



City of Hampton, Virginia

Ordinance - Zoning Text

22 Lincoln Street
Hampton, VA 23669
www.hampton.gov

File Number: 15-0308

Enactment Number: Z15-19

Ordinance To Amend And Re-Enact Chapter 3 Of The Zoning Ordinance Of The City Of Hampton, Virginia Entitled "Uses Permitted" By Amending Section 3-2 To Add The New Zoning District Titled PH-1 (Phoebus Business District) To The Use Table and Section 3-3 Pertaining To Additional Standards On Permitted Uses.

Whereas, the public necessity, convenience, general welfare and good zoning practice so require;

BE IT ORDAINED by the Council of the City of Hampton, Virginia that chapter 3 of the Zoning Ordinance of the City of Hampton, Virginia, be amended and re-enacted as follows:

CHAPTER 3 – USES PERMITTED

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Sec. 3-2. Table of uses permitted.

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Sec. 3-3. Additional standards on uses.

The following uses have additional standards:

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- (11) **Day care 3** in the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, C-3, HRC-2, PH-1, DT-1, DT-2, and DT-3 districts, or;
Day care 3, accessory in the M-1, M-2, M-3, HRC-1, and HRC-3 districts.

The evaluation of a request for use permit for a day care 3 or day care 3, accessory use shall include the traffic impact of the proposed use on the surrounding road network. Further provided that the use permit for a day care 3 shall automatically expire and become null and void if the property is not used for the permitted purpose for a continuous six-month period.

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- (15) **Rummage sale, temporary** in the C-1, C-2, C-3, M-2, RT-1, PH-1, DT-1, and DT-2 districts.

Permitted only for a corporation, trust, religious organization, association, community chest, fund, or foundation organized and operated for religious, charitable, scientific, literary, community, or educational purpose.

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- (21) **Coin-operated amusement devices, accessory** in the C-1, C-2, C-3, PH-1, RT-1, DT-1, and DT-2 districts.

No more than six (6) coin-operated amusement machines shall be allowed as an accessory use at any business establishment.

- (22) **Live entertainment 1, in conjunction with a restaurant use** in the C-1, C-2, C-3, RT-1, BB-3, BB-4, BB-5, PH-1, DT-1, and DT-2 districts. or;

Live entertainment 1, in conjunction with a micro-brewery/distillery/winery use in the M-1, M-2, M-3, HRC-1, HRC-2, PH-1, DT-1, and DT-2 districts.

Live entertainment 1 venues are defined as venues where capacity is limited to no more than 50 people and subject to a live entertainment permit granted by the zoning administrator with the following attached conditions:

- (a) Live entertainment shall be conducted inside the building only;
- (b) Performance space shall be no greater than 10% of the gross floor area. The applicant shall submit a floor plan indicating the location of the proposed performance space;
- (c) The hours of operation for live entertainment shall be specified on the live entertainment permit application and shall not extend past 10:00 p.m. Sunday through Thursday and 11:59 p.m. Friday and Saturday;
- (d) Any sound or noise from amplified music shall not exceed a noise level measurement of 60 dBA upon the real property of another as determined by a sound level meter using the "A" weighting scale in accordance with the American National Standard Institute;
- (e) Each ingress/egress point in the building shall be monitored by an attendant during the hours of operation, and additional attendants may be required to monitor vehicle parking areas that serve the building and maintain and control patron behavior upon exit of the building into the parking areas;
- (f) The live entertainment permit shall be valid for 18 months from the date of approval by the zoning administrator. After 12 months of operation, prior to the expiration date, the live

