Relevant Regulations

Town Code

Article 3 Division 3 Section 18-324 Family Day Home

1. A family day care home may provide care for up to twelve (12) children, subject to the following requirements:
    A. Family day care homes shall obtain a state license, if required. State licenses are required for such homes providing care for five (5) to twelve (12) children.
    B. When calculating the total number of children cared for, resident children shall be excluded.
    C. The facility shall be the principal residence of the operator(s) of the family day care home.
    D. The facility shall comply with any and all requirements of State and Town codes, including Title 63.2, Ch. 17, Code of Virginia.
    E. One nonresident person, whether paid or not for their services, may be involved in the home day care use on the property at any one time. The hours of the nonresident person's involvement are limited to 7:00 AM to 6:00 PM, Monday through Friday. F. There must be no exterior evidence that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures.
2. Adequate space shall be provided for drop-off and pickup of children in a manner that does not interfere with traffic circulation in the neighborhood. Drop-offs and pick-ups shall be staggered as necessary to address potential traffic issues on the neighborhood streets. The Board of Zoning Appeals may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on-site at any one time.
3. The Board of Zoning Appeals may require the provision of landscaping and screening based on the specifics of each application.
4. A change in any of the following will require an amendment to prior approval:
    A. Increase in the number of children cared for by the operators of the business;
    B. Involvement of more than one nonresident person; or
    C. Major changes to the site including the reduction of available parking.

Article 8 Division 4 Section 18-827 Family Day Home Permit

1. *Family Day Home Permit Required.* Family Day Home Permit required. A Family Day Home permit is required for all licensed child day programs caring for up to four (4) children.
2. *Conditional Use Permit Required*. A family day home caring for more than four(4) children shall require a Conditional Use Permit.
3. *License Required.* Prior to submitting for zoning approval, all required state licenses for Family Day Home must be acquired.
4. *Application and Review Process.*

   A. Completeness and Compliance. Applications for Family Day Home permits are reviewed for completeness and compliance with all applicable requirements of this Code by the Director of Planning and Zoning and Zoning Administrator.
   B. Permit Issued. The Zoning Administrator will issue a permit.
5. *Appeals.* The zoning decisions on Family Day Home permit application may be appealed by the process within §18-820, Appeals of Zoning Administrator Decision

Article 8 Division 4 Section 18-824 Conditional Use Permit

1. Conditional Use Permit Required. Any use that is indicated within Article 3 of this Chapter and is marked with a "C" on the Principal Uses or Accessory Uses Tables requires the approval of a Conditional Use Permit by the Board of Zoning Appeals prior to the issuance of a Building Permit or Certificate of Occupancy.

2. Site Plan May be Required. The Zoning Administrator will review the application and determine whether a site plan review is required prior to the commencement of review of an application for a Conditional Use Permit. See Site Plan in §18-836.

3. Conditions for Approval. The Board of Zoning Appeals may issue a use permit for any of the uses indicated, within Article 3, with a "C" (conditional) on the Use Table , provided the use for which the permit is sought:

   A. Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
   B. Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
   C. Will be in accordance with the purposes of the Town's comprehensive plan; and
   D. Meets use-specific standards outlined in Article 3 of this chapter.

4. Action Required in Reasonable Time. The Board of Zoning Appeals shall fix a reasonable time for the hearing of an application, within ninety (90) days of the application being deemed complete. This time period is directory, rather than mandatory; the Board does not lose jurisdiction to act after the time period has passed. EFFECTIVE 01 JANUARY 2024 Article 8. Administration, Procedures, and Enforcement Zoning and Subdivision Ordinance 8 – 18 Town of Vienna, Virginia

5. Application. An application for a conditional use permit shall be submitted to the Director of Planning and Zoning on such forms as the Director may prescribe and shall include the following:
   A. A detailed description of the operation of the proposed use, including any proposed ancillary or secondary use that the applicant is considering.
   B. Plans to control any potential impacts of the proposed use on the nearby community, including:

i. Noise.
   a. Noise levels anticipated from all uses and equipment.
   b. A statement as to whether the anticipated noise complies with the levels permitted by the Town Code.
   c. Plans to control these anticipated noise levels, including noise emanating from patrons or visitors to the proposed use.

ii. Odors. Methods to be used to control odors emanating from the use when applicable.

iii. Trash and litter.
   a. The type and volume of trash and garbage the proposed use will generate.
   b. The planned frequency of trash collection.
   c. Planned methods to prevent littering on the property, streets and nearby properties.

iv. Loading/unloading.
   a. Availability and adequacy of off-street loading facilities.
   b. Hours and frequency of off-street loading.

v. Parking and Stacking.
   a. Number of spaces available to serve residents, employees, and patrons during the hours of operation, for all primary and secondary uses being proposed.
   b. Plan showing geometric design of stacking aisle and number of stacking spaces provided.

vi. Use capacity.
   a. The estimated number of patrons, visitors, clients, pupils and other such users.
   b. The proposed number of employees, staff and other personnel.

vii. Hours. The proposed hours and days of operation of all proposed uses.

viii. Site Plan. A proposed site plan consistent with the requirements of §18-836 shall be submitted, reviewed, and approved as part of the conditional use permit application and pursuant to the procedures and standards of this section, or an approved site plan showing compliance with the uses proposed.

ix. Plans and other documents exhibiting compliance with any other requirements contained in this ordinance for the conditional use proposed and as the Director of Planning and Zoning determines are necessary and desirable for adequate review.

6. Review Process.
   A. Pre-Application Meeting. The applicant is required to attend a pre-application meeting with Town staff prior to submitting an application for a Conditional Use Permit. See §18-833, Pre-Application Meeting.
   B. Review for completeness. Applications for Conditional Use Permits are reviewed for completeness by the Director of Planning and Zoning and the Zoning Administrator. The application may be referred to the Director of Public Works if determined to be required by the Zoning Administrator.

