

23-0-077

AN ORDINANCE AMENDING APPENDIX A OF THE CHESAPEAKE CITY CODE, ENTITLED "ZONING," ARTICLE 5, SECTIONS 5-502 AND 5-800, ARTICLE 7, SECTION 7-502, AND ARTICLE 12, SECTIONS 12-605 AND 12-607, TO MODIFY REGULATIONS REGARDING RESIDENTIAL DENSITY, VERTICAL MIXED-USE DEVELOPMENT, AND OTHER PROVISIONS TO SUPPORT COMMERCIAL REVITALIZATION IN THE SOUTH NORFOLK BUSINESS OVERLAY DISTRICT.

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix A of the Chesapeake City Code, entitled "Zoning," Article 5, entitled "Urban, Suburban, and Rural Overlay Districts," Sections 5-502 and 5-800, Article 7, entitled "Business Districts," Section 7-502, and Article 12, entitled "Special Overlay Districts," Sections 12-605 and 12-607 thereof, be amended and reordained as follows:

**ARTICLE 5. – URBAN, SUBURBAN, AND RURAL OVERLAY DISTRICTS**

**Section 5-502. – Residential density standards for properties located within the urban overlay district.**

C. Multifamily residential development.

2. The density for property which is zoned R-MF-2, urban planned unit development, B-5, urban business district, or MXD-U, mixed use urban district, or as part of a mixed use development located in the South Norfolk business overlay district, may range up to a maximum density of thirty (30) dwelling units per acre of land except as provided for in section 11-1303 of this ordinance for urban planned unit developments and section 12-605 for the South Norfolk business overlay district.
3. ~~Any multifamily development involving one (1) or more buildings more than thirty-five (35) feet in height shall require a conditional use permit, regardless of the proposed density except in the case of the MXD-U, mixed use urban district. In the case of a planned unit development, heights exceeding thirty-five~~

~~(35) feet may be approved by city council with the approval of a master development plan.~~

**Section 5-800. - Table of maximum permitted residential densities in the overlay districts.**

Overlay District	Maximum Permitted Residential Density*
Suburban	Single-Family Detached and Two-Family Attached: Four (4) dwelling units <u>per</u> acre of land, with the exception of townhouse and multifamily development set out below.
Urban	(4) MXD-U, mixed use urban district properties, <u>B-5, urban business district properties, and mixed use development within the South Norfolk business overlay district.</u> Thirty (30) dwelling units per acre of land. <u>The maximum density in the South Norfolk business overlay district may be increased to forty-five (45) units per acre by approval of a conditional use permit in accordance with § 12-605.K.</u>

\* See section 5-600 regarding the properties excluded from applicable acreage in density calculation.

Note: Use permit required for all developments involving one or more buildings more than thirty-five (35) feet in height, regardless of the density of the development except in the case of the MXD-U, mixed use urban district and South Norfolk business overlay district. In the case of a planned unit development, heights exceeding thirty-five (35) feet may be approved by city council with the approval of the master development plan.

**ARTICLE 7. – BUSINESS DISTRICTS**

**Section 7-502. - Development standards.**

A. *General site standards.*

4. *Off-street parking (parking and vehicle area) setbacks and special regulations.*

c. *Uses requiring off-street parking.*

- i. The following uses shall provide off-street parking complying with all parking requirements set out in section 7-600 and 19-400 of this zoning ordinance:

(g) Meeting places for civic, social, and fraternal organizations occupying more than one thousand (1,000) square feet of building space.

(h) Eating and drinking places with more than one hundred (100) square feet devoted to on-site eating, either inside or outside the facility.

ii. All other uses not specified above and not exempt from off-street parking requirements under subsection 7-502.A.4.d, below, shall provide off-street parking at a ratio of one (1) space per nine hundred (900) square feet of space devoted to customer service and .5 spaces per one thousand (1,000) feet of space devoted to production/storage areas. Such off-street parking shall meet all other criteria governing parking spaces as specified in this Code.

6. *Maximum building heights.* Thirty-five (35) feet unless a conditional use permit is issued for a greater height under section 19-205.

8. *Size of establishments within buildings.* Unless otherwise stated herein, there shall be no limitation on the size of establishments; provided that any retail establishment having a gross floor area exceeding fifty thousand (50,000) square feet shall be subject to the development criteria in section 13-2500.

