

COMMON COUNCIL



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782
www.ci.winchester.va.us

I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 21st day of November, 2014, that the following Ordinance is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 11th day of November 2014.

AN ORDINANCE TO AMEND AND REENACT ARTICLES 1, 18, AND 19 PERTAINING TO DEFINITIONS OF GROUP HOME; PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES; PERMITTING, NOTIFICATION REQUIREMENTS, AND APPEAL PROCEDURES FOR FAMILY DAY HOMES; AND SITE PLAN EXPIRATION TIMELINES

Ed. Note: The following text represents an excerpt of Articles 1, 18, and 19 of the Zoning Ordinance that are subject to change. Words with strikethrough are proposed for repeal. Words that are boldfaced and underlined are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.

ARTICLE I

DEFINITIONS

1-2-46 **GROUP HOME:** As defined within §15.2-2291, Code of Virginia (as amended), a residential facility for which the Department of Mental Health, Mental Retardation, and Substance Abuse services of the Commonwealth is the licensing authority; and, in which no more than eight (8) mentally ill, mentally retarded or developmentally disabled persons reside, with one or more resident ~~counselors~~ or other nonresident staff persons, as residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined within §54.1-3401, Code of Virginia (as amended).

ARTICLE 18

GENERAL PROVISIONS

SECTION 18-10. ACCESSORY USES AND STRUCTURES.

18-10-10 Temporary Family Health Care Structures

A. For the purposes of this Section:

1. **“Caregiver” means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for who he is caring.**
 2. **“Mentally or physically impaired person” means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in §63.2-2200, Code of Virginia, as certified in a writing provided by a physician licensed by the Commonwealth.**
 3. **“Temporary family health care structure” means a transportable residential structure, providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in §63.2-2200, Code of Virginia, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code. Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.**
- B. **Temporary family health care structures shall be permitted as an accessory use in LR, MR, HR, HR-1, RB-1, RO-1, B-1, and PUD districts as a permitted accessory use to an existing single family residential use. Such structures shall be (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence.**
- C. **Only one family health care structure shall be allowed on a lot or parcel of land.**
- D. **Any person proposing to install a temporary family health care structure shall first obtain a permit from the Administrator.**
- E. **The Administrator may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the Administrator of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.**
- F. **Any temporary family health care structure installed pursuant to this Section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall**

comply with all applicable requirements of the Virginia Department of Health.

- G. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- H. Any temporary family health care structure installed pursuant to this Section shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided for in this section.
- I. The Administrator may revoke the permit granted pursuant to subsection D if the permit holder violates any provision of this section. Additionally, the Administrator may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section.
- J. Any proposed temporary health care structure must meet the same location, setback, lot coverage requirements and limitations set forth in this Article for other accessory structures.

SECTION 18-19. HOME OCCUPATIONS.

18-19-3

The operation of a family day home may occur as an accessory and subordinate use to a residence provided the following: ~~for not more than five (5) children shall be considered as residential occupancy by a single family; and, therefore does not require a Certificate of Home Occupation. Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall obtain a Certificate of Home Occupation and shall be licensed by the Virginia Department of Social Services. 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. A family day home where the children in care are all grandchildren of the provider shall not be required to be licensed or obligated to obtain a Certificate of Home Occupation.~~

- A. A family day home for not more than five (5) children shall be considered as residential occupancy by a single family; and, therefore does not require a Certificate of Home Occupation.
- B. A family day home serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall obtain a Certificate of Home Occupation and shall be licensed by the Virginia Department of Social Services, provided the following:
 - 1. Prior to the issuance of a Certificate of Home Occupation for a family day home serving six through twelve children, the applicant shall send a notice developed by the Administrator to each adjacent

property owner by registered or certified mail, and shall provide proof to the Administrator of the completion of such mailings.

2. If the Administrator receives no written objection from a person so notified within thirty (30) days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of this Ordinance, the Administrator may issue the permit sought.
 3. Any applicant denied a permit through this administrative process may request that the application be considered by City Council after a hearing following public notice per Section 23-7-1 of this Ordinance.
 4. Upon such hearing, City Council may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit.
- C. 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.
- D. A family day home where the children in care are all grandchildren of the provider shall not be required to be licensed or obligated to obtain a Certificate of Home Occupation.

ARTICLE 19

SITE PLAN REQUIREMENTS

SECTION 19-7. SITE PLAN TERMINATION OR EXTENSION.

19-7-1 An approved site plan shall expire and become null and void if no building permit has been obtained for the site in ~~twelve (12) months~~ five (5) years after the final approval unless otherwise provided for in the Code of Virginia.

Ordinance No. 2014-39

ADOPTED by the Common Council of the City of Winchester on the 11th of November, 2014.

Witness my hand and the seal of the City of Winchester, Virginia.



Kari J. Van Diest
Kari J. Van Diest, CMC
Deputy Clerk of the Common Council