entertainment permit will be scheduled for review by the zoning administrator to consider if the continuation of the live entertainment permit would not be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would not cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land in the zoning district. The review will be based, in part, upon a physical site review, traffic flow and control, access to and circulation within the property, off-street parking and loading, hours and manner of operation, noise, light, neighborhood complaints, police service calls, and any violations of any federal, state or local law. If, after review, the zoning administrator determines that the live entertainment permit would not be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would not cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the zoning administrator may administratively extend the live entertainment permit in five (5) year increments. Each such extension shall be subject to the same administrative review. If the zoning administrator determines that that the live entertainment permit would be detrimental to the public health, safety and welfare and that to continue the activities under the live entertainment permit would cause public inconvenience, annoyance, disturbance or have an undue impact on the community or be incompatible with other uses of land the zoning district, the zoning administrator will notify the permittee of a denial of the extension in writing in the same manner as required under chapter 1 of the zoning ordinance. A permittee aggrieved by the decision of the zoning administrator may appeal the decision of the zoning administrator to the board of zoning appeals in the manner set forth in chapter 13 of the zoning ordinance. Nothing contained herein shall limit the rights of a permittee to seek a new live entertainment permit; and

- (g) The zoning administrator, or appointed designee, shall have the ability to revoke the live entertainment permit upon violations of any of the above conditions.
- (23) **Live entertainment 2, in conjunction with a restaurant use** in the C-1, C-2, C-3, RT-1, BB-3, BB-4, BB-5, PH-1, DT-1, and DT-2 districts. or;

Live entertainment 2, in conjunction with a micro-brewery/distillery/winery use in the M-1, M-2, M-3, HRC-1, HRC-2, PH-1, DT-1, and DT-2 districts.

Live entertainment 2 venues are defined as venues with a capacity greater than 50 people and subject to obtaining a use permit by city council. The city will evaluate each application on a site-by-site basis with regard to the surrounding land use patterns and city council may impose more restrictive conditions when the proposal is adjacent to residential land uses. Conditions shall include, but are not limited to, the following:

- (a) Submission of a site plan indicating the location and total area of the live entertainment performance space;
- (b) Hours of operation;
- (c) Any sound or noise from amplified music;
- (d) Staffing for ingress/egress points in the building and vehicle parking areas;
- (e) Term limitation on the use permit, administrative review and extension or denial of use permit.

- (24) **Religious facility** in the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, C-3, RT-1, BB-1, BB-2, BB-3, BB-4, BB-5, PH-1, DT-1, DT-2, and DT-3 districts.

Religious facilities and accessory uses such as convents, Sunday schools, parish houses, and assembly rooms (excluding rescue mission or temporary revival), are permitted provided:

- (a) For the above uses with a capacity within any single assembly area, of no more than five hundred (500) people, no vehicular access shall be permitted from any residential street unless required for emergency vehicular access.
- (b) For the above uses with a capacity within any single assembly area of between five hundred one (501) and one thousand (1,000) people, no vehicular access shall be permitted from any residential or minor collector street unless required for emergency vehicular access.
- (c) For the above uses with a capacity within any single assembly area in excess of one thousand (1,000) people, no vehicular access shall be permitted from any residential, minor collector, or collector street unless required for emergency vehicular access.
- (d) Notwithstanding the provisions of chapter 12, Nonconformities, a religious facility may make additions to its physical plant, without regard to any street access requirements or limitations, provided:
 - (i) Any addition or construction of additional buildings which increases sanctuary seating above the limits which would otherwise be imposed by street access

requirements, shall occur only on the property owned in accordance with section 57-12 of the Code of Virginia by the religious facility at the time of adoption of this ordinance;

- (ii) All additions or construction of additional buildings shall comply with the setback requirements in effect at the time of submission of the site plan for the addition or construction; and
- (iii) Any addition or construction of additional buildings which increases sanctuary seating shall be accompanied by additional parking spaces for the new seating provided at the ratio required at the time of submission of the site plan for such addition or construction.

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- (30) Small artisan shop in the PH-1, C-2 and C-3 districts is required to have a retail sales component as part of any such use. Additionally in the PH-1 district, total area of such use shall not exceed 5000 square feet.

