



County of Fairfax, Virginia

MEMORANDUM

DATE: April 13, 2021

TO: Consumer Protection Commission

FROM: Michael S. Liberman, Director *MS*
Department of Cable and Consumer Services

SUBJECT: Consumer Protection Commission Meeting for April 20, 2021

Please find attached the Consumer Protection Commission meeting package. The next scheduled meeting is **Tuesday, April 20, 2021, 7:30 p.m.** This meeting will be held via a video connection due to the COVID-19 pandemic.

To join the meeting:

Click:

<https://us02web.zoom.us/j/87996045538?pwd=bU05bWxBM1RCMDU0MDZjWEYwQ016UT09>

Enter Password: 376781

Audio-only participation:

Dial: 888-270-9936

Enter Code: 584548

Please RSVP with your attendance to Susan Jones by COB on Monday, April 19, 2021, at susan.jones@fairfaxcounty.gov or 703-324-5877.

Enclosures

cc: Joseph M. Mondoro, Chief Financial Officer
Office of the County Executive

Rebecca L. Makely, Director
Consumer Services Division, DCCS



**FAIRFAX COUNTY
CONSUMER PROTECTION COMMISSION
April 20, 2021 AGENDA**

Call to Order by the Chairman (7:30 PM)

Minutes

- Draft of the March 16, 2021, meeting minutes attached.

Report of the Chairman

Report of the Director

Commission Matters

Old Business

- CPC Attendance Chart

New Business

- Appeal Hearing-Massage Therapist Permit Denial

General Interest

- Consumer Protection Commission Calendar
- Consumer Protection Commission Membership
- Consumer Affairs Statistics
- Community Outreach
- Consumer Resources

Minutes of the Fairfax County Consumer Protection Commission

March 16, 2021

7:30 PM
Zoom Video Meeting
Chairman Fee presiding

Attendance:

Commissioners: Belkowitz, Callender, Fee,
Hargraves, Hine, Kirk, Kratovil, Roark, Rosier

Absent:

Commissioners: Gulakowski, Lynch, Javed

Staff:

Michael S. Liberman, Director
Cable and Consumer Services
(Fairfax)
Rebecca L. Makely, Director
Consumer Services Division
(Aldie)
Susan C. Jones, Branch Chief
Consumer Affairs Branch
(Springfield)

The electronic meeting was called to order at 7:30 PM by Chairman Fee.

Quorum, Location, and Audibility of Members' Voices

Chairman Fee conducted a Roll Call to verify that a quorum of members were participating; and that each member's voice was clear, audible, and at appropriate volume for all of the other members; and the location from which member was participating. The roll call was as follows:

Chairman Fee, Burke
Commissioner Belkowitz, South Carolina
Commissioner Callender, Great Falls
Commissioner Hargraves, South Fairfax
Commissioner Hine, Fairfax
Commissioner Kirk, Falls Church
Commissioner Kratovil, Mount Vernon
Commissioner Roark, Lorton
Commissioner Rosier, Great Falls

Chairman Fee passed the virtual gavel to Secretary Rosier. A motion was made by Chairman Fee that each member's voice was adequately heard by each member of the Consumer Protection Commission (Commission.) This motion was seconded by Commissioner Hine. This motion passed 9-0.

Need for an Electronic Meeting

A motion was made by Chairman Fee that the State of Emergency caused by the COVID-19 pandemic made it unsafe for the Commission to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of the Commission and the physical presence of the public, could not be implemented safely or practically. Chairman Fee further moved that the Commission conduct the meeting electronically through a dedicated audio-conferencing line, and that the public access the meeting by calling 1-888-270-9936 and entering access code 584548. The motion was seconded by Commissioner Callender. The motion passed 9-0.

Need to Dispense with FOIA's Usual Procedures to Assure Continuity in Government/Continue Operations

A motion was made by Chairman Fee that all of the matters addressed on the agenda addressed the Emergency itself, were necessary for continuity in Fairfax County government, and/or were statutorily required or necessary to continue operations and the discharge of the Commission's lawful purposes, duties, and responsibilities. This motion was seconded by Commissioner Kirk. The motion was passed 9-0.

Minutes

A motion was made by Chairman Fee and the minutes from the February 16, 2021, were approved with a change to Commission Matters.

Report of the Chairman

The Chairman notified the Commission that Commissioner Lynch has resigned.

