

CHAPTER 25. ZONING

DIVISION G. MIXED USE DISTRICTS

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CHAPTER 25. ZONING

DIVISION G. MIXED USE DISTRICTS

ARTICLE XLV. Village Mixed Use District

§ 25-453. Purpose

This district is intended to retain the character of established communities which have historically provided social and economic services to the area. The regulations are designed to recognize the mixed use character of the village, encourage its service functions, and to provide for appropriate expansion and redevelopment of the village while maintaining its historic development pattern.

§ 25-454. Permitted uses

A. The following uses shall be permitted without Administrative or Special Use Permits:

1. One (1) single family dwelling and certain group homes required to be permitted by state law.
2. Active and passive recreational facilities not utilizing outdoor lighting.
3. Religious institutions.
4. Residential care facilities with no more than 8 clients/residents.
5. Government facilities, including, but not necessarily limited to: libraries, post offices, and public safety facilities.

B. The following uses shall be permitted without Administrative or Special Use Permits when not involving a structure or structures the total aggregate of which exceeds five thousand square feet (5000 sq. ft.):

1. Veterinary clinics and hospitals without outside runs.
2. Banks and Financial Institutions.
3. Eating and drinking establishments, including, but not necessarily limited to: fast food restaurants, restaurants, and cafes.
4. Entertainment, Indoor, including, but not necessarily limited to: bowling alleys, pool halls, theatres and auditoriums, membership clubs and lodges, gymnasiums, fitness centers and health clubs, fortune telling, video amusements, and indoor theaters.

5. Media Related Businesses, including, but not necessarily limited to: printing and publishing businesses, radio, television and movie studios, cable TV offices, but excluding on-site towers, antennas, and other accessory equipment in excess of thirty feet (35') in height.
6. Meeting places and other facilities of civic, community service, and fraternal organizations.
7. Offices including, but not necessarily limited to: business offices, call centers, professional offices, medical or dental offices or clinics, and real estate offices.
8. Bed and breakfast inns.
9. Parking lots.
10. Retail Sales and Service including, but not necessarily limited to: antique shops, appliance repair, artist studios or galleries, barber or beauty shops, bakeries, clothing stores, convenience stores, coffee shops, drug stores, farmers markets, flea markets or auction houses, florists, furniture stores, hair salons, nails, tanning booths, or similar personal services, hardware stores, laundry or dry cleaning pick-up, massage therapy, office machines and supplies, paint and wallpaper stores, pet sales or grooming, private postal services, and upholstery shops.
11. Wholesale and resale businesses where goods are normally sold or leased.

§ 25-454.1. Accessory buildings and uses

A. Accessory buildings and uses customary and clearly incidental to a permitted use and which will not create a nuisance or hazard shall be permitted in Village Mixed Use Districts, subject to the applicable provisions of article V of division A of this chapter.

B. In Village Mixed Use districts, accessory buildings and structures are permitted with the following limitations:

Accessory buildings and structures not exceeding twenty feet (20') in height nor an aggregate area of nine hundred square feet (900 sq. ft.) may be erected in side and rear yards, however, in no case shall any accessory building be larger than the footprint of the principal building or structure or taller than the height of the principal building or structure. Accessory buildings and structures must meet the applicable side and rear yard requirements of § 25-456.

Accessory buildings and structures not exceeding twenty feet (20') in height nor an aggregate area of nine hundred square feet (900 sq. ft.) may be erected in required front, side and rear yards with a Special Use Permit issued pursuant to the requirements of §25-454.3.E., however, in no case shall any accessory building be larger than the footprint of the principal building or structure or taller than the height of the principal building or structure.

§ 25-454.2. Uses permitted by Administrative Permit

The uses listed in this section shall be permitted within Village Mixed Use Districts only upon the issuance of an Administrative Permit by the Zoning Administrator pursuant to the provisions of article LVI of division I of this chapter. Administrative permits are to be issued only for uses where the applicant can demonstrate that the proposal meets the standards required by this chapter and the uses will not have an undue adverse impact on the surrounding neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration.

