



**FAIRFAX
COUNTY**

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

**Articles 2, 3, 6, 8, 10, 18 and 20 of the Zoning Ordinance Regarding
COMMUNITY GARDENS, FARMERS MARKETS, GARDENING AS AN ACCESSORY
USE AND RELATED CHANGES**

PUBLIC HEARING DATES

Planning Commission

April 24, 2019 at 7:30 p.m.

Board of Supervisors

June 25, 2019 at 4:00 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

March 19, 2019

JEJ



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The 2018 Zoning Ordinance Amendment Work Program (ZOAWP), adopted by the Board of Supervisors on July 10, 2018, listed Agricultural Districts and Uses as a Priority 1 item, divided into six separate categories and separated into two tiers.

The First Tier items consisted of:

- Community Gardens/Urban Agriculture;
- Sales/distribution of Garden/Farm Products (including wayside stands, farm markets, open air produce stands, farmers markets); and
- Residential Gardening as an Accessory Use.

The Second Tier items consisted of:

- Agritourism Uses;
- Industrial, Commercial and Container Agriculture; and
- Industrial Composting.

These items were added to the ZOAWP in response to the growing trends in both Virginia and nationally for a greater connection to our food and, in turn, small-scale, local food production. The proposed amendment addresses the three sub-topics in the Agricultural Districts and Uses topic set forth in the 2018 Priority 1, First Tier ZOAWP. The second tier item regarding industrial, commercial and container agriculture was partially addressed in the recently adopted small-scale production establishment amendment.

Background

Over the last few decades, people have shown more interest in the origin of their food and, consequently, the demand for locally grown, sustainably produced food has grown rapidly. Schools have installed vegetable and fruit gardens on-site and have created curriculums for tending the garden and healthy eating. Community gardens are being established in both urban and suburban areas and have extensive wait lists for a garden plot as demand grows. Balcony gardening can be seen in high density residential areas and more and more local residents have turned to in-home food production for sale at farmers markets to supplement their incomes. Community Supported Agriculture (CSA) is a model that many farms have adopted and is so popular that obtaining a share is, in some cases, a competitive process.

With the move toward environmental consciousness, many municipalities have adopted green building standards including green roofs, which have also evolved into rooftop vegetable and fruit gardens. Some of these rooftop gardens are commercial enterprises, providing produce to local restaurants and CSAs; however, some serve traditional community garden purposes. Throughout the nation, gardening is being done on land that was never envisioned for gardens, including the space between the sidewalk and the street, front yards, empty lots, and on the walls of existing structures (vertical gardening). Workshops on how to plant an edible landscape and professional firms that design such landscapes are becoming more numerous in communities. Trend lines reflect that people want to know what's in their food, where it was grown, and how it was grown. Some small-scale traditional farms today provide increasingly popular educational

components, hosting school and scout group field trips and offering canning and other farm-related classes.

In addition, farmers markets have evolved over time to sell many different types of food items beyond just produce, fiber, and plants. Farmers markets now serve as community gathering places that offer locally grown produce, eggs, dairy, meats, baked goods, and value-added products, such as jams, jellies, salsas, and pickles. Mobile markets that bring fresh, local food products to office, high density residential complexes and commercial areas have also become more prevalent and are a key mechanism for bringing fresh fruits, vegetables and other healthy foods to areas with limited access. This amendment provides a balanced approach to providing easier access to fresh, healthy food to residents in all areas of the County while ensuring that the uses of community gardens, farmers markets and residential gardening are established to be good neighbors.

Stakeholder Outreach

Staff presented the concepts of this amendment to the Board's Development Process Committee (DPC) on March 13, 2018 and presented draft text to the DPC on January 29, 2019. Staff has engaged in significant outreach for this amendment since mid-2017 to citizens in a myriad of interest areas. Neighborhood and Community Services invited the Department of Planning and Zoning to participate in four school resource fairs in different parts of the County in August, 2018. Zoning Administration Division staff created an informational flyer and staffed a booth at these fairs, answering questions and handing out information about the amendment to thousands of parents and school children. Staff also operated a booth at two farmers markets during National Farmers Market Week in August, 2018 and spoke with farmers and customers at the farmers markets throughout the year. In addition, the Zoning Administration Division staff held Zoning Open Houses on three dates throughout the County where this amendment was presented along with other pending amendments. Coordination with the Fairfax Food Council, Healthy Environment and Active Living Team, Partnership for a Healthier Fairfax Community Health Improvement Plan (CHIP 2.0) program, Fairfax County Park Authority Community Gardens and Farmers Markets Coordinators, Northern Virginia Soil and Water Conservation District (NVSWCD), and Land Development Services (LDS) was carried out throughout 2018 and into early 2019 to ensure that the policies proposed in this amendment were realistic and implementable. This amendment was also presented to the zMOD Citizens Group, the Agricultural and Forestal District Advisory Board, and other citizen groups where constructive feedback was given. Staff has also scheduled meetings with several citizens groups in McLean and Mason Districts.