Chairman Fee requested the Commission promptly respond to meeting notices to establish a quorum. A Massage Therapist Denial Appeal is scheduled in April.

Report of the Director

Director Liberman requested the Commission respond promptly to meeting invites to establish a quorum.

Commission Matters

Commissioner Belkowitz had no matters to bring before the Commission.

Commissioner Callender had no matters to bring before the Commission.

Commissioner Hargraves had no matters to bring before the Commission.

Commissioner Hine had no matters to bring before the Commission.

Commissioner Kirk had no matters to bring before the Commission.

Commissioner Kratovil stated Virginia was the second state to approve comprehensive consumer privacy legislation. The provision will allow consumers to correct, delete, and port their data.

Commissioner Roark had no matters to bring before the Commission.

Commissioner Rosier would like to see the Commission attendance report. Commissioner Rosier contacted staff about receiving correspondence on a church that was offering COVID-19 testing and wanted to make sure it was legitimate. Staff responded Fairfax Health Department has confirmed the information is legitimate and First Baptist Church of Vienna is one of their partners in reaching underserved communities.

Chairman Fee mentioned two step authentication popping up on the internet.

Old Business

Rebecca Makely, Director, Consumer Services Division, requested a motion by the Commission to approve the updated Bylaws. Commissioner Kirk made the motion to approve the Bylaws as modified. Commissioner Callender seconded the motion. The motion passed unanimously.

New Business

Legislative Review. Rebecca Makely, Director, Consumer Services Division provided an overview of the legislative bills reviewed by Consumer Affairs which included Homeowners Associations/Condominiums, Manufactured Homes, and Tenant-Landlord issues.

A discussion ensued on the eviction moratorium, how many manufactured home lots are in Fairfax County, and consumer-related legislation.

Chairman Fee stated the Trespass Towing Advisory Board is discussing rate increases that may be brought before the Commission for approval.

Director Makely reminded the Commission about the upcoming Massage Therapist Denial Appeal Hearing. A packet of information will be sent to the Commissioners for review prior to the meeting in April.

Chairman Fee made a motion to adjourn. Commissioner Hine seconded the motion. The motion passed unanimously.

The meeting adjourned at 8:03 PM.

CPC Calendar

Fairfax County
Consumer Protection Commission
2021 Yearly Planning Calendar
April 20, 2021

- January 19 | Election of Officers
- February 16 | Bylaws
| COVID-19 Scams Presentation
- March 16 | Bylaws Approval
| Legislative Update
- April 20 | Appeal Hearing-Massage Therapist Permit Denial
- May 18 | Fairfax County Agency Area on Aging
- June 15
- July 20
- August 17
- September 21
- October 19
- November 16
- December 21

CPC Membership

NAME & ADDRESS	CONTACT INFORMATION	STAFF
Harold G. Belkowitz 9203 Cross Oaks Court Fairfax Station, VA 22039 <i>Appt. Expires 7/31/2021</i>	703-690-9640 (home) 703-989-7986 (cell) 703-246-9273 (office) hbelkowitz@belkowitzlaw.com	Michael S. Liberman, Director Department of Cable and Consumer Services michael.liberman@fairfaxcounty.gov
Wes Callender 1088 Manning Street Great Falls, VA 22066 <i>Appt. Expires 7/31/2021</i>	703-759-2382 (home) 202-285-3946 (cell) wesitoc@gmail.com	Rebecca L. Makely, Director Consumer Services Division 703-324-5947 rebecca.makely@fairfaxcounty.gov
John Fee (Chairman) 5511 Landmark Place Fairfax, VA 22032 <i>Appt. Expires 7/31/2021</i>	703-278-8200 (home) 703-408-8266 (cell) JTFee@aol.com	Susan Jones, Chief Consumer Affairs Branch 703-324-5877 susan.jones@fairfaxcounty.gov
Denis Gulakowski (Vice-Chair) 6208 Falcon Landing Ct Burke VA 22015 <i>Appt. Expires 7/31/2021</i>	703-503-3225 hawkeye15@earthlink.net	Main number: 703-222-8435 Fax number: 703-653-1310 consumer@fairfaxcounty.gov
Dirck A. Hargraves 7659 Shuttington Drive Alexandria, VA 2231 <i>Appt. Expires 7/31/2023</i>	703-924-0625 (home) 202-374-3355 (cell) mrhargraves@yahoo.com	
Scott Hine 11410 Octagon Court Fairfax, VA 22030 <i>Appt. Expires 7/31/2021</i>	703-278-1793 (home) 703-727-2468 (cell) hskat@cox.net	
Umair Javed 2738 Shawn Leigh Drive Vienna, VA 22181 <i>Appt. Expires 7/31/2021</i>	202-418-2409 (office) 703-801-0419 (cell) uj8m17@gmail.com	
Dennis D. Kirk 6315 Anneliese Drive Falls Church, VA 22044 <i>Appt. Expires 7/31/2022</i>	703-609-3006 (cell) 703-536-2286 (home) 703-536-2286(fax) KIRKLAWFAC@gmail.com	

