



TOWN COUNCIL MEETING AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170
Tuesday, April 11, 2023 | 7:00 p.m.

1. Call to Order

2. Pledge of Allegiance to the Flag of the United States of America

3. Presentations/Reports/Comments

- a. Proclamation to Recognize Autism Acceptance Month
- b. Town Manager Report
- c. Councilmember Comments

4. Comments from the Audience

Members of the public may, for one 3-minute period, provide public comments, requests, consent or general item comments, and comments on matters not included on the agenda.

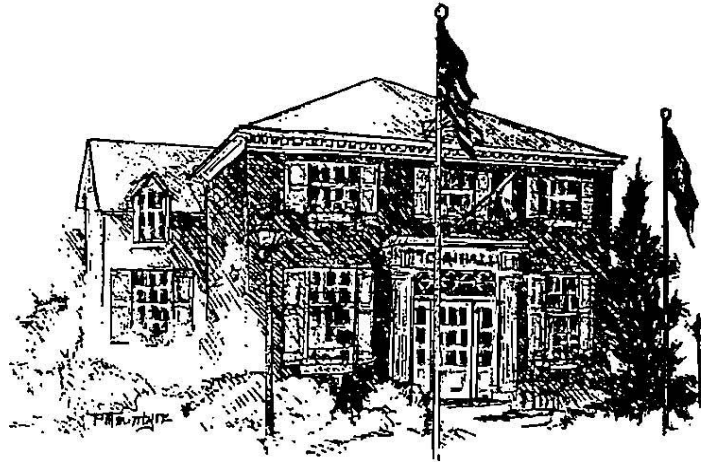
5. Public Hearings

- a. Ordinance 23-O-09 to amend Chapter 74 (UTILITIES), Article II (Sewers and Sewage Disposal), Division 5 (Sanitary Sewer System Rates and Charges), Section 74-262 (Schedule of Rates); and Article III (Water), Division 2 (Service), Subdivision II (In-Town Service Charges), Section 74-326 (Schedule of Charges), to increase the service and usage charges for sanitary sewer and water, effective for meter readings taken on or after July 1, 2023
- b. Ordinance 23-O-10 to Levy Taxes on Real Estate and Manufactured Homes, and Other Subjects for the Fiscal Year 2024 Budget
- c. Resolution 23-G-28 to adopt a Fiscal Planning Resolution for the Fiscal Year 2024 Budget for the Town of Herndon
- d. Ordinance 23-O-11 to Appropriate Funds to implement the Fiscal Year 2024 Budget for the Town of Herndon, establishing the Pay Plan, and reserving on-going and Capital Funding for this Fiscal Year

6. Consent

- a. Resolution 23-G-29 to initiate consideration of a Zoning Ordinance Text Amendment ZOTA #23-02 to amend Chapter 78 (ZONING), Article XV (Decision-Making Authorities, Application Review, and Permitting), Section 78-150.3 (Board of Zoning Appeals), and Section 78-155.4 (Variances), to make housekeeping amendments aligning the zoning ordinance with the Code of Virginia and to consider adopting a time limit of up to one year before the Board of Zoning Appeals will consider substantially the same application on the same property
- b. Resolution 23-G-30 to adopt the Town Council Operating Agreement
- c. March 21, 2023, Town Council Work Session Minutes
- d. March 28, 2023, Town Council Meeting Minutes
- e. March 30, 2023, Town Council Special Meeting Minutes

7. Adjournment



TOWN OF HERNDON, VIRGINIA
PROCLAMATION
AUTISM ACCEPTANCE MONTH
APRIL 2023

Autism Acceptance Month is celebrated every April, starting out with the United Nations-sanctioned *World Autism Awareness Day* on April 2. This year marks the 16th annual recognition of *World Autism Awareness Day*.

Autism is a motor sensory difference experienced by children and adults. Some individuals are able to speak, and others are not. Speech is not an indicator of intelligence. Autism is a lifelong condition, and skills and quality of life are improved by intervention, education, and support services.

People should presume competence in autistic individuals. Autistic individuals are your community members, your neighbors, friends, and family, and they can and want to learn. The Town of Herndon welcomes autistic individuals and promotes access and acceptance throughout the community.

