

Alternative to the Version Considered
By the Planning Commission on February
8, 2005, Dated February 15, 2006

AN ORDINANCE AMENDING APPENDIX "A" OF THE CHESAPEAKE CITY CODE, ENTITLED "ZONING", SECTIONS 6-1802.A.3 ADDING SUBPARAGRAPH d., 6-1802.A.4, 6-1802.A.5, 15-102.E.5, 15-103.A.5.b AND 15-109.A AND ADDING SUBPARAGRAPH E. TO REMOVE SUPERFLUOUS LANGUAGE REGARDING EXPANSIONS OF LEGALLY NONCONFORMING CHURCHES AND IN THE R- 6 AND R-SFA ZONING DISTRICTS TO PROVIDE FOR A REDUCED SIDE YARD SETBACK FOR DWELLINGS ON LAWFULLY NONCONFORMING LOTS AND ESTABLISH A NEW MAXIMUM BUILDING HEIGHT AND IN ALL RESIDENTIAL ZONING DISTRICTS TO PROVIDE FOR THE MERGER OF CONTIGUOUS LAWFULLY NONCONFORMING LOTS HAVING LESS THAT FORTY FEET IN LOT WIDTH AND UNDER THE SAME OWNERSHIP.

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix "A" of the Chesapeake City Code, entitled "Zoning" Sections 6-1802.A.3.d, 6-1802.A.4, 6-1802.A.5, 15-102.E.5, 15-103.A.5.b and 15-109.A and E be amended and enacted as follows:

§ 6-1800. R-6 and R-SFA residential districts.

§ 6-1802. Development standards.

A. *General site standards.* Only single-family dwelling units are permitted.

(The Chesapeake health department may require larger lots, widths and setbacks where deemed necessary for adequate sewage.

3. *Principal building setback (required yards).*

d. Lawfully nonconforming lots.

(1) For lawfully nonconforming lots as provided for in Article

15 of this ordinance, the following side yard setbacks shall

apply:

i. for lawfully nonconforming lots with a lot width between twenty-five (25) feet and forty (40) feet each side yard shall be three (3) feet.

ii. for lawfully nonconforming lots with a lot width between forty-one (41) feet and fifty-nine (59) feet each side yard shall be four (4) feet.

iii. for lawfully nonconforming lots with a lot width between sixty (60) feet and sixty-four (64) feet each side yard shall be five (5) feet.

4. Maximum lot coverage of all buildings and roofed structures, 35 percent. For lawfully nonconforming lots, as provided for in Article 15 of this ordinance, with a lot width of forty (40) feet or less, the maximum lot coverage of all buildings and roofed structures shall be fifty (50) percent.
5. *Maximum building height*, 35 feet. (Note: Under section 19-205, this maximum building height may be exceeded upon approval of a conditional use permit.) For lawfully nonconforming lots, as provided for in Article 15 of this ordinance, with a lot width of thirty-seven (37) feet or less, the maximum building height for newly constructed dwellings shall be twenty-seven (27) feet, and no such dwelling shall exceed two (2) stories.

§ 15-102. Effect of prior approvals of development plans or issuance of building permits.

E. Authorization of a use or structure under conditional use permits.

5. Lawfully nonconforming churches existing in those zoning districts in which churches are now a conditional use, other than the B-5 district, may be expanded in accordance with section 17-111 of this ordinance, ~~subject to compliance with AC assembly center district development standards. The sole exception to the AC assembly center district development standards shall be~~ except that signage, which must conform with the requirements of the zoning district in which the property is located. Lawfully nonconforming churches in the B-5 district may only be expanded with a conditional use permit.

§ 15-103. Expansion and alteration of nonconforming buildings or structures.

A. *Conditions for allowing expansion or alteration.* A building or structure that is conforming as to use, but is nonconforming as to its structural and site dimensions (e.g., floor area, lot, yard, parking, road frontage, loading spaces, etc.), may not be enlarged or structurally altered unless the enlargement or alteration itself meets all of the following criteria:

5. The following setbacks are maintained without modification, reduction or variance:

b. Sideyards: Five (5) feet each or in accordance with landscape buffer requirements, whichever is greater. Dwellings in the R-6 and R-SFA zoning districts may be expanded to the

sideyard setbacks provided for in section 6-1802 of this ordinance.

§ 15-109. Nonconforming lots of record.

A. *Compliance with certain requirements; modifications authorized by planning commission.* Any lot of record lawfully existing on the effective date of this zoning ordinance or of any applicable amendment to the ordinance, except as provided for merged lots in paragraph E of this section, which does not comply with the dimensional requirements established for the zoning district in which the lot is located may nevertheless be used in a manner consistent with the uses permitted for a lot which does comply; provided, however, that any such use, or building or structure housing such use, must comply with the development standards for lots in that zoning district. ~~The planning commission may approve a site plan for such a lot in which the referenced setback requirements are not met, provided that a reduction of setbacks is approved in accordance with section 19-203 of this ordinance.~~

E. Unified ownership of contiguous lots

1. Contiguous lots under the same ownership that each have a lot width of less than forty (40) feet in residential zoning districts, except R-6 and R-SFA, and thirty seven (37) feet in lot width and less in the R-6 and R-SFA zoning districts shall be considered merged into one lot, whether or not a principal structure has been constructed on the merged lots as of February 22, 2006, the date this ordinance amended the Chesapeake Zoning Ordinance. This provision shall not apply to contiguous lots under the same ownership on which a dwelling has

been constructed on each contiguous lot as of February 22, 2006, the date this ordinance amended the Chesapeake Zoning Ordinance.

2. No subdivision or resubdivision shall be permitted for merged lots that would result in any lot that does not conform to the current development standards for each zoning district set out in Article 6 of this ordinance, except for merged lots in the R-6 and R-SFA zoning districts.

a. Merged lots in the R-6 and R-SFA zoning districts may be subdivided or resubdivided to provide a minimum of thirty-seven (37) feet in lot width in accordance with the following :

i. No subdivision or resubdivision shall be approved that depicts a lot with less than thirty-seven (37) feet in lot width .

ii. No subdivision or resubdivision shall be approved that adjusts the location of a front or rear lot line from the front and rear lot line established by the merged lot to reduce the depth of a subdivided or resubdivided lot.

iii. A subdivision and resubdivision of a merged lot shall not be required to meet all other applicable development standards if the subdivision or resubdivision does not adjust the front or rear lot line to reduce the depth of a subdivided or resubdivided lot and achieves a minimum of thirty-seven (37) feet in lot width for each subdivided or resubdivided lot.

3. For purposes of this section, the following definitions shall apply.

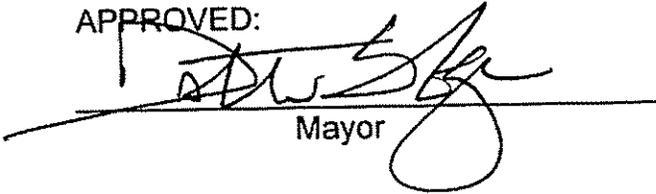
a. contiguous lots means lots that share a side lot line.

b. under the same ownership means any form of interest, whether fee simple, contractual or otherwise, in property held by the same person or entity as of February 22, 2006, the date this ordinance amended the Chesapeake Zoning Ordinance.

An emergency is deemed to exist and this ordinance shall become effective from the date of its adoption.

ADOPTED by the Council of the City of Chesapeake, Virginia, this 22nd day of February, 2006.

APPROVED:



Mayor

ATTEST:



Clerk of the Council

TRUE COPY



Deputy
CITY CLERK