

MOTION: NOHE

**September 5, 2017
Regular Meeting
Ord. No. 17-70**

SECOND: LAWSON

**RE: ZONING TEXT AMENDMENT DPA2017-00005, LIVE
ENTERTAINMENT USES, AND AMENDMENT OF COUNTY CODE,
CHAPTER 20 - POLICE, TO ADD ARTICLE IV – LIVE
ENTERTAINMENT CERTIFICATE – COUNTYWIDE**

ACTION: APPROVED

WHEREAS, in accordance with Sections 15.2-2285 and 15.2-2286 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare, and good zoning practice necessitate such change; and

WHEREAS, in accordance with the Code of Virginia, Ann., including, but not limited to, Section 15.2-1427, the Board of County Supervisors may amend Chapter 20 of the County Code; and

WHEREAS, the Zoning Ordinance currently permits live entertainment only when a live entertainment certificate is approved by the Zoning Administrator; and

WHEREAS, the Zoning Ordinance currently does not provide the Police Department with the necessary enforcement authority to immediately address public safety issues related to live entertainment at the time they occur, nor allow for suspension or revocation of a live entertainment certificate in the event an owner, principal, operator, and/or manager violates the provisions of the County Code and/or presents a safety issue to the residents of Prince William County; and

WHEREAS, the Zoning Ordinance currently does not explicitly provide for the exemption of certain types of live entertainment, such as piano player or guitarist playing ambient music, from the live entertainment certificate requirement; and

WHEREAS, amending the Zoning Ordinance pertaining to the above-referenced issues is required by public necessity, convenience, general welfare, and good zoning practice, and is consistent with the intent of Section 15.2-2283 of the Code of Virginia, Ann; and

WHEREAS, on September 6, 2016, the Board of County Supervisors initiated a Zoning Text Amendment to amend the Zoning Ordinance and authorized a public hearing to consider a County Code amendment for live entertainment uses by adoption of Res. No. 16-695; and

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WHEREAS, the Planning Commission held a public hearing on the Zoning Text Amendment, after which it adopted Planning Commission Resolution No. 17-061, unanimously recommending approval; and

WHEREAS, County staff recommends approval of these amendments; and

WHEREAS, the Board of County Supervisors duly ordered, advertised, and held a public hearing on September 5, 2017, at which time public testimony was received and carefully considered, and the merits of the Zoning Text Amendment and the amendment of Chapter 20 of County Code were considered; and

WHEREAS, the Board of County Supervisors finds that public necessity, convenience, health, safety, general welfare, and good zoning practice are served by the adoption of this Zoning Text Amendment; and

WHEREAS, the Board of County Supervisors finds that the amendment of County Code, Chapter 20 – Police, to add Article IV – Live Entertainment Certificate, secures and promotes the health, safety, and general welfare of the County and its citizens;

NOW, THEREFORE, BE IT ORDAINED, that the Prince William County Board of County Supervisors does hereby adopt Zoning Text Amendment DPA2015-20001, Live Entertainment Uses, and Amendment of County Code, Chapter 20 – Police, to add Article IV – Live Entertainment Certificate.

ATTACHMENT: Text Amendment

Votes:

Ayes: Anderson, Caddigan, Candland, Jenkins, Lawson, Nohe, Principi, Stewart

Nays: None


Absent from Vote: None

Absent from Meeting: None

For Information:

Planning Director
Chief of Police

ATTEST: _____


Clerk to the Board

ARTICLE I. – TERMS DEFINED

PART 100. – DEFINITIONS

Live entertainment shall mean entertainment provided in person including, but not limited to, musical performance(s), music played by disc-jockey(s), karaoke, dancing (including dancing done solely by patron(s) and/or attendee(s)), modeling, or comedy performance(s), that requires a live entertainment certificate in accordance with article IV of chapter 20 of the County Code.

ARTICLE II. - ADMINISTRATION, PUBLIC USES AND USES OF A PUBLIC NATURE, GENERAL STANDARDS FOR PLANNED DEVELOPMENT DISTRICTS

PART 200. - INTRODUCTION; ADMINISTRATION; PURPOSE

Sec. 32-210.02. - General standards.

1. Temporary activity permits shall be issued in accordance with the following standards:
 - (a) Unless otherwise stated in section 32-210.01, each activity or event shall be separated by a minimum of 21 consecutive days; and
 - .
 - .
 - .
 - (g) Adequate sanitary facilities shall be provided for the activity and, when necessary, shall be subject to approval by the health department. Documentation or permission statements shall be provided that state that restrooms or other sanitary facilities are available for the duration of the activity.
 - .
 - .
 - .
8. Temporary activities authorized in accordance with section 32-210.01 shall be subject to all other applicable County permits and approvals including but not limited to schematic site plans, occupancy permits, hazardous use permits, itinerant vendor licenses, live entertainment certificates, sign permits and similar requirements.
9. Additional conditions may be required, as deemed necessary by the Zoning Administrator, for any temporary activity.

ARTICLE III. - AGRICULTURAL AND RESIDENTIAL DISTRICTS

PART 300. - GENERAL REGULATIONS

Sec. 32-351.04. - Secondary uses.

The following uses shall be permitted by right in the V District only in conjunction with, and secondary to, a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14~~3~~ herein:

~~1.3~~ Live entertainment in accordance with the provisions of section 32-400.15.

~~2.4~~ Medical or dental laboratory, ancillary to medical or dental clinic.

~~3.2~~ Photographic processing laboratory, ancillary to retail store.

Sec. 32-351.05. - Special uses.

The following uses shall be permitted in the V District with a Special Use Permit:

1. Attached single-family dwellings on lots in excess of one acre.

~~2.40.~~ Bed and breakfast, subject to the standards of section 32-300.15.

~~3.4.~~ Car wash, manned or self-service.

~~4.5.~~ Catering, commercial.

~~5.6.~~ Farmers' market.

~~7.—~~ Live entertainment and dancing.

~~6.8.~~ Motor vehicle fuel station, retail.

~~7. 2.~~ Multi-family dwellings on lots in excess of one acre.

~~8. 3.~~ Nonresidential and mixed-use buildings that do not meet one or more of the development standards described in section 32-351.08 below.

9. Restaurant, drive-in, drive-up, drive-through or carry-out.

ARTICLE IV. - COMMERCIAL, OFFICE AND INDUSTRIAL DISTRICTS

PART 400. - GENERAL REGULATIONS

Sec. 32-400.15. - General provisions for live entertainment uses.

Live entertainment shall not be permitted without a live entertainment certificate issued in accordance with article IV of chapter 20 of the County Code. No live entertainment certificate shall be issued without zoning approval, however, this shall not prevent issuance of a live entertainment certificate contemporaneous with zoning approval. ~~of zoning approval. When live entertainment is proposed in conjunction with a restaurant, event center, or meeting hall, an application for a certificate of zoning approval shall be made by any property owner, any lessee, or contract purchaser with the Zoning Administrator on forms provided by the Planning Office. The applicant shall pay the fee established for such permits.~~

2. ~~The application for a live entertainment certificate of zoning approval shall include the following information:~~

- ~~(a) Name of owner and operator.~~
- ~~(b) Street address, GPIN.~~
- ~~(c) Building and site layout.~~
- ~~(d) Proposed live entertainment.~~
- ~~(e) Hours that the live entertainment will be provided.~~
- ~~(f) Proposed floor plans and square footage of entertainment and/or dance floor areas.~~
- ~~(g) Sound amplification of the live entertainment.~~
- ~~(h) Whether there are cover charges or other admission fees.~~
- ~~(i) Size of audience or participants.~~

3. ~~Based on the information contained in the application, the Zoning Administrator shall determine whether the proposed live entertainment is likely to significantly affect the nature or character of the primary use. The Zoning Administrator shall consider the following factors:~~

- ~~(a) Impact on the surrounding properties and uses.~~
- ~~(b) The size and percentage of the floor area of the live entertainment, including the audience.~~
- ~~(c) The size and percentage of the floor area of the dance floor and dancing, including the audience.~~
- ~~(d) The degree of amplification of music or other live entertainment.~~
- ~~(e) The duration and hours of operation.~~
- ~~(f) Degree and nature of audience participation and interaction with the live entertainment.~~
- ~~(g) Size of audience or participants.~~
- ~~(h) Whether there is a cover charge or admission fee.~~

4. ~~If the Zoning Administrator determines that the proposed live entertainment is not likely to significantly affect the nature or character of the primary use, he shall issue a live~~

entertainment certificate of zoning approval. This zoning approval shall be limited to the live entertainment proposed in the application. Notwithstanding the issuance of a live entertainment certificate of zoning approval, if the Zoning Administrator determines that that the nature and character of the primary use has been significantly affected, he may withdraw live entertainment certificate of zoning approval, and require compliance with subsection 5., below:

5. ~~If the Zoning Administrator determines that the proposed live entertainment is likely to significantly affect the nature or character of the primary use, he shall issue a live entertainment certificate of zoning approval that is conditioned upon full compliance unless specifically modified by the Zoning Administrator or upon recommendation by the Prince William County Police Department with the following security plan:~~

~~1. *Number of security guards:*~~

- ~~A. *Friday and Saturday:* The owner and operator shall provide, at a minimum, four security guards plus a manager, to provide security for the restaurant and the live entertainment area during the hours of live entertainment. The guards will be positioned as outlined in subsection 2., below:~~
- ~~B. *Sunday through Thursday:* The applicant shall provide, at minimum, one security guard plus a manager, to provide security for the restaurant and the live entertainment area during the hours of live entertainment. The applicant shall maintain a ratio of one security guard per 40 customers.~~
- ~~C. The number of security guards may be reduced or increased if the Prince William County Police Department District Commander (hereinafter, "the Commander"), or designee determines that the safety standards so require.~~
- ~~D. At no time shall be owner/manager allow the posted maximum occupancy limit (including employees and patrons) to be exceeded.~~

~~2. *Positioning of security guards:*~~

- ~~A. At all times during the hours of live entertainment, there shall be one security guard or manager at the establishment's entrance maintaining security and performing a visual and age/identification check of each customer entering the restaurant.~~
- ~~B. On Friday and Saturday two guards will be positioned at the entrance performing a visual and age/identification check of each customer entering the restaurant, and maintaining security; the additional guards will be positioned to maintain watch over the live entertainment and bar area. The duty manager shall assist with visual inspection and maintain a watch over the parking lot immediately in front of the restaurant during the times the second front entrance guard is performing perimeter checks of the building and parking areas in the rear. These checks will be performed periodically, but not less than once an hour.~~
- ~~C. From the time of "last call" until the parking lot is empty one guard will patrol and maintain watch of the parking area while one guard will remain at the front entrance, and the remaining guards will assist in clearing the business.~~

3. ~~*Additional security guards:* Notwithstanding item #1 above, the number of security guards shall increase as necessary during any special event or if a larger than normal crowd is expected. The applicant will notify the commander or designee in either case.~~