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- (33) **Communication antenna, commercial building-mounted** in the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1, C-2, C-3, M-1, M-2, M-3, RT-1, BB-3, BB-4, BB-5, HRC-2, HRC-3, PH-1, DT-1, DT-2, and DT-3 districts.

The following minimum conditions shall be met:

- (a) The building is not a single-family dwelling;
- (b) The minimum height of the building shall be no less than 35 feet;
- (c) The height of the antenna (including support structures) shall not exceed 22 feet above the highest point of the building;
- (d) The antenna and support structures are painted so that they are compatible with the primary building structure, unless roof mounted; and
- (e) Intermodulation testing is coordinated through the Hampton police division demonstrating that the proposed antenna operation is designed in a manner to eliminate interference with public safety communications. Such testing shall also be required from each subsequent operator prior to any building permits to add or modify antennas. Should any equipment associated with the antennas be found to interfere with public safety communications, the owner shall be responsible for the elimination of such interference.

- (34) **Communication tower, commercial** in the R-R, R-LL, R-43, R-33, R-22, R-15, R-13, R-11, R-9, R-8, R-4, MD-1, MD-2, MD-3, R-M, C-1, C-2, C-3, M-1, M-2, M-3, RT-1, HRC-1, HRC-2, HRC-3, PH-1, DT-1, DT-2, DT-3, and PO-1 districts.

The following minimum conditions shall be met:

- (a) Use permit applications for commercial communication towers shall include the following:
 - (i) A site plan drawn to scale specifying the location of tower(s), guy anchors (if any), transmission building(s) and other accessory uses, parking, access, landscaped areas (specifying size, spacing, and plant material proposed) fences, and identify adjacent property owners.
 - (ii) A report from a registered structural or civil engineer indicating tower height and design, structure, installation and total anticipated capacity of the structure (including number and types of antennas which could be accommodated). This data shall demonstrate that the proposed commercial communication tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the commercial communication tower will meet the structural requirements of EIA-222 E "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" published by the Electronic Industries Association, effective June 1, 1987 or current update.
 - (iii) A statement from a registered engineer that the NIER (nonionizing electromagnetic radiation) emitted therefrom does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. government or the American National Standards Institute.
 - (iv) Evidence of the lack of space on suitable existing commercial communication towers, buildings, or other structures to locate the proposed antenna and the lack of space on existing commercial communication tower sites to construct a tower for the proposed antenna within the service area shall be considered in the review of use permit applications for a new commercial communication tower.
 - (v) Intermodulation testing is coordinated through the Hampton police division demonstrating that the proposed antenna operation is designed in a manner to eliminate interference with public safety

communications. Such testing shall also be required from each subsequent operator prior to any building permits to add or modify antennae. Should any equipment associated with the antennae be found to interfere with public safety communications, the owner shall be responsible for the elimination of such interference.

- (b) The following locational criteria shall be considered in determining the appropriateness of sites for commercial communication towers:
 - (i) Whether the application represents a request for multiple use of a commercial communication tower or site, or use on a site contiguous to an existing commercial communication tower site.
 - (ii) Whether the application contains a report that other potential users of the site and the commercial communication tower have been contacted, and they have no current plans, to the best of their ability to determine, that could be fulfilled by joint use.
 - (iii) Whether the application shows how the commercial communication tower or site will be designed or laid out to accommodate future multiple users. Specific design features evaluated shall include but not be limited to height, wind loading, and coaxial cable capacity.
 - (iv) Whether the proposed commercial communication tower is to be located in an area where it would be unobtrusive and would not substantially detract from aesthetic or neighborhood character, due either to location, to the nature of surrounding uses, (such as industrial uses) or to lack of visibility caused by natural growth or other factors.
- (c) Accessory facilities may not include offices, vehicle storage, or outdoor storage unless permitted by underlying zoning.
- (d) Advertising and/or signage on tower structures is prohibited.
- (e) The minimum setback requirements from the base of the commercial communication tower to any property line abutting a right-of-way of any planned or existing street, and all residential uses shall be at least 50 feet unless a greater setback is specified due to site specific characteristics. For property lines abutting nonresidential uses, the minimum setback requirements shall be at least 25 feet unless a greater setback is specified due to site specific characteristics. The minimum setback for guy towers shall be equal to 40% of tower height.
- (f) Minimum site size shall be no less than 2,000 square feet.

