



**SUPPLEMENTAL AGENDA  
PURCELLVILLE TOWN COUNCIL REGULAR MEETING  
DECEMBER 13, 2016, 7:00 PM  
TOWN HALL COUNCIL CHAMBERS**

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**1. PUBLIC HEARINGS**

**7.e. Ordinance 16-12-03, Amending Town Code Section 46-31 to create a Barment Program (J. Schroeck/S. Hankins) (pgs. 3-8)**

**2. ACTION ITEMS**

**12.m. REVISED - Initiation of Zoning Ordinance Text Amendment to Amend the Floodplain District and Remapping of the Floodplain District & Authorization for Public Hearings (D. Galindo) (pgs. 9-13) (Motion pg. 10)**

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#7.e

**STAFF REPORT**  
**PUBLIC HEARING**

**SUBJECT:** Ordinance 16-12-03, Amending Town Code Section 46-31 to create a Barment Program, allowing Town Police to be designated as lawfully in charge of private property for the purpose of enforcing trespass violations

**DATE OF MEETING:** December 13, 2016

**STAFF CONTACTS:** Chief Cynthia McAlister/Joe Schroeck

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**SUMMARY & RECOMMENDATION:**

The purpose of the December 13, 2016 public hearing is to receive public comment on an ordinance that would allow private property owners to designate the Town police as “persons lawfully in charge” of their private property for the purpose of enforcing trespass violations.

Town Council was briefed on this item at its October 11, 2016 meeting, and adopted a motion directing staff to proceed with drafting an ordinance and advertising a public hearing. The ordinance was advertised in the November 25th and December 2nd issues of the Purcellville Gazette. Proposed Ordinance 16-12-03 is attached to this Staff Report as Attachment 1.

Staff recommends adoption of Ordinance 16-12-03.

**BACKGROUND:**

All jurisdictions face the challenge of helping local businesses address chronic issues of loitering, vandalism, drug sales, intoxication, or other “suspicious activity.” Private property owners have the ability to ban individuals from their private property, but the challenge is how the Purcellville Police Department (PPD) can provide assistance in keeping unwanted guests off private property.

A “Barment Program” is one in which the PPD has the ability to use their authority to enforce a private property owner’s trespass notice. Through a Limited Power of Attorney, Town of Purcellville Police Officers will be given the authority to bar/trespass individuals who have no legal authority or are committing a crime on the property of a business owner. With this, officers will be able to maintain order, protect property and reduce crime to keep the town residents safe.

Most trespassing issues are appropriately handled between private parties, with or without law enforcement involvement. However, where a location has pervasive quality-of-life issues such as loitering, vandalism, drug sales, intoxication, or other “suspicious activity,” this program gives the Purcellville Police Department a formidable tool to wield against these offenders. Once granted authority, officers can decide unilaterally that a person is no longer welcome on a property and if (eventually) ignored, can make an arrest(s) until the problem is ameliorated. This program is a great example of community partnership with law enforcement – working with business and property owners, together we can make life more tolerable in those specific areas.

The process begins with the identification of a problem area candidate. Indicators such as high number of calls for service, repeat offenders, multiple citizen complaints, deteriorating conditions, or requests by exasperated owners will help identify locations that might be an appropriate use of this program. Once identified, the owner signs, before a Notary Public, a Limited Power of Attorney (POA) that gives the Purcellville Police Department the authority to act on their behalf with regard to trespassing issues. The signed Power of Attorney is kept on file at PPD and also with the Town of Purcellville.

The Chief of Police will assign the administrative and management function of this program to one individual within the PPD. This assignment will consist of collecting notices, updating the computer database and disseminating information to other officers.

As time advances, any PPD officer may complete and present a Trespass Notification form to a person on a property enrolled in this program. If a violation occurs later, any PPD officer may charge trespass, whether by summons or custodial arrest.

**BUDGET IMPACT:**

There is no budget impact with this item.

**MOTIONS:**

“I move that Town Council suspend the rules that would preclude action on the night of the public hearing for this item.”

AND

“I move that Town Council adopt Ordinance 16-12-03, amending Town Code Section 46-31 to allow the Town police to be designated, in writing, as persons lawfully in charge of property for the purpose of enforcing trespass violations, and to authorize the Chief of Police to prescribe the authorization forms necessary to effectuate this direction.”

**ATTACHMENT:**

1. Ordinance 16-12-03

**TOWN OF PURCELLVILLE**  
**IN**  
**LOUDOUN COUNTY, VIRGINIA**

**ORDINANCE NO. 16-12-03**

**PRESENTED: October 11, 2016**  
**ADOPTED: \_\_\_\_\_**

**AN ORDINANCE: TO AMEND AND REORDAIN TOWN CODE CHAPTER 46 (“OFFENSES AND MISCELLANEOUS PROVISIONS”), ARTICLE I (“IN GENERAL”), SECTION 46-31, FOR THE PURPOSE OF ALLOWING TOWN POLICE TO ENFORCE TRESPASS VIOLATIONS**

**WHEREAS**, Section 15.2-1717.1 of the Code of Virginia authorizes Town police officers to be designated as “persons lawfully in charge” of real property for the purpose of forbidding a person from entering or remaining on the property; and

**WHEREAS**, the Town desires to afford property owners and those lawfully in charge of real property the ability to designate the Town police as “persons lawfully in charge” of designated real property for the purposes authorized under statute, and, at its meeting on October 11, 2016, the Purcellville Town Council directed staff to prepare and advertise such an ordinance for public hearing; and

**WHEREAS**, an advertisement for Ordinance 16-12-03 was published in a qualified newspaper on November 25, 2016 and December 2, 2016, for the Town Council public hearing on December 13, 2016.

