

Public Hearing Notice

The Clarke County Board of Supervisors will conduct public hearings in the Berryville Clarke County Government Center Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, VA, on Tuesday, October 19, 2021, at 6:30 pm to hear public comment on the following matters:

CC-2021-04, Repeal of Chapter 78 – Dance Halls. Proposed text amendment to repeal in its entirety Code of Clarke County Chapter 78 (Dance Halls). The purpose is to remove this Chapter as “public dance halls” are not an allowable use per Chapter 200, Clarke County Zoning & Subdivision Ordinances, Article I (Zoning Ordinance), §5 (Uses).

CC-2021-05, Repeal of Chapter 189 – Outdoor Lighting in Agricultural, Forestal, and Rural Residential Areas. Proposed text amendment to repeal in its entirety Code of Clarke County Chapter 189 (Outdoor Lighting in Agricultural, Forestal, and Rural Residential Areas). The purpose is to remove this chapter as its provisions have been incorporated into Chapter 200, Clarke County Zoning & Subdivision Ordinances, Article I (Zoning Ordinance).

CC-2021-06, Assignment of New Addresses to Existing Addressed Structures. Proposed text amendment to amend Code of Clarke County Chapter 56 (County Road Naming, Property Numbering and Road Sign System), §56.4, Official Address. The purpose is to clarify the situations in which the County may assign a new address to an existing addressed structure.

Information regarding the above matters are available to the public in Clarke County Administration. Any person desiring to speak on the above matters should appear at the appointed time and place. Written copies of statements are requested but not required. Clarke County does not discriminate on the basis of handicapped status in admission to its programs and activities. Accommodations will be made for handicapped persons upon prior request.

Brandon Stidham – Director of Planning

COUNTY CODE TEXT AMENDMENT (CC-2021-04)

Repeal of Chapter 78 – Dance Halls

September 21, 2021 Board of Supervisors Meeting – SET PUBLIC HEARING

STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Board of Supervisors to assist them in reviewing this proposed text amendment to the Code of Clarke County. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to repeal Chapter 78, Dance Halls, of the Code of Clarke County. The purpose is to remove this Chapter as “public dance halls” are not an allowable use per Chapter 200, Clarke County Zoning & Subdivision Ordinances, Article I (Zoning Ordinance), §5 (Uses).

Code of Virginia Authority:

- Va. Code §15.2-912.3, Regulation of dance halls by counties, cities, and towns

Requested Action:

Recommend scheduling Public Hearing for the Board’s October 19, 2021 meeting.

Staff Discussion/Analysis:

During the recent project to revise the County’s Zoning and Subdivision Ordinances, Staff identified a conflict with Chapter 78, Dance Halls, of the Code of Clarke County and the County’s Zoning Ordinance (now Chapter 200, Article I). Chapter 78, which is not part of the Zoning Ordinance, contains a permitting process and regulations for “public dance halls” which are defined as follows:

Any place, open to the general public, where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received, either directly or indirectly, by cover charge or otherwise, or where refreshments or food or any form of merchandise are served for compensation before, during or after dancing; and the sale of any refreshments, food or any form of merchandise at such place or the exhibiting of such for sale shall be deemed direct compensation for any such dance hall as is contemplated by this chapter. A public dance hall shall also mean any place where any club, association, corporation, organization or group of persons conduct, operate or permit dances that are open to the public.

Uses of lands and structures are regulated by the Zoning Ordinance. Zoning Ordinance §5 contains a listing of all allowable uses by zoning district but does not include “public dance halls” or any similar use. In order to resolve the conflict, Staff recommends that Chapter 78 be repealed. The County currently does not have a formal process for issuing “public dance hall” permits under Chapter 78 and Staff is unaware of any such permits or approvals being issued in recent memory. Additionally, there are no “public dance halls” currently operating in Clarke County. Elimination of Chapter 78 would allow the activity to be regulated within the scope of the uses and regulatory processes in the Zoning Ordinance. Dancing would be a permissible commercial activity in conjunction with uses that allow for musical performances and

entertainment as accessory activities such as restaurants, minor commercial public assembly, and private club uses.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of the text amendment.