4. ~~Minimum age and training of security guards:~~ Security guards shall be a minimum of 21 years of age, have received training in security measures and be certified and licensed by the Virginia Department of Criminal Justice Services (DCJS). Upon request by the police, Fire Marshal, or property code inspectors, security guards shall present proof of DCJS certification.
5. ~~Communication among security guards:~~ The security guards and manager shall be able to hear each other's conversations and communicate with each other while on duty. This will enable them to be fully aware of any interaction between the guards and patrons of the restaurant in order to provide assistance when needed.
6. ~~Searching patrons:~~ Security guards at door shall perform a visual inspection age/identification check of each customer entering the business.
7. ~~Security guard dress:~~ Security guards shall wear the same type shirt or outer garment bearing "Security" in large letters printed on back of the shirts or uniforms so they can be easily distinguished and recognized by patrons as well as Prince William County Police officers call to the establishment.
8. ~~Alcohol sales:~~
 - A. ~~Last call for alcohol sales shall be in conformance with the Virginia Department of Alcohol Beverage Control (ABC) regulations.~~
 - B. ~~Intoxicated individuals:~~ The security guards and the duty manager shall take every measure to prevent intoxicated individuals from entering or remaining at the establishment. The security guards and duty manager shall take every measure to ensure patrons are not intoxicated to a point of disturbing the peace when leaving the restaurant.
 - C. ~~Signs that discourage drinking and driving shall be posted inside the restaurant.~~
 - D. ~~Announcements shall be made near closing time that anyone who has been drinking alcoholic beverages should leave with a designated driver and or a cab can be called upon request.~~
 - E. ~~Training:~~ Wait staff, security and managers shall attend the responsible sellers and servers: Virginia Program (RSVP) or equivalent offered by the Virginia Department of Alcoholic Beverage Control.
9. ~~No Loitering:~~ Signs stating "No Loitering" shall be clearly posted outside the restaurant. Regular announcements shall be made inside the restaurant to reinforce the no loitering policy. Security guards shall reinforce the no loitering policy and noise limitations in the parking lot.
10. ~~Age Restriction:~~ After 9:00 p.m., persons under 21 shall not be allowed to enter the establishment unless they are accompanied by their legal guardian. Any and all persons under 21 that are within the building at 9:00 p.m. will be compelled to leave unless they are accompanied by their legal guardian.
11. ~~Coordination with police department:~~ The owners/managers shall meet the commander to exchange ideas and trade feedback on security issues on a routine basis. The commander shall determine the form and frequency of these meetings.
12. ~~General security measures:~~
 - A. ~~Perimeter inspections of the rear of the building and the rear parking area will be performed once every hour by one front entrance security guard. Any~~

~~customers lingering in these areas will be asked to move inside the building or asked to leave. When inspections are being performed the duty manager will fill in at the front entrance to assist with ID check.~~

~~B. An emergency evacuation plan will be established and practiced periodically.~~

~~C. Telephone numbers for the Prince William County Police and Fire Departments will be posted at all cash register locations and employees will be made aware of their location.~~

~~D. Customer behavior that could be threatening or intimidating, or that might lead to violence will be required to be reported by employees to the restaurant manager and/or security immediately.~~

~~E. Appropriate employees will be trained in how to deal with unruly patrons.~~

~~13. Lighting: The owner/operator will review the outdoor lighting on a weekly basis to ensure the outdoor lights are clean, operating and providing the Prince William County Police Department's Crime Prevention Unit acceptable minimum standard of 2.0 footcandles throughout the parking area and around the building. The interior lighting shall be such that it provides the illumination requirements established by ABC.~~

PART 402. - OFFICE DISTRICTS

Sec. 32-402.20. - O(H), Office High-Rise District; purpose and intent.

Sec. 32-402.22. - Secondary uses.

The following uses shall be permitted by right in the O(H) District only in conjunction with and secondary to a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14:

1. Adult day care facility.
2. Barber shop, beautician studio, tanning and toning salon (one set of toning equipment only).
3. Cafeteria/lunchroom/snack bar/automat.
4. Child care facility.
5. Civic club.
6. Commercial artist or photographer's studio.
7. Fraternity, sorority, secondary to college, university or seminary (on campus only).
8. Helistop.
9. Live entertainment in accordance with the provisions of section 32-400.15.
10. Office equipment sales, lease and service.

11. Photographic processing laboratory.
12. Parking, commercial.
13. Quick service food store (not freestanding).
14. Recreation facility, commercial (indoor).
15. Recreation facility for employees.
16. Recording studio.
17. Restaurant.
18. Restaurant, carry-out.
19. Retail store.
20. School of special instruction.
21. Travel agency.
22. Watchman's dwelling.

Sec. 32-402.23. - Special uses.

The following uses shall be permitted in the O(H) District with a Special Use Permit:

1. Bus station, commercial.
2. Continuing care retirement community.
3. Data Center outside the Data Center Opportunity Zone Overlay District.
4. Heliport, secondary only.
5. Helipad.
- ~~6. Live entertainment and dancing.~~
- ~~6.~~ 7. Radio or TV broadcasting station.
- ~~7.~~ 8. Railroad passenger station, secondary only.
- ~~8.~~ 9. Taxi or limousine dispatching.

Sec. 32-402.30. - O(M), Office Mid-Rise District; purpose and intent.

Sec. 32-402.32. - Secondary uses.

The following uses shall be permitted by right in the O(M) District only in conjunction with and

secondary to a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14:

- ~~1.(a)~~ Adult day care facility.
- ~~2.4.~~ Art gallery (private).
- ~~3.2.~~ Barber shop, beautician studio, or tanning salon.
- ~~4.3.~~ Cafeteria/lunchroom/snack bar/automat.
- ~~5.4.~~ Child care facility.
- ~~6.5.~~ Commercial artist or photographer's studio.
- ~~7.6.~~ Fraternity, sorority, secondary to college, university or seminary (on campus only).
- ~~8.7.~~ Helistop.
- ~~9.8.~~ Hotel.
- ~~10.9.~~ Live entertainment in accordance with the provisions of section 32-400.15.
- ~~11.10.~~ Office equipment sales, lease and service.
- ~~12.11.~~ Optical and eye care facility.
- ~~13.12.~~ Quick service food store (not freestanding).
- ~~14.13.~~ Recreation facility, commercial (indoor).
- ~~15.14.~~ Recreation facility for employees.
- ~~16.15.~~ Restaurant.
- ~~17.16.~~ Restaurant, carry-out.
- ~~18.17.~~ Retail store.
- ~~19.18.~~ School of special instruction.
- ~~20.19.~~ Recording studio.
- ~~21.20.~~ Travel agency.
- ~~22.21.~~ Watchman's dwelling.

Sec. 32-402.33. - Special uses.

The following uses shall be permitted in the O(M) District with a Special Use Permit:

1. Bus station, commercial.
2. Continuing care retirement community.

3. Data Center outside the Data Center Opportunity Zone Overlay District.
4. Heliport, secondary only.
5. Helipad.
6. Hospital.
7. ~~Live entertainment and dancing, secondary only.~~
7. ~~8.~~ Parking, commercial.
8. ~~9.~~ Taxi or limousine dispatching.
9. ~~10.~~ Veterinary hospital.

Sec. 32-402.40 - O(F), Office/Flex District; purpose and intent

Sec. 32-402.42. - Secondary uses.

The following uses shall be permitted by right in the O(F) District only in conjunction with and secondary to a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14:

1. Adult day-care facility.
2. Barber shop, beautician studio, tanning and toning salons (one set of toning equipment only).
3. Cafeteria/lunchroom/snack bar/automat.
4. Catalog sales, contractors, tradesman or industrial equipment (without showroom).
5. Catering (commercial, on- or off-premises).
6. Child-care facility.
7. Commercial artist or photographer's studio.
8. Fraternity or sorority, secondary to college, university or seminary (on campus only).
9. Helistop.
10. Live entertainment in accordance with the provisions of section 32-400.15.
11. Locksmith.
12. Medical care facility, specialized (secondary to hospital only).
13. Mortuary, funeral or wedding chapel.
14. Motor vehicle parts.
15. Nursing or convalescent care facility (secondary to hospital only).
16. Office equipment sales, lease and service.
17. Private schools.
18. Recreation facility, commercial (indoor).

19. Recreation facility for employees.
20. Religious institutions, with related facilities, excluding cemeteries.
21. Restaurant.
22. Restaurant, carry-out.
23. Retail store.
24. School of special instruction.
25. Tool/equipment rental (minor).
26. Travel agency.
27. Warehousing (non-HAZMAT).
28. Watchman's dwelling.
29. Wholesaling.

Sec. 32-402.43. - Special uses.

The following uses shall be permitted in the O(F) District with a Special Use Permit:

1. Bus station, commercial.
2. Crematory, secondary to hospital only.
3. Data Center outside the Data Center Opportunity Zone Overlay District.
4. Electronic equipment and component manufacturing, assembly, processing and distribution.
5. Heliport.
6. Hospital.
7. Janitorial service.
8. ~~Live entertainment and dancing, secondary only.~~

CHAPTER 20
ARTICLE IV. – LIVE ENTERTAINMENT CERTIFICATE

Sec. 20-60. - General provisions for live entertainment certificates.

- (a) Findings, purpose, interpretation, and severability. Live entertainment provides a benefit to County citizens and businesses, however, it can also significantly impact the public health, safety, and general welfare of the community. The purpose of this article is to establish reasonable regulations for live entertainment to ensure and protect the character of the various neighborhoods; the creation of a convenient, attractive, and harmonious community; and to protect the public health, safety, and general welfare, while providing entertainment opportunities for County citizens and encouraging economic development. This article strikes an appropriate balance that preserves ample channels of communication while still reducing and mitigating the extent of the potential impacts caused by live entertainment. This article shall be interpreted in a manner consistent with the United States and Virginia Constitutions, and applicable federal and State laws. If any provision of this article is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.
- (b) Live entertainment shall not be permitted on private property without a live entertainment certificate issued by the Chief of Police or designee. The applicant shall pay the fee established for the live entertainment certificate at the time the application is submitted. No live entertainment certificate shall be issued without zoning approval, however, this shall not prevent issuance of a live entertainment certificate contemporaneous with zoning approval. A live entertainment certificate shall be required regardless of the frequency of live entertainment (ex. one-time occurrence, weekly, monthly, or yearly) or the total number of times that live entertainment is provided at the establishment or location.
- (c) When used in this article, *live entertainment* shall mean entertainment provided in person including, but not limited to, a musical performance(s), music played by a disc-jockey, karaoke, dancing (including dancing solely by a patron(s) and/or attendee(s)), modeling, or comedy performance(s).
- (d) The activities listed in this subsection are not subject to this article, however, if there is an incident involving one or more of these activities which requires a law enforcement response, the Chief of Police or designee may require the establishment or individual(s) involved to comply with this article for any of these activities in the future. Any activity which is not subject to this article shall remain subject to any other applicable federal, state, and County laws, codes, ordinances, regulations, and requirements.
1. Ambient, incidental, and/or background music, such as a piano player(s), harpist(s), strolling violinist(s), guitarist(s), or mariachi band, which is provided for guests or patrons of an establishment at a volume and intensity which permits normal conversation. However, if any cover charge, admission fee(s), or other fee, charge, purchase, or donation is required for a guest or patron to observe or participate in such entertainment, it shall be subject to this article.
 2. Performances by a student or group of students at a public or private educational facility when the performance is part of an established educational/instructional curriculum or program.

3. Dance, theatrical, or performing arts lessons which are part of an established public or private educational/instructional curriculum or program.
4. Entertainment provided for specifically-invited guests at a wedding, reception, banquet, or party (ex. a birthday or graduation party) where there is no cover charge(s), admission fee(s), or any other required fee, charge, purchase, or donation.
5. Book or poetry readings.
6. Religious services, ceremonies, and events.
7. Theatrical performances/plays.
8. Any federal, state, County, or County schools-sponsored activity.
9. Live entertainment permitted by a special use permit or by-right as a primary use (examples include, but are not limited to, cultural arts center, theater, stadium, arena, and amphitheater).
10. Live entertainment provided by a business or other entity which was in existence prior to adoption of this ordinance and provided live entertainment prior to adoption of this ordinance, and which was not required by the County to have a live entertainment certificate.
11. Any activity which is regulated under article III of chapter 20 of the County Code.

Sec. 20-61. - Live entertainment application.