Name & Address**Contact
Information**

Jason J. Kratovil
9200 Forest Haven Drive
Alexandria, VA 22039
Appt. Expires: 7/31/2021

703-919-5324
jjkdc1@yahoo.com

Michael J. Roark
7352 Ardglass Drive
Lorton, VA 22079
Appt. Expires 7/31/2020

703-604-9187 (office)
703-981-0084 (cell)
Mjr_06@yahoo.com

Jacqueline Rosier (Secretary)
1117 Leigh Mill Road
Great Falls, VA 22066
Appt. Expires 7/31/2022

703-407-5311(cell)
akarosier@gmail.com

CAB Statistics



Consumer Affairs Branch
Monthly Summary - All Activities
March 2021

	Current Month		Fiscal Year-to-Date		Prior Fiscal YTD	
Cases Received	66		676		738	
Cases Closed	69		599		628	
Favorable	36	52%	335	56%	380	61%
Unfavorable	6	9%	48	8%	44	7%
Invalid	3	4%	23	4%	38	6%
Other	24	35%	193	32%	166	26%
Advice Inquires (closed)	431		3631		6916	
Case Inquires over 90+days (open)	20		169		270	
Amount Received	\$12,249.00		\$321,562.00		\$477,361.00	

CLOSED COMPLAINT CATEGORIES

FISCAL YEAR-TO-DATE	% FYTD	PRIOR FISCAL YTD	% PRIOR FYTD
Tenant Landlord	31%	Tenant Landlord	35%
Towing	7%	Housing - Service	9%
Retail Stores	6%	Automotive - Towing	8%
Cable Television (Regulated)	6%	Cable Television (Regulated)	8%
Housing- Service	4%	Retail Stores	9%
Other	46%	Other	31%

Community Outreach

OUTREACH EVENT CALENDAR

April 2021

DATE	EVENT	LOCATION	# of Guests	Event Time	Staff
4/1/2021	Setting Financial Goals	Financial Empowerment Center (virtual) 8350 Richmond Highway Alexandria, VA		11 a.m. -12:00 p.m.	VFJ
4/1/2021	Housing Fair	George Mason University (virtual) 4400 University Drive Fairfax, VA		11:00 a.m. - 4:00 p.m.	MP
4/8/2021	Building a Better Credit Report	Financial Empowerment Center (virtual) 8350 Richmond Highway Alexandria, VA		11 a.m. -12:00 p.m.	VFJ
4/14/2021	Financial Fitness	Fairfax County Government (virtual) 12000 Government Center Parkway Fairfax, VA		10:00 a.m. - 12:00 p.m.	VFJ
4/19/2021	Consumer Connection: Medical Billing	Fairfax County Government (Virtual) 12000 Government Center Parkway Fairfax, VA		10:00 a.m. - 10:20 a.m.	SCJ

OUTREACH EVENT CALENDAR
May 2021

DATE	EVENT	LOCATION	# of Guests	Event Time	Staff
5/17/2021	Consumer Connection	Fairfax County Government (virtual) 12000 Government Center Parkway Fairfax, VA		10:00 a.m. - 10:20 a.m.	SCJ
5/19/2021	How to Block Unwanted Calls	George Mason Regional Library (virtual) 7001 Little River Turnpike Annandale, VA		10:00 a.m. - 11:00 a.m.	MLT