Therefore, the Mayor and Town Council of the Town of Herndon, Virginia, hereby proclaim the month of April 2023 as **Autism Acceptance Month** in the Town of Herndon, and urge all employees and residents to participate in **Autism Acceptance Month** activities, to become better educated about autism, and to create a better community for individuals with autism.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

APRIL 25, 2023

Ordinance- to amend Chapter 74 (UTILITIES), Article II (Sewers and Sewage Disposal), Division 5 (Sanitary Sewer System Rates and Charges), Section 74-262 (Schedule of Rates); and Article III (Water), Division 2 (Service), Subdivision II (In-Town Service Charges), Section 74-326 (Schedule of Charges), to increase the service and usage charges for sanitary sewer and water, effective for meter readings taken on or after July 1, 2023.

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

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

CHAPTER 74 (UTILITIES)

ARTICLE II. SEWERS AND SEWAGE DISPOSAL

DIVISION 5. - SANITARY SEWER SYSTEM RATES AND CHARGES

Sec. 74-262. - Schedule of Rates.

- (a) The rate schedule for sanitary sewer service shall be determined on the basis of water consumed and shall be charged at the rate of ~~\$7.16~~ **\$8.27** per 1,000 gallons of water used, except as otherwise provided in this division.

- (f) A service charge per bill rendered shall be assessed for all metered water service as follows:

Quarterly Billing

<i>Meter Size (inches)</i>	<i>Charge</i>
5/8	\$ 10.21 \$ 7.40
3/4	14.10 10.21
1	21.89 15.85
1 1/2	41.36 29.96
2	64.72 46.89
3	127.02 92.02
4	197.11 142.79
6	391.80 283.83

ARTICLE III. - WATER

DIVISION 2. - SERVICE

Subdivision II. - In-Town Service Charges

Sec. 74-326. - Schedule of charges.

- (a) The water usage charge shall be ~~\$3.31~~ **\$3.47** per 1,000 gallons, based on the consumption of water as measured by readings of the water meter serving the property.
- (b) A service charge per bill rendered shall be assessed for all metered water service as follows:

Quarterly Billing

<i>Meter Size (inches)</i>	<i>Charge</i>
5/8	\$ 12.57 \$10.54
3/4	18.85 15.80
1	31.40 26.33
1 1/2	62.82 52.68
2	100.50 84.27
3	201.02 168.55
4	314.10 263.36
6	628.19 526.73

- (c) All water consumed during the peak use periods in excess of the average consumption of the preceding two winter quarter billing periods shall be charged an additional amount of ~~\$5.64~~ **\$5.91** per 1,000 gallons. This peak use period charge shall be applied in addition to the base water usage charge in subsection (a) above.
- (1) Average consumption of the preceding two winter quarter billing periods is defined as the average of any consumption for the quarterly billing periods reflected in bills issued during the months of December through May.
- (2) Peak use period consumption is defined as any consumption for a quarterly billing period reflected in bills issued during the months of June through November.

2. This ordinance shall be effective for all meter readings taken on or after July 1, 2023.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

APRIL 25, 2023

Ordinance- to Levy Taxes on Real Estate and Manufactured Homes, and Other Subjects for the Fiscal Year 2024 Budget.

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia, that the Town Council fixes and orders the tax levies for the fiscal year beginning July 1, 2023 and ending June 30, 2024, as follows:

1. Real Estate: **\$.2650** on each \$100.00 of the valuation of real estate and improvements to the Town.
2. Personal Property and Merchants' Capital: **\$.00** on each \$100.00 of the valuation of tangible personal property classified by Section 58.1-3503 and 58.1-3510 of the Code of Virginia.
3. Vehicles Used as Manufactured Homes and Offices: **\$.2650** on each \$100.00 of the valuation of vehicles without motive power, used or designed to be used as manufactured homes as classified by Section 58.1-3506(A), paragraph 10, of the Code of Virginia.
4. Farm Machinery, Farm Tools, and Farm Livestock: **\$.00** on each \$100.00 of the valuation of farm machinery, farm tools and farm livestock as classified by Section 58.1-3505 of the Code of Virginia.
5. Machinery and Tools: **\$.00** on each \$100.00 of the valuation of machinery and tools classified by Section 58.1-3507 of the Code of Virginia.
6. Other Classifications of Tangible Personal Property: **\$.00** on each \$100.00 of the valuation of tangible personal property as classified by Section 58.1-3506 [except for Section 58.1-3506(A), paragraph 10] of the Code of Virginia.
7. Miscellaneous Levies: Except as provided above and other ordinances adopted by the Town Council in this budget cycle all other taxes and licenses previously enacted by the town are imposed and levy made to the same extent and at the same rate as during the Fiscal Year 2023.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