A. Home occupations, Class B

Home occupations, Class B, may be permitted by Administrative Permit provided:

1. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. There shall be no change in the outside appearance of the dwelling or lot, nor other visible evidence of the conduct of such home occupation other than one (1) sign no more than four square feet (4 sq. ft.) in size; and
2. Such occupation shall be engaged in only by residents of the dwelling and no more than one (1) employee that comes to the home. The business can have multiple employees who do not come to the home; and
3. If the applicant is a tenant, written permission of the landowner is required; and
4. The use is conducted within the home or the use may occupy up to five hundred square feet (500 sq. ft.) of an accessory structure. All goods, equipment, and materials related to the Home Occupation must be stored indoors, within the accessory building, or on a single utility trailer with a trailer bed not to exceed sixteen feet (16') in length; and
5. No display of products made shall be visible from the street; and
6. No products shall be sold on the premises except such as are made on the premises. No other retail sales or wholesale sales shall occur unless:
 - a. No clients or customers come to the home in conjunction with the sales; all sales occur off-premises or via telephone, mail, computer, etc.
 - b. Items are accessory to the main use and sold only to clients or customers using the main business, e.g. shampoo for clients in a beauty or barber shop.
7. No outside display or storage of materials, goods, supplies, or equipment in relation to the home occupation shall be permitted, other than on the utility trailer permitted in 4 above. Any animals associated with a permitted home occupation, e.g. pet grooming business, must be kept indoors; and

8. The occupation shall not generate more than ten (10) vehicular trips in a day. A trip consists of one (1) arrival and one (1) departure; and

9. Deliveries shall be limited to normal deliveries by public and private mail carriers, including USPS, Fed-Ex, UPS, and similar carriers; and

10. All parking associated with the business shall be off-street and not located in any required front yard, except within the existing driveway and

11. No more than one (1) commercial vehicle may be used in conjunction with the home occupation. Commercial vehicles shall be allowed pursuant to the requirements of §25-54.1.N. (Ord. 10/28/15)

The following uses are not considered to be Home Occupations, Class B: trash and garbage collection, boarding houses, day care centers, private schools, firearm sales, and small engine repair or motor vehicle repair. Landscaping and mobile motor vehicle repair businesses are not considered Home Occupations unless all equipment, materials and trailers over sixteen feet (16') are to be kept off site. The applicant shall supply written documentation such as a lease agreement or contract describing where the equipment, materials, and utility vehicles are to be kept to the Community Development Department. (Ord. 10/28/15)

B. Day care home occupations

Day care home occupations may be permitted by Administrative Permit provided:

1. The use of the dwelling for the day care home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. There shall be no change in the outside appearance of the dwelling, nor other visible evidence of the conduct of such home occupation other than one (1) sign no more than four square feet (4 sq. ft.) in size; and

2. Such occupation shall be engaged in only by residents of the dwelling and one (1) employee who comes to the home; and

3. Play equipment and similar facilities may be used; and

4. No accessory building shall be used for such occupation, except for storage of play equipment when not in use; and

5. Approval from the Department of Social Services or proof that such approval may be obtained pending zoning approval; and

6. Notification of adjoining property owners. Upon receipt of an application for an Administrative Permit for a day care home occupation, the Zoning Administrator shall send by certified mail written notice of such application to all adjoining property owners as shown on the current real estate assessment books.

a. Action if objection received.

If written objection is received from an adjoining property owner within thirty (30) days following the mailing of said notice, the application shall be denied, and the applicant advised that the day care home occupation may commence only upon the approval of a Special Use Permit by the board of zoning appeals.

b. Action if no objection received.

If no written objection is received from an adjoining property owner within thirty (30) days following the mailing of said notice, and the applicant meets all other requirements of this section, the Zoning Administrator may approve the Administrative Permit.