Analysis of Other Jurisdictions' Regulations

As Fairfax County has developed, the trends have shown less emphasis on large farm production and more emphasis on smaller types of food production, such as community gardens, urban agriculture and small-scale farms. Other jurisdictions in the area have also experienced the trends that Fairfax County is seeing and have enacted policies and ordinances in response. Arlington County has amended its Zoning Ordinance to permit open air markets in every zoning district, with certain limitations. Arlington has also included community gardens in its agriculture definition, permitting the use of agriculture in almost every zoning district by right and Loudoun County permits community gardens as principal uses in areas designated for open space.

No locality in the Commonwealth, Washington D.C., or Montgomery County, MD, regulates the time of year that farmers markets may operate. However, most jurisdictions require a special permit or special exception for location of a farmers market unless it is located on the farm property or on a property which permits retail sales. Many jurisdictions rely on market managers to regulate the goods sold and the vendors permitted. A jurisdictional comparison of farmers market regulations is included as an attachment to the Staff Report.

Numerous nonprofits throughout the Commonwealth are working to connect residents with local food providers, such as small farmers, community gardens, farmers markets, mobile markets, and culinary entrepreneurs. The common goal is to foster resilient food systems that will help alleviate food insecurity. Amending the Zoning Ordinance to better reflect the trends as described above is a necessary step in providing a resilient food system in Fairfax County.

Current Zoning Ordinance Provisions

The existing regulations for farmers markets restrict the types of products that can be sold as well as the periods during the year that the markets can operate. It is important to note that all special permit uses, including temporary special permit uses, are subject to the general standards located in Sect. 8-006, as well as any additional standards specified for a particular use. Current regulations for the uses addressed in this amendment can be found below:

<i>Use</i>	<i>Permitted By Right</i>	<i>Conditionally Permitted*</i>	<i>Zoning Ordinance Section</i>	<i>Current Standards</i>
<i>Farmers markets</i>	By Temporary Special Permit (TSP) only	All districts except R-A, R-P and I-I	Sect. 8-810	<ul style="list-style-type: none"> • April through November, daylight hours • Adequate off street parking and safe ingress and egress • Frontage on or safe and convenient access to a principal or minor arterial street • No storage of vehicles, canopies, display items or produce when market is not in operation • No structures allowed • Seasonal or perishable produce, including flowers and plants • (1) sign per Sect. 12-103
<i>Gardening as an accessory use</i>	All		Sect. 10-102	Not permitted in the minimum required front yard on any lot or in the front yard of any lot less than 36,000 sf
<i>Open air produce</i>	C-5, C-6, C-7, C-8	R-A, R-P, R-C, R-E,	Sect. 8-909	<ul style="list-style-type: none"> • 2-acre minimum for lot area

<i>Use</i>	<i>Permitted By Right</i>	<i>Conditionally Permitted*</i>	<i>Zoning Ordinance Section</i>	<i>Current Standards</i>
<i>stands</i>	All districts where retail sales are permitted	R-1, R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, R-30, R-MHP, PDH, PRC, I-I, I-1, I-2, I-3, I-4, I-5, I-6		<ul style="list-style-type: none"> • Seasonal or perishable produce, including flowers and plants • Must be located in CBC • Adequate off street parking and safe ingress and egress • Comply with bulk regulations of zoning district • April through November, daylight hours • (1) sign per Sect. 12-103

**conditionally permitted by Special Permit (SP), Special Exception (SE) or with other use standards*

The term Community Garden is not specifically defined in the Zoning Ordinance. Gardening and composting is currently permitted as an accessory use in any zoning district provided it meets the definition of an accessory use (serves a principal use and is customarily found in association with a principal use). This has typically been applied to single family residential uses. Community gardens are identified as an accessory use in the PRC District as a “garden plot(s) which are not connected with, incidental to, or on the same lot as a principal use, when the garden plot is not in association with the principal use.” By way of interpretation, community gardens could be considered accessory to uses such as places of worship, schools and parks when the gardening is specifically related to the principal use on the lot. Community gardens have also been considered accessory uses within existing residential subdivisions when provided as a community amenity, similar to swimming pools/tennis courts or other provided recreational uses or open space.

Proposed Zoning Ordinance Amendments

Although the ZOAWP lists wayside stands and farm markets as items to be considered in the First Tier subtopic for Sales/distribution of Garden/Farm Products, those specific uses are not included in this analysis nor in the proposed changes. In March 2018, staff proposed to the Board of Supervisors’ Development Process Committee changes to the existing wayside stand provisions by expanding the districts in which the use would be permitted, however feedback from the Committee Members indicated that no changes to the current regulations were warranted. Additionally, staff has determined that farm markets, not to be confused with farmers markets, are more closely related to agritourism, and therefore will be included in the upcoming amendment pertaining to that subtopic.