- (a) The application for a live entertainment certificate shall include the following information.
1. The name of, and contact information for, all owners (including all principals if a business entity), operators, and managers of the establishment and/or property, and anyone materially involved in the live entertainment. Contact information shall include phone number, email, fax, and mailing address.
 2. Street address and GPIN where all live entertainment will occur.
 3. Building, property, and site layout.
 4. All proposed type(s) of live entertainment.
 5. All days of the week and hours that any live entertainment will be provided, and the frequency of all live entertainment.
 6. Detailed, proposed floor plans and the square footage of all live entertainment, including dance floor areas.
 7. Any proposed sound amplification of the live entertainment.
 8. Whether there is a cover charge, admission fee, or any other required fee, charge, purchase, or donation.
 9. The proposed audience size, and the number of patrons and/or attendees present, before, during, and after any live entertainment.
 10. The minimum age of any staff or patron, including whether the minimum age will change based on the date(s) and/or time(s) and/or if a legal guardian is present.
 11. Emergency evacuation plan and measures, and any signage related to the emergency evacuation plan.
 12. Whether alcohol will be served prior to, during, and/or after any live entertainment, and copies of any ABC licenses; any proposed measures to prevent underage consumption of alcohol; any proposed measures to prevent intoxicated individuals from entering or remaining in the establishment, and if they enter how

they will be safely and promptly removed; any measures to ensure that intoxicated individuals leave the establishment in a safe and prompt manner; signage related to authorized locations for alcohol consumption and/or discouraging drinking and driving; and any prior ABC training and any required future ABC training.

(b) The Chief of Police or designee may require an applicant to submit a proposed security plan as part of an application for a live entertainment certificate. If required by the Chief of Police or designee, the proposed security plan shall address and include, at a minimum, sufficient information on the following issues.

1. Security guards, including the number that will be on-duty at all times during live entertainment; prior training and proposed training; where security guards will be positioned inside and/or outside of the facility; how security guards will communicate with each other and the facility's management; and how security guards will be clearly identifiable to all patrons and all law enforcement officers.
2. How the inside and outside of the facility will be monitored, including, but not limited to any security cameras and inspections by security guards.
3. All access points, including emergency access, and how these points will be secured.
4. Any proposed measures to safely, quickly, and effectively respond to potential or actual criminal behavior and/or physical violence.
5. Any proposed "no loitering" signage.

(c) Minimum security and safety requirements.

1. All security guards must be certified and licensed by the Virginia Department of Criminal Justice Services (DCJS) at all times. All security guards shall present proof of DCJS certification when requested to do so by a police officer, fire marshal, or property code inspector.
2. The minimum number of security guards shall be one security guard for every 40 patrons.
3. All security guards shall wear the same or substantially similar uniforms which are readily identifiable to all patrons and law enforcement officers.
4. Security guards shall conduct a perimeter inspection(s) of the entire building and all related parking area(s) at least once every hour beginning at least one hour prior to any live entertainment and ending no earlier than one hour after any live entertainment concludes, unless modified by the Chief of Police or designee. Any customers lingering in these areas shall be told to move inside the building or to leave.
5. Identification checks shall be conducted on every customer entering the establishment at least two hours prior to and during any live entertainment.
6. There shall be an emergency evacuation plan, which has been approved by the county fire marshal's office.
7. A responsible party shall be available to the Police Department by phone at all times, including, but not limited to, nights, weekends, and all holidays.

Sec. 20-62. - Live entertainment application approval, denial, and appeal.

(a) Based on the information contained in the application and any other information which the Chief of Police or designee deems relevant, the Chief of Police or designee may approve the application and issue a live entertainment certificate. The Chief of Police or designee

may require an approved security plan as a condition of approving the application and issuing a live entertainment certificate. In deciding whether to approve the application and issue a live entertainment certificate, the Chief of Police or designee shall consider the public health, safety, and general welfare, including, but not limited to the following criteria.

1. Whether there will be a dance floor and dancing.
2. Whether there will be amplification of the live entertainment.
3. The duration and hours of operation of the establishment.
4. Degree and nature of audience participation and interaction with the live entertainment.
5. The size of the audience, and the number of patrons and/or attendees, present before, during, and after any live entertainment.
6. Whether there is a cover charge, admission fee, or any other required fee, charge, purchase, or donation.
7. Frequency and duration of all live entertainment.
8. Number and/or severity of previous calls for service related to the establishment and/or property.
9. Security plan.
10. Whether the applicant, owner, principal, manager, and/or any other person who is materially involved in the application, the establishment, the property, and/or the proposed live entertainment has had a live entertainment certificate suspended and/or revoked in the past and if so, when it was suspended and/or revoked and the circumstances under which it was suspended and/or revoked.
11. Prior violation(s) of any applicable federal, state, or County law, ordinance, code, regulation, or requirement.

(b) The Chief of Police or designee may impose reasonable conditions as part of his/her approval and issuance of a live entertainment certificate regarding the health, safety, and welfare of the patrons of the establishment, anyone attending the live entertainment, and/or the general public, including, but not limited to, the security plan.

(c) If the Chief of Police or designee denies an application for a live entertainment certificate, he/shall notify the applicant in writing of the decision. The applicant may appeal the decision to the Chief of Police or designee within 30 calendar days of hand-delivery of the notice or the date of mailing of the notice, whichever occurs first. The Chief of Police or designee shall hold a hearing on the appeal. At the hearing, the applicant will have an opportunity to provide oral testimony, to include witnesses, and/or other relevant documentation. After the hearing, the Chief of Police or designee shall issue a written decision within 30 calendar days of the hearing date. The Chief of Police or designee's decision shall be final and not appealable.

(d) Any live entertainment certificate holder shall immediately notify the Chief of Police or designee if any information in the application or certificate materially changes, including, but not limited, ownership, security, ABC licensure, and floor plan/layout. Failure to comply with this requirement may result in denial of a live entertainment certificate application or immediate suspension of a live entertainment certificate.

(e) All live entertainment certificate holders shall comply with, and ensure that the all live entertainment complies with, the County's noise ordinance at all times.

- (f) All live entertainment certificate holders shall comply with, and ensure that all establishments and locations where live entertainment takes places comply with, the County's ordinances regarding the County's curfew for minors ordinance(s). See County Code Sec. 16-3.1 et seq.
- (g) A live entertainment certificate shall not be transferred, conveyed, or sold to another person or business/corporate entity.

Sec. 20-63. – Immediate closure.

- (a) The Chief of Police or designee may order a live entertainment certificate holder, the property owner, and the establishment at which live entertainment is planned, being, or was performed, to immediately close down, cease all operations, and disburse anyone on the premises when he/she determines that there is an immediate threat to the health, safety, and general welfare of the patrons, attendees, and/or the general public.
- (b) The establishment may resume operations, without live entertainment, once the Chief of Police or designee determines that there is no longer an immediate threat to the health, safety, and general welfare of the patrons, attendees, and/or the general public. The resumption of live entertainment shall be subject to county code sections 20-64 and 20-65.

Sec. 20-64. – Suspension of a live entertainment certificate.

- (a) The Chief of Police or designee may immediately suspend a live entertainment certificate when he/she deems it in the interest of the public health, safety, and general welfare to do so, including, but not limited to: (i) violations of any applicable federal, state, or County law, code, ordinance, regulation, or requirement by any live entertainment certificate holder or any owner, applicant, manager, principal, or any other person materially involved in the establishment; and (ii) the number and severity of calls for service involving the establishment. The Chief of Police or designee shall provide written notice of the suspension.
- (b) A live entertainment certificate may be suspended for a period not to exceed 180 calendar days. During the suspension period, the live entertainment certificate holder shall meet with the Chief of Police or designee, unless an appeal of the suspension is filed prior to the meeting.
- (c) As part of any suspension of a live entertainment certificate, the Chief of Police or designee may impose reasonable conditions (initial conditions or in addition to previously imposed conditions) on a live entertainment certificate which is suspended regarding the health, safety, and welfare of the patrons of the establishment, anyone attending the live entertainment, and/or the general public. The live entertainment certificate-holder shall comply with these conditions when the suspension period ends and if they are permitted to resume live entertainment.
- (d) A live entertainment certificate-holder may appeal the suspension of their live entertainment certificate to the Chief of Police or designee within 30 calendar days of hand-delivery of the notice or the date of mailing of the notice, whichever occurs first. The Chief of Police or designee will hold a hearing on the appeal. The holder of the suspended live entertainment certificate will be provided notice of the hearing date and time. At the hearing, the holder of the suspended live entertainment certificate will have an opportunity to provide oral testimony, to include witnesses, and/or other relevant

documentation. The suspension shall remain in effect during the appeal process, unless: (i) the suspension period ends during the appeal process, or (ii) the Chief of Police or designee determines, in writing, that the live entertainment may resume.

- (e) After the hearing, the Chief of Police or designee shall issue a written decision within 30 calendar days of the hearing date. As part of the decision, the Chief of Police or designee may impose reasonable conditions (initial conditions or in addition to previously imposed conditions) on a live entertainment certificate regarding the health, safety, and welfare of the patrons of the establishment and/or the general public. The live entertainment certificate-holder shall comply with these conditions when the suspension period ends and if they are permitted to resume live entertainment. The Chief of Police's or designee's decision shall be final and not appealable.

Sec. 20-65. – Revocation of a live entertainment certificate.

- (a) The Chief of Police or designee may revoke a live entertainment certificate when he/she deems it in the interest of the public health, safety, and general welfare to do so, including, but not limited to: (i) violations of any applicable federal, state, or County law, code, ordinance, regulation, or requirement by any live entertainment certificate holder or any owner, applicant, manager, principal, or any other person materially involved in the establishment; and (ii) the number and severity of calls for service involving the establishment. The Chief of Police or designee shall provide written notice of the revocation.
- (b) A live entertainment certificate-holder may appeal the revocation of their live entertainment certificate to the Chief of Police or designee within 30 calendar days of hand-delivery of the notice or the date of mailing of the notice, whichever occurs first. The revocation shall remain in effect during the appeal process. The Chief of Police or designee shall hold a hearing on the appeal. At the hearing, the former holder of the revoked live entertainment certificate will have an opportunity to provide oral testimony, to include witnesses, and/or other relevant documentation.
- (c) After the hearing, the Chief of Police or designee shall issue a written decision within 30 calendar days of the hearing date. The Chief of Police or designee's decision shall be final and not appealable.

Sec. 20-66. – Biennial review of live entertainment certificates

- (a) Each live entertainment certificate shall be reviewed every two years. This review shall include, but not be limited to: (i) a review of any calls for service at the establishment and/or property; and (ii) violations of any applicable federal, state, or County law, code, ordinance, regulation, or requirement by any owner, applicant, manager, principal, or any other person materially involved in the establishment, property, or live entertainment.
- (b) At the conclusion of this review, the Chief of Police or designee may: (i) impose reasonable conditions regarding the health, safety, and general welfare of the patrons of the establishment, anyone attending the live entertainment, and/or the general public, including, but not limited to, the security plan; (ii) modify previously-imposed conditions; or (iii) revoke the live entertainment certificate.

Sec. 20-67. – Live entertainment certificates issued prior to adoption of this ordinance.

- (a) Any live entertainment certificate issued prior to adoption of this article, including any security plan associated with the live entertainment certificate, shall remain in effect after the adoption of this article, however, the holder of the live entertainment certificate shall be subject to and comply with all requirements of this article, including, but not limited to, the minimum security and safety, immediate closure, suspension, revocation, and biennial review provisions.
- (b) If there is an inconsistency between the live entertainment certificate issued prior to adoption of this article, including any security plan associated with the live entertainment certificate, and this article, the more stringent requirement shall take precedence.
- (c) The holder of a live entertainment certificate issued prior to adoption of this article shall not be required to apply for a new live entertainment certificate based only on the adoption of this article.
- (d) Anyone who held a live entertainment certificate which was issued prior to the adoption of this ordinance and has since been revoked shall be subject to all provisions and requirements of this article when they apply for a new live entertainment certificate.

Sec. 20-68. - Violations of this article.

- (a) Violation of any provision of this article shall constitute a class 3 misdemeanor.
- (b) A second or subsequent violation of this article, regardless of whether it is the same provision, shall constitute a class 2 misdemeanor.