**NOW, THEREFORE**, the Council of the Town of Purcellville, Virginia hereby ordains:

**Section 1.** That Town Code Section 46-31 is hereby amended to read in-full as follows, with new text shown in underline format and deleted text shown in strikethrough format:

**Sec. 46-31. – Trespass~~–after having been forbidden to do so~~; Designation of Police to Enforce Trespass Violations; Penalties.**

(a) If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either

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orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by signs posted by such persons or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area thereof at places where it or they may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Code of Virginia, §§ 16.1-253, 16.1-253.1, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, or 16.1-279.1, or an ex parte order issued pursuant to Code of Virginia, § 20-103, and after having been served with such order, he shall be guilty of a class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Code of Virginia, §§ 18.2-132—18.2-136.

(Code 1977, § 12-29)

State Law reference— Similar provisions, Code of Virginia, § 18.2-119.

(b) Any owner, lessee, custodian, or the agent of such person, or other person lawfully in charge of real property may, in writing on a form or forms prescribed by the chief of police, designate the police department as a "person lawfully in charge thereof," as those terms are used in subsection (a) of this section, for the purpose of forbidding another to go or remain upon the lands, buildings or premises of such owner, lessee, custodian, or the agent of such person, or other person lawfully in charge. Such designation:

- (1) Shall include a description of the land, building or premises to which it applies;
- (2) Shall reference the period of time during which it is in effect; and
- (3) Shall be kept on file in the office of the chief of police or in such other location within the police department as the chief of police deems appropriate.

**Section 2.** That all prior ordinances in conflict herewith are hereby repealed.

**Section 3.** Severability. If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of the Purcellville Town Code.

**Section 3.** That this ordinance shall be effective upon its adoption.

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**State Law Reference**

Va. Code § 15.2-1717.1, Designation of police to enforce trespass violations

**PASSED THIS \_\_\_ DAY OF \_\_\_\_\_, 2016.**

\_\_\_\_\_  
Kwasi A. Fraser, Mayor  
Town of Purcellville

ATTEST:

\_\_\_\_\_  
Diana Hays, Town Clerk



**STAFF REPORT**  
**ACTION ITEM**

Item # 12m

**SUBJECT:** Initiation of Zoning Ordinance Text Amendment to Amend the Floodplain District and Remapping of the Floodplain District & Authorization for Public Hearings

**DATE OF MEETING:** December 13, 2016

**STAFF CONTACT:** Daniel Galindo, AICP – Senior Planner

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**SUMMARY and RECOMMENDATIONS:**

Prior to February 17, 2017, the Town of Purcellville must adopt a new Flood Insurance Rate Map and revise its floodplain regulations to comply with the current standards of the National Flood Insurance Program (NFIP). Failure to do so would result in the Town's removal from the NFIP. The Town's participation in the NFIP allows the Town to be eligible for certain federal funds in the event our infrastructure is damaged during a flood and also ensures that flood insurance is available for purchase by property owners within the Town. Staff recommends that Town Council initiate a remapping of the Town's Floodplain District and a zoning text amendment to adopt the new Flood Insurance Rate Map and amend our floodplain regulations as well as authorize public hearings on these items in January.

**BACKGROUND:**

Since early 2014, the Federal Emergency Management Agency (FEMA) has worked with Loudoun County and its towns to update and improve the accuracy of the county-wide Flood Insurance Rate Map (FIRM). The new FIRM has been finalized, and the Town must adopt the new FIRM by February 17, 2017 in order to remain in the National Flood Insurance Program (NFIP). Before then, Purcellville must amend the floodplain regulations in its Zoning Ordinance (Article 12) to adopt the new FIRM, which alters the boundaries of the floodplain surrounding Catocin Creek (Attachment 2), and satisfy the current standards of the NFIP. Staff has prepared a draft ordinance to amend our floodplain regulations which was sent to the Virginia Department of Conservation and Recreation (DCR), which administers the NFIP in the Commonwealth, in early November to be reviewed for compliance with NFIP standards. Within the past few days, DCR has returned comments requesting and suggesting

a few minor changes to the draft ordinance to ensure its compliance with these standards, and Staff will incorporate the changes in to the ordinance in coming days.