Community Gardens

Staff proposes to create a new community garden use and identify use standards that would mitigate any potential impacts on surrounding properties. The definition of a community garden specifically precludes the use from being considered agriculture, as it is not intended for community gardens to be exempt from building code or other state requirements. The definition also permits community gardens to be located both on the ground and on building rooftops,

lending flexibility to the growing methods and in order to promote green building. Community gardens are not to be permitted on lots containing single family dwellings; however, the location of personal gardening for single family residential properties is expanded in this amendment to provide for further flexibility for the cultivation of herbs, fruits, flowers, vegetables, or ornamental plants that do not meet the definition of landscaping.

The proposed amendment revises the definition of open space to permit community gardens in common open space by right when located on a lot with a principal use. Currently, only the PRC district permits garden plots (to be renamed to community gardens with this amendment) in common open space. Therefore, by expanding the definition of open space to include community gardens, homeowners or condominium associations will be able to establish community gardens subject to the proposed use standards, but without additional regulations, provided that proffers or other development conditions do not specifically preclude the use. Similarly, the proposed amendment permits non-residential developments, such as places of worship, office, and other commercial and industrial developments, schools, et cetera to establish community gardens by right as accessory uses in open space, subject to the proposed use standards.

When a community garden is proposed as a principal use on land not designated as open space, then it could be permitted administratively with a Temporary Special Permit (TSP) provided that the garden area will occupy not more than two acres. Standards pertaining to parking, adequate ingress/egress, bulk and location regulations, noise, hours of operation, signage and maintenance are addressed by the proposed amendment. A standard of 250 square feet, cumulatively, for accessory structures, such as sheds and message boards/kiosks, is also proposed and is advertised with a range of up to 750 feet for the Board's discretion.

An analysis of the Fairfax County sponsored community gardens on parkland shows that the majority of the existing gardens occupy less than two acres. However, a proposed community garden that will occupy between two and less than five acres, could be permitted by special permit with approval by the Board of Zoning Appeals. This process ensures that a larger garden, which could have larger visual, transportation and noise impacts would have the appropriate community review. An application fee of \$435 for review by the BZA is proposed, which is commensurate with the lower application fees for items such as home child care facilities, accessory dwelling units, modification to the limitation on the keeping of animals and an increase in fence or wall height in the front yard. A range between \$0 and \$910 has been advertised for the BZA application fee for the Board's consideration.

In consultation with staff from both Land Development Services (LDS) and the Northern Virginia Soil and Water Conservation District (NVSWCD), staff also recommends that a conservation plan be developed for each community garden with more than 5,000 square feet of disturbed area to ensure proper environmental controls and that no erosive condition is created. Staff believes that a two-year permit would be appropriate to establish and maintain the garden while providing a sufficient timeframe for periodic review. There is no fee for obtaining such conservation plan and staff from both agencies have committed to developing educational materials to help guide residents through the process and to establish guidelines for best practices. Temporary special permits are currently subject to a yearly fee of \$205, therefore staff believes that a two year permit with an initial fee of \$205 and a bi-annual renewal fee of \$50 is

reasonable, however staff has advertised a range of fees and permit validity to accommodate Board consideration of alternatives to this recommendation. Any expansion of an existing community garden, as determined by the Zoning Administrator, would also require a full review, at the \$205 fee, and the issuance of a new temporary special permit.

Farmers Markets

The Zoning Ordinance currently regulates farmers markets as a temporary special permit use administratively approved by the Zoning Administrator with significant restrictions. Farmers markets are currently permitted to sell only seasonal or perishable produce, including flowers and plants, during the months of April through November. Farmers markets are also limited to locating on a lot having frontage on a principal or minor arterial street. These markets have evolved over time to sell many different types of food items beyond just produce, as well as fiber and value-added foods (such as cheese, jams, salsa and relishes). Mobile markets that bring fresh, local food products to offices, high-density residential complexes and commercial areas have also become more prevalent and do not meet the standards of the current temporary special permit.

Staff proposes to modify Sect. 8-810 of the Zoning Ordinance regarding farmers markets to permit them for a two-year period with year-round operation in applicable zoning districts. Staff proposes to eliminate the “temporary” designation in the name of the use and the regulations that require location on an arterial road. An analysis of County-sponsored farmers markets has found that half of the existing markets do not meet the locational requirements of the current standards, with no associated land use impacts that staff is aware of, therefore justifying removal of the requirement. The proposed amendment will also add a definition of “farmers market” that limits the items for sale to farm products or value-added farm products. Value-added farm products can include items made from farm products, such as pickles, salsa, baked goods, lotions, candles and hemp products. A mobile market would be considered a farmers market and would be required to obtain a temporary special permit for every location. As with community gardens, a farmers market TSP would be valid for a period of two years, at a cost of \$205 with a bi-annual renewal fee of \$50, however staff has advertised a range of fees and permit validity to accommodate Board consideration of alternatives to this recommendation. Any expansion of an existing farmers market would also require a full review, at the \$205 fee, and the issuance of a new temporary special permit.

