

PROPOSED ORDINANCE

Proposed by: Zoning Administrator (*Revisions in bold, italic, deletions are strikethroughs*)

The following is a proposed ordinance to amend the Code of the Town of Vienna to add Family Day Home provisions in the zoning ordinance Chapter 18, Zoning, Article 2, Definitions, Section 18-4 Definitions; Article 5, RS-16 Single-Family Detached Residential Zone Regulations, Section 18-13. Conditional Uses and Article 21, Conditional Use Permits, Section 18-210. Use Permits Required.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF VIENNA, VIRGINIA THAT:

The Town Code, Chapter 18- Zoning, Article 2, Definitions, Section 18-4. Definitions, is amended to read as follows:

Sec. 18-4. – Definitions.

Family day home means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

The Town Code, Chapter 18- Zoning, Article 5, RS-16 Single-Family Detached Residential Zone Regulations, Section 18-13. Conditional Uses, is amended to read as follows:

Sec. 18-13. – Conditional Uses.

The following uses may also be permitted in all RS-16 zones subject to securing a use permit as provided in section 18-209:

- (a) Churches and other places of worship.
- (b) Colleges and schools (private, elementary and high) of a noncommercial nature.
- (c) Golf courses, country clubs, private clubs, including community buildings and similar recreational uses not owned and/or operated by a public agency (does not include golf driving ranges).

- (d) Institutional homes and institutions of an educational or philanthropic nature, except those of a correctional nature or for mental cases.
- (e) Certified massage therapists in the RS-16, RS-12.5 and RS-10 zones only, subject to the same restrictions applicable to home occupations as set forth in section 18-173, and who further comply with the application, investigation and training requirements of sections 22-5, 22-6, and 22-7, and the sanitation and hygiene requirements applicable to health clubs as set forth in sections 22-10 and 22-11.
- (f) Nursery and kindergarten schools (private).
- (g) Public buildings and uses.
- (h) Public parks, playgrounds and other recreational uses.
- (i) Public utilities and services, including the following: electric utility substations with non-rotating equipment; water and sewage pumping stations; above-ground transmission lines not exceeding 33KV; telephone exchanges (but excluding service and service storage yards); provided that utilities shall be housed in a structure in keeping with the character of the neighborhood in which it is located.
- (j) Transitional parking. Where the side or rear yard of any lot or parcel of land located in a C-1, C-1A, or C-2 abuts land in any residential zone, automobile parking required in connection with the particular use of such commercial land may, upon the granting of a use permit pursuant to article 21 of this chapter, be permitted as a transitional parking use on that such land zoned for residential use, provided, however, that such transitional parking:
 - 1. Shall not extend more than 200 feet into any such abutting residential zone;
 - 2. Shall not extend into the required front yard setbacks or properties on adjacent streets;
 - 3. Shall not extend beyond the front and side yard setbacks of the residentially zoned lot or lots on which it is located;
 - 4. Shall not provide more than 40 percent of the parking space required by the commercial use for the benefit of which said transitional parking lot is requested, and shall conform with the provisions of article 16 of this chapter, except as otherwise expressly provided;
 - 5. Shall not provide any ingress and egress across adjacent residentially zoned property.
- (k) ***Family Day Homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home.***

The Town Code, Chapter 18- Zoning, Article 21, Conditional Use Permits, Section 18-210. Use Permits Required, is amended to read as follows:

A use permit is required for any of the following uses (see regulations for zone in which the use is proposed to be located):

- A. Amusement enterprises, if conducted wholly within an enclosed building, provided that the existence and location of the same shall not impose a deleterious effect upon the Town and that permits therefor shall ensure compatibility with land use policies embodied in this chapter.
- B. Auditoriums and halls.
- C. Auto sales.
- D. Bowling alley.
- E. Carpenter or general woodworking shop (excluding outdoor storage).
- F. Cemeteries.
- G. Colleges and schools (private, elementary and high) of a noncommercial nature.
- H. Concrete mixing plants.
- I. Consumption of meals on a roof garden of an enclosed building in which a restaurant is located, or at sidewalk tables directly adjoining such building.
- J. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors
- K. Draying, freighting, or trucking yard or terminal.
- L. Farm or gardening implement, sales and service.
- M. Feed and fuel yard.
- N. Funeral homes.
- O. Golf courses, country clubs, private clubs, including community buildings and similar recreational uses not owned and/or operated by a public agency (does not include golf driving ranges).
- P. Hospitals, sanitariums and clinics which are an integral part of such hospitals and clinics providing treatment for mental or behavioral disorders as out-patient counseling or therapeutic facilities only; and provided that such clinics, if not an integral part of a hospital or sanitarium, are formally affiliated with such hospital or sanitarium or such other governmentally sponsored organization that provides counseling for mental or behavioral disorders.