- (g) Commercial communication towers 200 feet in height or less shall have a galvanized finish or be painted silver. Regulations of the Federal Aviation Commission or Federal Communications Commission supersede this requirement if contradictory.
- (h) Commercial communication towers shall be illuminated as required by the Federal Aviation Administration. However, if not required by the Federal Aviation Commission, no lighting shall be incorporated.
- (i) Landscaping shall be required as set forth in the "City of Hampton Landscape Guidelines" on file with the department of community development, development services center.
- (j) Additional conditions may be included contingent upon site specific characteristics for commercial communication towers other than those exempt under subsection (k) herein below.
- (k) Commercial communication towers up to 150 feet in height sited on properties included in the inventory of appropriate sites for communication towers which is adopted by reference as a component of the 2006 community plan, as amended, are exempt from the use permit requirement provided all the above listed provisions, except for subsection (j), are satisfied and proposals to site said improvements are first reviewed by the planning commission, with its recommendation forwarded to the appropriate board or commission for further consideration. Failure on the part of the planning commission to act on such proposals within 90 days of submission of a complete application shall be deemed to be an approval, unless the applicant agrees to an extension of time.

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- (36) **Promotional event** in the C-1, C-2, C-3, M-2, RT-1, PH-1, DT-1, and DT-2 districts.

The following minimum conditions shall be met:

- (a) That an operating permit be secured from the zoning administrator at a cost of \$50.00 for each permit issued.
- (b) That the event conform and comply with the guidelines following:
 - (i) All rides shall be inspected and approved by the city building official for safety and soundness.
 - (ii) All rides shall be surrounded with a restraining barrier to limit access to the rides.

- (iii) All electrical wiring shall, to the greatest extent possible, be placed in areas generally not open to the public or protected from public contact.
- (iv) All facilities for the preparation or dispensing of food shall be approved by the city health official.
- (v) The sponsors or operators of the event shall provide security forces adequate to maintain order at the site.
- (vi) The event, if held in a parking area, shall not occupy more than 10% of the total parking area.
- (vii) The sponsor or operator of the event shall provide proof of liability insurance in an amount predetermined by council.
- (viii) The hours of operation shall be established at the time of application. However, no such event shall extend beyond the normal operating hour of the establishment being promoted.
- (ix) The provisions of these regulations in no way exempts any such event from complying with all other state and local codes and ordinances.
- (x) All animals in any event shall be inoculated as required and approved by the city health official.
- (xi) Enclosures, buildings, shelters, and/or related equipment that may present a fire hazard shall be inspected and approved for use by the fire marshal.
- (c) That any such event shall be limited to not more than 30 consecutive calendar days.
- (d) That the zoning administrator shall not issue any operating permit if the proposed event would violate any provisions of the zoning ordinance or any other city codes or ordinances.

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- (44) **Laboratory or research office** in the M-1, LFA-2 LFA-3, LFA-4, LFA-6, PH-1, HRC-1, HRC-2, and HRC-3 districts shall not permit the testing of explosives.

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- (47) **Micro-brewery/distillery/winery** in the PH-1, DT-1 and DT-2 districts shall include a retail component which is open to the general public.
- (48) **Outdoor dining, Phoebus** in the PH-1 district shall be subject to a zoning administrator permit and the hours of operation shall not extend beyond the hours of operation for the principle establishment.

Adopted at the regular meeting of the City Council of the City of Hampton, Virginia held on October 14, 2015.

Signed by _____
George E. Wallace, Mayor

Date _____

Attested by _____
Katherine K. Glass, CMC
Clerk of the Council

Date _____