MOTION:

**September 5, 2017
Regular Meeting
Ord. No. 17-**

SECOND:

**RE: ZONING TEXT AMENDMENT DPA2017-00005, LIVE
ENTERTAINMENT USES, AND AMENDMENT OF COUNTY CODE,
CHAPTER 20 - POLICE, TO ADD ARTICLE IV. – LIVE
ENTERTAINMENT CERTIFICATE – COUNTYWIDE**

ACTION:

WHEREAS, in accordance with Sections 15.2-2285 and 15.2-2286 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare, and good zoning practice necessitate such change; and

WHEREAS, in accordance with the Code of Virginia, Ann., including, but not limited to, Section 15.2-1427, the Board of County Supervisors may amend Chapter 20 of the County Code; and

WHEREAS, the Zoning Ordinance currently permits live entertainment only when a live entertainment certificate is approved by the Zoning Administrator; and

WHEREAS, the Zoning Ordinance currently does not provide the Police Department with the necessary enforcement authority to immediately address public safety issues related to live entertainment at the time they occur, nor allow for suspension or revocation of a live entertainment certificate in the event an owner, principal, operator, and/or manager violates the provisions of the County Code and/or presents a safety issue to the residents of Prince William County; and

WHEREAS, the Zoning Ordinance currently does not explicitly provide for the exemption of certain types of live entertainment, such as piano player or guitarist playing ambient music, from the live entertainment certificate requirement; and

WHEREAS, amending the Zoning Ordinance pertaining to the above-referenced issues is required by public necessity, convenience, general welfare, and good zoning practice, and is consistent with the intent of Section 15.2-2283 of the Code of Virginia, Ann; and

WHEREAS, on September 6, 2016, the Board of County Supervisors initiated a Zoning Text Amendment to amend the Zoning Ordinance and authorized a public hearing to consider a County Code amendment for live entertainment uses by adoption of Res. No. 16-695; and

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WHEREAS, the Planning Commission held a public hearing on the Zoning Text Amendment, after which it adopted Planning Commission Resolution No. 17-061, unanimously recommending approval; and

WHEREAS, County staff recommends approval of these amendments; and

WHEREAS, the Board of County Supervisors duly ordered, advertised, and held a public hearing on September 5, 2017 at which time public testimony was received and carefully considered, and the merits of the Zoning Text Amendment and the amendment of Chapter 20 of County Code were considered; and

WHEREAS, the Board of County Supervisors finds that public necessity, convenience, health, safety, general welfare, and good zoning practice are served by the adoption of this Zoning Text Amendment; and

WHEREAS, the Board of County Supervisors finds that the amendment of County Code, Chapter 20 – Police, to add Article IV. – Live Entertainment Certificate, secures and promotes the health, safety, and general welfare of the County and its citizens;

NOW, THEREFORE, BE IT ORDAINED, that the Prince William County Board of County Supervisors does hereby adopt Zoning Text Amendment DPA2015-20001, Live Entertainment Uses, and Amendment of County Code, Chapter 20 – Police, to add Article IV – Live Entertainment Certificate.

ATTACHMENT: Text Amendment

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

For Information:

Planning Director
Chief of Police

ATTEST: _____

Clerk to the Board

ARTICLE I. – TERMS DEFINED

PART 100. – DEFINITIONS

Live entertainment shall mean entertainment provided in person including, but not limited to, musical performance(s), music played by disc-jockey(s), karaoke, dancing (including dancing done solely by patron(s) and/or attendee(s)), modeling, or comedy performance(s), that requires a live entertainment certificate in accordance with article IV of chapter 20 of the County Code.

ARTICLE II. - ADMINISTRATION, PUBLIC USES AND USES OF A PUBLIC NATURE, GENERAL STANDARDS FOR PLANNED DEVELOPMENT DISTRICTS

PART 200. - INTRODUCTION; ADMINISTRATION; PURPOSE

Sec. 32-210.02. - General standards.

1. Temporary activity permits shall be issued in accordance with the following standards:
 - (a) Unless otherwise stated in section 32-210.01, each activity or event shall be separated by a minimum of 21 consecutive days; and
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 - (g) Adequate sanitary facilities shall be provided for the activity and, when necessary, shall be subject to approval by the health department. Documentation or permission statements shall be provided that state that restrooms or other sanitary facilities are available for the duration of the activity.
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8. Temporary activities authorized in accordance with section 32-210.01 shall be subject to all other applicable County permits and approvals including but not limited to schematic site plans, occupancy permits, hazardous use permits, itinerant vendor licenses, live entertainment certificates, sign permits and similar requirements.
9. Additional conditions may be required, as deemed necessary by the Zoning Administrator, for any temporary activity.

ARTICLE III. - AGRICULTURAL AND RESIDENTIAL DISTRICTS

PART 300. - GENERAL REGULATIONS

Sec. 32-351.04. - Secondary uses.

The following uses shall be permitted by right in the V District only in conjunction with, and secondary to, a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14~~3~~ herein:

1.3 Live entertainment in accordance with the provisions of section 32-400.15.

2.4 Medical or dental laboratory, ancillary to medical or dental clinic.

3.2 Photographic processing laboratory, ancillary to retail store.

Sec. 32-351.05. - Special uses.

The following uses shall be permitted in the V District with a Special Use Permit:

1. Attached single-family dwellings on lots in excess of one acre.

2.40. Bed and breakfast, subject to the standards of section 32-300.15.

3.4. Car wash, manned or self-service.

4.5. Catering, commercial.

5.6. Farmers' market.

~~7. Live entertainment and dancing.~~

6.8. Motor vehicle fuel station, retail.

7. 2. Multi-family dwellings on lots in excess of one acre.

8. 3. Nonresidential and mixed-use buildings that do not meet one or more of the development standards described in section 32-351.08 below.

9. Restaurant, drive-in, drive-up, drive-through or carry-out.

ARTICLE IV. - COMMERCIAL, OFFICE AND INDUSTRIAL DISTRICTS

PART 400. - GENERAL REGULATIONS

Sec. 32-400.15. - General provisions for live entertainment uses.

Live entertainment shall not be permitted without a live entertainment certificate issued in accordance with article IV of chapter 20 of the County Code. No live entertainment certificate shall be issued without zoning approval, however, this shall not prevent issuance of a live entertainment certificate contemporaneous with zoning approval. ~~of zoning approval.~~ When live entertainment is proposed in conjunction with a restaurant, event center, or meeting hall, an application for a certificate of zoning approval shall be made by any property owner, any lessee, or contract purchaser with the Zoning Administrator on forms provided by the Planning Office. The applicant shall pay the fee established for such permits.

2. ~~The application for a live entertainment certificate of zoning approval shall include the following information:~~
 - ~~(a) Name of owner and operator.~~
 - ~~(b) Street address, GPIN.~~
 - ~~(c) Building and site layout.~~
 - ~~(d) Proposed live entertainment.~~
 - ~~(e) Hours that the live entertainment will be provided.~~
 - ~~(f) Proposed floor plans and square footage of entertainment and/or dance floor areas~~
 - ~~(g) Sound amplification of the live entertainment.~~
 - ~~(h) Whether there are cover charges or other admission fees.~~
 - ~~(i) Size of audience or participants.~~
3. ~~Based on the information contained in the application, the Zoning Administrator shall determine whether the proposed live entertainment is likely to significantly affect the nature or character of the primary use. The Zoning Administrator shall consider the following factors:~~
 - ~~(a) Impact on the surrounding properties and uses.~~
 - ~~(b) The size and percentage of the floor area of the live entertainment, including the audience.~~
 - ~~(c) The size and percentage of the floor area of the dance floor and dancing, including the audience.~~
 - ~~(d) The degree of amplification of music or other live entertainment.~~
 - ~~(e) The duration and hours of operation.~~
 - ~~(f) Degree and nature of audience participation and interaction with the live entertainment.~~
 - ~~(g) Size of audience or participants.~~
 - ~~(h) Whether there is a cover charge or admission fee.~~
4. ~~If the Zoning Administrator determines that the proposed live entertainment is not likely to significantly affect the nature or character of the primary use, he shall issue a live~~

entertainment certificate of zoning approval. This zoning approval shall be limited to the live entertainment proposed in the application. Notwithstanding the issuance of a live entertainment certificate of zoning approval, if the Zoning Administrator determines that that the nature and character of the primary use has been significantly affected, he may withdraw live entertainment certificate of zoning approval, and require compliance with subsection 5., below.

5. ~~If the Zoning Administrator determines that the proposed live entertainment is likely to significantly affect the nature or character of the primary use, he shall issue a live entertainment certificate of zoning approval that is conditioned upon full compliance unless specifically modified by the Zoning Administrator or upon recommendation by the Prince William County Police Department with the following security plan:~~

1. ~~Number of security guards:~~

- A. ~~Friday and Saturday:~~ The owner and operator shall provide, at a minimum, four security guards plus a manager, to provide security for the restaurant and the live entertainment area during the hours of live entertainment. The guards will be positioned as outlined in subsection 2., below.
- B. ~~Sunday through Thursday:~~ The applicant shall provide, at minimum, one security guard plus a manager, to provide security for the restaurant and the live entertainment area during the hours of live entertainment. The applicant shall maintain a ratio of one security guard per 40 customers.
- C. ~~The number of security guards may be reduced or increased if the Prince William County Police Department District Commander (hereinafter, "the Commander"), or designee determines that the safety standards so require.~~
- D. ~~At no time shall be owner/manager allow the posted maximum occupancy limit (including employees and patrons) to be exceeded.~~

2. ~~Positioning of security guards:~~

- A. ~~At all times during the hours of live entertainment, there shall be one security guard or manager at the establishment's entrance maintaining security and performing a visual and age/identification check of each customer entering the restaurant.~~
- B. ~~On Friday and Saturday two guards will be positioned at the entrance performing a visual and age/identification check of each customer entering the restaurant, and maintaining security; the additional guards will be positioned to maintain watch over the live entertainment and bar area. The duty manager shall assist with visual inspection and maintain a watch over the parking lot immediately in front of the restaurant during the times the second front entrance guard is performing perimeter checks of the building and parking areas in the rear. These checks will be performed periodically, but not less than once an hour.~~
- C. ~~From the time of "last call" until the parking lot is empty one guard will patrol and maintain watch of the parking area while one guard will remain at the front entrance, and the remaining guards will assist in clearing the business.~~

3. ~~Additional security guards:~~ Notwithstanding item #1 above, the number of security guards shall increase as necessary during any special event or if a larger than normal crowd is expected. The applicant will notify the commander or designee in either case.