Open Air Produce Stands

Staff has performed a review of the special permits issued over the last twenty years and has determined that only one special permit has been issued, but is no longer valid, for an open air produce stand. Per Sect. 8-909, these uses are only permitted in a Community Business Center (CBC), as designated in the Comprehensive Plan. The sale of produce and seasonal items has been accommodated in CBCs and other areas as retail sales approved by site plan or as seasonal sales approved with a temporary special permit for a period of 21 days. Therefore, the use is obsolete, and staff proposes to remove all references to the use from the Zoning Ordinance.

Gardening as an Accessory Use

Gardens, for the cultivation of herbs, fruits, flowers, vegetables or ornamental plants, are an accessory use that is permitted on single family residential lots and elsewhere when deemed

accessory to the principal use. On lots less than 36,000 square feet, gardens (not to be confused with landscaping) are allowed only in the side and rear yards. However, some residential lots have sufficient sun and growing space in the front yard only, yet gardening is not currently permitted in that area on lots of less than 36,000 square feet. Staff proposes to permit gardening in the front yard no closer than 15 feet to the front lot line and limited to no more than 100 square feet in area. Composting would not be permitted in the front yard of a lot less than 36,000 feet, nor in the minimum required front yard of a larger lot. Staff recommends these specific regulations in terms of size and setback, but has advertised a range of unlimited area for the standards to allow for discretion in the adoption of the regulations.

Implementation of Proposed Changes

Staff is developing an implementation plan for the new and revised temporary special permit process for community gardens and farmers markets. While not part of the Zoning Ordinance text, a revised permit application form and temporary special permit will be developed in conjunction with this amendment. As discussed above, staff from LDS and NVSWCD is developing educational guidance for community gardens to ensure that no erosive state is created and to guide applicants through the conservation plan process. Staff has also worked closely with the Fairfax Food Council throughout the research phase of this amendment and will continue to help provide regulatory expertise to the Urban Agriculture Working Group and Food Access Working Group and other outreach opportunities that are requested. The proposed regulations are intended to achieve a balance between providing greater access to fresh food in Fairfax County while maintaining the overall character of neighborhoods. As such, staff recommends approval of the proposed amendments with an effective date of 12:01 a.m. on the day following adoption.

Conclusion

Staff believes that this amendment provides a balanced approach to providing easier access to fresh, healthy food to residents in all areas of the County while ensuring that the uses of community gardens, farmers markets, and residential gardening are established to be good neighbors. Staff recommends adoption of the proposed Zoning Ordinance amendments, with an effective date of 12:01 AM the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of March 19, 2019, 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.

1 **Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3,**
 2 **Definitions, by adding new definitions for COMMUNITY GARDENS and**
 3 **FARMERS MARKETS and revising the current definition of OPEN SPACE to read**
 4 **as follows:**

5
 6 COMMUNITY GARDEN: Land or rooftop area used for the cultivation of herbs, fruits,
 7 flowers, vegetables, or ornamental plants by more than one person, household, or a
 8 nonprofit organization for personal or group use, consumption, or donation and not for
 9 the bona fide production of crops, animals or fowl. Community gardens may be divided
 10 into separate plots for cultivation by one or more individuals or may be cultivated
 11 collectively by members of the group and may include common areas and accessory
 12 structures maintained and used by group members. A community garden does not
 13 include a private garden on a lot that contains a single family detached dwelling. Except
 14 when located as an accessory use on a lot that is principally used for agriculture,
 15 community gardens are not deemed to be an agricultural use.

16
 17 FARMERS MARKET: A regularly occurring market that sells farm products or value-
 18 added farm products directly to the general public.

19
 20 OPEN SPACE: That area within the boundaries of a lot that is intended to provide light and air,
 21 and is designed for either scenic or recreational purposes. Open space ~~shall~~ must, in general, be
 22 available for entry and use by the residents or occupants of the development, but may include a
 23 limited proportion of space so located and treated as to enhance the amenity of the development
 24 by providing landscaping features, screening for the benefit of the occupants or those in
 25 neighboring areas, or a general appearance of openness.

26
 27 Open space may include, but need not be limited to lawns, decorative planting,
 28 walkways, active and passive recreation areas, children's playgrounds, fountains, swimming
 29 pools, undisturbed natural areas, ~~agriculture,~~ community gardens, wooded areas, water bodies
 30 and those areas where landscaping and screening are required by the provisions of Article 13;
 31 provided, however, that the area required for interior parking lot landscaping ~~shall~~ must not
 32 comprise more than twenty-five (25) percent of the total required open space. Open space ~~shall~~
 33 does not include driveways, parking lots, or other vehicular surfaces, any area occupied by a
 34 building, nor areas so located or so small as to have no substantial value for the purposes stated

1 in this definition. Within a residential subdivision, open space ~~shall be~~ is composed of only those
 2 areas not contained in individually owned lots. For the purpose of this Ordinance, open space
 3 ~~shall include~~ and be qualified as LANDSCAPED OPEN SPACE, COMMON OPEN SPACE,
 4 DEDICATED OPEN SPACE, and USABLE OPEN SPACE, all as defined herein.