C. Attached accessory dwelling units

One (1) apartment constituting an attached accessory dwelling unit within what would otherwise be a single-family dwelling may be permitted by Administrative Permit provided:

1. It is attached by sharing one (1) common wall. In no case shall an enclosed or unenclosed breezeway be considered a common wall for the purposes of attaching an accessory dwelling unit to a dwelling; and

2. The apartment contains no more than six hundred square feet (600 sq. ft.) or forty percent (40%) of the amount of square footage in the footprint of the principal dwelling, whichever is greater, but not to exceed nine hundred square feet (900 sq. ft.); and

3. There shall be no more than one (1) accessory dwelling unit, attached or detached, per principal dwelling; and

4. The Building Inspection Department has indicated that either a Building Permit is not required, or a Building Permit can be issued for the apartment once the Administrative Permit has been approved; and

5. The dwellings are either connected to public sewer or the Virginia Department of Health has confirmed that the sewage disposal system is adequate for the proposed use; and

D. Detached accessory dwelling units attached to an accessory building

One apartment constituting a detached accessory dwelling unit attached to an accessory building may be permitted by Administrative Permit as an accessory to a single-family dwelling provided:

1. The accessory dwelling unit contains less than nine hundred square feet (900 sq. ft.), but in no case shall it be larger than the footprint of the principal dwelling or the structure to which it is attached; and

2. The accessory dwelling unit is attached to an accessory building which is accessory to an occupied principal dwelling; and

3. Approval by the Virginia Department of Transportation; and

4. The Building Inspection Department has indicated that either a permit is not required or one can be issued for the apartment; and

5. The dwellings are either connected to public sewer or the Virginia Department of Health has confirmed that the sewage disposal system is adequate for the proposed use.

E. Off-site sale of seasonal items

Off-site sale for more than thirty (30) days of seasonal items such as Christmas trees, farm produce grown off premises, or other items which by their nature are sold primarily during certain times of the year, may be permitted by Administrative Permit provided:

1. The sale is for a stated limited period of time not to exceed ninety (90) days in any one (1) year period; and

2. Adequate provisions are made for parking, and the sale will not disrupt traffic in the neighborhood. No such sale, if conducted on the site of an existing development, shall infringe upon any parking spaces required for such development. The Zoning Administrator shall determine that sufficient and accessible parking spaces are available to serve the patrons of such operation prior to its authorization; and

3. Approval of a highway entrance permit for the use has been obtained from the Virginia Department of Transportation; and

4. No site plan as provided in § 25-672 of this chapter shall be required. However, the Zoning Administrator may require a sketch plan to be submitted in order to determine compliance with this section; and

5. The applicant for such permit shall provide written evidence of the approval of the owner of the property on which such sale is to be conducted.

6. For the purposes of this section, fireworks shall not be considered seasonal items.

F. Outdoor Display of Merchandise

Outdoor display of merchandise may be permitted by Administrative Permit provided that the use shall be limited to that merchandise which:

1. Is in working order and ready for sale; and

2. Is located in side or rear yards; or

3. If in front, can be accommodated in the area immediately adjoining the front of the principal building and in no case shall a display area be within the right-of-way of any road.

No such display shall encroach upon any required parking or loading area or vehicular circulation area.

NOTE: Any outdoor display of merchandise that does not meet the requirements listed above can apply to the board of zoning appeals for a Special Use Permit pursuant to the requirements listed in §25.454.3. C.

G. Day care centers, nursery schools, and private schools

Day care centers, nursery schools, and private schools may be permitted by Administrative Permit provided:

1. Approval of a commercial entrance permit for the use has been obtained from the Virginia Department of Transportation; and

2. Approval of the building for the use has been obtained from the Building Inspection Department; and

3. The applicant demonstrates compliance with state licensing requirements and all applicable federal, state, and local regulations.

H. Apartments in a pre-2012 structure

An Administrative Permit for apartments in a pre-2012 structure may be granted provided:

1. Apartments may be established within a structure that was constructed prior to January 1, 2012; and

2. Parking will be in compliance with this chapter; and

3. For purposes of expansion or enlargement, the pre-2012 structure shall be treated as a non-conforming building and shall be subject to the provisions of § 25-663 D. of this chapter. The floor area of such expansion or enlargement shall not exceed twenty percent (20%) of the original floor area or the area required by law, whichever is greater. Expansions or enlargements exceeding this requirement may be allowed pursuant to the requirements of §25-454.3. F.

4. Approval of the Building Inspection Department or proof that such approval may be obtained pending zoning approval.

5. Approval of the entrance by the Virginia Department of Transportation.

6. The dwellings are either connected to public sewer or the Virginia Department of Health has confirmed that the sewage disposal system is adequate for the proposed use.