C. *Conflict with South Norfolk business overlay district.* To the extent that any development standards for the B-5 district conflict with the development

standards imposed in the South Norfolk business overlay district, the standards set out in ~~this Article 7 for the B-5 district~~ Article 12 for the South Norfolk business overlay district shall govern.

## ARTICLE 12. – SPECIAL OVERLAY DISTRICTS

### Section 12-605. - General development standards.

#### B. *Principal building setback (required yard).*

##### 2. *From lot lines bordering other than residential property (side and rear yards).*

- a. Party walls (and therefore a setback of zero (0) feet) are permitted, but if a commercial building will not share a common wall with another commercial building a side yard setback of five (5) feet shall be required.

#### C. *Parking.*

##### 1. The following uses shall provide off-street parking complying with the requirements of the zoning ordinance:

- g. Meeting places for civic, social and fraternal organizations occupying more than one thousand (1,000) square feet of building space.
- h. Eating and drinking places with more than one thousand (1,000) square feet devoted to on-site eating, either inside or outside the facility.

##### 2. Off-street parking requirements for multifamily residential apartments and condominiums as part of a mixed use development:

- a. Studio and one bedroom units: 1 space per unit

b. Two or more bedroom units: 1.5 spaces per unit

~~2.3.~~ For all other uses, no off-street parking shall be required if: (i) the use is located on Poindexter Street between the intersections of Bainbridge Boulevard and Liberty Street; or (ii) a city-owned parking lot is located within five hundred (500) feet, measured along the path of pedestrian access, of the lot on which the use is located.

4. Off-Lot/Alternative Parking: Required off-street parking may be provided on a lot other than the lot upon which the use is located if:

a. The distance between the use and the off-lot/alternative parking is no more than 500 feet as measured along a safe, convenient pedestrian route; and

b. Any lot used for the off-lot/alternative parking shall be under the same ownership and control as the land on which the principal use is located or a legal right for such off-lot/alternative parking shall be documented in the City's land records in a written lease or other agreement between the owners of the properties.

~~3.5.~~ Further, the planning commission may grant a special exception for new uses and the expansion of existing uses that cannot meet parking requirements set forth in this ordinance upon a specific finding that either:

a. The proposed use will not generate traffic volumes that will cause congestion or disruption along neighboring streets, or

b. That alternative parking arrangements have been made or identified which can adequately serve the site.

If the planning commission denies the application for a special exception, the applicant may file an appeal with city council within ten (10) days of the planning commission decision. The appeal shall be filed in writing with the city clerk.

- 4.6. For all new buildings constructed on a site within the district, parking shall be located to the rear or side of the building, with a single entrance for ingress and egress, unless the planning commission grants a special exception for an alternative site based on findings that the shape, topography or other special characteristics of the site make parking in the rear or side impracticable. If the planning commission denies the application for a special exception, the applicant may file an appeal with city council within ten (10) days of the planning commission decision.
- The appeal shall be filed in writing with the city clerk.

- G. *Height of building.* The maximum height of a building or structure shall be ~~thirty-five (35)~~ forty (40) feet. Under section 19-205, the maximum building height may be exceeded upon approval of a conditional use permit.
- H. *Building construction and rehabilitation.* In order to ensure that any new construction and any major exterior renovation of a building within the district conforms with overall appearance and pedestrian-oriented nature of the district, such construction or renovation shall comply with the requirements set out below.
1. For new construction or for a building whose rehabilitation costs are twenty-five (25) percent or more of the building's assessed value, the building wall plane facing a public thoroughfare must be broken along



its length at least every ten (10) feet by either a public doorway or by a window having the following features:

- (a) Made of transparent material;
- (b) At least twelve (12) square feet in area; and
- (c) The lowest point of the window is no more than four (4) feet above the sidewalk.

If a building has more than one wall facing a city street, the applicant may request a special exception from the planning commission to exempt all but one (1) wall from this requirement. If the planning commission denies the request for a special exception, the applicant may file an appeal with city council within ten (10) days of the planning commission decision. The appeal shall be filed in writing with the city clerk.

2. When parking for a new construction is to be located in the rear yard, at least one (1) pedestrian entrance to the building shall be located on the front of the building facing the thoroughfare.

K. Residential Standards for Mixed use dwellings. Multifamily residential as permitted within mixed use buildings of a minimum two (2) stories in height and only located in the second floor and above, as referenced in condition sixteen (16) of section 12-607(C) of this ordinance, shall not exceed a density of thirty (30) dwelling units per acre, except that a maximum density of forty-five (45) dwelling units per acre may be approved by City Council with a conditional use permit.