Consumer Resources

Resource Items

Fairfax County Department of Cable and Consumer Services

<https://www.fairfaxcounty.gov/cableconsumer>

Fairfax County Consumer Affairs Branch

<https://www.fairfaxcounty.gov/cableconsumer/csd/consumer>

Fairfax County Consumer Affairs Facebook

<https://www.facebook.com/fairfaxcountyconsumer/>

Fairfax County Coronavirus (COVID-19) Updates

[Fairfaxcounty.gov/covid19/](https://www.fairfaxcounty.gov/covid19/)

Ways to Stay Informed About Coronavirus (COVID-19)

<https://fairfaxcountyemergency.wpcomstaging.com/>

Ways to Donate and Help During COVID-19

<https://fairfaxcountyemergency.wpcomstaging.com/2020/03/25/ways-to-donate-and-help-during-covid-19/>

What to Know About Tenant-Landlord Rights During COVID-19

<https://fairfaxcountyemergency.wpcomstaging.com/2020/11/17/what-to-know-about-tenant-landlord-rights-during-covid-19/>

DCCS Operating Status

<https://www.fairfaxcounty.gov/cableconsumer/status>,

Consumer Connection: Consumer Affairs 101 (March 4, 2021)

<https://fb.watch/39k5SxQ8Fy/>

Your Community, You're Connected: Consumer Disclosure During Resale (March 2, 2021)

<https://bit.ly/3sO7iIX>

Information Items

Column: AT&T's new arbitration clause isn't doing you any favors

The Founding Fathers believed your right to a jury trial is so important, they enshrined it in Article III of the Constitution. In 1791, "the right to a speedy and public trial" was reinforced by passage of the Sixth Amendment. [[More](#)]

The scammer called days after her husband's funeral

Some scam stories hurt more than others. In this one, Janet lost her husband of 52 years, and days later, got a call from someone who claimed she worked with her husband's former employer. There was a life insurance policy, the caller said, but there were unpaid premiums. [[More](#)]

The Dark Web Is Teeming With Vaccine Listings Right Now

Tired of waiting to get your vaccine appointment? For just \$500, you could get a COVID-19 vaccine dose tomorrow (overnight shipping not included). Too rich for your blood? How about a vaccination card for just \$150? [[More](#)]

Fairfax County Supervisors to Vote on zMOD

The record is open for written comments; pressure is on to get it right

The Fairfax County Board of Supervisors is scheduled to vote on March 23 at 4:30 p.m. on the new and modernized zoning ordinance (zMOD). A vote in favor would replace in its entirety the current 1978 zoning ordinance amended over 480 times. On March 9, the Board unanimously voted to defer the decision to its next full board meeting. No speakers will be heard on March 23, but the record remains open for written comments. [[More](#)]

Column: AT&T's new arbitration clause isn't doing you any favors

DAVID LAZARUS BUSINESS COLUMNIST
MARCH 19, 2021 5 AM PT

The Founding Fathers believed your right to a jury trial is so important, they enshrined it in Article III of the Constitution. In 1791, "the right to a speedy and public trial" was reinforced by passage of the Sixth Amendment.

These rights pertain to criminal trials rather than civil matters, but the framers' philosophical embrace of everyone's right to a day in court is clear.

Yet many large companies are determined to strip you of that right. If you want to do business with them, you have to agree that you can't sue either individually or as part of a class action.

Instead, you must agree to arbitrate any disputes — a private, nonjudicial system that critics say overwhelmingly favors companies over consumers.

"There are many harms for consumers from arbitration," Imre Szalai, a professor of social justice at Loyola University New Orleans, told me.

He called mandatory arbitration provisions in contracts "practically a license to steal" on the part of companies.

I bring this up because AT&T is currently notifying millions of wireless, phone and internet customers that it's doing them a favor by combining separate user contracts for each service into a single agreement.

"Your continued use of AT&T service tells us you accept and agree to be bound by the Consumer Service Agreement and its updated arbitration clause," the company says in its notification email.

Since few consumers actually read these voluminous documents, you may not fully understand what you're accepting and agreeing to. I can help.

But first, is arbitration a good thing, as AT&T and other companies insist?

Jim Kimberly, an AT&T spokesman, told me that "arbitration is a faster, less expensive, easier means of resolving disputes."

This is a mantra in the business world. A few years ago when JPMorgan Chase imposed an arbitration clause on millions of credit card holders, a spokeswoman told me that arbitration is "faster, less expensive and provides better outcomes for our customers."

