

# ORDINANCE AMENDMENT

**To Allow Public Uses to Deviate from  
Requirements of the Zoning Ordinance  
by Approval of a Special Use Permit**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

August 13, 2014

### ZONING ORDINANCE AMENDMENT

**Amend Sections: 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, 10-3-63, 10-3-71, 10-3-79, 10-3-85, 10-3-91, 10-3-97, and 10-3-180**

Staff is proposing an amendment to several sections of the Zoning Ordinance in order to allow public uses to better conform to zoning regulations. A public use is defined as *“Any instance where a lot or parcel of land, or any improvement on a lot or parcel of land, is used by (1) the City, or (2) another governmental entity having a contractual relationship with the City for the use of such lot or parcel or improvement.”*

In the City’s recent history, we have relied on the fact that the City is not legally obliged to follow its own zoning regulations. However, recent discussion on 2232 review has led staff to the conclusion that it is best for the City to follow zoning requirements.

Public uses are permitted by right within all zoning districts; however, there are times when, in the best interest of providing services, the City cannot adhere to all the requirements of the Zoning Ordinance (i.e. height restrictions, minimum building setback requirements, parking regulations, etc.). The Zoning Ordinance provides a variance procedure through the Board of Zoning Appeals (BZA) public hearing process to allow for relief from yard and lot area requirements, if the property owner can prove a hardship. A BZA variance, however, does not give relief from all requirements of the Zoning Ordinance, such as parking or landscaping regulations.

Staff is proposing the language *“Public Uses which deviate from the requirements of Title 10, Chapter 3”* be added as a subsection to the special uses within the following zoning districts offering public uses the opportunity to request deviating from zoning regulations: R-1, R-2, R-3 (Multiple Dwelling), R-3 (Medium Density), R-4, R-5, R-6, R-7, MX-U, MH-1, MH-2, B-1A, B-1, B-2, M-1, and U-R.

The special use permit would provide for a documented, public hearing process to allow public uses, which may not meet all the requirements of the Zoning Ordinance, to occur and still be in compliance.

Staff recommends approving this amendment to allow public uses to deviate from the requirements of the Zoning Ordinance by approval of a SUP.

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-34  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-34 Uses permitted only by special use permit shall be amended by adding subsection (11) as shown:**

(11) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-34 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-40  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-40 Uses permitted only by special use permit shall be amended by adding subsection (12) as shown:**

(12) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-40 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-46  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-46 Uses permitted only by special use permit shall be amended by adding subsection (8) as shown:**

(8) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-46 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-48.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-48.4 Uses permitted only by special use permit shall be amended by adding subsection (11) as shown:**

(9) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-48.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-52  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-52 Uses permitted only by special use permit shall be amended by adding subsection (7) as shown:**

(7) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-52 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-55.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-55.4 Uses permitted only by special use permit shall be amended by adding subsection (7) as shown:**

(7) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-55.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-56.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-56.4 Uses permitted only by special use permit shall be amended by adding subsection (h) as shown:**

(h) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-56.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-57.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-57.4 Uses permitted only by special use permit shall be amended by adding subsection (h) as shown:**

(h) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-57.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-58.4  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-58.4 Uses permitted only by special use permit shall be amended by adding subsection (7) as shown:**

(7) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-58.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-63  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-63 Uses permitted only by special use permit shall be amended by adding subsection (1) as shown:**

(1) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-63 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

\_\_\_\_\_  
CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-71  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-71 Uses permitted only by special use permit shall be amended by adding subsection (1) as shown:**

(1) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-71 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-79  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-79 Uses permitted only by special use permit shall be amended by adding subsection (2) as shown:**

(2) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-79 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-85  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-85 Uses permitted only by special use permit shall be amended by adding subsection (9) as shown:**

(9) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-85 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-91  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-91 Uses permitted only by special use permit shall be amended by adding subsection (16) as shown:**

(16) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-91 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-97  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-97 Uses permitted only by special use permit shall be amended by adding subsection (15) as shown:**

(15) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-97 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-180  
OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-180 Uses permitted only by special use permit shall be amended by adding subsection (10) as shown:**

(10) Public Uses which deviate from the requirements of Title 10, Chapter 3.

The remainder of Section 10-3-180 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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**MAYOR**

ATTESTE:

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CLERK PRO TEMPORE