was far more specific and strict in comparison. Other jurisdictions did not include requirements for gates or concrete pads in their Zoning Ordinance. The primary approach other ordinances use is to require screening of the trash receptacles from adjacent properties, to create flexible ways to comply with the screening requirement, and to defer the technical construction details on how to achieve those objectives to other more appropriate disciplines and departments.

Prince William County's zoning text for enclosures, found in Appendix 4, achieves many of the objectives stated by Town Council and the Planning Commission. The County does not mandate gates or material types, but does require views of the receptacles to be screened from public streets. The County's Zoning Ordinance delegates the construction methods used for the enclosures to the Design and Construction Standards Manual (DCSM), which also does not mandate gates. Staff recognizes that such gates are widely used, but the County's method gives zoning flexibility and appropriately specific guidance using its DCSM.

Based on feedback from the Town's Building Official, new dumpster pads would require building permit review, approval, and inspection in conformance with the Virginia Uniform Statewide Building Code. The Building Code is the more appropriate tool for determining the required dimensions, depth,

¹ Town of Dumfries Comprehensive Plan, Parks and Recreation, Implementation, p. 82
<http://www.dumfriesva.gov/wp-content/uploads/2014-Comprehensive-Plan-Final-Draft.pdf>

composition, and type of pad to be used for refuse collection areas. This prevents conflicts between the Town's Zoning Ordinance and the Building Code. Should property owners wish to not have a dumpster pad and take on the potential for additional maintenance costs of replacing asphalt, the proposed regulations would provide that flexibility.

Staff has recommended edits to the civil penalties section of the Zoning Ordinance to match the centralization of the trash enclosure regulations in Sec. 70-25.

Nonconformities: Article V of the Zoning Ordinance includes the Town's laws related to nonconforming uses. Nonconforming uses and structures are defined as otherwise legal buildings, structures, or legal use of buildings and structures or of a track of land that do not conform to the current Zoning Ordinance regulations. Nonconformities are created when development sites or land uses are established in compliance with a zoning ordinance, and then the ordinance is amended to no longer permit the previously approved development or use.

The Code of Virginia requires local zoning ordinances to permit nonconforming uses and structures to remain when these amendments occur. The Town's Zoning Ordinance contains a series of stipulations in Article V which allow for minor modifications to nonconforming structures and uses.

When applied to trash enclosures which do not meet the current Zoning Ordinance, staff would need to research the Zoning Ordinance language in place at the time of the site's development in order to determine conformity. If no enclosure language was included in the Zoning Ordinance at that time, the refuse collection area could remain so long as it was not reconfigured or relocated on site. Changes to the site design, configuration, or location of a refuse collection area would necessitate a case by case review by the Zoning Administrator to determine whether the new regulations for trash enclosures must be implemented by the property owner.

RECOMMENDATION

Staff recommends approval of the text shown in the resolution included in Appendix 1. These updates to the trash enclosure regulations can make compliance clearer and easier for commercial property owners in Dumfries. The approach of specifying a land use standard in the Zoning Ordinance, while delegating the technical, construction details to the DCSM, is a commonplace approach successfully used throughout Virginia. The recommended edits would conform to the Comprehensive Plan's goals for improving the aesthetic qualities of the Town's commercially zoned areas.

Attachments:

1. Resolution with Draft Zoning Text
2. Sample Motions
3. Review Schedule Timeline
4. Excerpt from Prince William County Zoning Ordinance
5. Excerpt from Prince William County Design and Construction and Standards Manual (DCSM)
6. September 6th, 2016 Memo from Staff

AT A REGULAR MEETING OF THE DUMFRIES PLANNING COMMISSION HELD ON MONDAY, OCTOBER 17, 2016, IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA: ON A MOTION DULY MADE BY _____, AND SECONDED BY _____, THE FOLLOWING RESOLUTION WAS ADOPTED BY THE FOLLOWING VOTE:

Naeem Arshad, Vice Chairman, _____;
Tyrone Brown, _____;
Diana Knez, _____;
Selonia Miles, Chairman, _____;
Louise Waggy, _____;
John Webb, _____;
Gary West, _____;

RESOLUTION RECOMMENDING/DENYING AN AMENDMENT TO CHAPTER 70 OF THE CODE OF THE TOWN OF DUMFRIES PERTAINING TO TRASH COLLECTION AND THE SCREENING OF TRASH RECEPTACLES

WHEREAS, on July 19, 2016, the Town Council initiated an amendment to each section of Chapter 70 (the Zoning Ordinance) which regulates the screening and enclosure of trash receptacles; and