For businesses, arbitration is indeed faster, cheaper and easier than dealing with complex, potentially costly lawsuits, particularly class actions involving numerous plaintiffs.

For consumers, don't be fooled.

A 2015 study by the Consumer Financial Protection Bureau found that "arbitration clauses restrict consumer relief in disputes with financial companies by limiting class actions that provide millions of dollars in redress each year."

The agency passed a rule preventing financial firms from blocking class actions, but the regulation was subsequently overturned by Republican lawmakers and President Trump.

Study after study has shown that arbitration clauses work against consumer interests. Along with bans on class actions, these provisions typically allow the company to pick an arbitrator — a decidedly unfair advantage.

Researchers at Stanford University and the University of Texas at Austin analyzed almost 9,000 arbitration cases. They found that companies routinely select arbitrators with track records of making industry-friendly decisions.

They also found that arbitrators know that the more they rule in favor of businesses, the greater the likelihood they'll be tapped for future cases — and future paychecks.

"A company will use the same arbitrator over and over and over again," said Remington Gregg, an attorney with the advocacy group Public Citizen. "Arbitrators know how their bread is buttered."

The U.S. Supreme Court has upheld arbitration clauses because, in theory, consumers are voluntarily consenting to waive their right to a jury trial.

However, many of these provisions are offered on a take-it-or-leave-it basis, meaning if you don't agree to the terms, you face a cutoff of service. This may not leave consumers with much choice when it comes to internet access, say, or cable TV service.

That's why consumer advocates prefer to call these clauses "forced arbitration," because there's actually little if any choice involved.

Moreover, many of these clauses are presented to consumers in such a way that it's difficult if not impossible to understand the full import of what you're consenting to.

A 2003 case involving AT&T alleged that the company deliberately made its arbitration clauses hard to understand. Since then, said Loyola's Szalai, the company has done a much better job of communicating its actions and providing customers with at least a degree of flexibility.

AT&T's latest arbitration clause reflects that. It's certainly more generous than many other such provisions I've looked at.

For any "non-frivolous claim" not exceeding \$75,000, AT&T will cover all arbitration costs. It will allow you to seek compensation for attorneys' fees if you prevail and, "under certain circumstances," will increase the size of any monetary award.

It allows the arbitration to take place in your home county — some such provisions require you to travel — and permits you to participate by phone or Zoom if desired. It even leaves open the possibility of pursuing individual cases for less than \$10,000 in small claims court.

These are good. But make no mistake: The heavy artillery of this and all other arbitration clauses is that you have to forgo a jury trial or participation in a class action.

It's that last stipulation that's everything.

"Suppose AT&T cheats a bunch of its customers out of \$30 each," said Jeff Sovern, a law professor at St. John's University. "Plenty of studies show that customers won't bother suing over such a small amount."

On the other hand, if hundreds or even thousands of aggrieved customers banded together in a class-action lawsuit, that would not only make litigation worthwhile but could potentially result in a huge financial penalty for the company.

Businesses that don't have to worry about class actions, Sovern said, "can be much freer about taking advantage of consumers."

Remember when Wells Fargo opened millions of accounts without people's permission from 2002 to 2015? The bank insisted that its arbitration clause prevented consumers from joining in a class action.

Public pressure forced Wells to back down and allow a class-action suit to proceed. The bank subsequently agreed to a \$110-million settlement.

That, in a nutshell, is why class actions are a crucial tool for holding companies accountable, and why forced arbitration is almost always not in consumers' best interest.

Which isn't to say arbitration should not be an option. If both the customer and the company want to take this road, they should have that choice.

And if arbitration is as great as AT&T and others say it is, many people will willingly choose to pursue this alternative.

But making arbitration the sole recourse, that's just putting a thumb on the scale so the odds are in the company's favor.

"Corporations use forced arbitration as a get-out-of-jail-free card to avoid legal accountability when they injure, rip off, discriminate against, defraud or cause some other harms to people," said Christine Hines, legislative director for the National Association of Consumer Advocates.

"Companies are betting on consumers being unwilling to individually arbitrate," said Myriam Gilles, a law professor at Yeshiva University.

For companies, she said, forced arbitration "reduces their liability costs by a significant sum" and allows them to indulge in untoward behavior "without real fear of legal repercussions."

So go ahead and agree to AT&T's new arbitration clause if you want (or if you have no choice).