History:

September 21, 2021.

Placed on the Board's September meeting agenda to set Public Hearing for the October 19, 2021 meeting.

Chapter 78 Dance Halls

[HISTORY: Adopted by the Board of Supervisors of Clarke County 01-19-1988 as § 9-8 of the 1987 Code. Amendments noted where applicable.]

General References

Chapter 57 Special Events
Chapter 120 Noise
Chapter 132 Peace And Good Order
Chapter 188 Zoning

Code Of Virginia References

§ 15.2-912.3. - Regulation of dance halls by counties, cities and towns.
§ 18.2-433. - Statutory authority

§ 78-1. Definitions.

A. For the purposes of this chapter, the following terms shall have the meanings indicated:

PUBLIC DANCE HALL -- Any place, open to the general public, where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received, either directly or indirectly, by cover charge or otherwise, or where refreshments or food or any form of merchandise are served for compensation before, during or after dancing; and the sale of any refreshments, food or any form of merchandise at such place or the exhibiting of such for sale shall be deemed direct compensation for any such dance hall as is contemplated by this chapter. A public dance hall shall also mean any place where any club, association, corporation, organization or group of persons conduct, operate or permit dances that are open to the public.

B. This definition shall not apply to dances held for benevolent or charitable purposes when conducted under the auspices of religious, civic, charitable, educational or military organizations.

§ 78-2. Permit required.

It shall be unlawful for any person to operate a public dance hall without first obtaining a permit from the Board of Supervisors.

§ 78-3. Revocation of permit.

A permit to operate a public dance hall may be revoked by the Board upon the presentation of evidence satisfactory to the Board that any requirements or provisions of this chapter have been violated or that any ordinance or law of the county or state has been violated. No such permit shall be revoked until after a hearing by the Board. The holder of such permit shall be given five days' notice, by certified or registered

mail sent to the address set forth on the application for the permit or to the last known address of the permit holder, of the time and place of such hearing to determine whether the special use permit shall be revoked.

§ 78-4. Hours.

It shall be unlawful for any person to operate or manage a public dance hall or to conduct dancing therein between the hours of 12:00 midnight on any Saturday and 6:00 a.m. on the next following Monday.

§ 78-5. Violations and penalties¹⁸

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1 General Provisions, Article I.

¹⁸ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

COUNTY CODE TEXT AMENDMENT (CC-2021-05)

Repeal of Chapter 189 – Outdoor Lighting in Agricultural, Forestal, and Rural Residential Areas

September 21, 2021 Board of Supervisors Meeting – SET PUBLIC HEARING

STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Board of Supervisors to assist them in reviewing this proposed text amendment to the Code of Clarke County. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to repeal Chapter 189, Outdoor Lighting in Agricultural, Forestal, and Rural Residential Areas, of the Code of Clarke County. The purpose is to remove this chapter as its provisions have been incorporated into Chapter 200, Clarke County Zoning & Subdivision Ordinances, Article I (Zoning Ordinance).

Requested Action:

Recommend scheduling Public Hearing for the Board’s October 19, 2021 meeting.

Staff Discussion/Analysis:

Chapter 189 regulates the placement, orientation, distribution patterns, and fixture type of outdoor lighting on County properties that are zoned Agricultural-Open Space-Conservation (AOC), Forestal-Open Space-Conservation (FOC), or Rural Residential (RR). Regulations are included in this chapter to promote safety, utility and security; prevent glare on public rights of ways and light trespass onto adjoining properties; protect the privacy of adjacent property owners; and reduce atmospheric light pollution.