5
 6 **Amend Article 2, General Regulations, Part 7, Common Open Space and Common**
 7 **Improvement Regulations as follows:**

8
 9 - **Amend Sect. 2-702, General Requirements by revising the lead-in paragraph and**
 10 **Par. 5 as follows:**

11
 12 All lands and improvements set forth in Par. 1, 2, and 3 of Sect. 701 above ~~shall~~ must be
 13 established and maintained in accordance with the following requirements:

- 14
 15 5. No lands in common open space may be denuded, defaced or otherwise disturbed in any
 16 manner at any time without the approval of the Director. However, routine maintenance
 17 of common open space limited to the removal of dead, diseased, dying or hazardous trees
 18 or shrubbery; removal and replacement of dead landscaping and screening materials;
 19 installation of supplemental plantings or a community garden; removal of noxious
 20 vegetation such as poison ivy or greenbrier; lawn care and maintenance; or repair and
 21 replacement of picnic and play equipment; or similar routine maintenance will be
 22 permitted without approval of the Director; provided such maintenance is allowed under
 23 any applicable proffered conditions, applicable conditions of special permits or special
 24 exceptions or other applicable laws and ordinances and further provided that such
 25 common open space does not contain areas used to comply with Best Management
 26 Practices such as floodplains and conservation easements.

27
 28 **Amend Article 3, Residential Districts, as follows:**

29
 30 - **Amend Sect. 3-A03 Special Permit Uses, in the R-A District by amending Par. 3, Group**
 31 **8 – Temporary Uses to add a new Par. C and D, as follows:**

- 32
 33 3. Group 8, Temporary Uses, limited to:

34
 35 C. Community gardens

36
 37 D. Farmers markets

38
 39 - **Amend Sect. 3-P03 Special Permit Uses, in the R-P District by amending Par. 5, Group**
 40 **8 – Temporary Uses to add a new Par. G and H, as follows:**

- 41
 42 5. Group 8, Temporary Uses, limited to:

43
 44 G. Community gardens

45
 46 H. Farmers markets

- 1
2 - **Amend Sect. 3-C03, Special Permit Uses, in the R-C District by amending Par. 5, Group**
3 **8 – Temporary Uses to revise Par. F and add a new Par. H, as follows:**

4
5 5. Group 8, Temporary Uses, limited to:

6
7 F. ~~Temporary f~~Farmers² markets

8
9 H. Community gardens

- 10
11 - **Amend Sections 3-E03 and 3-103, Special Permit Uses, in the R-E and R-1 Districts by**
12 **amending Par. 7, Group 8 – Temporary Uses to revise Par. F and add a new Par. H, as**
13 **follows:**

14
15 7. Group 8, Temporary Uses, limited to:

16
17 F. ~~Temporary f~~Farmers² markets

18
19 H. Community gardens

- 20
21 - **Amend Sections 3-203, 3-303, 3-403, Special Permit Uses, in the R-2, R-3 and R-4**
22 **Districts by amending Par. 6, Group 8 – Temporary Uses to revise Par. F and add a**
23 **new Par. H, as follows:**

24
25 6. Group 8, Temporary Uses, limited to:

26
27 F. ~~Temporary f~~Farmers² markets

28
29 H. Community gardens

- 30
31 - **Amend Sections 3-503, 3-803, 3-1203, 3-1603, 3-2003, 3-3003, and 3-M03 Special Permit**
32 **Uses, in the R-5, R-8, R-12, R-16, R-20, R-30, R-MHP Districts by amending Par. 4,**
33 **Group 8 – Temporary Uses to revise Par. F and add a new Par. H, as follows:**

34
35 4. Group 8, Temporary Uses, limited to:

36
37 F. ~~Temporary f~~Farmers² markets

38
39 H. Community gardens

- 40
41 **Amend Article 6, Planned Development District Regulations, Part 3, PRC Planned**
42 **Residential Community District by revising Par. 1A of Sect. 6-302, as follows:**

43
44 **Sect. 6-302 Permitted Uses**
45

1 Subject to the use limitations set forth in Sect. 305 below and the exceptions permitted by
 2 Sections 303 and 304 below, the following and similar uses as may be approved shall be
 3 permitted only in those locations respectively designated Residential, Neighborhood
 4 Convenience Center, Village Center, Town Center and Convention/Conference Center on an
 5 approved development plan and PRC plan, if applicable, prepared in accordance with the
 6 provisions of Article 16.