But don't think the company is doing you any favors.

The scammer called days after her husband's funeral

March 12, 2021 Bob Sullivan

Some scam stories hurt more than others. In this one, Janet lost her husband of 52 years, and days later, got a call from someone who claimed she worked with her husband's former employer. There was a life insurance policy, the caller said, but there were unpaid premiums.

As anyone who's lost a loved one knows, the days after a death are filled with sad duties. Those left behind struggle to put one foot in front of the other, and often fill out paperwork as instructed. Janet, still reeling from her loss, did what the caller said. She knew a ton about Janet and her husband, probably because of an obituary in a local paper. Soon, Janet was on a white-knuckle drive in the rain, heading to a casino to withdraw large sums of cash, desperately searching for lost eyeglasses. It's a terrible story. But Janet's daughter is kind and empathetic, and her simple acts of love actually help Janet get some of her money back. I hope you'll listen to this week's episode, but more than that, I hope you'll be just as kind to people around you when someone close dies — and help them navigate a world full of sharks and charlatans.

[click here to visit The Perfect Scam website.](#)



THE PERFECT SCAM
A Cruel Con: Life Insurance Scams

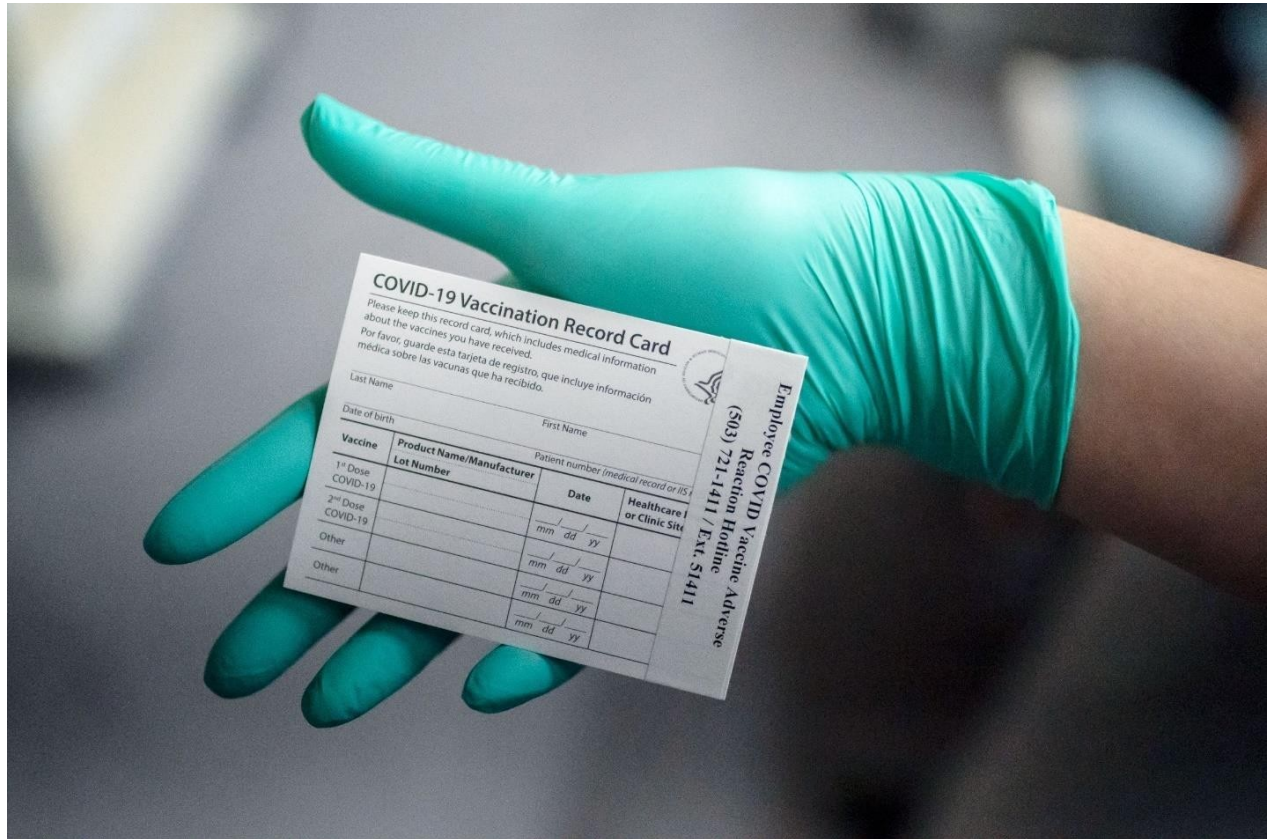
The Dark Web Is Teeming With Vaccine Listings Right Now

Vendors are cashing in on people desperate to leapfrog the line—or falsely certify that they got the shot.