WHEREAS, the Council's motivation for initiating the amendment centered on creating new regulations easier to comply with for business and more enforceable for staff; and

WHEREAS, the Planning Commission reviewed and discussed the existing regulations at its September 12, 2016 work session; and

WHEREAS, the Planning Commission has this date held a properly noticed hearing and desires to recommend that the Town Council adopt/not adopt amendments to Secs. 70-2.2, 70-215, 70-256, 70-290, 70-324, and 70-491, and to create a new Sec. 70-25 providing regulations for the collection of trash and the screening of trash receptacles for properties zoned and used for commercial, office, industrial, and multiple family uses; and

WHEREAS, the Planning Commission desires to recommend a course of action for Town Council on the amendment to the Zoning Ordinance's trash collection and trash receptacle screening regulations as outlined below, on the basis of public necessity, convenience, general welfare, and good zoning practice;

NOW, THEREFORE, BE IT RECOMMENDED FOR APPROVAL/DENIAL by the Planning Commission of the Town of Dumfries, Virginia, as follows:

Chapter 70, Article I, Section 70-2.2 of the Code of Ordinances of the Town of Dumfries, Virginia be created to read as follows:

(a) Any violation of the following provisions of this chapter shall be punishable by a civil penalty of \$200.00 for the initial summons and \$500.00 for each additional summons. The penalty for a first offense shall be a warning providing a reasonable period of remediation not to exceed ten days.

(1) ...

(2) ...

(3) Failure to ~~enclose~~ screen trash receptacles in violation of this chapter.

(4) ...

...

(17) To cause or permit the accumulation of any trash, refuse, garbage or litter on properties zoned and/or used for commercial, office, industrial, or multiple family residential uses except in appropriate containers as set forth herein.

Chapter 70, Article I, Section 70-25 of the Code of Ordinances of the Town of Dumfries, Virginia be created to read as follows:

Sec. 70-25. - Provision of and screening for receptacles of trash, refuse, garbage, and litter.

(a) It shall be unlawful for the owner or occupant of any property zoned and/or used for commercial, office, industrial, or multiple family residential uses to cause or permit the accumulation on such property of any trash, refuse, garbage or litter except in appropriate containers as set forth herein.

(b) The owner or occupant of any such properties shall place on his or her property a sufficient number of suitable receptacles acceptable to the Virginia Department of Health for holding all trash, litter, refuse, and garbage generated on the property until such time as it may be properly disposed of in a lawful manner and place.

(c) The receptacles described in subsection (b) hereof shall be enclosed with a combination of landscaping and/or screening to screen views from all public streets and adjoining properties. Such landscaping and/or screening shall conform to the requirement set forth in the Prince William County Design and Constructions Standards Manual.

(d) The dimensions, construction materials, design, and specifications of any dumpster pad associated with the trash receptacles and screening shall conform to the most recently adopted Virginia Uniform Statewide Building Code.

Chapter 70, Article III, Division 5, Section 70-215 of the Code of Ordinances of the Town of Dumfries, Virginia be created and amended to read as follows:

Sec. 70-215. - Garbage and trash disposal.

30 Garbage collection, trash receptacles, and screening shall be in accordance with Article I,
31 Sec. 25. Each apartment building shall be provided with a screened, centrally located, trash
32 collection area with containers. Such enclosure shall be of materials compatible to the
33 surrounding area and designed as follows:

34
35 (1) ~~Of an opaque nature with two gated openings; one to accommodate vehicular~~
36 ~~pickup of the receptacles and the second for easy pedestrian access.~~

37 (2) ~~A concrete pad covering the area of the enclosure is required, and a minimum~~
38 ~~ten-foot extension for the width of the vehicle gate shall be provided to support the collection~~
39 ~~vehicles.~~

40
41
42 Chapter 70, Article III, Division 6, Section 70-256 of the Code of Ordinances of the
43 Town of Dumfries, Virginia be created and amended to read as follows:

44
45 **Sec. 70-256. - Provision for screened trash receptacles.**

46
47 Garbage collection, trash receptacles, and screening shall be in accordance with Article I,
48 Sec. 25. Whenever business properties utilize exterior trash receptacles, these receptacles
49 shall be adequately screened from all adjoining property. Such enclosure shall be of
50 materials compatible to the surrounding area and designed as follows:

51
52 (1) ~~Materials of an opaque nature with two gated openings; one to accommodate~~
53 ~~vehicular pickup of the receptacle and the second for easy pedestrian access.~~

54
55 (2) ~~A concrete pad covering the area of the enclosure is required, and a minimum ten-~~
56 ~~foot extension for the width of the vehicle gate shall be provided to support the collection~~
57 ~~vehicles.~~