4. ~~*Minimum age and training of security guards:*~~ Security guards shall be a minimum of 21 years of age, have received training in security measures and be certified and licensed by the Virginia Department of Criminal Justice Services (DCJS). Upon request by the police, Fire Marshal, or property code inspectors, security guards shall present proof of DCJS certification.
5. ~~*Communication among security guards:*~~ The security guards and manager shall be able to hear each other's conversations and communicate with each other while on duty. This will enable them to be fully aware of any interaction between the guards and patrons of the restaurant in order to provide assistance when needed.
6. ~~*Searching patrons:*~~ Security guards at door shall perform a visual inspection age/identification check of each customer entering the business.
7. ~~*Security guard dress:*~~ Security guards shall wear the same type shirt or outer garment bearing "Security" in large letters printed on back of the shirts or uniforms so they can be easily distinguished and recognized by patrons as well as Prince William County Police officers call to the establishment.
8. ~~*Alcohol sales:*~~
 - A. ~~Last call for alcohol sales shall be in conformance with the Virginia Department of Alcohol Beverage Control (ABC) regulations.~~
 - B. ~~*Intoxicated individuals:*~~ The security guards and the duty manager shall take every measure to prevent intoxicated individuals from entering or remaining at the establishment. The security guards and duty manager shall take every measure to ensure patrons are not intoxicated to a point of disturbing the peace when leaving the restaurant.
 - C. ~~Signs that discourage drinking and driving shall be posted inside the restaurant.~~
 - D. ~~Announcements shall be made near closing time that anyone who has been drinking alcoholic beverages should leave with a designated driver and or a cab can be called upon request.~~
 - E. ~~*Training:*~~ Wait staff, security and managers shall attend the responsible sellers and servers: Virginia Program (RSVP) or equivalent offered by the Virginia Department of Alcoholic Beverage Control.
9. ~~*No Loitering:*~~ Signs stating "No Loitering" shall be clearly posted outside the restaurant. Regular announcements shall be made inside the restaurant to reinforce the no loitering policy. Security guards shall reinforce the no loitering policy and noise limitations in the parking lot.
10. ~~*Age Restriction:*~~ After 9:00 p.m., persons under 21 shall not be allowed to enter the establishment unless they are accompanied by their legal guardian. Any and all persons under 21 that are within the building at 9:00 p.m. will be compelled to leave unless they are accompanied by their legal guardian.
11. ~~*Coordination with police department:*~~ The owners/managers shall meet the commander to exchange ideas and trade feedback on security issues on a routine basis. The commander shall determine the form and frequency of these meetings.
12. ~~*General security measures:*~~
 - A. ~~Perimeter inspections of the rear of the building and the rear parking area will be performed once every hour by one front entrance security guard. Any~~

~~customers lingering in these areas will be asked to move inside the building or asked to leave. When inspections are being performed the duty manager will fill in at the front entrance to assist with ID check.~~

~~B. An emergency evacuation plan will be established and practiced periodically.~~

~~C. Telephone numbers for the Prince William County Police and Fire Departments will be posted at all cash register locations and employees will be made aware of their location.~~

~~D. Customer behavior that could be threatening or intimidating, or that might lead to violence will be required to be reported by employees to the restaurant manager and/or security immediately.~~

~~E. Appropriate employees will be trained in how to deal with unruly patrons.~~

~~13. *Lighting:* The owner/operator will review the outdoor lighting on a weekly basis to ensure the outdoor lights are clean, operating and providing the Prince William County Police Department's Crime Prevention Unit acceptable minimum standard of 2.0 footcandles throughout the parking area and around the building. The interior lighting shall be such that it provides the illumination requirements established by ABC.~~

PART 402. - OFFICE DISTRICTS

Sec. 32-402.20. - O(H), Office High-Rise District; purpose and intent.

Sec. 32-402.22. - Secondary uses.

The following uses shall be permitted by right in the O(H) District only in conjunction with and secondary to a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14:

1. Adult day care facility.
2. Barber shop, beautician studio, tanning and toning salon (one set of toning equipment only).
3. Cafeteria/lunchroom/snack bar/automat.
4. Child care facility.
5. Civic club.
6. Commercial artist or photographer's studio.
7. Fraternity, sorority, secondary to college, university or seminary (on campus only).
8. Helistop.
9. Live entertainment in accordance with the provisions of section 32-400.15.
10. Office equipment sales, lease and service.

11. Photographic processing laboratory.
12. Parking, commercial.
13. Quick service food store (not freestanding).
14. Recreation facility, commercial (indoor).
15. Recreation facility for employees.
16. Recording studio.
17. Restaurant.
18. Restaurant, carry-out.
19. Retail store.
20. School of special instruction.
21. Travel agency.
22. Watchman's dwelling.

Sec. 32-402.23. - Special uses.

The following uses shall be permitted in the O(H) District with a Special Use Permit:

1. Bus station, commercial.
2. Continuing care retirement community.
3. Data Center outside the Data Center Opportunity Zone Overlay District.
4. Heliport, secondary only.
5. Helipad.
- ~~6. Live entertainment and dancing.~~
- ~~6. 7.~~ Radio or TV broadcasting station.
- ~~7. 8.~~ Railroad passenger station, secondary only.
- ~~8. 9.~~ Taxi or limousine dispatching.

Sec. 32-402.30. - O(M), Office Mid-Rise District; purpose and intent.

Sec. 32-402.32. - Secondary uses.

The following uses shall be permitted by right in the O(M) District only in conjunction with and

secondary to a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14:

- ~~1.(a)~~ Adult day care facility.
- ~~2.1.~~ Art gallery (private).
- ~~3.2.~~ Barber shop, beautician studio, or tanning salon.
- ~~4.3.~~ Cafeteria/lunchroom/snack bar/automat.
- ~~5.4.~~ Child care facility.
- ~~6.5.~~ Commercial artist or photographer's studio.
- ~~7.6.~~ Fraternity, sorority, secondary to college, university or seminary (on campus only).
- ~~8.7.~~ Helistop.
- ~~9.8.~~ Hotel.
- ~~10.9.~~ Live entertainment in accordance with the provisions of section 32-400.15.
- ~~11.10.~~ Office equipment sales, lease and service.
- ~~12.11.~~ Optical and eye care facility.
- ~~13.12.~~ Quick service food store (not freestanding).
- ~~14.13.~~ Recreation facility, commercial (indoor).
- ~~15.14.~~ Recreation facility for employees.
- ~~16.15.~~ Restaurant.
- ~~17.16.~~ Restaurant, carry-out.
- ~~18.17.~~ Retail store.
- ~~19.18.~~ School of special instruction.
- ~~20.19.~~ Recording studio.
- ~~21.20.~~ Travel agency.
- ~~22.21.~~ Watchman's dwelling.

Sec. 32-402.33. - Special uses.

The following uses shall be permitted in the O(M) District with a Special Use Permit:

1. Bus station, commercial.
2. Continuing care retirement community.

3. Data Center outside the Data Center Opportunity Zone Overlay District.
4. Heliport, secondary only.
5. Helipad.
6. Hospital.
- ~~7. Live entertainment and dancing, secondary only.~~
- ~~7.~~ ~~8.~~ Parking, commercial.
- ~~8.~~ ~~9.~~ Taxi or limousine dispatching.
- ~~9.~~ ~~10.~~ Veterinary hospital.

Sec. 32-402.40 - O(F), Office/Flex District; purpose and intent

Sec. 32-402.42. - Secondary uses.

The following uses shall be permitted by right in the O(F) District only in conjunction with and secondary to a permitted principal use, existing or proposed for concurrent construction in accordance with the provisions of section 32-400.14:

1. Adult day-care facility.
2. Barber shop, beautician studio, tanning and toning salons (one set of toning equipment only).
3. Cafeteria/lunchroom/snack bar/automat.
4. Catalog sales, contractors, tradesman or industrial equipment (without showroom).
5. Catering (commercial, on- or off-premises).
6. Child-care facility.
7. Commercial artist or photographer's studio.
8. Fraternity or sorority, secondary to college, university or seminary (on campus only).
9. Helistop.
10. Live entertainment in accordance with the provisions of section 32-400.15.
11. Locksmith.
12. Medical care facility, specialized (secondary to hospital only).
13. Mortuary, funeral or wedding chapel.
14. Motor vehicle parts.
15. Nursing or convalescent care facility (secondary to hospital only).
16. Office equipment sales, lease and service.
17. Private schools.
18. Recreation facility, commercial (indoor).

19. Recreation facility for employees.
20. Religious institutions, with related facilities, excluding cemeteries.
21. Restaurant.
22. Restaurant, carry-out.
23. Retail store.
24. School of special instruction.
25. Tool/equipment rental (minor).
26. Travel agency.
27. Warehousing (non-HAZMAT).
28. Watchman's dwelling.
29. Wholesaling.

Sec. 32-402.43. - Special uses.

The following uses shall be permitted in the O(F) District with a Special Use Permit:

1. Bus station, commercial.
2. Crematory, secondary to hospital only.
3. Data Center outside the Data Center Opportunity Zone Overlay District.
4. Electronic equipment and component manufacturing, assembly, processing and distribution.
5. Heliport.
6. Hospital.
7. Janitorial service.
8. ~~Live entertainment and dancing, secondary only.~~

CHAPTER 20
ARTICLE IV. – LIVE ENTERTAINMENT CERTIFICATE

Sec. 20-60. - General provisions for live entertainment certificates.

- (a) Findings, purpose, interpretation, and severability. Live entertainment provides a benefit to County citizens and businesses, however, it can also significantly impact the public health, safety, and general welfare of the community. The purpose of this article is to establish reasonable regulations for live entertainment to ensure and protect the character of the various neighborhoods; the creation of a convenient, attractive, and harmonious community; and to protect the public health, safety, and general welfare, while providing entertainment opportunities for County citizens and encouraging economic development. This article strikes an appropriate balance that preserves ample channels of communication while still reducing and mitigating the extent of the potential impacts caused by live entertainment. This article shall be interpreted in a manner consistent with the United States and Virginia Constitutions, and applicable federal and State laws. If any provision of this article is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.
- (b) Live entertainment shall not be permitted on private property without a live entertainment certificate issued by the Chief of Police or designee. The applicant shall pay the fee established for the live entertainment certificate at the time the application is submitted. No live entertainment certificate shall be issued without zoning approval, however, this shall not prevent issuance of a live entertainment certificate contemporaneous with zoning approval. A live entertainment certificate shall be required regardless of the frequency of live entertainment (ex. one-time occurrence, weekly, monthly, or yearly) or the total number of times that live entertainment is provided at the establishment or location.
- (c) When used in this article, *live entertainment* shall mean entertainment provided in person including, but not limited to, a musical performance(s), music played by a disc-jockey, karaoke, dancing (including dancing solely by a patron(s) and/or attendee(s)), modeling, or comedy performance(s).
- (d) The activities listed in this subsection are not subject to this article, however, if there is an incident involving one or more of these activities which requires a law enforcement response, the Chief of Police or designee may require the establishment or individual(s) involved to comply with this article for any of these activities in the future. Any activity which is not subject to this article shall remain subject to any other applicable federal, state, and County laws, codes, ordinances, regulations, and requirements.
 - 1. Ambient, incidental, and/or background music, such as a piano player(s), harpist(s), strolling violinist(s), guitarist(s), or mariachi band, which is provided for guests or patrons of an establishment at a volume and intensity which permits normal conversation. However, if any cover charge, admission fee(s), or other fee, charge, purchase, or donation is required for a guest or patron to observe or participate in such entertainment, it shall be subject to this article.
 - 2. Performances by a student or group of students at a public or private educational facility when the performance is part of an established educational/instructional curriculum or program.

3. Dance, theatrical, or performing arts lessons which are part of an established public or private educational/instructional curriculum or program.
4. Entertainment provided for specifically-invited guests at a wedding, reception, banquet, or party (ex. a birthday or graduation party) where there is no cover charge(s), admission fee(s), or any other required fee, charge, purchase, or donation.
5. Book or poetry readings.
6. Religious services, ceremonies, and events.
7. Theatrical performances/plays.
8. Any federal, state, County, or County schools-sponsored activity.
9. Live entertainment permitted by a special use permit or by-right as a primary use (examples include, but are not limited to, cultural arts center, theater, stadium, arena, and amphitheater).
10. Live entertainment provided by a business or other entity which was in existence prior to adoption of this ordinance and provided live entertainment prior to adoption of this ordinance, and which was not required by the County to have a live entertainment certificate.
11. Any activity which is regulated under article III of chapter 20 of the County Code.

Sec. 20-61. - Live entertainment application.

- (a) The application for a live entertainment certificate shall include the following information.
1. The name of, and contact information for, all owners (including all principals if a business entity), operators, and managers of the establishment and/or property, and anyone materially involved in the live entertainment. Contact information shall include phone number, email, fax, and mailing address.
 2. Street address and GPIN where all live entertainment will occur.
 3. Building, property, and site layout.
 4. All proposed type(s) of live entertainment.
 5. All days of the week and hours that any live entertainment will be provided, and the frequency of all live entertainment.
 6. Detailed, proposed floor plans and the square footage of all live entertainment, including dance floor areas.
 7. Any proposed sound amplification of the live entertainment.
 8. Whether there is a cover charge, admission fee, or any other required fee, charge, purchase, or donation.
 9. The proposed audience size, and the number of patrons and/or attendees present, before, during, and after any live entertainment.
 10. The minimum age of any staff or patron, including whether the minimum age will change based on the date(s) and/or time(s) and/or if a legal guardian is present.
 11. Emergency evacuation plan and measures, and any signage related to the emergency evacuation plan.
 12. Whether alcohol will be served prior to, during, and/or after any live entertainment, and copies of any ABC licenses; any proposed measures to prevent underage consumption of alcohol; any proposed measures to prevent intoxicated individuals from entering or remaining in the establishment, and if they enter how

they will be safely and promptly removed; any measures to ensure that intoxicated individuals leave the establishment in a safe and prompt manner; signage related to authorized locations for alcohol consumption and/or discouraging drinking and driving; and any prior ABC training and any required future ABC training.