SECURITY

Wired 03.25.2021 09:00 AM

TIM DE CHANT, ARS TECHNICA



PHOTOGRAPH: NATHAN HOWARD/GETTY IMAGES

TIRED OF WAITING to get your vaccine appointment? For just \$500, you could get a COVID-19 vaccine dose tomorrow (overnight shipping not included). Too rich for your blood? How about a vaccination card for just \$150?

Security researchers have seen a spike in listings on dark web marketplaces in recent weeks. The sites are advertising everything from vaccine doses to falsified vaccine certifications and negative test results. Currently, more than 1,200 listings are offering a variety of vaccines, including Pfizer, Moderna, Johnson & Johnson, AstraZeneca, Sputnik, and Sinopharm.

Investigations by researchers at security firm Check Point have been monitoring the sites for Covid-19-related activity since January, and they report a three-fold increase in such activity over the last three months. It's unclear if the doses are legitimate, and even if they were, there's no guarantee that the vials have been stored at the correct temperature, potentially rendering them useless.

Last week, Check Point researchers based in Israel attempted to buy the Sinopharm vaccine from one vendor, said Ekram Ahmed, a spokesperson for the company. "We tried to negotiate and buy the Chinese vaccine through one of the vendors," he told Ars. The team messaged the vendor, who directed them to continue the negotiations on Telegram. Once there, the vendor provided reassurances that the vaccine doses were legitimate. The researchers sent \$500 to a Bitcoin wallet, and while they have received a FedEx shipping label, they have yet to receive the shipment.

Dark web vendors are probably doing better business selling falsified vaccine cards and negative test results. "Lately, we're seeing more vaccination certificates being offered" than vaccines, Ahmed said. "It's probably a two-to-one ratio."

With COVID-19 testing becoming more widespread, the price for negative test results is as low as \$25. Vaccination cards are harder to come by and are selling for more, around \$200. These certificates are becoming passports of sorts, allowing people a freedom of movement they haven't enjoyed in months. The European Union is in the process of creating a "digital green certificate" that they hope to roll out by June to allow its citizens and residents to travel across borders. In the US, proof of vaccination could grant people access to certain venues, and employers may require it of their employees to return to the workplace.

The researchers have alerted Europol to the listing and are contacting others today.

Ahmed, the Check Point spokesperson, said that the sellers they contacted on dark web marketplaces were hoping to set up long-term relationships with their customers. The target market, he said, "are folks on the ground, people who are looking to spread and sell at the local level in bulk."

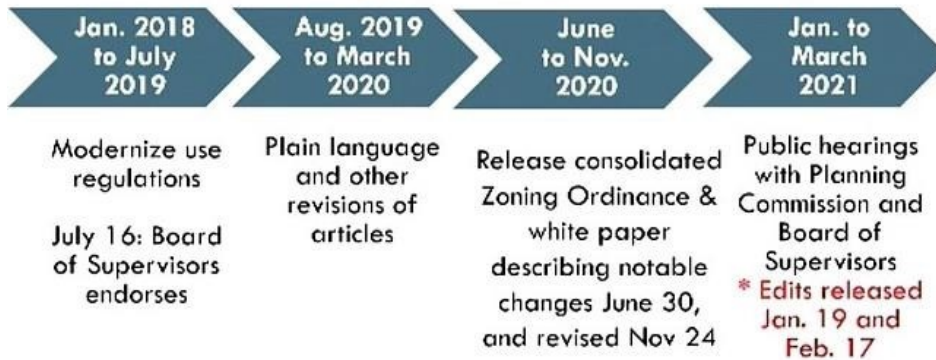
This story originally appeared on [Ars Technica](#).