APRIL 25, 2023

Resolution- to adopt a Fiscal Planning Resolution for the Fiscal Year 2024 Budget for the Town of Herndon.

Pursuant to the requirements outlined by Code of Virginia § 15.2-2503, 15.2-2506, and 58.1-3321, the Town Manager of the Town of Herndon, Virginia has submitted to the Town Council of the Town of Herndon, a proposed budget by April 1, and the Town properly advertised the April 11, and April 25, 2023 public hearings on the proposed budget.

THEREFORE, BE IT RESOLVED, by the Town Council for the Town of Herndon, Virginia that:

1. The Town Council adopts for the purposes of fiscal planning during the fiscal year 2024 for the Town of Herndon, Virginia, the budget prepared by the Town Manager, sent out in “Proposed FY 2024 Budget” dated April 1, 2023, on file in the office of the Town Manager.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

APRIL 25, 2023

Ordinance- to Appropriate Funds to implement the Fiscal Year 2024 Budget for the Town of Herndon, establishing the Pay Plan, and reserving on-going and Capital Funding for this Fiscal Year.

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

1. There is appropriated and authorized for expenditure during the Fiscal Year 2024 such sums as appear in the Fiscal Planning Budget for the Fiscal Year 2024 as set out in "Proposed Fiscal Year 2024 Annual Budget" dated April 1, 2023, on file in the office of the Town Manager, and as may be subsequently modified by the Town Council.
2. No money shall be withdrawn from the treasury of the town and no obligation for expenditure of money can be incurred, except in accordance with the Fiscal Planning Budget, or with supplemental appropriations as may be made by the Town Council.
3. The town advertised the public hearing at least once in The Fairfax County Times newspaper and held a public hearing on the proposed budget at least seven days prior to approval of the proposed budget.
4. The Fiscal Year 2024 proposed schedule of salaries, set out in the Fiscal Planning Budget, are adopted effective July 1, 2023.
5. The Town Council may award to the Town Manager and the Town Attorney bonuses as provided for in the Fiscal Planning Budget for Fiscal Year 2024 for exceptional services rendered. Any such bonuses shall not become a part of these officers' annual salary.
6. The Town Council reserves, encumbers, and appropriates for Fiscal Year 2023 funding for capital and on-going projects, for which funds were previously appropriated. The Town Manager as of July 1, 2023, shall take the appropriate accounting steps to reserve and encumber these funds as of that date for Fiscal Year 2024 and to report to the Mayor and Town Council in this regard.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

April 11, 2023

Resolution - to initiate consideration of a Zoning Ordinance Text Amendment ZOTA #23-02 to amend Chapter 78 (ZONING), Article XV (Decision-Making Authorities, Application Review, and Permitting), Section 78-150.3 (Board of Zoning Appeals), and Section 78-155.4 (Variances) ,to make housekeeping amendments aligning the zoning ordinance with the Code of Virginia and to consider adopting a time limit of up to one year before the Board of Zoning Appeals will consider substantially the same application on the same property.

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

1. Initiates consideration of an amendment to Chapter 78 (ZONING) of the Herndon Town Code to incorporate updates to the Code of Virginia into the zoning ordinance and to consider adopting a time limit of up to one year before the Board of Zoning Appeals will consider substantially the same application on the same property.
2. Out of public necessity, convenience, general welfare, or good zoning practice, requires the Town Council's consideration of this proposed amendment.

