

**DRAFT PROPOSED AMENDMENT**  
**April 4, 2006**

*This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of May 1, 2006 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.*

*The proposed amendment contains two enumerations. **ENUMERATION 1** contains revisions to the existing Zoning Ordinance as of May 1, 2006. **ENUMERATION 2** contains revisions to the Zoning Ordinance should the Modification of Certain Fence and Yard Requirements in Conjunction with Other Development Applications and Accessory Structure Height Measurement Zoning Ordinance Amendment (also known as the "Process Amendment") be adopted prior to the adoption of this proposed amendment.*

**Amend Article 2, General Regulations, as follows:**

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| <i><b>ENUMERATION 1 for Sect. 2-412</b></i> |
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- **Amend Part 4, Qualifying Lot and Yard Regulations, Sect. 2-412, Permitted Extensions Into Minimum Required Yards, by revising Par. 5, as follows:**
  5. The BZA may approve a special permit to modify the provisions of this Section, but only in accordance with the provisions of Sect. ~~8-916~~ 8-921.

**OR**

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| <i><b>ENUMERATION 2 for Sect. 2-412 [changes in italics]</b></i> |
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- **Amend Part 4, Qualifying Lot and Yard Regulations, Sect. 2-412, Permitted Extensions Into Minimum Required Yards, by revising Par. 5 as follows:**
  5. The BZA may approve a special permit to modify the provisions of this Section, but only in accordance with the provisions of Sect. ~~8-916~~ 8-922.

**Amend Article 8, Special Permits, as follows:**

- **Amend Part 0, General Provisions, Sect. 8-011, Submission Requirements, by revising the lead-in paragraph to read as follows:**

All applications for special permit uses, except for temporary special permits, shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots, Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location, ~~and~~ Reduction of Certain Yard Requirements, Modification to the Limitations on the Keeping of Animals. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below, if it is determined that the requirement is clearly not necessary for the review of the application.

- **Amend Part 9, Group 9 Uses Requiring Special Regulation, as follows:**

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| <i>ENUMERATION 1 for Sect. 8-901</i> |
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- **Amend Sect. 8-901, Group 9 Special Permit Uses, by deleting Par. 15 and adding a new Par. 20 to read as follows:**
  - 15. Modification to the regulations on permitted extensions into minimum required yards.
  - 20. Reduction of certain yard requirements.

**OR**

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| <i>ENUMERATION 2 for Sect. 8-901 [change in italics]</i> |
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- **Amend Sect. 8-901, Group 9 Special Permit Uses, by deleting Par. 15 and adding a new Par. 21 to read as follows:**
  - 15. Modification to the regulations on permitted extensions into minimum required yards.
  - 21. Reduction of certain yard requirements.
- **Delete Sect. 8-916 in its entirety.**

**~~8-916 Provisions for Modifications to the Regulations on Permitted Extensions into Minimum Required Yards~~**

~~The BZA may approve a special permit to allow a modification to the regulations on permitted extensions into minimum required yards, as set forth in Sect. 2-412, but only in accordance with the following:~~

1. ~~Such a modification may be approved if the BZA determines, based on topography of the lot and the size and bulk of the proposed extension, that the resultant development will not adversely impact the adjacent properties.~~
2. ~~The BZA may impose such conditions as it may deem necessary, to include landscaping and screening, to ensure that the extension will be compatible with the adjacent area.~~
3. ~~The BZA shall not approve a special permit for a modification that will result in an extension that exceeds the applicable distances specified in Sect. 2-412 by more than fifty (50) percent. In addition, where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that will result in a structure that extends into a minimum required yard by more than fifty (50) percent of the required yard.~~

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| <b><i>ENUMERATION 1 for Sect. 8-921</i></b> |
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- **Add a new Sect. 8-921, Provisions for Reduction of Certain Yard Requirements, to read as follows:**

**8-921 Provisions for Reduction of Certain Yard Requirements**

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
  - A. Minimum required yards, as specified in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
  - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
  - C. Accessory structure location requirements set forth in Sect. 10-104.
  - D. Extensions into a minimum required yard that exceeds the applicable distances set forth in Sect. 2-412 by up to fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results

in a structure that extends into a minimum required yard by more than fifty (50) percent.

In no event shall a reduction of yard requirements specified in Paragraphs A, B and C above result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure, including all extensions listed in Sect. 2-412.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. For an addition to a principal structure, the resulting gross floor area of the addition may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the yard reduction request. In cases where a reduction of yards is being sought for a principal structure that is to be partially removed, the removal shall not be greater than 50 percent of the gross floor area of the existing principal structure to be partially removed.
5. For an addition to an existing accessory structure or a new accessory structure, the resulting gross floor area of the accessory structure shall be such that it is clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, erosion and storm water runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed

structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.

10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.
11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
  - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).