7
 8 A. The following uses are permitted in those areas approved for Residential Uses:

- 9
 10 (1) Accessory uses, accessory service uses and home occupations as permitted by
 11 Article 10 to include ~~garden plots~~ community gardens which are not connected
 12 with, incidental to, or on the same lot with a principal use.

13
 14 **Amend Article 8, Special Permits, Part 8, Group 8 Temporary Uses as follows:**

- 15
 16 - **Amend Sect. 8-801, Group 8 Special Permit Uses to revise Par. 7 and add new Par. 10,
 17 as follows:**

18 7. ~~Temporary f~~Farmers' markets.

19
 20 10. Community gardens.

- 21
 22
 23 - **Amend Sect. 8-802, Districts in Which Group 8 Uses May be Located**

24
 25 Group 8 uses may be allowed by special permit in the following districts:

26
 27 R-A District: Limited to uses 1, 7, ~~8,~~ and 9 and 10

28 R-P District: Limited to uses 1, 2, 3, 5, 6, 7, ~~8,~~ and 9 and 10

29 All other R Districts: Limited to uses 1, 2, 3, 5, 6, 7, ~~8,~~ and 9 and 10

30
 31 All P Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, ~~8,~~ and 9 (when located in a residential
 32 portion of a P district), and 10

33
 34 All C Districts: Limited to uses 1, 2, 3, 4, 5, 6, ~~7,~~ and 8 and 10

35
 36 All I Districts except I-I: Limited to uses 1, 2, 3, 4, 5, 6, ~~7,~~ and 8 and 10

- 37
 38 - **Amend Sect. 8-810, Standards and Time Limits for Temporary Farmers' Markets, as
 39 follows:**

40
 41 **8-810 Standards and Time Limits for ~~Temporary~~ Farmers' Markets**

42
 43 ~~Temporary farmers markets shall be deemed temporary retail sales establishments and shall
 44 be allowed in all districts where retail sales establishments are permitted uses,
 45 notwithstanding the use limitations concerning outdoor storage and display of goods set forth
 46 in the district regulations. In all other districts, notwithstanding the provisions of Sect. 2-510~~

1 or the use limitations concerning retail sales set forth in the district regulations, temporary
 2 farmers markets may be permitted subject to the following conditions:– A farmers market
 3 may be permitted subject to the following conditions:

- 4
- 5 1. ~~Such temporary use may be permitted only during the months of April through~~
 6 ~~November.~~
- 7
- 8 2. ~~1. No temporary special permit shall be issued unless a~~Adequate provision is made for
 9 ~~off-street parking and safe ingress and egress to the adjacent street~~ must be provided.
- 10
- 11 3. ~~Such use shall be located on a lot having frontage on or safe and convenient access to a~~
 12 ~~principal or minor arterial street as set forth in Appendix 8.~~
- 13
- 14 4. ~~2. No storage of vehicles, canopies, display items or produce shall be~~ is permitted when
 15 ~~the market is not in operation. Additionally, no permanent structures shall be~~ are
 16 ~~allowed;~~ provided, however, that canopy tents, fabric canopies primarily attached to
 17 vehicles, temporary portable shelving, portable tables, bins, hanging racks and similar
 18 display items shall not be are not deemed structures.
- 19
- 20 5. ~~3. Sales shall be~~ are limited to seasonal or perishable produce, including flowers and
 21 ~~plants~~ agricultural products and items made from farm products, including vendor-
 22 produced food, beverage, and other value-added items.
- 23
- 24 6. ~~4. The hours of operation are limited to daylight hours.~~
- 25
- 26 7. ~~One (1) temporary sign may be permitted in accordance with the provisions of Sect. 12-~~
 27 ~~103~~
- 28
- 29 5. To establish a farmers market, an application must be filed with the Zoning Administrator
 30 on forms furnished by the County, accompanied by the required fees in accordance with
 31 Sect. 18-106. Permits are valid for a period of two years and may be renewed on a
 32 biennial basis with approval of the Zoning Administrator. Any subsequent expansion or
 33 change of permit holder or renewal of a farmers market permit may require submission of
 34 a new application as determined by the Zoning Administrator. (*Advertised to allow the*
 35 *Board to consider any fee of between \$0 and \$500 and a period of permit validity of up*
 36 *to five years*)
- 37
- 38 6. Farmers markets may also be permitted on County owned and controlled property,
 39 including the Park Authority or Fairfax County Public Schools, provided that such
 40 farmers markets have the property owner's permission and comply with all other
 41 applicable regulations.