TOWN OF HERNDON, VIRGINIA

DRAFT ORDINANCE

_____, 2023

Ordinance – to amend Chapter 78 (Zoning), Article XV (Decision-Making Authorities, Application Review, and Permitting), Section 78-150.3 (Board of Zoning Appeals), and Section 78-155.4 (Variances) to bring the zoning ordinance into alignment with the Code of Virginia and to consider not hearing substantially the same application for a specific period of time, not to exceed one year.

Section 78-150.3 – Board of Zoning Appeals

(b) *Membership.* The membership of the board of zoning appeals shall be as follows.

(5) *Training.* Newly appointed members of the board of zoning appeals shall be offered training and certification by the ~~Citizens Planning Education Association of Virginia~~ *Virginia Commonwealth University Center for Urban and Regional Analysis Land Use Education Program* or similar certification to be completed within two years of appointment.

Section 78-155.4 – Variances.

(a) *Purpose and intent.* The purpose and intent of this section is to establish procedures for the review of variances, *as authorized pursuant to the Code of Virginia.*

(c) *Variance procedures.*

(2) *Board of zoning appeals public hearing, review, and action.* After public notification and scheduling a public hearing, the zoning administrator shall transmit a copy of the application to the board of zoning appeals, which shall conduct a public hearing on the application and review the application as follows:

b. After the close of the public hearing, the board of zoning appeals shall approve, approve with conditions, or disapprove the application based on the standards in Section 78-155.4(d), ~~standards~~ *Variance review standards*, ~~as well as any other information deemed to be relevant.~~ *and Section 15.2-2309(2) of the Code of Virginia.*

(d) *Variance review standards.*

(1) *Variance criteria.* Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of

the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the applicable provision of this chapter, *or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability*, and all of the following:

- (a) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- (b) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- (c) The condition or situation of the property concerned is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the *zoning* ordinance;
- (d) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;
- (e) The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.
- ~~(f) The character of the zoning district in which the property is located will not be changed by the granting of the variance.~~

(2) *Variances in the floodplain overlay district.* In the floodplain overlay district, variances shall be issued only in accord with the standards above and evaluated and processed as follows:

- (a) In passing upon applications for variances related to floodplain districts, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

13. *Variances will not be issued for any accessory structure with the SFHA.*

14. Such other factors which are relevant to the purposes of this section.

(3) Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with disabilities Act of 1990 (42 U.S.C. § 12131 et. Seq.), as applicable.

- (e) *Limitations on expansions once variance is granted.* Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance on or after July 1, 2006 shall be treated as conforming for all purposes under state law and town ordinance;

76 however, the use or the structure permitted by variance may not be expanded *unless the*
77 *expansion is within an area of the site or part of the structure for which no variance is*
78 *required under the zoning ordinance. Where the expansion is proposed within an area of*
79 *the site or part of the structure for which a variance is required, the approval of an*
80 *additional variance shall be required.* ~~For this subsection, "property" means only the zoning~~
81 ~~rights affected by the variance and the real estate rights directly supporting or related to these~~
82 ~~zoning rights, as determined by the zoning administrator. "Property" shall not necessarily~~
83 ~~mean the entire parcel of real estate that is the subject of a variance.~~

84 ***

- 85 (g) *Appeal to circuit court.* Any person jointly or severally aggrieved by any decision of the board
86 of zoning appeals, or any *aggrieved* taxpayer or any officer, department, board, or agency of
87 Fairfax County or the town, may *file a petition* ~~appeal the decision to~~ *with the clerk of* the
88 Circuit Court of Fairfax County *that shall be styled "In Re: date Decision of the Board of*
89 *Zoning Appeals of Town of Herndon"* pursuant to, and within the time limits specified in,
90 Code of Virginia §15.2-2314.

91 *(1) If appealed, the petition shall specify the grounds on which the petitioner is aggrieved*
92 *and be received by the clerk of the Circuit Court of Fairfax County within 30 days after*
93 *the final decision of the board.*

94 ***

- 95 (k) *Reapplication time limit.* *A variance application that is substantially the same as a denied*
96 *application will not be considered by the board within a 12-month period from the date of*
97 *denial.*

TOWN OF HERNDON, VIRGINIA

RESOLUTION

APRIL 11, 2023

Resolution- to adopt the Town Council Operating Agreement.