(b) The Chief of Police or designee may require an applicant to submit a proposed security plan as part of an application for a live entertainment certificate. If required by the Chief of Police or designee, the proposed security plan shall address and include, at a minimum, sufficient information on the following issues.

1. Security guards, including the number that will be on-duty at all times during live entertainment; prior training and proposed training; where security guards will be positioned inside and/or outside of the facility; how security guards will communicate with each other and the facility's management; and how security guards will be clearly identifiable to all patrons and all law enforcement officers.
2. How the inside and outside of the facility will be monitored, including, but not limited to any security cameras and inspections by security guards.
3. All access points, including emergency access, and how these points will be secured.
4. Any proposed measures to safely, quickly, and effectively respond to potential or actual criminal behavior and/or physical violence.
5. Any proposed "no loitering" signage.

(c) Minimum security and safety requirements.

1. All security guards must be certified and licensed by the Virginia Department of Criminal Justice Services (DCJS) at all times. All security guards shall present proof of DCJS certification when requested to do so by a police officer, fire marshal, or property code inspector.
2. The minimum number of security guards shall be one security guard for every 40 patrons.
3. All security guards shall wear the same or substantially similar uniforms which are readily identifiable to all patrons and law enforcement officers.
4. Security guards shall conduct a perimeter inspection(s) of the entire building and all related parking area(s) at least once every hour beginning at least one hour prior to any live entertainment and ending no earlier than one hour after any live entertainment concludes, unless modified by the Chief of Police or designee. Any customers lingering in these areas shall be told to move inside the building or to leave.
5. Identification checks shall be conducted on every customer entering the establishment at least two hours prior to and during any live entertainment.
6. There shall be an emergency evacuation plan, which has been approved by the county fire marshal's office.
7. A responsible party shall be available to the Police Department by phone at all times, including, but not limited to, nights, weekends, and all holidays.

Sec. 20-62. - Live entertainment application approval, denial, and appeal.

(a) Based on the information contained in the application and any other information which the Chief of Police or designee deems relevant, the Chief of Police or designee may approve the application and issue a live entertainment certificate. The Chief of Police or designee

may require an approved security plan as a condition of approving the application and issuing a live entertainment certificate. In deciding whether to approve the application and issue a live entertainment certificate, the Chief of Police or designee shall consider the public health, safety, and general welfare, including, but not limited to the following criteria.

1. Whether there will be a dance floor and dancing.
2. Whether there will be amplification of the live entertainment.
3. The duration and hours of operation of the establishment.
4. Degree and nature of audience participation and interaction with the live entertainment.
5. The size of the audience, and the number of patrons and/or attendees, present before, during, and after any live entertainment.
6. Whether there is a cover charge, admission fee, or any other required fee, charge, purchase, or donation.
7. Frequency and duration of all live entertainment.
8. Number and/or severity of previous calls for service related to the establishment and/or property.
9. Security plan.
10. Whether the applicant, owner, principal, manager, and/or any other person who is materially involved in the application, the establishment, the property, and/or the proposed live entertainment has had a live entertainment certificate suspended and/or revoked in the past and if so, when it was suspended and/or revoked and the circumstances under which it was suspended and/or revoked.
11. Prior violation(s) of any applicable federal, state, or County law, ordinance, code, regulation, or requirement.

- (b) The Chief of Police or designee may impose reasonable conditions as part of his/her approval and issuance of a live entertainment certificate regarding the health, safety, and welfare of the patrons of the establishment, anyone attending the live entertainment, and/or the general public, including, but not limited to, the security plan.
- (c) If the Chief of Police or designee denies an application for a live entertainment certificate, he/shall notify the applicant in writing of the decision. The applicant may appeal the decision to the Chief of Police or designee within 30 calendar days of hand-delivery of the notice or the date of mailing of the notice, whichever occurs first. The Chief of Police or designee shall hold a hearing on the appeal. At the hearing, the applicant will have an opportunity to provide oral testimony, to include witnesses, and/or other relevant documentation. After the hearing, the Chief of Police or designee shall issue a written decision within 30 calendar days of the hearing date. The Chief of Police or designee's decision shall be final and not appealable.
- (d) Any live entertainment certificate holder shall immediately notify the Chief of Police or designee if any information in the application or certificate materially changes, including, but not limited, ownership, security, ABC licensure, and floor plan/layout. Failure to comply with this requirement may result in denial of a live entertainment certificate application or immediate suspension of a live entertainment certificate.
- (e) All live entertainment certificate holders shall comply with, and ensure that the all live entertainment complies with, the County's noise ordinance at all times.

- (f) All live entertainment certificate holders shall comply with, and ensure that all establishments and locations where live entertainment takes places comply with, the County's ordinances regarding the County's curfew for minors ordinance(s). See County Code Sec. 16-3.1 et seq.
- (g) A live entertainment certificate shall not be transferred, conveyed, or sold to another person or business/corporate entity.

Sec. 20-63. – Immediate closure.

- (a) The Chief of Police or designee may order a live entertainment certificate holder, the property owner, and the establishment at which live entertainment is planned, being, or was performed, to immediately close down, cease all operations, and disburse anyone on the premises when he/she determines that there is an immediate threat to the health, safety, and general welfare of the patrons, attendees, and/or the general public.
- (b) The establishment may resume operations, without live entertainment, once the Chief of Police or designee determines that there is no longer an immediate threat to the health, safety, and general welfare of the patrons, attendees, and/or the general public. The resumption of live entertainment shall be subject to county code sections 20-64 and 20-65.

Sec. 20-64. – Suspension of a live entertainment certificate.

- (a) The Chief of Police or designee may immediately suspend a live entertainment certificate when he/she deems it in the interest of the public health, safety, and general welfare to do so, including, but not limited to: (i) violations of any applicable federal, state, or County law, code, ordinance, regulation, or requirement by any live entertainment certificate holder or any owner, applicant, manager, principal, or any other person materially involved in the establishment; and (ii) the number and severity of calls for service involving the establishment. The Chief of Police or designee shall provide written notice of the suspension.
- (b) A live entertainment certificate may be suspended for a period not to exceed 180 calendar days. During the suspension period, the live entertainment certificate holder shall meet with the Chief of Police or designee, unless an appeal of the suspension is filed prior to the meeting.
- (c) As part of any suspension of a live entertainment certificate, the Chief of Police or designee may impose reasonable conditions (initial conditions or in addition to previously imposed conditions) on a live entertainment certificate which is suspended regarding the health, safety, and welfare of the patrons of the establishment, anyone attending the live entertainment, and/or the general public. The live entertainment certificate-holder shall comply with these conditions when the suspension period ends and if they are permitted to resume live entertainment.
- (d) A live entertainment certificate-holder may appeal the suspension of their live entertainment certificate to the Chief of Police or designee within 30 calendar days of hand-delivery of the notice or the date of mailing of the notice, whichever occurs first. The Chief of Police or designee will hold a hearing on the appeal. The holder of the suspended live entertainment certificate will be provided notice of the hearing date and time. At the hearing, the holder of the suspended live entertainment certificate will have an opportunity to provide oral testimony, to include witnesses, and/or other relevant

- documentation. The suspension shall remain in effect during the appeal process, unless: (i) the suspension period ends during the appeal process, or (ii) the Chief of Police or designee determines, in writing, that the live entertainment may resume.
- (e) After the hearing, the Chief of Police or designee shall issue a written decision within 30 calendar days of the hearing date. As part of the decision, the Chief of Police or designee may impose reasonable conditions (initial conditions or in addition to previously imposed conditions) on a live entertainment certificate regarding the health, safety, and welfare of the patrons of the establishment and/or the general public. The live entertainment certificate-holder shall comply with these conditions when the suspension period ends and if they are permitted to resume live entertainment. The Chief of Police's or designee's decision shall be final and not appealable.

Sec. 20-65. – Revocation of a live entertainment certificate.

- (a) The Chief of Police or designee may revoke a live entertainment certificate when he/she deems it in the interest of the public health, safety, and general welfare to do so, including, but not limited to: (i) violations of any applicable federal, state, or County law, code, ordinance, regulation, or requirement by any live entertainment certificate holder or any owner, applicant, manager, principal, or any other person materially involved in the establishment; and (ii) the number and severity of calls for service involving the establishment. The Chief of Police or designee shall provide written notice of the revocation.
- (b) A live entertainment certificate-holder may appeal the revocation of their live entertainment certificate to the Chief of Police or designee within 30 calendar days of hand-delivery of the notice or the date of mailing of the notice, whichever occurs first. The revocation shall remain in effect during the appeal process. The Chief of Police or designee shall hold a hearing on the appeal. At the hearing, the former holder of the revoked live entertainment certificate will have an opportunity to provide oral testimony, to include witnesses, and/or other relevant documentation.
- (c) After the hearing, the Chief of Police or designee shall issue a written decision within 30 calendar days of the hearing date. The Chief of Police or designee's decision shall be final and not appealable.

Sec. 20-66. – Biennial review of live entertainment certificates

- (a) Each live entertainment certificate shall be reviewed every two years. This review shall include, but not be limited to: (i) a review of any calls for service at the establishment and/or property; and (ii) violations of any applicable federal, state, or County law, code, ordinance, regulation, or requirement by any owner, applicant, manager, principal, or any other person materially involved in the establishment, property, or live entertainment.
- (b) At the conclusion of this review, the Chief of Police or designee may: (i) impose reasonable conditions regarding the health, safety, and general welfare of the patrons of the establishment, anyone attending the live entertainment, and/or the general public, including, but not limited to, the security plan; (ii) modify previously-imposed conditions; or (iii) revoke the live entertainment certificate.

Sec. 20-67. – Live entertainment certificates issued prior to adoption of this ordinance.

- (a) Any live entertainment certificate issued prior to adoption of this article, including any security plan associated with the live entertainment certificate, shall remain in effect after the adoption of this article, however, the holder of the live entertainment certificate shall be subject to and comply with all requirements of this article, including, but not limited to, the minimum security and safety, immediate closure, suspension, revocation, and biennial review provisions.
- (b) If there is an inconsistency between the live entertainment certificate issued prior to adoption of this article, including any security plan associated with the live entertainment certificate, and this article, the more stringent requirement shall take precedence.
- (c) The holder of a live entertainment certificate issued prior to adoption of this article shall not be required to apply for a new live entertainment certificate based only on the adoption of this article.
- (d) Anyone who held a live entertainment certificate which was issued prior to the adoption of this ordinance and has since been revoked shall be subject to all provisions and requirements of this article when they apply for a new live entertainment certificate.

Sec. 20-68. - Violations of this article.

- (a) Violation of any provision of this article shall constitute a class 3 misdemeanor.
- (b) A second or subsequent violation of this article, regardless of whether it is the same provision, shall constitute a class 2 misdemeanor.