The attached Resolution proposes initiating the required zoning text amendment and corresponding remapping. The recommended motion (below) to adopt the Resolution also authorizes Staff to schedule separate public hearings on the zoning text amendment and remapping for both the Planning Commission and Town Council. In order to adopt the amendment and provide adequate time for FEMA to review the Town's revised regulations for compliance with the NFIP prior to February 17<sup>th</sup>, the public hearing and adoption processes for both the Commission and Council would run in parallel in January on the following timelines:

	<i><b>Planning Commission</b></i>	<i><b>Town Council</b></i>
Public Hearing Date:	January 5	January 10
Target Date for Vote:	January 19	January 24

**FINDINGS:**

1. Failure to adopt the new FIRM and amend our current floodplain regulations by February 17, 2017 will result in the Town's removal from the NFIP.

**BUDGET IMPACT:**

There is no significant budgetary impact to initiate and adopt new floodplain regulations. If new regulations are not adopted and the Town is removed from the NFIP, there could be significant budget impacts in the event of a flood that damages Town infrastructure as we would no longer be eligible for certain federal disaster relief funds.

**MOTIONS:**

I move that Town Council adopt Resolution 16-12-04 initiating a remapping of the Town's Floodplain District and amendments to Article 12 of the Zoning Ordinance as well as authorize Town Staff to schedule the Planning Commission's public hearings on these items for January 5 and Town Council's public hearings for January 10.

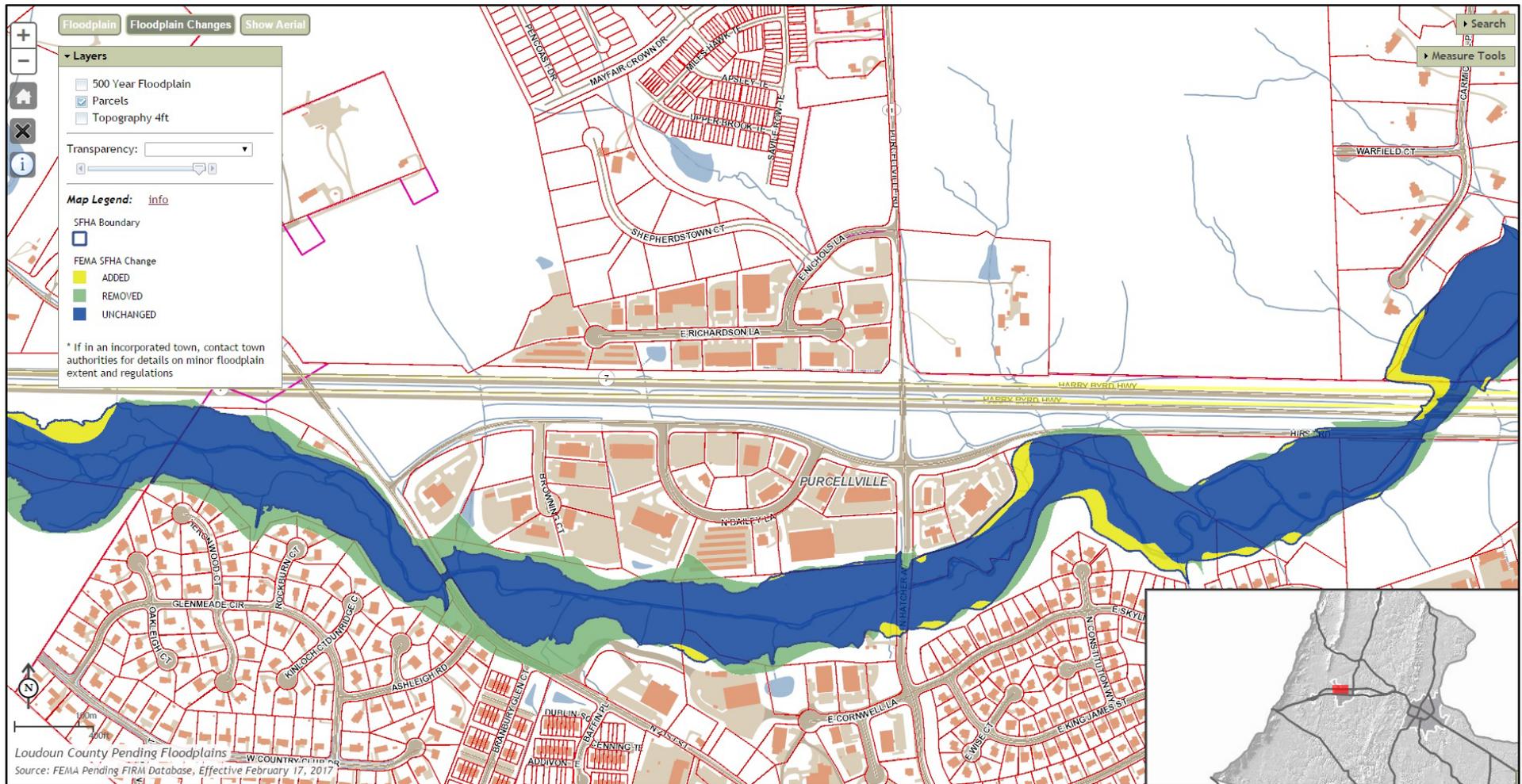
**ATTACHMENT:**

1. Resolution 16-12-04

2. Map of Floodplain Changes from <https://logis.loudoun.gov/femaflood/>



### Map of Floodplain Changes from <https://logis.loudoun.gov/femaflood/>



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