- H. If applicable, the location of a well and/or septic field.
- I. Existing and proposed gross floor area and FAR.
- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. The location, type and height of any existing and proposed landscaping and screening.
- L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
- M. Seal and signature of professional person certifying the plat.
- 12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.

***ENUMERATION 2 - Same as Enumeration 1 for Sect. 8-921 except that a new Sect. 8-922 would be added in lieu of Sect. 8-921***

**Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, as follows:**

**- Amend Sect. 10-103, Use Limitations, by revising Par. 4 to read as follows:**

***ENUMERATION 1 Sect. 10-103***

- 4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect. 10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure.

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| <b>ENUMERATION 2 for Sect. 10-103</b> |
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4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect. 10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of ~~grade~~ finished ground level adjacent to the structure.

**Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by amending the Group 9 entry in Par. 1 and revising Par. 2 to read as follows:**

**18-106 Application and Zoning Compliance Letter Fees**

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

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| <b>ENUMERATION 1 for Par. 1 Only</b> |
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| 1. Application for a variance, appeal, special permit or special exception: |                |
| Group 9 special permit  |                |
| Open air produce stand  | \$ 585         |
| Accessory dwelling unit   | \$ 140         |
| Modification to minimum yard requirements for R-C lots                      | \$ 60          |
| Modification to the limitations on the keeping of animals;                  | \$ 295         |
| error in building location; <del>modification to permitted</del>            |                |
| <del>extension regulations</del> <u>reduction of certain yard</u>           |                |
| <u>requirements on a single residential lot</u> ; noise barriers            |                |
| on a single residential lot   |                |
| <u>Reduction of certain yard requirements on all other uses</u>             | <u>\$ 2645</u> |
| All other uses  | \$ 5295        |

**OR**

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| <b><i>ENUMERATION 2 for Par. 1 Only [change in italics]</i></b> |
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1. Application for a variance, appeal, special permit or special exception:  
Group 9 special permit

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|---|----------------|
| Open air produce stand  | \$ 585         |
| Accessory dwelling unit   | \$ 140         |
| Modification to minimum yard requirements for R-C lots  | \$ 60          |
| Modification to the limitations on the keeping of animals;<br>error in building location; <del>modification to permitted<br/>extension regulations</del> reduction of certain yard<br>requirements on a single residential lot; <i>modification of<br/>minimum yard requirements for certain existing<br/>structures and uses</i> ; noise barriers on a single<br>residential lot | \$ 295         |
| <u>Reduction of certain yard requirements on all other uses</u>   | <u>\$ 2645</u> |
| All other uses  | \$ 5295        |

2. Application for an amendment to the Zoning Map:

**District Requested**

**Filing Fee**

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| All R Districts   | \$8820 plus \$185 per acre  |
| All C, I and Overlay Districts  | \$8820 plus \$295 per acre  |
| PRC District  | \$8820 plus \$295 per acre  |
| PDH, PDC and PRM District   |   |
| Application with conceptual development   | \$8820 plus \$295 per acre  |
| Application with concurrent filing of<br>conceptual and final development plans | \$8820 plus \$435 per acre  |
| Final development plan  | \$4410 plus \$140 per acre  |
| Amendment to a pending application for<br>an amendment to the Zoning Map        | \$1470 plus applicable per<br>acre fee for acreage<br>affected by the amendment |

Amendment to a pending application for a final development plan or development plan amendment \$1335

Amendment to a previously approved proffered condition, final development plan, conceptual development plan or concurrent conceptual/final development plan for a reduction of certain yard requirements on individual single family dwelling lots \$295

All other amendments to a previously approved development plan, proffered condition, conceptual development plan, final development plan or concurrent conceptual/final development plan,

With new construction \$4410 plus applicable per acre fee for acreage affected by the amendment

~~Amendment to a previously approved development plan, proffered condition, conceptual development plan or concurrent conceptual/final development plan,~~

With no new construction \$4410

~~Amendment to a previously approved final development plan with new construction~~ \$4410 plus applicable per acre fee for acreage affected by the amendment

~~Amendment to a previously approved final development plan with no new construction~~ \$4410

**Note:** For purpose of computing acreage fees, any portion of an acre shall be counted as an acre.

The fee for an amendment to a pending application is only applicable when the amendment request results in a change in land area, change in use or other substantial revision.

**Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the definition of Grade to read as follows:**

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| <i>ENUMERATION 1</i> |
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GRADE: A reference plane representing the average of finished ground level adjoining a building at all exterior walls. For the purposes of this Ordinance, the determination of grade associated with the height of an accessory structure shall be deemed the lowest point of finished ground level adjacent to the structure.

***ENUMERATION 2***

GRADE: A reference plane representing the average of finished ground level adjoining a building at all exterior walls. For the purposes of this Ordinance, the determination of grade associated with the height of an accessory structure shall be deemed the lowest point of ~~grade~~ finished ground level adjacent to the structure.

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