Prince William County Government
Board of County Supervisors



Zoning Text and Amendment of County Code #DPA2017-00005, Live Entertainment Uses (Countywide)

September 5, 2017

*David J. McGettigan, Sr., AICP
Long Range Planning Manager
Planning Office*

Live Entertainment Use



- Entertainment provided in person including, but not limited to, musical performances, music played by disc jockeys, karaoke, dancing (including dancing done solely by patrons), modeling or comedy performances
- Live entertainment is currently permitted:
 - By-right as part of a primary use (e.g., cultural arts center, theater)
 - Through a special use permit (e.g., stadium, arena, amphitheater)
 - By-right as a secondary use in the commercial and office districts, with the issuance of a Live Entertainment Certificate

Live Entertainment Certificate



- Application requirements include:
 - Operational Info (type of entertainment, time, # of participants, etc.)
 - Site plan
 - Floor plan
- Application is reviewed by:
 - Fire Marshal
 - Police
 - Building Development
 - Transportation
 - Zoning
- Fees for Live entertainment Permit
 - With Security Plan - \$778.00
 - Without Security Plan - \$534.00

Enforcement



- The Police Department and Property Code Enforcement have experienced difficulty enforcing security plan requirements for live entertainment uses
- Currently, violations of live entertainment uses are a lengthy process:
 - Property Code Enforcement by issuing a Violation Notice and Correction Order (VNCO) and if not abated, proceeding to General District Court to request abatement of the violation; or
 - VNCO can be appealed to BZA

Board Initiation



- At the request of the police department, on September 6, 2016, the Board of County Supervisors initiated a zoning text amendment to identify more effective enforcement mechanism(s) to address live entertainment violations
- The Board of County Supervisors were also concerned that Live Entertainment Certificates can be onerous for some business owners when the certificates are required for certain types of entertainment (such as piano players and guitarist, etc.)

Proposed Zoning Text Amendments



- The proposed amendment will move the issuance and administration of Live Entertainment Certificates out of the Zoning Ordinance (§32-400.15) into Article IV, Chapter 20 of the County Code which is administered by the Police Department.
- The definition of live entertainment will be clarified in Article IV, Chapter 20 of the County Ordinance.
- §32-210.02.8 of the Zoning Ordinance will be amended to allow for the issuance of a live entertainment certificate for any temporary activity permit that includes live entertainment.

Outreach



- Both the Chamber of Commerce and the Development Ordinance Review Advisory Committee (DORAC) reviewed the proposed language and raised the following concerns:
 - That the proposed ZTA could impact uses that historically would not need a Live Entertainment Certificate (e.g. Jiffy Lube Live, Hylton Performing Arts Center)
 - The impact of the proposed ZTA on a single musician (e.g. piano player) playing ambient music.
- DORAC suggested that additional exemptions be added to the general provisions for live entertainment certificates to reduce the burden on the business community.



Christopher E. Martino
County Executive

COUNTY OF PRINCE WILLIAM
OFFICE OF EXECUTIVE MANAGEMENT
1 County Complex Court, Prince William, Virginia 22192-9201
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BOARD OF COUNTY SUPERVISORS
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Pete Candland
John D. Jenkins
Martin E. Nohe
Frank J. Principi

August 18, 2017

TO: Board of County Supervisors

FROM: Rebecca Horner, AICP, CZA
Planning Office

Barry M. Barnard
Chief of Police

Benjamin J. Zisk FOR R.H.

THRU: Christopher E. Martino
County Executive

RE: #DPA2017-00003, Live Entertainment Uses, Zoning Text Amendment and
Amendment of County Code, Chapter 20 - **Countywide**

I. Background is as follows:

- A. Purpose of the Zoning Ordinance – Section 15.2-2283 of the Code of Virginia states that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public.
- B. Current Zoning Ordinance Language – Section 32-400.15 of the Zoning Ordinance permits live entertainment only when a live entertainment certificate is approved by the Zoning Administrator. The Zoning Ordinance defines live entertainment as “entertainment provided in person including, but not limited to, musical performances, music played by disc jockeys, karaoke, dancing (including dancing done solely by patrons), modeling or comedy performances.”
- C. Current Language Impacts – The Zoning Ordinance does not provide the Police Department with the enforcement authority to immediately address safety and enforcement issues at the time they occur, nor does the current ordinance allow for suspension or revocation of a certificate in the event an owner, principal, operator, and/or manager violates the provisions of the County Code and/or presents a safety issue to the residents of Prince William County. Currently, violations of live entertainment use, like other Zoning Ordinance violations, are regulated (i) by issuing a Violation Notice and Correction Order (VNCO), with a 30-day appeal period, and if not abated, proceeding to General District Court to request abatement of the violation, or (ii) requesting a Circuit Court injunction.

- D. Proposed Remedy – Move the issuance and administration of live entertainment certificates from the Zoning Ordinance to Article IV, Chapter 20 of the County Code, under administration of the Police Department. Zoning approval would still be required for live entertainment.

II. Current Situation is as follows:

- A. Planning Commission Recommendation – At the June 21, 2017, public hearing, the Planning Commission recommended approval of Zoning Text Amendment #DPA2017-00005, Live Entertainment Uses.
- B. Zoning Text Amendment Initiated – On September 6, 2016, the Board of County Supervisors (BOCS) initiated a zoning text amendment (ZTA) and authorized a public hearing to consider a County Code amendment for live entertainment uses to identify more effective enforcement mechanism(s) for regulating live entertainment. Members of the BOCS also expressed a concern that live entertainment certificates could be onerous for some business owners when the certificates are required for certain types of entertainment (such as piano player or guitarist playing ambient music) and asked staff to review and streamline the administrative process for live entertainment certificates (see Attachments A and B for BOCS Initiating Resolution and Staff Report).
- C. Development Ordinance Review Advisory Committee (DORAC) – The DORAC reviewed the proposed ZTA on September 9, 2016, and on April 24, 2017, and raised the following concerns:
1. The proposed ZTA could impact uses that historically would not need a live entertainment certificate (e.g., Jiffy Lube Live and Hylton Performing Arts Center); and
 2. The proposed ZTA may impact a single musician playing ambient music.

DORAC suggested that additional exemptions be added to the general provisions for live entertainment certificates to reduce the burden on the business community. Staff made additional changes to the text in order to address concerns raised by DORAC.

- D. Prince William Chamber of Commerce – The Prince William Chamber of Commerce Economic Development Committee reviewed the proposed text amendments on January 9, 2017, and viewed the changes as a business friendly approach.
- E. Planning Office and Police Department Recommendation – The Planning Office and Police Department recommend approval of Zoning Text Amendment #DPA2017-00005, Live Entertainment Uses, and Amendment of County Code, Chapter 20 – Police, to Add Article IV. – Live Entertainment Certificate as provided in the attached ordinance.

- F. Board of County Supervisors Public Hearing – A public hearing before the Board of County Supervisors has been properly advertised for September 5, 2017.

III. Issues in order of importance are:

- A. Service Level/Policy Issues – Does the amendment further the purposes of the Zoning Ordinance?
- B. Community Input – Have members of the community raised any concerns?
- C. Legal – Are there any legal implications associated with this zoning text amendment?
- D. Timing – What are the timing considerations of the zoning text amendment?
- E. Fiscal Impact – Are there budget or financial impacts?

IV. Alternatives beginning with the staff recommendation are as follows:

- A. Adopt Zoning Text Amendment #DPA2017-00005, Live Entertainment Uses, to the Prince William County Zoning Ordinance, and Amendment of County Code, Chapter 20 – Police, to Add Article IV. – Live Entertainment Certificate.
1. Service Level/Policy Issues –
- a) Transfer to Police – The proposed text amendments will move the issuance and administration of live entertainment certificates out of the Zoning Ordinance into Article IV, Chapter 20 of the County Code, under the administration of the Police Department. This would allow for more effective enforcement mechanisms to address violations pertaining to live entertainment uses and allow the Chief of Police or designee to suspend or revoke live entertainment certificates under appropriate circumstances.
- b) Use Exemptions – The proposed text amendments exclude certain activities and types of live entertainment from being required to obtain a live entertainment certificate. However, if there is an incident involving one or more live entertainment uses which requires a law enforcement response, the Chief of Police or designee may require the establishment or individual(s) involved to comply with Article IV, Chapter 20, of the County Code.
- c) Temporary Live Entertainment Certificates – The proposed text amendments will, if applicable, make temporary activity permits (TAPs) subject to a live entertainment certificate.
2. Community Input – The proposed text amendments were reviewed and discussed by the Prince William Chamber of Commerce Economic

Development Committee and DORAC. Concerns were expressed at the Planning Commission public hearing regarding the impacts of the new ordinance on Certificate of Live Entertainment applications currently under review. County staff has incorporated comments from the DORAC, Chamber of Commerce, and the community into the proposed text amendments.

3. Legal – The text amendments will provide the County with more effective enforcement mechanisms to address violations pertaining to live entertainment uses. This would also permit the Chief of Police or designee to suspend or revoke live entertainment certificates under appropriate circumstances. Legal issues, if any, are appropriately addressed by the County Attorney's Office.
4. Timing – There is no time requirement for the Board of County Supervisors to take action on zoning text amendments or the proposed text amendment to Chapter 20 of the County Code.
5. Fiscal Impact – There is no direct fiscal impact associated with this zoning text amendment.

B. Take No Action.

1. Service Level/Policy Issues – There would be no change to the existing Zoning Ordinance or the Police Ordinance (Chapter 20) regarding live entertainment uses. As such, the Police Department would not have the authority to address violations of the live entertainment certificate or live entertainment ordinance, nor revoke or suspend a live entertainment certificate for failing to comply with Zoning Ordinance or security plan requirements. Additionally, there would not be express exemptions from the live entertainment certificate requirement for certain types of live entertainment uses.
2. Community Input – The proposed text amendments were reviewed and discussed by the Prince William Chamber of Commerce Economic Development Committee and DORAC. Concerns were expressed at the Planning Commission public hearing regarding the impacts of the new ordinance on Certificate of Live Entertainment applications currently under review. County staff has incorporated comments from the DORAC, Chamber of Commerce, and the community into the proposed text amendments.
3. Legal – Legal issues, if any, are appropriately addressed by the County Attorney's Office.
4. Timing – There is no time requirement for the Board of County Supervisors to take action on zoning text amendments or the proposed text amendment to Chapter 20 of the County Code.

5. Fiscal Impact – There is no direct fiscal impact associated with this zoning text amendment.

V. **Recommendation** is that the Board of County Supervisors concurs with Alternative A and adopt the attached ordinance.

Staff: David McGettigan, AICP, 703-792-7189

Lt. Kevin P. Brown, 703-792-4585

Attachments:

- A. BOCS Initiating Resolution
- B. BOCS Initiating Staff Report
- C. Planning Commission Resolution

MOTION: PRINCIPI

September 6, 2016

SECOND: CANDLAND

Regular Meeting

Res. No. 16-695

**RE: INITIATE A ZONING TEXT AMENDMENT AND AUTHORIZE A
PUBLIC HEARING TO CONSIDER A COUNTY CODE AMENDMENT
FOR LIVE ENTERTAINMENT USES – COUNTYWIDE**

ACTION: APPROVED

WHEREAS, in accordance with Sections 15.2-2285 and 15.2-2286 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare and good zoning practice necessitate such change; and

WHEREAS, the County staff requests a review of the County Code provisions for live entertainment certificates; and

WHEREAS, County staff desires to determine whether there are more effective enforcement mechanisms for permitting and regulating live entertainment; and

WHEREAS, the Prince William Board of County Supervisors finds that public necessity, health, safety, convenience, general welfare and good zoning practices are served by the initiation of these amendments;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby initiate a Zoning Text Amendment, and authorize a public hearing to consider a County Code amendment for live entertainment uses.