58
59
60 Chapter 70, Article III, Division 7, Section 70-290 of the Code of Ordinances of the
61 Town of Dumfries, Virginia be created and amended to read as follows:

62
63 **Sec. 70-290. - Provision for screened trash receptacles.**

64
65 Garbage collection, trash receptacles, and screening shall be in accordance with Article I,
66 Sec. 25. Whenever business properties utilize exterior trash receptacles, these receptacles
67 shall be adequately screened form all adjoining property. Such enclosure shall be of
68 materials compatible to the surrounding area and designed as follows:

69
70 (1) ~~Of an opaque nature with two gated openings: one to accommodate vehicular pickup~~
71 ~~of the receptacle and the second for easy pedestrian access.~~

72
73 (2) ~~A concrete pad covering the area of the enclosure is required, and a minimum ten-~~
74 ~~foot extension for the width of the vehicle gate shall be provided to support the collection~~
75 ~~vehicles.~~

78 Chapter 70, Article III, Division 8, Section 70-324 of the Code of Ordinances of the
79 Town of Dumfries, Virginia be created and amended to read as follows:

80
81 **Sec. 70-324. - Provision for screened trash receptacles.**

82
83 ~~Garbage collection, trash receptacles, and screening shall be in accordance with Article I,~~
84 ~~Sec. 25. Whenever industrial uses utilize exterior trash receptacles, these receptacles shall be~~
85 ~~adequately screened from all adjoining property. Such enclosure shall be of materials~~
86 ~~compatible to the surrounding area and designed as follows:~~

87
88 ~~(1) — Of an opaque nature with two gated openings: one to accommodate vehicular pickup~~
89 ~~of the receptacles and the second for easy pedestrian access.~~

90
91 ~~(2) — A concrete pad covering the area of the enclosure is required, and a minimum ten-~~
92 ~~foot extension for the width of the vehicle gate shall be provided to support the collection~~
93 ~~vehicles.~~

94
95
96 Chapter 70, Article III, Division 13, Section 70-491 of the Code of Ordinances of the
97 Town of Dumfries, Virginia be created and amended to read as follows:

98
99 **Sec. 70-491. - Provision for screened trash receptacles.**

100
101 ~~Garbage collection, trash receptacles, and screening shall be in accordance with Article I,~~
102 ~~Sec. 25. Whenever business properties utilize exterior trash receptacles, these receptacles~~
103 ~~shall be adequately screened from all adjoining property. Such enclosure shall be of~~
104 ~~materials compatible to the surrounding area and designed as follows:~~

105
106 ~~(1) — Of an opaque nature with two gated openings; one to accommodate vehicular pickup~~
107 ~~of the receptacle and the second for easy pedestrian access.~~

108
109 ~~(2) — A concrete pad covering the area of the enclosure is required, and a minimum ten-~~
110 ~~foot extension for the width of the vehicle gate shall be provided to support the collection~~
111 ~~vehicles.~~

112
113
By Motion of the Commission:

Selonia Miles, Chairman

ATTEST:

Nick Rogers, Zoning Administrator



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MEMORANDUM

TO: Town of Dumfries Planning Commission
FROM: Nick Rogers, AICP, Community Development Director
DATE: November 3rd, 2016
MEETING: **Monday, November 7th, 2016**
RE: ZTA 2016-002: Review of Trash Enclosure Regulations

Issue - The County's Design Construction Standards Manual (DCSM) doesn't require gates

Staff Analysis: Staff's interpretation of the DCSM text, focusing on 802.49, Paragraph A, Subparagraph 1, would be that trash receptacle areas can be screened using a minimum six foot high opaque fence or wall, no lower than the functions/items being screened. Such screening would only be required if the Prince William County Zoning Ordinance requires that the functions listed in Paragraph A be screened.

The DCSM guidance for gates is not specific. Should the property owner be able to achieve the screening required by the Zoning Ordinance without a gate, the provision of a gate could be determined to not apply. If the fence or wall can not achieve the screening objectives, for example, during trash collection and removal due to the use of a large collection vehicle, then a gate would be applicable. Staff would determine an appropriate gate to be one that meets the 6'-foot high specifications of the DCSM and achieves the Zoning Ordinance's screening objectives.

Issue - Clarity of reference materials with staff report

Staff Analysis: Staff reviewed the attachments included with the October staff report, and has reformatted the attachments to focus solely on the relevant sections of Prince William County's Zoning Ordinance and Design Construction Standards Manual (DCSM).