I. Apartments in new construction and not on the ground floor

Apartments not on the ground floor may be permitted by Administrative Permit provided:

1. The building was built after January 1, 2012; and
2. At least ninety percent (90%) of the ground floor is devoted to business use;

and

3. Parking will be in compliance with this chapter; and
4. Approval of the plans has been received from the Building Inspection

Department.

J. Boarding houses

An Administrative Permit for a boarding house in a pre-2012 structure may be granted provided that all the requirements listed below are met:

1. The owner of the dwelling lives on the premises; and
2. The dwelling used shall have the exterior appearance of a single family residence and normal residential accessory structures; and
3. The facility, taking into account such things as its proposed size, parking facilities, setbacks, and landscaping, will not be out of character with neighboring properties; and
4. Approval by the Virginia Department of Transportation; and

5. All parking associated with the use is accommodated in accordance with this Code; and

6. Approval of the Building Inspection Department or proof that such approval may be obtained pending zoning approval; and

7. The dwelling is either connected to public sewer or the Virginia Department of Health has confirmed that the sewage disposal system is adequate for the proposed use.

§ 25-454.3. Uses permitted by Special Use Permit

The uses listed in this section shall be permitted within Single Family Residential Districts only upon the issuance of a Special Use Permit by the board of zoning appeals pursuant to the provisions of article LVIII of division I of this chapter.

A. General standards applicable to all Special Use Permits. No Special Use Permit shall be issued without consideration that, in addition to conformity with any standards set forth in this chapter for Special Use Permit uses, the following general standards will be met either by the proposal made in the application or by the proposal as modified or amended and made part of the Special Use Permit:

1. Conformity with Comprehensive Plan and policies. The proposal as submitted or as modified shall conform to the Comprehensive Plan of the county or to specific elements of such plan, and to official policies adopted in relation thereto, including the purposes of this chapter.

2. Impact on neighborhood. The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood.

NOTE: For restrictive conditions applicable to all Special Use Permits, see § 25-584 of division I of this chapter.

B. Residential care facilities for more than 8 residents/clients

Residential care facilities may be permitted by Special Use Permit provided:

1. The facility and anticipated enlargements thereof will be appropriate for residential areas; and

2. The facility, taking into account such things as its proposed size, parking facilities, setbacks, and landscaping, will not be out of character with neighboring properties; and

3. The permitting of the proposed facility, when taking into account the presence of other businesses in the neighborhood, will not result in such concentration or clustering of businesses as to create an institutional setting or business center or otherwise change the area's character and social structure; and

4. The applicant demonstrates compliance with state licensing requirements and all applicable federal, state, and local regulations.

C. Outdoor storage

Any use permitted under § 25-454.2. F. above where there is outdoor storage that does not meet the criteria for Outdoor display may be permitted by Special Use Permit provided:

1. A site plan is filed meeting the requirements of division J article LXVII “Site Plan Review”, approved and followed which clearly delineates the areas intended for outdoor storage and complies with the requirements of this chapter; and

2. On-site traffic flow will adequately and safely accommodate all traffic to and from the public highways. Aisleways will be appropriate for the anticipated vehicular and pedestrian traffic; and

3. Outdoor storage areas will not interfere with convenient, easily accessible parking for the public. Areas delineated on the site plan for parking or aisleways may not be used for outdoor storage; and

4. Outdoor storage areas will be proportionately appropriate in size and scope to the nature of the business. Financial considerations alone will not justify the failure to use inside storage; and

5. Setbacks for proposed structures and facilities will be sufficient to protect neighboring properties; and

6. Items not displayed for sale or lease shall be fully shielded or screened from view unless the board of zoning appeals determines that fully shielding or screening is not necessary. Opaque screening, including fencing and landscaping, shall be appropriate to ensure compatibility with neighboring properties, taking into account the proper location of aisleways and gates and the compatibility of screening materials with the materials utilized in the principal buildings on site. Fencing or screening shall be maintained in a good state of repair. Chain-link fencing with slats inserted is not acceptable for this screening. Gates shall remain closed except when goods are moved to and from the enclosed area; and