At the March 10 and 11, 2023 Town Council Retreat, the Town Council met and collectively agreed upon operating standards that reflected their expected experience as members of the Herndon Town Council and their commitment to working collectively toward that ideal experience.

As a result of these discussions, the Town Council Operating Agreement has been developed to operationalize these standards and process agreements.

THEREFORE, BE IT RESOLVED, by the Town Council for the Town of Herndon, Virginia that:

1. The Town Council adopts the Town Council Operating Agreement.

Town of Herndon Operating Agreement

Introduction

This Operating Agreement was designed and adopted for the benefit and convenience of the Herndon Town Council. Its purpose is to assist the Town Council to conduct its affairs in a timely and efficient manner. This Operating Agreement is complimentary to the adopted parliamentary procedures found in *Robert's Rules of Order Newly Revised in Brief, 3rd edition* (ROR) and applicable Virginia laws. This Operating Agreement does not supersede the provisions of the Town Charter, Town Code, or Code of Virginia.

Section 1 – Purpose and Basic Principles

Section 1-1. Purpose of Operating Agreement.

- A. To enable the Herndon Town Council to transact business, fully, expeditiously, respectfully, and efficiently, while affording every opportunity to citizens to witness the operations of government;
- B. To enable the Herndon Town Council to participate in long range strategic planning;
- C. To support respectful and productive debate, idea refinement, and result-focused discussions;
- D. To create a supportive environment that builds on the Council's strengths, and respects each member's expertise, as well as town staff's expertise;
- E. To preserve the spirit of cooperation and collaboration among Councilmembers; and
- F. To enable the Herndon Town Council to support each member in building what matters most.

Section 1-2. Basic Principles Underlying Operating Agreement.

- A. The business of the Town Council should proceed in the most efficient and effective manner possible, and the members commit to:
 - 1. Acknowledging each other's strengths and supporting each other;
 - 2. Collaboration, consensus building, and striving for places of agreement;
 - 3. Transparency;
 - 4. Assuming positive intent;
 - 5. Debating the issue, not the person; and
 - 6. Supporting safe listening.
- B. Town Council's Operating Agreement will be followed consistently;
- C. Only one subject may occupy the attention of Town Council at one time;
- D. Each item presented for consideration is entitled to full discussion;
- E. Every member has equal rights to participate and vote on all issues;
- F. Every member will have equal opportunity to participate in the decision making of the body; and
- G. The Council acknowledges that it acts as a body.

Section 2 – Process Agreement

In addition to the parliamentary procedures outlined in *Robert's Rules of Order Newly Revised in Brief, 3rd edition*, (ROR) the Town Council agrees to the following processes regarding agendas and meeting procedures:

Section 2-1. Adding Items to a Meeting Agenda.

Any member may make a request to add an item to a future agenda following the below procedures:

- A. Prior to making a request to add an item to an agenda, members are encouraged to speak one-on-one with the Mayor and their Council colleagues to discuss the proposed topic in advance.
- B. Members requesting to add an item to an agenda prior to publication must submit to the Town Manager: (1) the title, (2) brief description of the topic, and (3) any supporting documentation by close of business on the Wednesday (or earlier) before the work session meeting.
- C. Members may request to amend the meeting agenda to add an emergency (or emerging topic) item at the start of a meeting. The requesting Member will make a motion to amend the agenda and provide a brief description of the topic. The Members agree that an action or discussion item may only be added to the agenda with unanimous consent. The Mayor will seek any objections; if there are one or more objections to adding the item to the meeting agenda, the topic will be scheduled on the next appropriate meeting.
- D. Requests to add Closed Session items must be reviewed by the Town Attorney prior to scheduling to determine appropriateness and applicable State Code exception(s).

Section 2-2: Voting at Meetings

- A. Roll call votes are able to be taken in all meeting settings, including work sessions and special meetings. The voting process will follow ROR procedures.
- B. Council majority consent is required to direct the Town Manager on a particular topic or to draft legislation on an issue. If a majority vote is not obtained to direct the Town Manager on any particular issue or topic, a Member may make a motion and a vote may be taken to schedule the item for Council consideration and action on a regular meeting agenda.

Section 2-3: Seating

During work sessions, the Mayor and Vice Mayor will sit next to each other, and all other members may sit in any other available seat.