- 42
- 43 - **Add a new Sect. 8-813, Standards and Time Limits for Community Gardens, as follows:**
- 44

45 **8-813 Standards and Time Limits for Community Gardens**

46

1 Community gardens may be permitted as either a principal use or an accessory use subject to
2 any associated proffers or development conditions and to the following:

- 3
4 1. A community garden may be permitted as a principal use in any district, subject to the
5 following:
6
7 A. The land area for the community garden cannot exceed two acres in size, except that a
8 community garden of more than two acres and less than five acres may be approved
9 by the BZA, in accordance with Sect. 8-009. An application for approval by the BZA
10 must be filed a minimum of ninety (90) days prior to the date on which the permit is
11 to take effect. (*Advertised to allow the Board to consider any permitted size of less*
12 *than five acres*)
13
14 B. The cumulative area of all structures associated with the community garden is limited
15 to 250 square feet, except as may be approved by the BZA in accordance with Par. 1.
16 All accessory structures must comply with the location regulations, as specified in
17 Sect. 10-104. (*Advertised to allow the Board to consider up to 750 square feet*)
18
19 C. A community garden may not be located closer than 15 feet to the front lot line and
20 25 feet from all other lot lines. (*Advertised to allow the Board to consider any*
21 *setback in any yard of up to 100 feet*)
22
23 D. Designated composting areas may not be located in the minimum required front yard,
24 must be screened from adjoining residential property with either a fence or other
25 adequate screening material, and must be maintained in a manner that protects
26 adjacent properties from nuisance odors, runoff and pests.
27
28 E. Adequate parking and safe ingress and egress to the adjacent street must be provided.
29
30 F. Only practices and equipment commonly used in residential gardening may be used.
31 No lighting is permitted and all activities are subject to compliance with the noise
32 standards set forth in Chapter 108.1 of The Code.
33
34 G. The hours of operation are limited from 7:00 A.M. to dusk. (*Advertised to allow the*
35 *Board to consider unlimited hours of operation*)
36
37 H. Community gardens and the area surrounding community gardens must be
38 maintained in good condition. In the event that the operation of the community
39 garden ceases, the land or area must be restored, and all structures associated with the
40 community garden must be removed from the property.
41
42 I. The operation of a community garden cannot create an erosive condition, as identified
43 in Chapter 104 of The Code. A Conservation Plan approved by the Northern Virginia
44 Soil and Water Conservation District is recommended for gardens of not more than
45 5,000 square feet in area and is required for gardens greater than 5,000 square feet in
46 area. All activity in and around the garden must adhere to the recommendations of the

1 Plan to preclude the development of erosive conditions. (*Advertised to allow the*
 2 *Board to make a Conservation Plan optional or mandatory for all community*
 3 *garden sizes)*

4
 5 J. To establish a community garden, an application must be filed with the Zoning
 6 Administrator on forms furnished by the County, accompanied by the required fees in
 7 accordance with Sect. 18-106. Permits are valid for a period of two years and may be
 8 renewed on a biennial basis with approval of the Zoning Administrator. Any
 9 subsequent expansion or change of permit holder may require submission of a new
 10 application as determined by the Zoning Administrator. (*Advertised to allow the*
 11 *Board to consider any fee of between \$0 and \$500 and a period of permit validity of*
 12 *up to five years)*

13
 14 2. Community gardens may be permitted as an accessory use, for the exclusive use and
 15 enjoyment of members of a homeowner association, condominium association, or non-
 16 residential development, without approval of a temporary special permit, provided the
 17 operation conforms to provisions A through I of Par. 1 above.

18
 19 3. Community gardens may also be permitted on County owned and controlled property,
 20 including the Park Authority or Fairfax County Public Schools, provided that such
 21 community gardens have the property owner's permission and comply with all other
 22 applicable regulations.

23
 24 **Amend Article 8, Special Permits, Part 9, Uses Requiring Special Regulation, as follows:**

25
 26 - **Amend Sect. 8-901, Group 9 Special Permit Uses to remove the Open-air produce**
 27 **stands use from Par. 8, as follows:**

28
 29 ~~8. Open-air produce stands.~~

30
 31 - **Amend Sect. 8-902, Districts in Which Group 9 Uses May be Located, to remove Use**
 32 **Number 8 from Paragraphs 1 and 2.**

33
 34 - **Amend Sect. 8-909, Additional Standards for Open-Air Produce Stands to delete the**
 35 **lead-in paragraph and provisions.**

36
 37 **Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1,**
 38 **Accessory Uses and Structures, of as follows:**

39
 40 - **Amend Par. 10 of Sect. 10-102, Permitted Accessory Uses, as follows:**

41
 42 **10-102 Permitted Accessory Uses**

43
 44 Accessory uses and structures may include, but are not limited to, the following uses and
 45 structures; any such use or structure must be in accordance with the definition of Accessory
 46 Use contained in Article 20.

1
2 10. Gardening primarily for the growth of herbs, fruits, vegetables, flowers and ornamental
3 plantings but not including landscaping as defined in Article 20, and composting.