Staff's intent on including these documents was to highlight the reference material used in crafting the draft zoning text for the Dumfries Zoning Ordinance. Moreover, staff's recommendation is that new trash receptacle areas be enclosed with a combination of landscaping and/or screening to screen views from public streets and neighboring properties. The language specified in the DCSM gives property owners specific guidelines for achieving this screening, but does not mandate a regimented methodology for constructing the enclosure. This approach is an appropriate one for Dumfries, as it effectively achieves the screening objectives specified in the Dumfries Zoning Ordinance's current text without the difficulties in achieving compliance due to over-specific regulations.

Issue - Trash enclosures without gates is a serious safety concern

Staff Analysis: Staff is of the opinion that a trash enclosure with a gate does not create an increased level of safety. Staff see's the primary function of a trash enclosure as a screening mechanism to aesthetically enhance the property with the trash receptacle and protect neighboring properties from unsightly views.

However, staff understands the Commission's perspective and desire for trash enclosures to have gates. Should the Commission see gates as an integral component to the Town's zoning laws for screening trash receptacles, the Commission should recommend a Zoning Text Amendment to Council requiring gates on the enclosures. The Planning Commission could insert language similar to the following in the draft zoning text for §70-25:

(e) If the owner or occupany of any property zoned and/or used for commercial, office, industrial, or multiple family residential uses elects to use a dumpster or dumpsters as the suitable trash receptacle(s) to satisfy subsection (b) above, the enclosure screening the trash receptacle(s) shall be furnished with a gate to ensure convenient access for trash collection vehicles.

Appendices

1. Excerpt from Prince William County Zoning Ordinance
2. Excerpt from Prince William County DCSM

Prince William County Zoning Ordinance (Excerpts)

Chapter 32 - Zoning

Article IV. - Commercial, Office and Industrial Districts

Part 400. - General Regulations

Sec. 32-400.08. - Screening and landscaping.

In all commercial, office and industrial districts, unless otherwise specifically indicated by this chapter, landscaping or screening, or both, shall be required for all off-street parking, outside storage, storm water management facilities, loading areas, and refuse removal areas, and in all required setback and yard areas as provided in sections [32-250.30](#), et seq., and [32-250.40](#), et seq. Standards for such landscaping and/or screening shall be set forth in section 800 of the Design and Construction Standards Manual. All outside storage (where permitted under other provisions of this chapter), loading areas, and refuse removal areas shall be screened from the view of any public street in accordance with the requirements of the Design and Construction Standards Manual.

(Ord. No. 00-10, 1-18-00; Ord. No. 04-78, 12-21-04)

Sec. 32-400.10. - Litter control on commercially zoned properties; provision of adequate receptacles for trash, refuse, garbage and litter.

1. Notwithstanding any other provision of this chapter, it shall be unlawful for the owner or occupant of any property zoned for any commercial, office, or industrial use and actually used for such purposes to cause or permit the accumulation on such property of any trash, refuse, garbage or litter, as those terms are defined in [section 22-1](#) of this Code, except in appropriate containers as set forth herein.
2. The owner or occupant of any properties described in subsection (1) hereof shall place on his property or properties a sufficient number of receptacles acceptable to the health department, suitable, and to be used, for holding all trash, litter; refuse and garbage generated on the property or properties until such time as it may be properly disposed of in a lawful manner and place.

Prince William County Design and Construction Standards Manual (Excerpts)

Section 800 - Buffer Areas, Landscaping, and Tree Cover Requirements

801.02 Definitions: The following standards and terminology shall apply to the design, submission requirements, installation, and maintenance of all required buffer areas, basic landscaping, screening, street planting, storm water management facility landscaping, and establishment and preservation of woodland conservation areas:

...

E. Screening: A natural or physical barrier providing a visual separation for loading areas, trash receptacles, maintenance and storage areas and consisting primarily of opaque fences or walls, berms and/or evergreen trees and shrubs.

802.49 Screening

A. When screening of certain on-site functions (e.g. loading, dumpsters, trash collection, outside storage areas, maintenance areas and equipment, mechanical equipment, etc.) is required by the Zoning Ordinance, the following screening options shall be used, depending on the type of function being screened:

1. A minimum six (6) foot high opaque fence or wall, the height of the fence or wall shall be no lower than the functions/items being screened. An appropriate gate shall be provided, if applicable.
2. A three (3) foot high berm with plantings of six (6) feet high evergreen screening is provided.
3. For mechanical or similar equipment, any architectural element compatible with the building is acceptable, as long as it covers the view of the equipment.

B. The site functions listed above shall be oriented on the site so as to be as inconspicuous as possible, and shall be screened from all public streets and adjoining properties.