Chapter 189 was adopted by the Board of Supervisors in January 2007 as a new section of the Code of Clarke County following review and recommendation by the Planning Commission. Similar outdoor lighting regulations are included in the County Zoning Ordinance for uses on commercially-zoned properties. Staff’s review of the record for the original adoption of Chapter 189 shows no discussion or stated rationale for placing the regulations in the County Code instead of in the Zoning Ordinance.

Regulations that have a relationship to planning and zoning matters are placed in the County Code either because they are governed by an ordinance other than Zoning or Subdivision (e.g., erosion and sediment control, wells, septic systems) or because the governing body chooses to enforce the matter via its police powers. In the latter case, enforcement responsibility is specifically delegated to an entity other than the Zoning Administrator such as the Building Department or the Sheriff’s Office. Chapter 189 has no language delegating enforcement responsibility to any agency or department.

Because no rationale was identified for maintaining these regulations in a County Code chapter separate from the Zoning Ordinance, these regulations were incorporated into the revised Zoning Ordinance (Chapter 200, Article I) that was adopted by the Board of Supervisors in August 2021. Requirements for outdoor lighting in the AOC and FOC Districts are now found in Section 7.4.3,

and requirements for properties in the RR District are found in Section 7.5.1. Enforcement of these requirements are now assigned to the Zoning Administrator.

With the incorporation of Chapter 189's provisions into the Zoning Ordinance, Chapter 189 is now redundant and can be removed in its entirety from the Code of Clarke County.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of the text amendment.

History:

September 21, 2021.

Placed on the Board's September meeting agenda to set Public Hearing for the October 19, 2021 meeting.

Chapter 189 Lighting In Agricultural, Forestal, and Rural Residential Areas

[HISTORY: Adopted by the Board of Supervisors of Clarke County January 16, 2007.]

A. Purpose

The purpose of this section is to regulate placement, orientation, distribution patterns, and fixture type of outdoor lighting in the Agricultural-Open Space-Conservation, Forestal-Open Space-Conservation, and Rural Residential Zoning Districts of the County. The intent of this section is to allow lighting that provides safety, utility and security, prevents glare on public rights of ways, prevents light trespass onto adjoining properties, protects the privacy of adjacent property owners, and reduces atmospheric light pollution.

B. Lighting Regulations

1. All exterior light fixtures shall be of a type that are downcast and shielded such that all light emitted is projected below a horizontal plane running through the lowest part of the fixture. The direct light from the light element and reflective surface of exterior light fixtures not on public rights of way or recorded private access easements shall not be visible off the subject property.
2. No exterior light fixture shall be installed at a height greater than 30 feet above the ground under the light fixture.
3. Any freestanding pole lighting, not on public rights of ways or recorded private access easements, shall be setback from property lines in accordance with setback requirements for principal structures in the subject property's zoning district except for street lighting in public rights of ways or recorded private access easements.
4. The following types of exterior lighting are excluded from these regulations:
 - a. in the Rural Residential Zoning District, 100 watt or less standard incandescent light elements or equivalent brightness (defined as 1700 lumens),
 - b. in the Agricultural-Open Space-Conservation and Forestal-Open Space-Conservation Zoning Districts, 60 watt or less standard incandescent light elements or equivalent brightness (defined as 1000 lumens),
 - c. decorative holiday lighting,
 - d. emergency lighting,

- e. lighting for special events that are approved by the Board of Supervisors,
 - f. lighting of the flag of the United States, such lighting shall have directional control shields so that the directed light is substantially confined to the flag,
 - g. lighting of sports fields owned by the Clarke County Board of Supervisors or the Clarke County School Board, such lighting shall have directional control shields so that the directed light is substantially confined to the playfields.
5. All existing exterior lighting shall comply with the provisions 1 and 2 of this ordinance within three years of its adoption.

