



STAFF REPORT

Council Meeting Date:	August 22, 2023
Agenda Title:	Zoning Ordinance Text Amendment - Assembly Uses in the Industrial District
Requested Action:	Hold a Work Session
Department / Agency Lead:	Community Development
Staff Lead:	Heather Jenkins, Zoning Administrator

EXECUTIVE SUMMARY

Article 3, Section 3-4.12 – *Industrial District* currently permits several uses as by-right Permitted Uses where people gather for social, entertainment, cultural, educational and recreational purposes, such as Conference Centers, Institutional Buildings, and Private clubs, lodges, meeting halls, labor unions, fraternal organizations and sororities. The Building Code classifies Churches as an Assembly use, the same category as Conference Centers, Meeting Halls, Lodges, and other uses listed in the Ordinance as by-right Permitted Uses in the Industrial District. However, Churches are not listed as either a Permitted Use or a Permissible Use in the Industrial District.

The Religious Land Use and Institutionalized Persons Act (RLUIPA) is a federal law that prohibits a locality from imposing undue burdens or restrictions on land use for churches and other religious institutions through zoning regulations. Treating churches or other places of worship differently from other, similar uses, is a recognized claim of discrimination under RLUIPA.

Town Council initiated a text amendment to Section 3-4.12 Industrial District on May 9, 2023, to authorize staff to research possible changes to the Ordinance to address Assembly uses in the Industrial District. Potential ordinance changes include:

- a. Adding Churches as a Permitted (by-right) Use in the Industrial District so that the use requires administrative approval by the Zoning Administrator and/or Building Official; *or*
- b. Modifying the Ordinance to state that all Assembly-type uses in the Industrial District are Permissible Uses that require the approval of a Special Use Permit by Town Council through the public hearing process; *or*
- c. Removing all Assembly-type uses from the list of Permitted and Permissible Uses so that these uses are prohibited altogether in the Industrial District; *or*
- d. Making no change to the Ordinance, so that Churches are not an allowable use in the Industrial District in contrast with other Assembly-type uses.

BACKGROUND

A Church (or place of religious worship) is defined in Article 12 of the Ordinance as:

A building or structure, or group of buildings or structures, which by design and construction are primarily intended for activities that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church” shall not carry a secular connotation and shall include buildings in which religious services of any denomination are held.

Section 3-4 Requirements for Base Zoning Districts allows Churches in all zoning districts except the Industrial district, as follows:

Ordinance Section	Zoning District	Approval Process
3-4.1	R-15 Residential District	Permissible with the approval of a Special Use Permit
3-4.2	R-10 Residential District	Permissible with the approval of a Special Use Permit
3-4.3	R-6 Residential District	Permitted with administrative approval
3-4.4	RT Residential Townhouse District	Permissible with the approval of a Special Use Permit
3-4.5	RMF Residential Multifamily District	Permissible with the approval of a Special Use Permit
3-4.6	R-40 Residential District	Permissible with the approval of a Special Use Permit
3-4.7	R-E Residential District	Permissible with the approval of a Special Use Permit
3-4.8	RO Residential Office District	Permissible with the approval of a Special Use Permit
3-4.9	PSP Public-Semi-Public Institutional District	Permitted with administrative approval
3-4.10	C Commercial District	Permitted with administrative approval
3-4.11	CBD Central Business District	Permitted with administrative approval
3-4.12	I Industrial District	Not Permitted

The Ordinance currently allows other assembly-type uses in the Industrial District. Section 3-4.12.2 includes Conference Centers, Institutional Buildings, and Private club, lodge, meeting hall, labor union or fraternal organization or sorority as Permitted Uses (by-right), where these uses are classified as assembly uses.

Use categories that are listed as Permitted Uses (by-right) within the Ordinance require administrative approvals prior to commencement of the use. Administrative approvals include approval of a Site Development Plan per Article 10, approval of a Building Permit for any changes to existing structures or construction of new buildings, and approval of a Zoning Permit for any new or altered use within an existing structure.

Staff was approached by a property owner seeking to lease an existing building located within the Industrial district to a group that desire to establish a Church. As the Zoning Ordinance does not list Churches as either a permitted or permissible use in the district, staff is not able to process and approve a change of use permit. Staff has been advised by legal counsel that the Ordinance must be amended to permit a Church within the Industrial district prior to the issuance of any administrative approval to allow the commencement of a Church use.

Town Council's initiation of a text amendment to Article 3 was the first step in the process to revise the Ordinance as prescribed in Article 11, Section 11-3.9 *Zoning Amendments*. Following the work session by the Planning Commission, the next step in the text amendment process is to schedule the item for public hearing where the Planning Commission may hear public input and make a recommendation of approval or denial. Per Section 11-3.9.7 *Planning Commission Review*, the planning commission must make a recommendation to Town Council within 100 days after the first public hearing. Upon recommendation by the Planning Commission, the text amendment will then be placed on the Town Council agenda for public hearing and final decision.

STAFF RECOMMENDATION

Staff is requesting that the Planning Commission hold the work session, and provide guidance to staff on what ordinance language is most appropriate to promote the health, safety and general welfare of the public as required by Section 15.2-2283 of the Code of Virginia, and to ensure that public necessity, convenience, general welfare and good zoning practice is achieved as stated in Ordinance Section 11-3.9.1 *Authority for Change*.

Service Level / Policy Impact

None

Fiscal Impact

None

Legal Impact

Ordinance Section 3-4.12 Industrial District allows several assembly-type uses as Permitted Uses (by-right) with administrative approval. Treating churches or other places of worship differently from other, similar uses, is a recognized claim of discrimination under the Religious Land Use and Institutionalized Persons Act.

ATTACHMENTS

None