



## RELEVANT REGULATIONS

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### Virginia State Code

#### § 15.2-2309. Powers and duties of boards of zoning appeals.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. 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 that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

### Town Code

#### Article 3. Uses and Use Standards

##### Section 18-305 Accessory Uses Table

USE TYPES	DISTRICTS AND ZONES															SPECIFIC USE STAN- DARDS
	RESIDENTIAL				NON-RESIDENTIAL AND MIXED USES											
	RS- 16	RS - 12.5	RS- 10	RMU	AW	AE	AC / AC-O	M	CS / CS-0	NM	T	GS	CP	PR	PC	
P = PERMITTED / C = CONDITIONAL / - = NOT PERMITTED (See Article 2 for Zone and District Names)																
Home-Based Business	P	P	P	P	P	P	P	-	P	P	-	P	-	-	-	§18-327
Massage Therapy	C	C	C	C	P	P	P	P	P	P	P	P	-	-	-	§18-331

##### Section 18-327 Home-Based Business

1. The following uses are not permitted as home-based businesses:
  - A. Vehicle service and repair;
  - B. Plant nurseries and greenhouses;
  - C. Manufacturing, heavy, which relates to the handling, processing, packing, or serving of food directly or indirectly to the public;
  - D. Medical or dental laboratory;
  - E. Restaurant or food services;
  - F. Bulk storage of flammable liquids;
  - G. Funeral homes;
  - H. Boardinghouses;
  - I. Massage therapist or massage therapy establishments; and
  - J. Boarding establishments, kennels, breeding of animals, and animal care facilities.



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2. All home-based businesses shall comply with the following requirements:
  - A. Shall be operated entirely within the dwelling unit or accessory structure and only by the person maintaining a dwelling therein;
  - B. Shall not cause any change in the outside appearance of the building or premises, or any other visible evidence of the conduct of a home-based business;
  - C. Shall not utilize more than twenty-five (25) percent of the gross livable floor area of the dwelling, including the basement;
  - D. Shall not employ any person other than a member of the immediate household residing on the premises;
  - E. Shall not use any equipment other than that normally used for domestic, hobby, and household or small office purposes in a dwelling;
  - F. Shall not involve the emission of any sounds, odors, or smoke beyond the property line in excess of normal single unit dwelling use;
  - G. Shall not include any service involving the presence of more than one customer or client on the premises at a time and must be by appointment basis only;
  - H. Shall not constitute a nuisance because of impacts on sidewalk or street traffic;
  - I. Shall not adversely affect the use and development of adjoining properties in the immediate neighborhood;
  - J. Shall not include the storage of hazardous materials; and
  - K. Shall not include the display of products visible from the street.
3. No person shall conduct a home-based business without obtaining the appropriate business, service or occupational license required by law. All home occupations shall comply with applicable state, federal, and local regulations.

### Section 18-331 Massage Therapy

1. It shall be unlawful for any person to operate or engage in the business of operating any massage salon, massage parlor, or massage therapy establishment within the Town without first having obtained a permit for the operation and a Town-issued license for each masseur, masseuse or massage therapist and complying with all the provisions of [Chapter 22](#).
2. It shall be unlawful for any person to provide massages or be employed as a massage therapist in the Town unless they have been issued a license as provided in [Chapter 22](#).

### 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](#).



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- 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.
- 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.



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- 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 preapplication 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.



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- 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**