7. There is an adequate plan for outdoor lighting showing the location of lights and shielding devices or other equipment to prevent unreasonable glow beyond the site. Any such outdoor lighting shall otherwise comply with the provisions of article VI of division I of this chapter; and (Ord. 3/23/05, eff. 11:59 p.m. 6/30/05)

8. Items to be stored outside may not be items normally and customarily kept inside.

D. Active and passive recreational facilities utilizing outdoor lighting

Active and passive recreational facilities utilizing outdoor lighting may be permitted by Special Use Permit provided:

1. There is an adequate plan for sanitation facilities and garbage, trash and sewage disposal to accommodate anticipated usage; and

2. There is an adequate plan for parking and crowd and traffic control in and around the site. Designated areas for pick-up and delivery of users are adequate to prevent

traffic congestion both on and off site, thereby keeping waiting pedestrians out of vehicle passage ways and parking areas and preventing waiting vehicles from blocking access to and from parking areas or impeding traffic on adjoining streets; and

3. Approval by the Virginia Department of Transportation; and

4. The proposed size, the proposed recreational activities, the anticipated number of users, setbacks, parking facilities, lighting, hours of operation and landscaping, are appropriate for the area.

E. Accessory buildings or other accessory structures located in required yards

Accessory buildings or other accessory structures located in required yards may be permitted by Special Use Permit provided:

1. The accessory building or structure would not appear out of character with surrounding properties; and
2. Would not be aesthetically damaging to the character of the surrounding properties; and
3. Would not adversely and substantially affect the fair market value of surrounding properties.

F. Apartments or mixed use projects in new construction

Apartments or mixed use projects in new construction may be permitted by Special Use Permit provided:

1. The building was built after January 1, 2012; and
2. The proposed building would not appear out of character with surrounding properties; and
3. Would not adversely and substantially affect the fair market value of surrounding properties; and
4. Parking will be in compliance with this chapter.

§ 25-454.4. Prohibited uses

All uses except those listed in §§ 25-454, 25-454.1, 25- 454.2, and 25-454.3 above, including manufactured and mobile homes, are specifically prohibited in Village Mixed Use Districts.

§ 25-455. Lot area

A. The minimum lot area shall be sufficient for compliance with all the provisions of this chapter.

§25-455.1. Lot width

- A. Every lot shall have at least forty feet (40') of frontage on a public street.
- B. The minimum lot width at the minimum front setback line shall be forty feet (40').

§ 25-456. Yard and setback requirements

A. Front lot lines

Adjacent buildings shall have front yard setbacks that maintain the visual continuity of the streetscape. No principal building or structure shall be erected or located closer to the street right-of-way line than the average setback of at least 60% of the principal buildings on the same side of the street and within 250' of the parcel or parcels being developed. In no case, shall the required front setback be greater than thirty-five feet (35').

If a lot, tract, or parcel fronts on two (2) or more streets, the foregoing minimum setbacks shall be required on each street. In the case of a lot, tract, or parcel that fronts on two (2) or more streets, accessory buildings can be located in a front yard without a Special Use Permit as long as the front setback is met.

B. Rear lot lines

Adjacent buildings shall have rear yard setbacks that maintain the visual continuity of the streetscape. No principal building or structure shall be erected or located closer to the rear lot line than the average rear setback of at least 60% of the principal buildings on the same side of the street and within 250' of the parcel or parcels being developed. In no case, shall the required rear setback be greater than twenty-five feet (25').

Accessory buildings and structures may be erected in rear yards. Accessory buildings and structures shall not be erected, altered, located, reconstructed, or enlarged nearer to any rear lot line than five feet (5') unless a Special Use Permit is granted pursuant to §25-454.3. E.

C. Side lot lines

1. A principal building or structure shall not be erected, altered, located, reconstructed, or enlarged nearer to any side lot line than five feet (5').

2. Accessory buildings and structures may be erected in side yards. Side yard setback requirements applicable to principal buildings and structures shall be observed by all accessory buildings and structures, unless a Special Use Permit is granted pursuant to §25-454.3. E.

§25-457. Public water and sewer required

All developed lots in Village Mixed Use Districts shall have service by a public water and public sewer system, if available. Sewer lines shall be available if any of the conditions set forth in §25-505 of the County Code are met. Nothing in this section shall be deemed to prohibit the use of wells and septic systems existing at the time the district is zoned Village Mixed Use, provided the use of the lot does not change and the use is otherwise authorized by law.