COUNTY CODE TEXT AMENDMENT (CC-2021-06)
Assignment of New Addresses to Existing Addressed Structures
Chapter 56 – County Road Naming, Property Numbering and Road Sign System
September 21, 2021 Board of Supervisors Meeting – SET PUBLIC HEARING
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Board of Supervisors to assist them in reviewing this proposed text amendment to the Code of Clarke County. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend §56.4, Official Address, of the Code of Clarke County. The purpose is to clarify the situations in which the County may assign a new address to an existing addressed structure.

Requested Action:

Recommend scheduling Public Hearing for the Board’s October 19, 2021 meeting.

Staff Discussion/Analysis:

Chapter 56 of the Code of Clarke County contains the regulations for naming of public roads and private access easements, the assignment of street addresses, and the installation and maintenance of street name signage. The County’s street naming and address assignment regulations are an integral component of the County’s emergency communications program, and appropriate addressing of structures is necessary to ensure optimal response times for fire, rescue, and law enforcement personnel.

The County’s authority to assign addresses to structures is provided by Code of Virginia §15.2-2024, Numbers to be displayed on buildings. §56-4 of the County Code contains the regulations for assigning official addresses, and addresses are assigned using a formula based on the point where the property’s primary means of ingress/egress to a public road or private access easement is located. Subsection (e) states that the County can assign a new address if the property owner moves the location, however this is not the only situation in which a previously addressed structure must be assigned a new address.

The most common example of a structure needing to be re-addressed involves unnamed private access easements. As a rule of thumb, a private access easement is not assigned a street name until three or more addressable structures are constructed and will use that private access easement as the primary means of ingress/egress to a public road. A house that is located on a private access easement with no more than one other addressable structure also using the private access easement will likely be addressed on the public road. If a third addressable structure is constructed on the private access easement, that private access easement would be assigned a street name, the new structure would be addressed using the new name, and the existing house and other existing structure would be assigned a new address on the newly-named private access easement.

Other situations requiring a structure to be re-addressed can be based on the recommendation of the County’s emergency communications center, fire, rescue, law enforcement, or emergency management officials. These situations arise when confusion or other problems locating properties delay first responders in answering calls for assistance. This could be due to original addressing errors or caused by changes to private access easements or property conditions that hamper first responders in finding addressed properties and incident locations.

The County currently has the authority per the Code of Virginia to assign a new address to a structure that was previously addressed. The proposed text amendment would promote clarity by identifying all of the likely scenarios where re-addressing may occur and emphasizing that optimizing emergency response times is a critical factor in deciding whether to re-address a property in certain cases.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of the text amendment.

History:

September 21, 2021. Placed on the Board’s September meeting agenda to set Public Hearing for the October 19, 2021 meeting.

PROPOSED AMENDMENT LANGUAGE

§ 56-4 Official Address

- a) The street name and number assigned to each property within the county shall be the official address of such property for all purposes.
- b) Requests for new addresses shall be made by the property owner or authorized representative.
- c) By requesting an official address, the property owner attests that they have the legal right to access their property at the location on the public or private road upon which the address will be assigned. Assignment of an official address by the County shall not be construed as official determination of a property owner’s legal right to access their property at that location.
- d) An official address shall only be assigned to driveways constructed to permit ingress/egress by emergency response vehicles unless no other feasible alternatives exist.
- e) **The County may assign a new official address to conform with the structure numbering system *including but not limited to the following situations:***

- (1) If a property owner moves the driveway access point after issuance of an official address.
 - (2) *If, in the case of an unnamed private access easement, additional structures are addressed which necessitate the assignment of an official street name to the private access easement and issuance of new addresses to all addressed structures that use the private access easement as the primary means of ingress/egress to a public road or another named private access easement.*
 - (3) *Any other situation in which it is the opinion of the County's Emergency Communications Center Director and/or the Director of Fire, Emergency Medical Services, and Emergency Operations that issuance of a new address or addresses to an existing structure or structures is necessary to ensure efficient provision of emergency services.*
- ~~e) If a property owner moves the driveway access point after issuance of an official address, the County may assign a new official address to conform with the structure numbering system.~~