4
5 - **Amend Par. 12 of Sect. 10-104, Location Regulations, as follows:**

6
7 **10-104 Location Regulations**

8
9 12. The following regulations shall apply to the location of all freestanding structures or uses
10 except those specifically set forth in other paragraphs of this Section:

11
12 C. No accessory structure or use, except a statue, basketball standard, ~~or~~ flagpole, or
13 gardening in an area of not more than 100 square feet shall may be located (a) in any
14 minimum required front yard on any lot or (b) in any front yard on any lot containing
15 36,000 square feet or less. When located in a front yard, basketball standards and
16 gardening shall may not be closer than fifteen (15) feet to a front lot line. Composting
17 is not permitted in any front yard. Additionally, basketball standards may not be
18 closer than ~~and~~ twelve (12) feet to a side lot line, and shall may not be used between
19 the hours of 8:00 PM and 8:00 AM. *(Advertised to allow the Board to consider all of*
20 *the following: unlimited area; no setback; and limited to only single family*
21 *detached dwellings)*

22
23 **Amend Article 18, Administration, Amendments, Violations and Penalties, by amending**
24 **Part 1, Administration, Sect. 106, Application and Zoning Compliance Letter Fees, to**
25 **modify the Group 8 special permit fees in Par. 1 to add farmers markets and community**
26 **gardens and modify the Group 9 special permit fees to remove Open air produce stand, as**
27 **follows:**

28
29 1. Application for a variance, appeal, special permit or special exception:

30
31 Group 8 special permit

- 32
- 33 • Temporary portable storage containers approved by the Zoning Administrator \$0
- 34
- 35
- 36 • All other uses approved by the Zoning Administrator \$205
- 37 *Advertised to allow the Board to consider a fee from \$0 to \$500 and permit validity*
- 38 *of up to five years for farmers markets and community gardens only.*
- 39
- 40 • Temporary portable storage containers approved by the BZA \$0
- 41
- 42 • Community gardens approved by the BZA \$435
- 43 *Advertised to allow the Board to consider a fee from \$0 to \$910*
- 44

1	• <u>Farmers markets and community gardens biennial renewal</u>	\$50
2	<i>Advertised to allow the Board to consider a fee from \$0 to \$500 and permit validity</i>	
3	<i>of up to five years.</i>	
4		
5	• All other uses approved by the BZA	\$16,375
6		
7	Group 9 special permit	
8		
9	• Open air produce stand	\$1810

FARMERS MARKET REGULATIONS - JURISDICTIONAL COMPARISON												
JURISDICTION	DEFINED IN ORDINANCE	TIME OF YEAR	LOCATION FREQUENCY	USE TYPE	SIGNAGE	HOURS OF OPERATION	LOCATIONAL CHARACTERISTICS	PARKING	STRUCTURES	EQUIPMENT STORAGE	LIMITATIONS ON GOODS	
VIRGINIA	Arlington County	Open-air markets	No	No	Use Permit	No	Determined by County Board	Yes	Parking plan required during use permit process	No	No	No
	Loudoun County	Farm Market	No	Yes	By right	No	No	Yes	Yes	Yes	No	Yes
		Farm Market (off-site production)	No	Yes	Special Exception							
	Prince William County	Farmer's Market	No	No	By right	No	No	No	No	No, definition says indoor or outdoor facility	No	Yes
					Special Use Permit							
	City of Alexandria	Farmer's Market	No	No	By right	No	7:00 a.m. to sundown	No	No parking requirement in Mount Vernon Avenue Urban Overlay Zone;	No	No on-site storage of trailers	Yes
					Special Use Permit							
					Administrative Approval							
	City of Falls Church	No	No	No	No	No	No	No	No	No	No	No
	City of Richmond	No	No	No	No	No	No	No	No	No	No	No
	City of Harrisonburg	No, appears to be included as Public Use	No	No	Public uses allowed by right	No	No	Yes	No	No	No	Yes
	City of Roanoke	Community Market	No	No	By right	No	No	No	None required	No, definition says stalls or tables which are not enclosed in a building	No	Yes
	City of Williamsburg	No	No	No	Special Use Permit	Yes	No	No	None required	No	No	No
	Town of Blacksburg	Private Farmers Market	No	No	By right	Yes	Must be detailed in Market Plan	Yes	Yes	Yes	Yes	Yes
Public Farmers Market		No	No	By right	Yes	Must be detailed in lease agreement	Yes	Yes	Yes	Yes	Yes	
Town of Christiansburg	Farmers' Market	No	No	Conditional Use Permit	No	No	No	2 parking spaces for each rented stall, table or sales space	No, definition says outdoor site	No	Yes	
OTHER	Washington D.C.	Farmers Market	No	No	By right	No	No	Yes, for open space and parking lots	None required	No, definition says open area	No	Yes
	Montgomery County, MD	Farm Market, On-site	No	No	By right	No	No	Setbacks	Minimum of 3 parking spaces	No	No	Yes
		Rural Country Market	No	No	Conditional Use	No	No	Setbacks	Between 3.5-5 parking spaces	No	No	Yes