§ 25-458. Height limitations

In Village Mixed Use Districts, all buildings and structures shall be subject to the following height limitations:

A. No building or structure shall exceed thirty-five feet (35') in height.

B. In no case shall the height of any building or structure exceed the height limitations of the transitional surface, approach surface, horizontal surface and conical surface as required in any Airport Overlay District.

C. For exceptions to height limitations, see § 25-15 of article II, division A, of this chapter.

§25-459. Signage

Signage shall be subject to the requirements of Article IV, Signs, billboards, and outdoor advertising structures, with the exception of §25-47 and with the following additional regulations:

A. Façade signs shall not exceed one (1) square foot for every linear foot of lot frontage, with a maximum of fifty (50) square feet per sign.

B. Freestanding signs shall not exceed eight feet (8') in height or twenty (20) square feet in sign area. There shall be no more than one (1) freestanding sign per lot. However, any lot that has road frontage on more than one (1) public street may have one (1) freestanding sign on each public street.

C. Real estate signs, construction signs, and yard sale signs shall not exceed four (4) square feet in sign area. However, construction signs which list multiple businesses shall not exceed four (4) square feet in sign area per business listed, but in no case shall the combined sign area exceed twenty (20) square feet in sign area.

D. One (1) public service sign not exceeding eight feet (8') in height or twenty (20) square feet in sign area may be displayed on any lot in addition to any other signage on the lot.

E. Digital, LED, and similar changeable electronic message signs are prohibited unless the sign is a freestanding sign, its changeable copy area does not exceed 25% of the sign area, and the sign uses only a single color for the text.

F. Waiver. The requirements of §25-459. A-D may be modified or waived in an individual case if the Board of Supervisors finds that the granting of a modification or waiver will have no adverse impact and the sign is compatible with the neighborhood. In granting a modification or waiver, the Board of Supervisors may impose such conditions as deemed necessary to protect the public health, safety, or welfare.

§25-459.1. Design Guidelines

To promote the compatibility of nonresidential and residential uses all dumpsters and exterior utility boxes shall be located and/or screened so as not to be visible from any public right-of-way.

§25-459.2. Parking requirements

Parking shall be provided as required by Article III of this chapter with the following additional provisions:

A. For the purposes of this article, designated parking spaces in a public right-of-way may be counted towards the minimum parking requirements of Article III for each use when more than one-half of any such space resides in front of that use. However, parking spaces in a public right-of-way shall not be designated in any way for a specific use. Any such parking spaces must first be approved by VDOT.

B. When public parking is provided within four hundred feet (400') of the site, nonresidential developments may request a reduction of up to fifty percent (50%) of the parking standard.

C. Competing uses. In mixed use developments, applicants may request a reduction in parking requirements up to 30% where peak demands overlap.

D. Non-competing uses. In mixed use developments, applicants may request a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to 75% of the requirements for the predominant use may be waived if the applicant can demonstrate the peak demands for two uses do not overlay.

E. When off-street parking for a non-residential or mixed use lot abuts a single-family residentially developed lot, the nonresidential or mixed use lot shall provide off-street parking screening in compliance with the standards listed in 25-38. B. The applicant does not have to meet these requirements if adjoining property owners sign a waiver of their rights regarding parking screening, as follows:

1. The written waiver shall recite the parking screening requirements of this ordinance, describe the impact on the property owner(s), and state that the consent is granted for the developer to not comply with the buffer requirements in this ordinance.

2. Any such waiver shall be recorded in the Clerk's Office of the Augusta County Circuit Court. In addition to the above, the waiver shall advise subsequent purchasers of the burdened property that the waiver of parking screening requirements runs with the land and may forever burden the subject property.

§25-459.3. Access to Major Collectors

Access to new development shall not be off public streets designated as Major Collectors by the Virginia Department of Transportation unless no other access is available.

§25-459.4. Other requirements

Where specific regulations are not addressed in this District, the regulations of Chapter 25, Zoning, shall govern. In cases where there are conflicting development regulations, the regulations for the district most closely associated with the use in question shall govern.

(Ord. 06/27/12)