Fairfax County Supervisors to Vote on zMOD

The record is open for written comments; pressure is on to get it right

By Mercia Hobson Sunday, March 21, 2021

How did we get here?



zMOD Timeline. Screenshot

The Fairfax County Board of Supervisors is scheduled to vote on March 23 at 4:30 p.m. on the new and modernized zoning ordinance (zMOD). A vote in favor would replace in its entirety the current 1978 zoning ordinance amended over 480 times. On March 9, the Board unanimously voted to defer the decision to its next full board meeting. No speakers will be heard on March 23, but the record remains open for written comments.

The Zoning Ordinance is an important document. At the Planning Commission Roundtable: zMOD, available online, Peter Murphy, Chairman of the Planning Commission, called the Zoning Ordinance: "One of the two probably important documents the Planning Commission and the Board use to make judgments on land use applications ... This is the law. That's why it is so important." The second document, the Comprehensive Plan, is a guide, he said.

The process to bring the zMOD project to this step has been ongoing since 2018. The hope was to update the ordinance and make it an easily navigable document and more understandable. Staff focused on modernizing the permitted uses and regulation and removing gaps and inconsistencies.

"I have advocated for and strongly support simplifying and modernizing the zoning language to reduce regulations and complexities in the ordinances to make it easier for all residents to access online and understand County government information," said Mount Vernon Supervisor Dan Storck. "The proposed modernized zoning ordinances provide clear organization, use plain language and reduce the size by almost 40% or 400 pages."

At the March 9 Board of Supervisors Meeting, Carmen Bishop with the Department of Planning and Zoning, presented a detailed description of the zMOD project scope to modernize land uses and regulation and other revisions. Bishop kicked off her presentation saying that she heard

testimony that people were not aware of the zMOD process. However, staff included a variety of robust outreach methods with the project.

Staff released new draft ordinances in installments to allow for more focus on individual sections. Outreach included 100 public meetings, a zMOD website, videos, newsletters, social media, listservs, and five different workgroups.

The March 9 Board of Supervisors meeting ended with a five-hour-long public hearing with 71 individuals voicing opinions on zMOD. Residents did not state resistance to all the recommendations in the nearly 700-page proposed zoning ordinance. However, most expressed concern with some of zMOD's staff recommendations, advertised options, and for issues such as accessory dwelling units, home-based businesses, and flags and flag poles.

Time and again, people weighed in that staff went too far on recommendations, stepping outside of the stated goals for the first phase of zMOD.

Katherine Ward, Co-Chair of the Mount Vernon Council of Citizens' Associations, spoke on behalf of the organization with a membership of over 10,000 households. "Many of the staff-recommended changes simply did not sit well with us," Ward said. Giving so much authority to the zoning administrator "drastically impacts communities," Ward said. She mentioned Planning Commission Chairman Murphy's comment regarding home-based businesses and accessory dwelling units being approved at the zoning administrative level. This "just simply took the citizens out of the process," Ward said.

Mount Vernon Council of Citizens' Associations encouraged the Board to deny staff zMOD recommendations, and for the Board to support their recommended changes in the zMOD ordinance. "We believe that this will ensure Fairfax County remains a vibrant place for all of us to live and ensure that all our citizens have affordable, comfortable places to call home," Ward said.

Resident Eric Jones said the zMOD changes could exacerbate streets crowded with cars and homes built too near the edges of lot lines.

"This is going to be a very significant change and way of life for us as homeowners, renters, or otherwise in Fairfax County," Jones said. Staff at the code enforcement office is already overworked, he added.

The Board can review each item in **zMOD Advertised Options for Consideration**. For example, staff recommends that the size space for interior accessory dwelling units may be up to 800 square feet or 40% of the principle dwelling's gross floor area (whichever is less). Still, the Board can adopt any size of 500-1200SF and remain within the scope of Advertised Options.

The meeting ended with Chairman McKay letting supervisors know that they could submit more questions to staff.

Supervisor Pat Herrity (R-Springfield) said, "I don't think in my 13 years on the board, I've ever heard such opposition to proposed changes."

Supervisor Walter Alcorn (D-Hunter Mill) said, "I think we have a lot of work to do on this."

Storck said there are aspects of the proposal he does not endorse.

"I do not support some of the staff proposed changes, including restrictions on flags. I am still listening and looking for the right balance of flexibility and restrictions for home based businesses and for resident homeowners to provide affordable rental options to non-family members."

The Board voted 10 to 0 to defer the decision until March 23.