Notwithstanding any of the above, all clinics and facilities not an integral part of a hospital or sanitarium and treating contagious diseases, drug or alcohol addicts or abusers, sex offenders, felons, or persons suffering from psychosis, anti-social personality disorders or explosive personality disorders are not permitted, regardless of whether such facility operates an in-patient or out-patient facility, counseling or therapeutic facility or otherwise.

Animal hospitals not providing boarding facilities other than for hospitalization to provide medical and/or surgical care for the patient are likewise subject to procurement of a use permit. However, animal hospitals providing boarding facilities not directly associated with immediate medical and/or surgical care for the patient are not permitted.

Q. Hotel and motel.

R. Institutional home and institutions of an educational or philanthropic nature, except those of a correctional nature or for mental cases.

S. Live entertainment and patron dancing in restaurants.

T. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.

U. Massage therapists.

V. Minute car wash stations.

W. Nursery and kindergarten schools (private).

X. Reserved.

Y. Outdoor amusement enterprises.

Z. Pet shop.

AA. Plumbing yard or storage.

BB. Public buildings and uses.

CC. Public parking area in transitional use.

DD. Public parks, playgrounds, and other recreational uses.

EE. Public utilities, as defined and regulated in section 18-13.

FF. Taxi stand (only private property).

GG. Theater, indoor or outdoor.

HH. Transitional parking lots.

II. Drive-through facility, with the following submittal requirements and evaluation criteria:

1. Application submittal requirements:

- A. A written statement describing the proposed use and providing all information pertinent to the review of the application. Such information would include, but not be limited to: the type of product or service to be offered; the proposed hours of operation and employee staffing; plans for the control of litter and the disposal and recycling of waste material; effects on air quality at the site and in adjacent areas; and estimates of sound levels that would be generated by the proposed use at site boundary lines.
- B. A traffic analysis providing information that would include, but not be limited to: estimates of the number of vehicle trips and the amount of vehicular stacking that would occur daily and during a.m./p.m. peak hours; trip generation by use type; estimated internal and external traffic flows; parking and vehicular stacking spaces that would be provided on-site; and data on existing traffic conditions and the traffic-handling capacity of roads fronted by the proposed use. In addition, the analysis would discuss sight distances at points of ingress and egress, pedestrian and bicycle traffic, and any other site-specific traffic factors or public safety issues associated with the application.

2. Applications for drive-through facilities will be evaluated on the basis of the following criteria, with emphasis given to potential adverse effects on adjoining or nearby properties:

- A. Location and arrangement of any drive-through window in relation to adjoining properties and public rights-of-way.
- B. Appropriateness of proposed hours of operation.
- C. Traffic circulation patterns, including safe ingress and egress, and a clear designation of drive-through aisles through the use of paving materials, pavement markings or landscaping.
- D. Pedestrian circulation and safety.
- E. Adequacy of screening of vehicle use and parking areas.
- F. Noise impact associated with, but not limited to, exterior speakers and motor vehicles.
- G. Compliance with federal, commonwealth and local pollution standards.

H. Other factors, as deemed appropriate, that affect the health, safety, and general welfare of the community.

3. Drive-through facilities adjacent to residentially-zoned properties shall meet the following applicable criteria:

A. A drive-through facility operating later than 10:00 p.m. shall not have any portion of its operation (including, but not limited to, the stacking lane, menu boards or speaker boxes) located closer than 75 feet from any residentially-zoned property.

B. No speaker box or other audio mechanism, regardless of operating hours, shall be located closer than 35 feet from any residentially-zoned property.

JJ. Family Day Homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home.

This Ordinance shall become effective ten (10) days following notice of adoption by the Town Council.

Passed and approved this _____ day of _____, 2021.

Linda J. Colbert, Mayor

ATTEST:

Town Clerk

c:\\NAS-TH-2\\PZ Shared Files 2\\Projects\\Zoning and Subdivision Ordinance Amendments\\Family Day Homes