C. Application deemed complete. Once the Director of Planning and Zoning and the Zoning Administrator deem the application to be complete, the application and supporting materials are transmitted to the Planning Commission.
D. Action by Planning Commission. The Planning Commission shall make a recommendation on the application based on Conditions for Approval outlined in §18- 824.3, and applicable Use Standards outlined in Article 3. The Zoning Administrator shall transmit the Planning Commission's recommendation with the application and supporting materials to the Board of Zoning Appeals for final review and determination.
E. Action by the Board of Zoning Appeals. i. Final Decision. The Board of Zoning Appeals has the final decision authority on Conditional Use Permits. ii. Board may Impose Conditions. The Board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure continued compliance with the conditions imposed.
F. Appeals. Decisions by the Board of Zoning Appeals may be appealed to the Fairfax County Circuit Court per Code of Virginia §15.2-2285, 1950, as amended.

7. Duration of valid permit.
   A. Permit void after six months if operation not commenced. Any use permit or amended portions of existing use permits shall become void six months after issuance if construction or operation related thereto has not commenced, unless otherwise specified by the Board of Zoning Appeals.
   B. Extension of time allowed under certain conditions. An extension of time may be permitted by the Board of Zoning Appeals.
   C. Termination of use. A conditional use permit shall cease to be valid if the use for which such permit is granted is not operated for a continuous period of two (2) years or more.

8. Enforcement and Compliance.
   A. Failure to Comply with Permit Conditions. Failure to comply with Conditional Use Permit conditions are zoning violations and subject to the enforcement measures within Division 6 - Enforcement, Compliance and Penalties.
   B. Revocation of Non-Compliant Permits. The Board of Zoning Appeals may revoke a Conditional Use Permit if the board determines that there has not been compliance with the terms and conditions of the permit. No permit may be revoked except after notice and hearing as provided by Code of Virginia, §15.2-2204. EFF

Town Code Sec. 9-12.3.1. - Parking prohibited on certain residential streets.

1. Town Council discretion.
   A. Whenever the Town Council shall determine that any street or streets, or portions thereof located in one or more residential (RS) zones are being used for the parking of vehicles while the operators of such vehicles are elsewhere, so that the average number of such vehicles so parked occupies more than 25 percent of the total parking spaces on such street or streets or portions thereof, while the total number of parking spaces then occupied by all vehicles parked on such streets or portions thereof exceeds 65 percent of

the total parking spaces on such streets or portions thereof on a significant number of weekdays, except holidays, of any month between the hours of 7:00 a.m. and 6:30 p.m., as disclosed by a Police Department survey, the Town Council may prohibit parking during such hours on any or all of any such streets or portions thereof and on streets in proximity thereto as the council determines necessary to effectuate the purpose of this section.

B. In addition to the provisions of subsection 1.A. of this section, the Town Council may prohibit parking on streets, or portions thereof, at such time or times and during such hours as it deems necessary to effectuate the purpose of this section upon a finding that all of the following exist:
    a. Such streets or portions thereof are located in one or more single-family detached residential (RS) zones, which zones are adjacent to, or abut upon, one or more multifamily (RM-2) zones wherein which are located one or more multifamily structures which do not comply with the parking space requirements of section 18-130.
    b. Such streets are being used for the parking of vehicles owned, or in the care, custody, or control of residents, or guests of residents, of said RM-2 zones.
    c. On-site parking facilities for multifamily residential dwelling units located in such RM-2 zone, or zones, existed prior to the December 3, 1990, amendment of the parking regulations pertaining thereto as contained in section 18-130.
    d. The average number of such vehicles so parked occupies more than 25 percent of the total parking spaces on such street, or streets or portions thereof, while the total number of parking spaces then occupied by all vehicles parked on such street, or streets or portions thereof, exceeds 65 percent of the total parking spaces on such street, or streets or portions thereof, on a significant number of days per week including Sundays and holidays.

2. The prohibition of parking on certain streets as set forth in subsections 1.A and B of this section shall not apply to holders of parking permits provided for in sections 9-12.3.2 and 9-12.3.3; to police, fire, rescue, or utility service vehicles parked or stopped in the performance of emergency service to public utility facilities or vehicles bearing public use license plates issued by the commonwealth, or to service or delivery vehicles while in use to provide service or make deliveries to nearby dwellings.
3. All parking permits issued pursuant to sections 9-12.3.2 and 9-12.3.3 shall be displayed at such location on vehicles as specified by the Town Manager or his designee and indicated on the permit. Such permits shall be issued by the Town Manager or his designee, and are not transferable. No such permit shall be construed to authorize the parking in any residential (RS) zoned area of any vehicle prohibited from such parking by any other section of this Code.

State Code

§ 15.2-2292. Zoning provisions for family day homes.

A. Zoning ordinances for all purposes shall consider a family day home as defined in § 22.1-289.02, serving one through four children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons

related by blood, marriage, or adoption shall be imposed upon such a home. Nothing in this section shall apply to any county or city which is subject to § 15.2-741 or 15.2-914.

B. A local governing body may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a family day home, as defined in § 22.1-289.02, serving five through 12 children, exclusive of the provider's own children and any children who reside in the home. The ordinance may contain such standards as the local governing body deems appropriate and shall include a requirement that notification be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance and all other applicable local ordinances, the zoning administrator shall issue the permit sought. If the zoning administrator receives a written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance, the zoning administrator shall consider such objection and may (i) issue or deny the permit sought or (ii) if required by the ordinance, refer the permit to the local governing body for consideration. The ordinance shall provide a process whereby an applicant for a family day home that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286.