**Section 12-607. - Table of permitted and conditional uses.**

C. *Special conditions pertaining to specific uses.* The following conditions shall apply to specific uses, as indicated in the "condition" column in the table of uses:

8. No more than two thousand (2,000) square feet of floor area shall be devoted to laundering and finishing processes and no coal-burning or smoke-producing equipment shall be used.
9. Floor area devoted to dry cleaning, pressing and dyeing is limited to two thousand (2,000) square feet.
15. No such establishment shall be used for private gain. Because of the concentrated nature of parking patterns generated by assembly uses and the impact on available off-street parking unique to the area in the South Norfolk Business Overlay District, no assembly use shall operate in a building with more than one (1) leasable space.
16. Multifamily residential units shall be located only in buildings which ~~exceed~~ are a minimum two (2) stories in height and shall be located only on the second floor and above, provided that 1) the ground floor level is actively used or marketed for retail, commercial, office, institutional or other permitted or conditional nonresidential uses in the South Norfolk business overlay district and 2) residential and nonresidential uses are not conducted on the same floor. All Virginia Uniform Statewide Building Code requirements shall be satisfied.
17. A conditional use permit shall be required for any eating or drinking place selling alcoholic beverages for on-premises ~~con—sumption~~ consumption which is open for business after 1:00 a.m. where any



portion of such property is located within one hundred (100) feet of any lot line of any property zoned or used for residential purposes. Where such an establishment is located in a shopping center, the one hundred (100) foot distance shall be measured from the outer walls of the unit or space in which the establishment is located.

This condition shall not apply if the structure or unit in which the establishment is located is separated from property zoned or used for residential purposes by a street at least sixty (60) feet in width that is owned and maintained by the city or the Commonwealth of Virginia.

20. ~~Mixed use dwellings shall be permitted on the upper floor levels of buildings within the B-1, neighborhood business, B-2, general business, and O & I office and institutional districts, provided that 1) the ground floor level is actively used or marketed for retail, commercial, office, institutional or other permitted or conditional uses in the South Norfolk business overlay district, 2) residential and nonresidential uses are not conducted on the same floor, 3) no more than one (1) single family dwelling unit is located on each upper floor, and 4) the gross floor area devoted to residential use does not exceed fifty (50) percent of the gross floor area of the building. Mixed use dwellings shall also be permitted on the upper floor levels of buildings within the B-5 urban business district, provided that 1) the ground floor level is actively used or marketed for retail or other permitted or conditional use in the B-5 urban business district, and 2) residential and nonresidential uses are not conducted on the same floor.~~

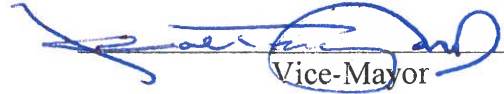
- ~~21~~20. No tattoo parlors shall be permitted regardless of the underlying zoning district. (See table 8-602)
- ~~22~~21. Massage therapy establishments and massage therapists must comply with all applicable requirements of section 38-61 et seq. of the City Code to be a permitted use.
- ~~23~~22. The use of any central disposal system, including but not limited to private sewer package plants, or the use of a regional drainfield to serve more than one residential dwelling unit or non-residential parcel. In addition to the criteria in article 17, city council shall apply the level of service test for roads set out in the Planning and Land Use Policy in the adopted Comprehensive Plan. The use of an individual septic system or central disposal system serving only one residential dwelling unit or non-residential parcel shall be exempt from the conditional use permit requirement.

D. *Table of permitted and conditional uses in the South Norfolk business overlay district.*

SIC	TITLE	STATUS	CONDITION
0742	Veterinary Services, <del>Nonlivestock</del> <u>Non-livestock</u> Only	P	1
704	Organization Hotels and <del>Lodginghouses</del> <u>Lodging Houses</u> , on Membership Basis	P	
495	Private Sewer Disposal System Other Than Individual Septic Tank	C	232
7299	Miscellaneous Personal Services, Not Elsewhere Classified except Tattoo Parlors	P	20
	Massage therapy establishments and massage therapists	P	<del>21</del> <u>2</u>


**ADOPTED** by the Council of the City of Chesapeake, Virginia this 18<sup>th</sup> day of July,  
2023.

APPROVED:




Vice-Mayor

ATTEST:



Clerk of the Council

APPROVED AS TO FORM:



Assistant City Attorney