Votes:

Ayes: Anderson, Caddigan, Candland, Jenkins, Lawson, Nohe, Principi, Stewart

Nays: None

Absent from Vote: None

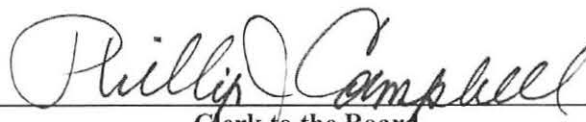
Absent from Meeting: None

For Information:

Planning Director

County Attorney

ATTEST:


Clerk to the Board



Christopher E. Martino
Acting County Executive

COUNTY OF PRINCE WILLIAM


OFFICE OF EXECUTIVE MANAGEMENT
1 County Complex Court, Prince William, Virginia 22192-9201
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BOARD OF COUNTY SUPERVISORS

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August 30, 2016

TO: Board of County Supervisors

FROM: Christopher M. Price, AICP 
Director of Planning

THRU: Christopher E. Martino
Acting County Executive

RE: Initiate a Zoning Text Amendment and Authorize a Public Hearing to Consider a
County Code Amendment for Live Entertainment Uses – **Countywide**

I. Background is as follows:

- A. Purpose of the Zoning Ordinance – Section 15.2-2283 of the Code of Virginia states that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public.
- B. Zoning Ordinance – Section 32-400.15 of the Zoning Ordinance permits live entertainment uses only when a live entertainment certificate is approved by the Zoning Administrator. The Ordinance defines live entertainment as “entertainment provided in person including, but not limited to, musical performances, music played by disc jockeys, karaoke, dancing (including dancing done solely by patrons), modeling or comedy performances.”
- C. Police Department Request – The Police Department has requested a review of the current approval process to provide for a more effective mechanism to approve and regulate the live entertainment uses in Prince William County.

II. Current Situation is as follows:

- A. Enforcement – The Police Department and Property Code Enforcement have experienced difficulty enforcing security plan requirements for live entertainment uses. The Zoning Ordinance does not provide County staff with the most effective means of regulating live entertainment, including the security plan, and addressing violations. Currently, violations of live entertainment uses, like other Zoning

Ordinance violations, are regulated (i) by issuance of a Violation Notice and Correction Order (VNCO) and if not abated, proceeding to General District Court to request abatement of the violation, or (ii) requesting a Circuit Court injunction. County staff would like to explore whether there are more effective mechanisms to approve and regulate live entertainment uses.

- B. Proposed Amendment – The zoning text amendment and/or County Code amendment would identify more effective enforcement mechanism(s) to address violations pertaining to live entertainment uses and potentially permit the Zoning Administrator or Chief of Police to suspend or revoke live entertainment certificates under certain circumstances.
- C. Board Action Requested – The Board of County Supervisors is requested to initiate a zoning text amendment, and authorize a public hearing to consider changes to County Code, for live entertainment uses.

III. Issues in order of importance are:

- A. Policy – Will the amendment further the purposes of the Zoning Ordinance and address public safety concerns?
- B. Legal – Are there any legal implications associated with initiating this zoning text and County Code amendment?
- C. Fiscal Impacts – Are there any fiscal impacts associated with the initiation of this zoning text and County Code amendment?
- D. Timing – What are the timing considerations for the initiation of this zoning text amendment?

IV. Alternatives are as follows:

- A. Initiate a zoning text amendment and authorize a public hearing to consider a County Code amendment for Live Entertainment uses.
 - 1. Policy – Effective enforcement mechanism(s) will help to ensure that live entertainment uses are consistent with the health, safety, and general welfare of the public.
 - 2. Legal – The Board of County Supervisors has the authority to initiate this amendment to the Zoning Ordinance and authorize a public hearing for changes to the County Code. Legal issues are appropriately addressed by the County Attorney's Office.

3. Fiscal Impacts – There is no direct fiscal impact related to the initiation of this zoning text amendment and authorization for a public hearing to consider County Code amendment, but staff time and resources will be necessary to research, analyze and conduct public hearings for the Planning Commission and the Board of County Supervisors.
4. Timing – The Board of County Supervisors can initiate amendments to the Zoning Ordinance at any time. However, the Police Department and Property Code Enforcement would like the amendment to be completed as soon as possible because of public safety issues with some existing live entertainment uses.

B. Take No Action

1. Policy – There would be no change to the existing Zoning Ordinance and County Code. There would be no provisions in the Zoning Ordinance that authorize Prince William County staff to effectively regulate a live entertainment certificate
2. Legal – The Board of County Supervisors is not legally obligated to initiate this zoning text amendment or authorize the public hearing. The Board of County Supervisors cannot hold a public hearing and consider the zoning text amendment until after it initiates the zoning text amendment.
3. Fiscal Impacts – There are no fiscal impacts should the Board of County Supervisors take no action on the request to initiate this amendment and/or authorize the public hearing.
4. Timing – There is no time requirement for the Board of County Supervisors to not take action.

- V. Recommendation is that the Board of County Supervisors concur with Alternative A and approve the attached Resolution.

Staff: Jasmin Kim, 703-792-8132

PLANNING COMMISSION RESOLUTION

MOTION: TAYLOR

SECOND: MILNE

**RE: ZONING TEXT AMENDMENT DPA2017-00005, LIVE
ENTERTAINMENT- COUNTYWIDE**

**June 21, 2017
Regular Meeting
Res. No. 17-061**

ACTION:

WHEREAS, in accordance with Sections 15.2-2285 and 15.2-2286 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare, and good zoning practice necessitate such change; and

WHEREAS, the Zoning Ordinance currently permits live entertainment only when a live entertainment certificate is approved by the Zoning Administrator; and

WHEREAS, the Zoning Ordinance currently does not allow the Police Department the ability to immediately address safety and enforcement issues at the time they occur, nor allow for suspension or revocation of a live entertainment certificate in the event an owner violates the provisions of the code and/or presents a safety issue to the residents of Prince William County; and

WHEREAS, the Zoning Ordinance currently does not explicitly provide for exemptions of certain types of live entertainment such as piano player or guitarist playing ambient music; and

WHEREAS, amending the Zoning Ordinance and the County Code pertaining to the above-referenced issues is required by public necessity, convenience, general welfare and good zoning practice, and is consistent with the intent of Title 15.2-2283 of the Code of Virginia, Ann; and

WHEREAS, on September 6, 2017, the Board of County Supervisors initiated a zoning text amendment to amend the Prince William County Zoning Ordinance and authorize a public hearing to consider a county code amendment, for live entertainment uses through Res. No. 16-695 and

WHEREAS, the Prince William County Planning Commission duly ordered, advertised, and held a public hearing on June 21, 2017 at which time public testimony was received and the merits of the above-reference zoning text amendment and county code amendment were considered; and

WHEREAS, the Prince William County Planning Commission believes that public general welfare, as well as, good zoning practices are served by the adoption of this zoning text amendment and county code amendment;

NOW, THEREFORE, BE IT RESOLVED, that the Prince William County Planning Commission does hereby recommend adoption of Zoning Text Amendment DPA2015-20001, Temporary Activity Permits.

June 21, 2017
Regular Meeting
Res. No. 17-061
Page Two

Votes:


Ayes: Berry, Bryant, Fry, McKay, Milne, Taylor, Vanegas

Nays: None

Absent from Vote: None


Absent from Meeting: Holley

MOTION CARRIED

Attest: 
Jennifer Dorciss
Clerk to the Planning Commission



Prince William County Government
Board of County Supervisors



**Zoning Text and Amendment of County Code
#DPA2017-00005, Live Entertainment Uses
(Countywide)**

*September 5, 2017
David J. McGettigan, Sr., AICP
Long Range Planning Manager
Planning Office*



Live Entertainment Use

- Entertainment provided in person including, but not limited to, musical performances, music played by disc jockeys, karaoke, dancing (including dancing done solely by patrons), modeling or comedy performances
- Live entertainment is currently permitted:
 - By-right as part of a primary use (e.g., cultural arts center, theater)
 - Through a special use permit (e.g., stadium, arena, amphitheater)
 - By-right as a secondary use in the commercial and office districts, with the issuance of a Live Entertainment Certificate

September 5, 2017 Countywide [2]

Live Entertainment Certificate

- Application requirements include:
 - Operational Info (type of entertainment, time, # of participants, etc.)
 - Site plan
 - Floor plan
- Application is reviewed by:
 - Fire Marshal
 - Police
 - Building Development
 - Transportation
 - Zoning
- Fees for Live entertainment Permit
 - With Security Plan - \$778.00
 - Without Security Plan - \$534.00

September 5, 2017

Countywide

[3]

Enforcement

- The Police Department and Property Code Enforcement have experienced difficulty enforcing security plan requirements for live entertainment uses
- Currently, violations of live entertainment uses are a lengthy process:
 - Property Code Enforcement by issuing a Violation Notice and Correction Order (VNCO) and if not abated, proceeding to General District Court to request abatement of the violation; or
 - VNCO can be appealed to BZA

September 5, 2017

Countywide

[4]

Board Initiation

- At the request of the police department, on September 6, 2016, the Board of County Supervisors initiated a zoning text amendment to identify more effective enforcement mechanism(s) to address live entertainment violations
- The Board of County Supervisors were also concerned that Live Entertainment Certificates can be onerous for some business owners when the certificates are required for certain types of entertainment (such as piano players and guitarist, etc.)

September 5, 2017

Countywide

[5]

Proposed Zoning Text Amendments

- The proposed amendment will move the issuance and administration of Live Entertainment Certificates out of the Zoning Ordinance (§32-400.15) into Article IV, Chapter 20 of the County Code which is administered by the Police Department.
- The definition of live entertainment will be clarified in Article IV, Chapter 20 of the County Ordinance.
- §32-210.02.8 of the Zoning Ordinance will be amended to allow for the issuance of a live entertainment certificate for any temporary activity permit that includes live entertainment.

September 5, 2017

Countywide

[6]

Outreach

- Both the Chamber of Commerce and the Development Ordinance Review Advisory Committee (DORAC) reviewed the proposed language and raised the following concerns:
 - That the proposed ZTA could impact uses that historically would not need a Live Entertainment Certificate (e.g. Jiffy Lube Live, Hylton Performing Arts Center)
 - The impact of the proposed ZTA on a single musician (e.g. piano player) playing ambient music.
- DORAC suggested that additional exemptions be added to the general provisions for live entertainment certificates to reduce the burden on the business community.

September 5, 2017

Countywide

[7]



Prince William County Government
Board of County Supervisors



**Amendment of County Code
#DPA2017-00005
Live Entertainment (Countywide)**

*September 5, 2017
Lt. Kevin Brown
Eastern District Deputy Commander
Police Department*

Issue

- In the last several years, the PD has investigated numerous significant incidents at establishments providing live entertainment which have greatly impacted community safety and police resources.
- Establishments providing live entertainment can draw large crowds presenting safety challenges for employees, security personnel, the community and the PD.
- The PD needs to have the authority to regulate live entertainment when there is a demonstrated impact to community safety.

September 5, 2017

Countywide

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Current Regulations

- No PD authority to enforce violations of Certificates of Live Entertainment (CLE).
- No authority to suspend/revoke a CLE once issued.
- No current review process for CLE's once issued.
- No authority for the PD to issue an emergency closure of an establishment.
- Broad definition of live entertainment(e.g. no clearly defined exceptions).

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Countywide

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Proposed Regulations

- Sec. 20-60 – Police authority to enforce violations (e.g. criminal in nature)
- Sec. 20-63 – Police authority to immediately close establishments
- Sec. 20-64 – Police authority to suspend CLE
- Sec. 20-65 – Police authority to revoke CLE
- Sec. 20-66 – CLE reviewed every two years
- Narrower definition (e.g. several exceptions)

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Countywide

[11]

Conclusion

- Proposed amendments will assist in preventing serious incidents, gaining compliance and increasing business/community safety.
- Proposed amendments will not affect the current CLE application process.
- Proposed amendments will grandfather existing CLE's.
- Proposed text transfers regulatory authority from the zoning ordinance to County Code, providing the PD criminal enforcement ability.

September 5, 2017

Countywide

[12]

RECOMMENDATION

- Staff Recommendation: Adopt Zoning Text Amendment #DPA2017-00005, Live Entertainment Uses, and Amendment of County Code, Chapter 20 – Police, to Add Article IV. – Live Entertainment Certificate.

September 5, 2017

Countywide

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